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Bullard
4/2/18

CS FOR HOUSE BILL NO. 390()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE PARISH

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a ranked-choice primary election system for nomination to state**
2 **executive and state and national legislative offices; establishing a ranked-choice general**
3 **election system for election to state and national legislative offices; repealing the special**
4 **runoff election for the office of United States senator or United States representative;**
5 **and requiring certain written notices to appear in election pamphlets and polling**
6 **places."**

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 *** Section 1.** AS 15.10.170(b) is amended to read:

9 (b) In addition to the watchers appointed under (a) of this section, in a primary
10 election or a [,] special election under AS 15.40.140, [OR SPECIAL RUNOFF
11 ELECTION UNDER AS 15.40.141,] each candidate may appoint one watcher in each
12 precinct and counting center.

13 *** Sec. 2.** AS 15.13.074(c) is amended to read:

(c) A person or group may not make a contribution

(1) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 when the office is to be filled at a general election before the date that is 18 months before the general election;

(2) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the date that is 18 months before the date of the regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or

(3) to any candidate later than the 45th day

(A) after the date of the primary election if the candidate was [ON THE BALLOT AND WAS] not nominated at the primary election; or

(B) after the date of the general or special election, or after the date of a municipal or municipal runoff election.

* **Sec. 3.** AS 15.15.030 is amended by adding new paragraphs to read:

(14) The director shall design the primary election ballots so that candidates for the offices of governor and lieutenant governor, for the legislature, and for the United States Congress are selected by ranked-choice voting.

(15) The director shall design the general and special election ballots so that candidates for the

(A) offices of governor and lieutenant governor are selected by plurality vote at a general or special election; and

(B) legislature and United States Congress are selected by ranked-choice voting.

(16) For those offices for which candidates are selected by ranked-choice voting, the director shall design the ballot to direct the voter to mark candidates in order of preference and to mark as many choices as the voter wishes, but not to assign the same ranking to more than one candidate for the same office.

* **Sec. 4.** AS 15.15.350 is amended by adding new subsections to read:

(c) When counting ballots in a ranked-choice election, the election board shall initially tabulate each validly cast ballot as one vote for the highest-ranked candidate on that ballot or as an exhausted ballot. If a candidate is ranked-highest on more than one-half of the tabulated ballots, that candidate is elected and the tabulation is complete. Otherwise, tabulation proceeds in sequential rounds as follows:

(1) if two or fewer continuing candidates remain, the candidate with the largest number of votes is elected and the tabulation is complete; otherwise, the tabulation continues under (2) of this subsection;

(2) the candidate with the fewest votes is defeated, and votes cast for the defeated candidate shall cease counting for the defeated candidate and shall be added to the totals of each ballot's next-highest-ranked continuing candidate or considered an exhausted ballot under (e) of this section for that candidate, and a new round begins under (1) of this subsection.

(d) When counting ranked-choice election ballots,

(1) a ballot assigning the same ranking to more than one candidate for an office shall be declared invalid when the double ranking is reached;

(2) if a ballot skips a ranking, then the election board shall count the next ranking; and

(3) if there is a tie vote between continuing candidates, the procedures in AS 15.15.460 and AS 15.20.430 - 15.20.530 shall be followed.

(e) The election board may not count an exhausted ballot for a continuing candidate if the ballot

(1) does not contain a ranking for a continuing candidate;

(2) contains an overvote in the highest ranking for a continuing candidate; or

(3) contains two or more consecutive skipped rankings before its highest continuing ranking.

(f) In this section,

(1) "continuing candidate" means a candidate that has not been defeated or nominated at a primary election or elected at a general or special election;

(2) "overvote" means the assignment by a voter of the same ranking to

more than one candidate;

(3) "ranking" or "ranked" means the number assigned by a voter to a candidate to express the voter's choice for that candidate; a ranking of "1" is the highest ranking, followed by "2," and then "3," and so on;

(4) "round" means an instance of the sequence of voting tabulation in a primary or special primary election;

(5) "skipped ranking" means a ranking blank on a ballot on which a voter has ranked another candidate at a subsequent ranking.

* **Sec. 5.** AS 15.15.360(a) is amended to read:

(a) The election board shall count ballots according to the following rules:

(1) A voter may mark a ballot only by filling in, making "X" marks, diagonal, horizontal, or vertical marks, solid marks, stars, circles, asterisks, checks, or plus signs that are clearly spaced in the oval opposite the name of the candidate, proposition, or question that the voter desires to designate. **The director shall adopt additional regulations consistent with AS 15.15.350 for marking and counting a ballot in a ranked-choice election that ensure a voter's ranked preference for a candidate is clearly indicated and counted as the voter intends.**

(2) A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.

(3) [IF A VOTER MARKS FEWER NAMES THAN THERE ARE PERSONS TO BE ELECTED TO THE OFFICE, A VOTE SHALL BE COUNTED FOR EACH CANDIDATE PROPERLY MARKED.

(4)] If a voter marks more **than one name each for the offices of governor or lieutenant governor at a general or special election, the voter's votes** [NAMES THAN THERE ARE PERSONS TO BE ELECTED TO THE OFFICE, THE VOTES FOR CANDIDATES FOR THAT OFFICE] may not be counted.

(4) [(5)] The mark specified in (1) of this subsection shall be counted only if it is substantially inside the oval provided, or touching the oval so as to indicate clearly that the voter intended the particular oval to be designated.

(5) [(6)] Improper marks on the ballot may not be counted and do not invalidate marks for candidates properly made.

1 (6) [(7)] An erasure or correction invalidates only that section of the
2 ballot in which it appears.

3 (7) [(8)] A vote marked for the candidate for President or Vice-
4 President of the United States is considered and counted as a vote for the election of
5 the presidential electors.

6 [(9) REPEALED

7 (10) REPEALED

8 (11) REPEALED

9 (12) REPEALED]

10 * **Sec. 6.** AS 15.15.370 is amended to read:

11 **Sec. 15.15.370. Completion of ballot count; certificate.** When the count of
12 ballots is completed, and in no event later than the day after the election, the election
13 board shall make a certificate in duplicate of the results. The certificate includes the
14 number of votes cast for each candidate, including, for a candidate in a ranked-
15 choice election, the number of votes at each round of the ranked-choice
16 tabulation process under AS 15.15.350(c), and the number of votes for and against
17 each proposition, yes or no on each question, and any additional information
18 prescribed by the director. The election board shall, immediately upon completion of
19 the certificate or as soon thereafter as the local mail service permits, send in one sealed
20 package to the director one copy of the certificate and the register. In addition, all
21 ballots properly cast shall be mailed to the director in a separate, sealed package. Both
22 packages, in addition to an address on the outside, shall clearly indicate the precinct
23 from which they come. Each board shall, immediately upon completion of the
24 certification and as soon thereafter as the local mail service permits, send the duplicate
25 certificate to the respective election supervisor. The director may authorize election
26 boards in precincts in those areas of the state where distance and weather make mail
27 communication unreliable to forward their election results by telephone, telegram, or
28 radio. The director may authorize the unofficial totaling of votes on a regional basis by
29 election supervisors, tallying the votes as indicated on duplicate certificates. To
30 ensure [ASSURE] adequate protection, the director shall prescribe the manner in
31 which the ballots, registers, and all other election records and materials are thereafter

preserved, transferred, and destroyed.

* **Sec. 7.** AS 15.15.450 is amended to read:

Sec. 15.15.450. Certification of state ballot counting review. Upon completion of the state ballot counting review for a ranked-choice election, the director shall certify the person receiving the largest number of votes for the office as nominated or elected, as applicable. At the general election, the director shall certify the candidates for governor and lieutenant governor [PERSON] receiving the highest [LARGEST] number of votes [FOR THE OFFICE FOR WHICH THAT PERSON WAS A CANDIDATE] as elected to those offices [THAT OFFICE] and shall certify the approval of a justice or judge not rejected by a majority of the voters voting on the question. The director shall issue to the elected candidates and approved justices and judges a certificate of their election or approval. The director shall also certify the results of a proposition and other question except that the lieutenant governor shall certify the results of an initiative, referendum, or constitutional amendment.

* **Sec. 8.** AS 15.20.081(h) is amended to read:

(h) Except as provided in AS 15.20.480, an absentee ballot returned by mail from outside the United States or from an overseas voter qualifying under AS 15.05.011 that has been marked and mailed not later than election day may not be counted unless the ballot is received by the election supervisor not later than the close of business on the

(1) 10th day following a primary election or special election under AS 15.40.140; or

(2) 15th day following a general election [, SPECIAL RUNOFF ELECTION,] or special election, other than a special election described in (1) of this subsection.

* **Sec. 9.** AS 15.20.203(i) is amended to read:

(i) The director shall mail the materials described in (h) of this section to the voter not later than

(1) 10 days after completion of the review of ballots by the state review board for a primary election [,] or [FOR] a special election under AS 15.40.140

[THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION];

(2) 60 days after certification of the results of a general election [, SPECIAL RUNOFF ELECTION,] or special election other than a special election described in (1) of this subsection.

* **Sec. 10.** AS 15.20.203(j) is amended to read:

(j) The director shall make available through a free access system to each absentee voter a system to check to see whether the voter's ballot was counted and, if not counted, the reason why the ballot was not counted. The director shall make this information available through the free access system not less than

(1) 10 days after certification of the results of a primary election [, OR A SPECIAL ELECTION UNDER AS 15.40.140 THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION]; and

(2) 30 days after certification of the results of a general or special election [, OTHER THAN A SPECIAL ELECTION DESCRIBED IN (1) OF THIS SUBSECTION].

* **Sec. 11.** AS 15.20.207(i) is amended to read:

(i) The director shall mail the materials described in (h) of this section to the voter not later than

(1) 10 days after completion of the review of ballots by the state review board for a primary election [, OR FOR A SPECIAL ELECTION UNDER AS 15.40.140 THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION];

(2) 60 days after certification of the results of a general or special election [, OTHER THAN A SPECIAL ELECTION DESCRIBED IN (1) OF THIS SUBSECTION].

* **Sec. 12.** AS 15.20.207(k) is amended to read:

(k) The director shall make available through a free access system to each voter voting a questioned ballot a system to check to see whether the voter's ballot was counted and, if not counted, the reason why the ballot was not counted. The director shall make this information available through the free access system not less than

(1) 10 days after certification of the results of a primary election [, OR A SPECIAL ELECTION UNDER AS 15.40.140 THAT IS FOLLOWED BY A

SPECIAL RUNOFF ELECTION]; and

(2) 30 days after [THE] certification of the results of a general or special election [, OTHER THAN A SPECIAL ELECTION DESCRIBED IN (1) OF THIS SUBSECTION].

* **Sec. 13.** AS 15.20.211(d) is amended to read:

(d) The director shall mail the materials described in (c) of this section to the voter not later than

(1) 10 days after completion of the review of ballots by the state review board for a primary election [, OR FOR A SPECIAL ELECTION UNDER AS 15.40.140 THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION];

(2) 60 days after certification of the results of a general or special election [, OTHER THAN A SPECIAL ELECTION DESCRIBED IN (1) OF THIS SUBSECTION].

* **Sec. 14.** AS 15.20.211(f) is amended to read:

(f) The director shall make available through a free access system to each voter whose ballot was subject to partial counting under this section a system to check to see whether the voter's ballot was partially counted and, if not counted, the reason why the ballot was not counted. The director shall make this information available through the free access system not less than

(1) 10 days after certification of the results of a primary election [, OR A SPECIAL ELECTION UNDER AS 15.40.140 THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION]; and

(2) 30 days after [THE] certification of the results of a general or special election [, OTHER THAN A SPECIAL ELECTION DESCRIBED IN (1) OF THIS SUBSECTION].

* **Sec. 15.** AS 15.25.010 is amended to read:

Sec. 15.25.010. Provision for primary election. Candidates for the elective state executive and state and national legislative offices shall be nominated in a primary election by direct vote of the people in the manner prescribed by this chapter.

All candidates at the primary election shall be selected by ranked-choice voting.

The director shall prepare and provide a primary election ballot for each political

party. A voter registered as affiliated with a political party may vote that party's ballot. A voter registered as nonpartisan or undeclared rather than as affiliated with a particular political party may vote the political party ballot of the voter's choice unless prohibited from doing so under AS 15.25.014. A voter registered as affiliated with a political party may not vote the ballot of a different political party unless permitted to do so under AS 15.25.014.

* **Sec. 16.** AS 15.25.060 is amended by adding a new subsection to read:

(d) The director shall include instructions on primary election ballots directing the voter to rank candidates for an office in order of preference and to rank as many choices as the voter wishes, but not to assign the same ranking to more than one candidate.

* **Sec. 17.** AS 15.25.100 is amended to read:

Sec. 15.25.100. Placement of nominees on general election ballot. The director shall place the name of the candidate receiving the largest [HIGHEST] number of votes for an office by a political party on the general election ballot. **If two candidates tie in having the largest number of votes for an office a ranked-choice primary ballot, the director shall place on the general election ballot the name of only one of the candidates who tied for that office, to be determined by lot under AS 15.20.530.**

* **Sec. 18.** AS 15.40.142(c) is amended to read:

(c) In an election year in which a candidate for the vacant office is not regularly elected, and the vacancy occurs on a date that is not less than 60, nor more than 90, days before the date of

(1) the primary election, the special election shall be held on the date of the primary election [WITH ANY SUBSEQUENT SPECIAL RUNOFF ELECTION UNDER AS 15.40.141 TO BE HELD ON THE DATE OF THE GENERAL ELECTION]; or

(2) the general election, the special election shall be held on the date of the general election [WITH ANY SUBSEQUENT SPECIAL RUNOFF ELECTION UNDER AS 15.40.141 TO BE HELD ON THE FIRST TUESDAY THAT IS NOT A STATE HOLIDAY OCCURRING NOT LESS THAN 60 DAYS AFTER THE

SPECIAL AND GENERAL ELECTION].

* **Sec. 19.** AS 15.40.160 is amended to read:

Sec. 15.40.160. Proclamation. The governor shall issue the proclamation at least 50 days before the

[(1)] special election [; AND

(2) IF A SPECIAL RUNOFF ELECTION IS REQUIRED UNDER AS 15.40.141(a), SPECIAL RUNOFF ELECTION].

* **Sec. 20.** AS 15.40.165 is amended to read:

Sec. 15.40.165. Term of elected senator. At the special election, [OR, AS PROVIDED BY AS 15.40.141, AT THE SPECIAL RUNOFF ELECTION,] a United States senator shall be elected to fill the remainder of the unexpired term. The person elected shall take office on the date the United States Senate meets, convenes, or reconvenes following the certification of the results of the special election [OR SPECIAL RUNOFF ELECTION] by the director.

* **Sec. 21.** AS 15.40.170 is amended to read:

Sec. 15.40.170. Term of elected representative. At the special election, [OR, AS PROVIDED BY AS 15.40.141, AT THE SPECIAL RUNOFF ELECTION,] a United States representative shall be elected to fill the remainder of the unexpired term. The person elected shall take office on the date the United States house of representatives meets, convenes, or reconvenes following the certification of the results of the special election [OR SPECIAL RUNOFF ELECTION] by the director.

* **Sec. 22.** AS 15.58.020(a) is amended by adding a new paragraph to read:

(13) the following statement written in bold in a conspicuous location:

In each race, you may vote for any candidate listed. If the race is for the offices of governor and lieutenant governor, the candidates with the highest number of votes will be elected. If the race is for state or national legislative office, the candidate will be selected through a ranked-choice voting process and the candidate with the largest number of votes will be elected. For a ranked-choice election, you must rank the candidates in the numerical order of your preference, ranking as many candidates

as you wish. Your second, third, and subsequent ranked choices will be counted only if the candidate you ranked first does not receive enough votes to continue on to the next round of counting, so ranking a second, third, or subsequent choice will not hurt your first-choice candidate. Your ballot will be counted regardless of whether you choose to rank one, two, or more candidates for each office, but it will not be counted if you assign the same ranking to more than one candidate for the same office.

* **Sec. 23.** AS 15.58.020 is amended by adding a new subsection to read:

(c) Notwithstanding (a) of this section, if a pamphlet is prepared and published under AS 15.58.010 for a primary election, the pamphlet must contain the following statement written in bold in a conspicuous location, instead of the statement provided by (a)(13) of this section:

In each race, you may vote for any candidate listed. Rank the candidates for each office in the numerical order of your preference, ranking as many candidates as you wish. Your second, third, and subsequent ranked choices will be counted only if the candidate you ranked first does not receive enough votes to continue on to the next round of counting, so ranking a second, third, or subsequent choice will not hurt your first-choice candidate. Your ballot will be counted regardless of whether you choose to rank one, two, or more candidates for each office, but it will not be counted if you assign the same ranking to more than one candidate for the same office. The candidate on the ballot who receives the largest number of votes for a state office, United States senator, or United States representative will advance to the general election.

* **Sec. 24.** AS 15.80.010 is amended by adding a new paragraph to read:

(46) "ranked-choice voting" means the method of casting and tabulating votes at a primary or special primary election in which voters rank

1 candidates in order of preference and in which tabulation proceeds in sequential
2 rounds in which last-place candidates are defeated and the candidates with the largest
3 number of votes and the second-largest number of votes are nominated to appear on
4 the general election ballot.

5 * **Sec. 25.** AS 15.40.141, 15.40.142(b), and 15.40.150 are repealed.

6 * **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 TRANSITION; VOTER EDUCATION AS TO CHANGES MADE TO STATE
9 ELECTION SYSTEMS THROUGH ADOPTION OF A RANKED-CHOICE PRIMARY. (a)
10 For a period of not less than one full election cycle immediately following the effective date
11 of this Act, the director of elections shall, in a manner reasonably calculated to educate the
12 public, inform voters of the changes made to the state's election systems in this Act.

13 (b) In this section, "election cycle" means the 24-month period commencing on
14 January 1 of odd-numbered years and ending on December 31 of even-numbered years.