

SENATE BILL NO. 1

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATOR SHOWER

Introduced: 1/18/23

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to election security, voting, and ballots; and providing for an effective**
2 **date."**

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

4 * **Section 1.** AS 15.15.030 is amended by adding a new paragraph to read:

5 (18) An official ballot, including an electronic ballot, must contain a
6 watermark, seal, or other security identifier. The division may not count a ballot that
7 does not include the watermark, seal, or other security identifier. In this paragraph,
8 "security identifier" includes an election official's signature.

9 * **Sec. 2.** AS 15.15 is amended by adding new sections to read:

10 **Sec. 15.15.055. Ballot security and chain of custody.** (a) The director shall
11 adopt a regulation providing for a ballot security and chain of custody system to
12 account for the original of each used and unused ballot, absentee ballot certificate and
13 envelope, and the paper record of an electronically generated ballot under
14 AS 15.15.032 through a redundant, secure, and sealed system that accounts for the

location and entity that has custody of a ballot or record from the time the ballot is printed or paper record produced, until 22 months after the applicable election is certified under AS 15.15.450. The system must include, for each ballot that leaves the division's immediate custody, an envelope-based barcode or other mechanism sufficient to account for ballot chain of custody at all times the ballot is outside division custody. The division shall continually update the system adopted under this section to ensure that state election practices and procedures are consistent with best practices and procedures and protect the integrity of state elections held under this title. A signed ballot chain-of-custody document must accompany a ballot or group of ballots in the division's possession. An election official shall sign the document immediately upon receiving or releasing a ballot or group of ballots.

(b) The director shall adopt a regulation specifying a process to, following the closing of the polls, void all unused ballots, spoiled ballots, and unopened packs of ballots without mutilating or destroying the forensic integrity of the unused ballots, spoiled ballots, or unopened packs of ballots.

Sec. 15.15.057. Election offense hotline. (a) The director shall establish a toll-free election offense hotline to receive telephone calls reporting election offenses under this chapter. The director shall publicize the availability of the toll-free hotline and encourage the public to provide information to the division related to voter misconduct or other election offenses under this chapter. The director shall ensure the hotline is continuously staffed during the hours an absentee voting station is open under AS 15.20.045, during the hours an early voting location is open under AS 15.20.064, and for 24 hours after the time the polls open on election day. From 24 hours after the polls open until all election results are certified under AS 15.15.450, the director shall ensure an election official is available to respond to calls made to the hotline.

(b) The director shall have the election offense hotline number placed on voting machines, ballot envelopes, and other election materials in a manner the director determines will provide maximum public notice of the election offense hotline.

* **Sec. 3.** AS 15.15.060 is amended by adding a new subsection to read:

(f) The director shall provide each election board in the state with notices containing the telephone number of the election offense hotline established under AS 15.15.057(a). The election board shall post at least two of the notices in each polling place. The election board shall post the notices so that the notices are conspicuous to voters.

* **Sec. 4.** AS 15.15.250 is amended to read:

Sec. 15.15.250. Disposition of spoiled ballot. If a voter improperly marks, damages, or otherwise spoils a ballot, the voter may request and the election board shall provide another ballot, with a maximum of three. The board shall record on the precinct register that there was a spoiled ballot and void and secure [DESTROY] the spoiled ballot immediately without examining it.

* **Sec. 5.** AS 15.20.020 is amended to read:

Sec. 15.20.020. Provision for general administrative supervision. The director shall provide general administrative supervision over the conduct of absentee voting. The director shall make available instructions to absentee voters regarding the procedure for absentee voting and use of the online multi-factor authentication system for tracking absentee ballots established under AS 15.20.221.

* **Sec. 6.** AS 15.20.064 is amended by adding a new subsection to read:

(e) If a voter fails to satisfy the requirements of (b) of this section, the voter shall be allowed to vote a questioned ballot.

* **Sec. 7.** AS 15.20.081(e) is amended to read:

(e) An absentee ballot must be marked on or before the date of the election. Except as provided in (h) of this section, a voter who returns the absentee ballot by mail, whether provided to the voter by mail or by electronic transmission, shall use a mail service at least equal to first class and mail the ballot not later than the day of the election to the election supervisor for the house district in which the voter seeks to vote. Except as provided in AS 15.20.480, the ballot may not be counted unless it is received by the close of business on the 10th day after the election. [IF THE BALLOT IS POSTMARKED, IT MUST BE POSTMARKED ON OR BEFORE ELECTION DAY.] After the day of the election, ballots may not be accepted unless received by mail. A ballot received after the day of the election that is not postmarked or is

postmarked after the day of the election may not be counted unless the ballot envelope is marked with a United States Postal Service tracking barcode sufficient to verify that the ballot was mailed on or before the day of the election.

* **Sec. 8.** AS 15.20.203(b) is amended to read:

(b) An absentee ballot **shall** [MAY NOT] be **rejected** [COUNTED] if

(1) the voter has failed to properly **sign** [EXECUTE] the certificate;

(2) [AN OFFICIAL OR THE WITNESSES AUTHORIZED BY LAW TO ATTEST THE VOTER'S CERTIFICATE FAIL TO EXECUTE THE CERTIFICATE, EXCEPT THAT AN ABSENTEE BALLOT CAST IN PERSON AND ACCEPTED BY AN ABSENTEE VOTING OFFICIAL OR ELECTION SUPERVISOR MAY BE COUNTED DESPITE FAILURE OF THE ABSENTEE VOTING OFFICIAL OR ELECTION SUPERVISOR TO PROPERLY SIGN AND DATE THE VOTER'S CERTIFICATE AS ATTESTING OFFICIAL AS REQUIRED UNDER AS 15.20.061(c);

(3)] the **certificate** [BALLOT] is not **signed** [ATTESTED] on or before the date of the election;

(3) [(4)] the ballot **envelope**, if **delivered by mail after the day of the election** [POSTMARKED],

(A) is not postmarked on or before the date of the election; **or**

(B) does not have a United States Postal Service tracking barcode sufficient to verify that the ballot was mailed on or before the day of the election;

(4) [(5)] after the day of election, the ballot was delivered by a means other than mail; or

(5) [(6)] the voter voted

(A) in person and is a

(i) first-time voter who initially registered by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050, has not provided the identification required by AS 15.15.225(a), was not eligible for waiver of the identification requirement under AS 15.15.225(b), and has not provided the

1 identifiers required in AS 15.07.060(a)(2) and (3) that can be verified
 2 through state agency records described in AS 15.07.055(e); or

3 (ii) voter other than one described in (i) of this
 4 subparagraph, did not provide identification described in
 5 AS 15.15.225(a), was not personally known by the election official,
 6 and has not provided the identifiers required in AS 15.07.060(a)(2) and
 7 (3); or

8 (B) by mail or electronic transmission, is a first-time voter who
 9 initially registered by mail or by facsimile or other electronic transmission
 10 approved by the director under AS 15.07.050 to vote, has not met the
 11 identification requirements set out in AS 15.07.060, and does not submit with
 12 the ballot a copy of a

13 (i) driver's license, state identification card, current and
 14 valid photo identification, birth certificate, passport, or hunting or
 15 fishing license; or

16 (ii) current utility bill, bank statement, paycheck,
 17 government check, or other government document; an item described
 18 in this sub-subparagraph must show the name and current address of
 19 the voter.

20 * **Sec. 9.** AS 15.20.220(b) is amended to read:

21 (b) The state review board shall review and count absentee ballots under
 22 AS 15.20.081(e) and (h), **absentee ballots properly cured under AS 15.20.222,** and
 23 questioned ballots that have been forwarded to the director and that have not been
 24 reviewed or counted by a district counting board.

25 * **Sec. 10.** AS 15.20 is amended by adding new sections to read:

26 **Sec. 15.20.221. Ballot tracking system.** (a) The director shall establish an
 27 online multi-factor authentication system. The director may procure the system from a
 28 third party. The system must be designed to allow a voter to easily use the system
 29 through a mobile electronic device. The system must allow a voter to

30 (1) confirm that the voter's ballot has been sent by the division;

31 (2) track the date of the ballot's delivery to the voter;

- (3) confirm the division's receipt of the voter's ballot;
- (4) determine whether the voter's certificate has been reviewed;
- (5) determine whether the voter's ballot has been counted; and
- (6) provide the information necessary to cure a rejected ballot.

(b) The online multi-factor authentication system must

- (1) use multi-factor authentication to verify a voter's identity; and
- (2) indicate to a voter

(A) the process by which the voter may cure the lack of signature or verify the voter's identity, if the signature on the voter's ballot was missing; and

(B) the reason the voter's ballot was not counted, if the ballot was not counted.

(c) The division may not charge a voter a fee to use the online multi-factor authentication system.

Sec. 15.20.222. Procedure for curing uncounted ballot. (a) If a voter returns a ballot and the certificate is missing a signature or the ballot is rejected under AS 15.20.203(b)(5), the director shall immediately make a reasonable effort to contact the voter, explain the ballot deficiency, explain how the deficiency may be cured, and inform the voter of the deadline to cure the ballot. The director shall, within 48 hours and not later than five days after election day, send a notice of deficiency by first class, nonforwardable mail to the address on the voter's registration record and by electronic mail to the voter's electronic mail address if the voter has provided an electronic mail address. If the voter has provided a telephone number, the director shall attempt to notify the voter of the deficiency by telephone call or text message to the voter's telephone number.

(b) A notice of deficiency must include a form for the voter to confirm that the voter returned a ballot to the division and to provide a copy of identification accepted by the division under AS 15.15.225(a). The director shall provide a printed copy of the form with the notice of deficiency mailed to the voter. The director shall also make the form available in a format that can be completed and returned electronically.

(c) The ballot of a voter who received a notice of deficiency may be counted

1 only if

2 (1) the voter returns the form sent with the notice of deficiency, the
3 division receives the form within 14 days after election day, and the form confirms
4 that the voter returned a ballot to the division;

5 (2) the voter confirms that the voter returned a ballot to the division
6 and includes a copy of identification accepted by the division under AS 15.15.225(a);
7 and

8 (3) the ballot is otherwise valid.

9 * **Sec. 11.** AS 15.20.900 is amended by adding new subsections to read:

10 (c) The division shall conduct a routine forensic examination of each precinct
11 tabulator before and after each election.

12 (d) A precinct tabulator may not be connected to the Internet or a cellular
13 network from 24 hours before the polls open on election day until 14 days after the
14 polls close. During this time, all tabulator data shall be loaded from the tabulator onto
15 a separate storage device and transmitted from a computer that is not connected to the
16 tabulator.

17 (e) The division shall develop and apply strict chain-of-custody protocols for
18 precinct tabulators and the separate storage device.

19 (f) The division shall provide a technical subject matter expert appointed
20 under AS 24.20.060(10) full supervised access to all election data, algorithms,
21 software, and equipment, including precinct tabulators, storage devices, voting
22 machines, and vote tally systems.

23 * **Sec. 12.** AS 15.80 is amended by adding a new section to read:

24 **Sec. 15.80.006. Cybersecurity.** (a) The director shall, by regulation, develop a
25 cybersecurity program to defend the voter registration records kept by the division
26 against cyber attacks and data breaches and enable the division to detect and recover
27 from cyber attacks. The program must include cybersecurity training for election
28 officials.

29 (b) The director shall develop a nonpublic list of registered voters whose
30 numerical identifiers have been released in a breach of data maintained by the division
31 and shall exercise caution to protect election integrity.

1 * **Sec. 13.** AS 24.20.060 is amended to read:

2 **Sec. 24.20.060. Powers.** The legislative council has the power

3 (1) to organize and adopt rules for the conduct of its business;

4 (2) to hold public hearings, administer oaths, issue subpoenas, compel
5 the attendance of witnesses and production of papers, books, accounts, documents, and
6 testimony, and to have the deposition of witnesses taken in a manner prescribed by
7 court rule or law for taking depositions in civil actions when consistent with the
8 powers and duties assigned to the council by AS 24.20.010 - 24.20.140;

9 (3) to call upon all state officials, agencies, and institutions to give full
10 cooperation to the council and its executive director by collecting and furnishing
11 information, conducting studies, and making recommendations;

12 (4) in addition to providing the administrative services required for the
13 operation of the legislative branch,

14 (A) to provide the technical staff assistance in research,
15 reporting, drafting, and counseling requested by standing, interim, and special
16 committees and spot research and drafting services for individual members in
17 conformity with law and legislative rules;

18 (B) to conduct a continuing program for the revision and
19 publication of the acts of the legislature;

20 (C) to execute a program for the oversight of the administration
21 and construction of laws by state agencies and the courts through regulations,
22 opinions, and rulings;

23 (D) to operate and maintain the state legislative reference
24 library;

25 (E) to do all things necessary to carry out legislative directives
26 and law, and the duties set out in the uniform rules of the legislature;

27 (F) to sue in the name of the legislature during the interim
28 between sessions if authorized by majority vote of the full membership of the
29 council;

30 (5) to exercise control and direction over all legislative space, supplies,
31 and equipment and permanent legislative help between legislative sessions; the

exercise of control over legislative space is subject to AS 36.30.080(c) if the exercise involves the rent or lease of facilities, and to AS 36.30.085 if the exercise involves the acquisition of facilities by lease-purchase or lease-financing agreement;

(6) to produce, publish, distribute, and to contract for the printing of reports, memoranda, and other materials it finds necessary to the accomplishment of its work;

(7) to take appropriate action for the preconvening and post-session work of each legislative session including the employment one week in advance of each session of not more than 10 temporary legislative employees; the continuing employment of the temporary legislative employees is subject to legislative approval when the session convenes;

(8) to establish a legislative internship program on a cooperative basis with the University of Alaska that will provide for the assignment of interns to standing committees of each house of the legislature during regular sessions of the legislature; [AND]

(9) to establish reasonable fees for services and materials provided by the Legislative Affairs Agency to entities outside of the legislative branch of state government and charges for collecting the fees; all fees and charges collected under this paragraph shall be deposited into the general fund; **and**

(10) contract with and appoint technical subject matter experts to conduct full forensic audits of election data, algorithms, software, and equipment, including precinct tabulators, storage devices, voting machines, and vote tally systems.

* **Sec. 14.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The division of elections may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

* **Sec. 15.** Section 14 of this Act takes effect immediately under AS 01.10.070(c).

* **Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect January 1, 2024.