

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 141(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/1/99

Referred: Finance

Sponsor(s): REPRESENTATIVES KOTT, Porter, Cowdery, Green

A BILL

FOR AN ACT ENTITLED

**1 "An Act providing for preferential voting in federal, state, and local elections;
2 relating to the preparation of ballots; relating to the definition of 'political
3 party'; relating to the counting of ballots; and repealing punch-card voting."**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 15.13.400(10) is amended to read:

6 (10) "political party" means

**7 (A) an organized group of voters that represents a political
8 program and that nominated a candidate for governor who received at least
9 three percent of the total first choice votes cast at any one of the last five
10 preceding general elections for governor; and**

**11 (B) a subordinate unit of the organized group of voters
12 qualifying as a political party under (A) of this paragraph if, consistent with the
13 rules or bylaws of the political party, the unit conducts or supports campaign
14 operations in a municipality, neighborhood, election district, or precinct;**

1 * **Sec. 2.** AS 15.15.030 is amended by adding a new paragraph to read:

2 (14) The director shall design the ballot to accommodate preferential
3 voting for candidates for the offices of governor and lieutenant governor, for
4 candidates for the legislature, for the offices of President and Vice-President of the
5 United States, and for candidates for the United States Congress. The ballot shall
6 direct the voter to mark candidates in order of preference and to mark as many choices
7 as the voter wishes, but not to assign a particular ranking to more than one candidate.

8 * **Sec. 3.** AS 15.15.350 is amended to read:

9 **Sec. 15.15.350. General procedure for ballot count.** (a) The director may
10 adopt regulations prescribing the manner in which the [PRECINCT] ballot count is
11 accomplished so as to assure accuracy in the count and to expedite the process.

12 (b) An [THE] election board shall account for all ballots **in its precinct** by
13 completing a ballot statement containing (1) the number of official ballots received;
14 (2) the number of official ballots voted; (3) the number of official ballots spoiled; (4)
15 the number of official ballots unused and destroyed. The board shall count the number
16 of questioned ballots and shall compare that number to the number of questioned
17 voters in the register. Discrepancies shall be noted and **reported to the director. A**
18 [THE NUMBERS INCLUDED IN THE CERTIFICATE PRESCRIBED BY
19 AS 15.15.370. THE ELECTION BOARD SHALL COUNT THE BALLOTS IN A
20 MANNER THAT ALLOWS WATCHERS TO SEE THE BALLOTS WHEN OPENED
21 AND READ. NO] person handling the ballot after it has been taken from the ballot
22 box and before it is placed in the envelope for mailing may **not** have a marking device
23 in hand or remove a ballot from the immediate vicinity of the polls.

24 (c) [(b)] Ballots may not be counted before 8:00 p.m., local time, on the day
25 of the election.

26 * **Sec. 4.** AS 15.15.350 is amended by adding a new subsection to read:

27 (d) The first choice votes shall be counted first. If a candidate has obtained
28 a majority of the first choice votes, further counting is not necessary. If no candidate
29 has obtained a majority of the first choice votes, then the candidate receiving the least
30 number of first choice votes shall be declared defeated. Ballots cast for this defeated
31 candidate shall be transferred to the next choice candidate marked on each ballot. All

1 candidates with fewer than 25 first choice votes shall be declared defeated and all of
 2 their votes transferred to the next choice candidate indicated on each ballot. This
 3 process of elimination and transfer shall be continued until one candidate has a
 4 majority of the votes or is the sole remaining candidate, or there is a tie vote between
 5 all remaining candidates. If a ballot has no more available preferences, that ballot
 6 shall be declared void. A ballot assigning a particular ranking to more than one
 7 candidate for an office shall be declared invalid when the double ranking is reached.
 8 If a ballot skips a ranking, then the next ranking shall be counted. If there is a tie vote
 9 between all remaining candidates, the procedures in AS 15.15.460 and AS 15.20.430 -
 10 15.20.530 shall be followed.

11 * **Sec. 5.** AS 15.15.380 is amended to read:

12 **Sec. 15.15.380. Payment of election board members.** The director shall pay
 13 each election board member for time spent at election duties, including the receiving
 14 of instructions. Election board chairs [CHAIRMEN] and the chair [CHAIRMAN] and
 15 members of the absentee ballot review board, questioned ballot review board and
 16 state ballot counting review boards shall be paid for time spent at their election duties.
 17 The director shall set the compensation to be paid under this section by regulation.

18 * **Sec. 6.** AS 15.15.440 is amended to read:

19 **Sec. 15.15.440. Dates for opening and closing state ballot counting review.**
 20 The state ballot counting review shall begin as soon as practicable after the election
 21 is completed and no later than 16 days after an election and shall be continued until
 22 completed. The director may designate the hours each day during which the state
 23 ballot counting review board is to conduct its ballot counting review. [THE
 24 DIRECTOR SHALL CLOSE THE REVIEW WHEN THE DIRECTOR IS SATISFIED
 25 THAT NO MISSING PRECINCT CERTIFICATE OF ELECTION WOULD, IF
 26 RECEIVED, CHANGE THE RESULT OF THE ELECTION. IF NO ELECTION
 27 CERTIFICATE HAS BEEN RECEIVED FROM A PRECINCT, THE DIRECTOR
 28 MAY SECURE FROM THE ELECTION SUPERVISORS AND MAY COUNT A
 29 CERTIFIED COPY OF THE DUPLICATE ELECTION CERTIFICATE OF THE
 30 PRECINCT. IF NO ELECTION MATERIALS HAVE BEEN RECEIVED, BUT
 31 ELECTION RESULTS HAVE BEEN RECEIVED BY TELEPHONE, TELEGRAM

1 OR RADIO, THE DIRECTOR SHALL COUNT THE ELECTION RESULTS SO
 2 RECEIVED. IF THE DIRECTOR HAS REASON TO BELIEVE THAT A MISSING
 3 PRECINCT CERTIFICATE, IF RECEIVED, WOULD AFFECT THE RESULT OF
 4 THE ELECTION, THE DIRECTOR SHALL AWAIT THE RECEIPT OF THE
 5 CERTIFICATE UNTIL THE CLOSE OF BUSINESS ON THE 15TH DAY AFTER
 6 THE DATE OF ELECTION. A CERTIFICATE NOT ACTUALLY DELIVERED TO
 7 THE DIRECTOR BY THE CLOSE OF BUSINESS ON THE 15TH DAY AFTER
 8 THE ELECTION MAY NOT BE COUNTED AT THE STATE BALLOT COUNTING
 9 REVIEW.]

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

11 **Sec. 15.15.450. Certification of state ballot counting review.** Upon
 12 completion of the state ballot counting review, the director shall certify the person
 13 receiving **a majority** [THE LARGEST NUMBER] of votes for the office for which
 14 that person was a candidate as elected to that office and shall certify the approval of
 15 a justice or judge not rejected by a majority of the voters voting on the question. The
 16 director shall issue to the elected candidates and approved justices and judges [,] a
 17 certificate of their election or approval. The director shall also certify the results of
 18 a proposition and other question except that the lieutenant governor shall certify the
 19 results of an initiative, referendum, or constitutional amendment.

20 * **Sec. 8.** AS 15.15.470 is amended to read:

21 **Sec. 15.15.470. Preservation of election ballots, papers, and materials.** The
 22 director shall preserve all [PRECINCT ELECTION CERTIFICATES,] tallies [,] and
 23 registers for four years after the election. All ballots and stubs may be destroyed 30
 24 days after the certification of the state ballot counting review unless an application for
 25 recount has been filed and not completed, or unless their destruction is stayed by an
 26 order of the court. The director may permit the inspection of election materials upon
 27 call by Congress, the state legislature, or a court of competent jurisdiction.

28 * **Sec. 9.** AS 15.20.082(c) is amended to read:

29 (c) A special state absentee ballot prepared for the state general election or for
 30 a state special election shall, if the names of candidates are not yet certified, permit
 31 a voter to cast a ballot for all the candidates of a particular political party that expects

1 to have candidates appear on the ballot; for this purpose, the director shall prepare the
 2 ballot with party boxes and a blank line for each office to be voted on in that election.
 3 The voter may vote for a candidate for that office by writing in the name of a person
 4 and marking the box to the right of that name, or the voter may mark one of the party
 5 boxes. If the voter puts a mark in a party box for that office, the director shall count
 6 the mark as a vote cast for the candidate for that office nominated by that party. If
 7 the voter writes in a name for an office, the vote shall be counted as a write-in vote
 8 for that office. The director shall count the ballots under AS 15.15.350 [AS
 9 15.15.360]. The director shall provide the voter with the names of each candidate
 10 appearing on the primary election ballot and the names of any candidates who have
 11 qualified by petition to appear on the general election ballot.

12 * **Sec. 10.** AS 15.20.190(a) is amended to read:

13 (a) Thirty days before the date of an election, the election supervisors shall
 14 appoint, in the same manner provided for the appointment of election judges prescribed
 15 in AS 15.10.150, district absentee ballot [COUNTING] boards and district questioned
 16 ballot [COUNTING] boards, each composed of at least four members. At least one
 17 member of each board must be a member of the same political party of which the
 18 governor is a member, and at least one member of each board must be a member of
 19 the political party whose candidate for governor received the second largest number
 20 of votes in the preceding gubernatorial election. The district boards shall assist the
 21 election supervisors [IN COUNTING THE ABSENTEE AND QUESTIONED
 22 BALLOTS] and shall receive the same compensation paid election judges under
 23 AS 15.15.380.

24 * **Sec. 11.** AS 15.20.201(a) is amended to read:

25 (a) No less than seven days preceding the day of election, the election
 26 supervisor, in the presence and with the assistance of the district absentee ballot
 27 [COUNTING] board, shall review all voter certificates of absentee ballots received by
 28 that date. The review of absentee ballots shall continue at times designated by the
 29 election supervisor until completed.

30 * **Sec. 12.** AS 15.20.201(c) is amended to read:

31 (c) Not later than the 15th day following the day of the election, the district

1 absentee ballot [COUNTING] board shall certify the absentee ballot review.

2 * **Sec. 13.** AS 15.20.201(d) is amended to read:

3 (d) Absentee ballots received in the office of an election supervisor after the
4 completion of the district absentee ballot [COUNTING] review shall be forwarded
5 immediately to the director by the most expeditious service.

6 * **Sec. 14.** AS 15.20.203(a) is amended to read:

7 (a) The district absentee ballot [COUNTING] board shall examine each
8 absentee ballot envelope and shall determine whether the absentee voter is qualified
9 to vote at the election and whether the absentee ballot has been properly cast.

10 * **Sec. 15.** AS 15.20.203(c) is amended to read:

11 (c) Any person present at the district absentee ballot [COUNTING] review
12 may challenge the name of an absentee voter when read from the voter's certificate on
13 the envelope if the person has good reason to suspect that the challenged voter is not
14 qualified to vote, is disqualified, or has voted at the same election. The person making
15 the challenge shall specify the basis of the challenge in writing. The district absentee
16 ballot [COUNTING] board by majority vote may refuse to accept and count the
17 absentee ballot of a person properly challenged on grounds listed in (b) of this section.

18 * **Sec. 16.** AS 15.20.203(d) is amended to read:

19 (d) The election supervisor shall place all rejected absentee ballots in a
20 separate envelope with the statements of challenge. The envelope shall be labeled
21 "rejected absentee ballots" and shall be forwarded to the director [WITH THE
22 ELECTION CERTIFICATES AND OTHER RETURNS].

23 * **Sec. 17.** AS 15.20.203(f) is amended to read:

24 (f) The secrecy sleeves shall be drawn from the container, the absentee ballots
25 shall be removed from the secrecy sleeves, and the absentee ballots counted at the
26 times [SPECIFIED IN AS 15.20.201] and according to the rules for determining
27 properly marked ballots specified in regulations adopted by the director [IN
28 AS 15.15.360].

29 * **Sec. 18.** AS 15.20.205(a) is amended to read:

30 (a) On the second day following the day of the election, the election supervisor
31 or the supervisor's designee, in the presence and with the assistance of the district

1 questioned ballot [COUNTING] board, shall review all voter certificates of questioned
 2 ballots received by that date. The review of questioned ballots shall continue at times
 3 designated by the election supervisor until completed.

4 * **Sec. 19.** AS 15.20.207(a) is amended to read:

5 (a) The district questioned ballot [COUNTING] board shall examine each
 6 questioned ballot envelope and shall determine whether the questioned voter is
 7 qualified to vote at the election and whether the questioned ballot has been properly
 8 cast.

9 * **Sec. 20.** AS 15.20.207(c) is amended to read:

10 (c) Any person present at the district questioned ballot review may challenge
 11 the name of a questioned voter when read from the voter's certificate on the envelope
 12 if the person has good reason to suspect that the questioned voter is not qualified to
 13 vote, is disqualified, or has voted at the same election. The person making the
 14 challenge shall specify the basis of the challenge in writing. The district questioned
 15 ballot [COUNTING] board by majority vote may refuse to accept and count the
 16 questioned ballot of a person properly challenged under grounds listed in (b) of this
 17 section.

18 * **Sec. 21.** AS 15.20.207(d) is amended to read:

19 (d) The election supervisor shall place all rejected questioned ballots in a
 20 separate envelope with statements of challenge. The envelope shall be labeled
 21 "rejected questioned ballots" and shall be forwarded to the director with the
 22 [ELECTION CERTIFICATES AND] other returns.

23 * **Sec. 22.** AS 15.20.207(f) is amended to read:

24 (f) The secrecy sleeves shall be drawn from the container, the questioned
 25 ballots shall be removed from the secrecy sleeves, and the questioned ballots counted
 26 at the times specified in AS 15.20.205 and according to the rules for determining
 27 properly marked ballots specified in regulations adopted by the director [IN
 28 AS 15.15.360].

29 * **Sec. 23.** AS 15.20.220 is amended to read:

30 **Sec. 15.20.220. Procedure for state review.** (a) When the director and
 31 appointed party representatives have completed the review of ballots cast at the voting

1 precincts, they shall proceed to review the absentee and questioned ballot votes
 2 [CERTIFIED BY THE DISTRICT COUNTING BOARDS. THE REVIEW OF THE
 3 ABSENTEE AND QUESTIONED BALLOT VOTE CERTIFIED BY THE DISTRICT
 4 COUNTING BOARDS SHALL BE ACCOMPLISHED BY REVIEWING THE
 5 TALLIES OF THE RECORDED VOTE TO CHECK FOR MATHEMATICAL
 6 ERROR AND BY COMPARING THE TOTALS WITH THE ELECTION
 7 CERTIFICATE OF RESULTS].

8 (b) The state review board shall review and count absentee ballots under
 9 AS 15.20.081(e) and (h) and questioned ballots that have been forwarded to the
 10 director [AND THAT HAVE NOT BEEN REVIEWED OR COUNTED BY A
 11 DISTRICT COUNTING BOARD].

12 * **Sec. 24.** AS 15.20.480 is amended to read:

13 **Sec. 15.20.480. Procedure for recount.** In conducting the recount, the
 14 director shall review all ballots [WHETHER THE BALLOTS WERE COUNTED AT
 15 THE PRECINCT OR BY COMPUTER OR BY THE DISTRICT ABSENTEE
 16 COUNTING BOARD OR THE QUESTIONED BALLOT COUNTING BOARD] to
 17 determine which ballots, or part of ballots, were properly marked and which ballots are
 18 to be counted in the recount, and shall check the accuracy of the original count [, THE
 19 PRECINCT CERTIFICATE] and the review. The director shall check the number of
 20 ballots and questioned ballots cast in a precinct against the registers and shall check
 21 absentee ballots voted against absentee ballots distributed. The director shall count
 22 absentee ballots received before the completion of the recount. For administrative
 23 purposes, the director may join and include two or more applications in a single review
 24 and count of votes. [THE RULES IN AS 15.15.360 GOVERNING THE COUNTING
 25 OF HAND-MARKED BALLOTS AND THE RULES IN AS 15.20.730 GOVERNING
 26 THE COUNTING OF PUNCH-CARD BALLOTS SHALL BE FOLLOWED IN THE
 27 RECOUNT.] The ballots and other election material must remain in the custody of
 28 the director during the recount, and the highest degree of care shall be exercised to
 29 protect the ballots against alteration or mutilation. The recount shall be completed
 30 within 10 days. The director may employ additional personnel necessary to assist in
 31 the recount.

1 * **Sec. 25.** AS 15.25.060 is amended to read:

2 **Sec. 15.25.060. Preparation and distribution of ballots.** The primary
3 election ballot shall be prepared and distributed by the director in the manner
4 prescribed for general election ballots except as specifically provided otherwise for the
5 primary election. The director shall print the ballot on white paper and place the
6 names of all candidates who have properly filed in groups according to offices filed
7 for **and** [, WITHOUT REGARD TO] party affiliation. The order of the placement of
8 the names for each office shall be as provided for the general election ballot. Blank
9 spaces may not be provided on the ballot for the writing or pasting in of names.

10 * **Sec. 26.** AS 15.25.060 is amended by adding a new subsection to read:

11 (b) The director shall include instructions on blanket primary election ballots
12 directing the voter to mark candidates for an office within a single political party in
13 order of preference and to mark as many choices as the voter wishes within a single
14 political party, but not to assign a particular ranking to more than one candidate or to
15 rank candidates from more than one party.

16 * **Sec. 27.** AS 15.25.100 is amended to read:

17 **Sec. 15.25.100. Placement of nominees on general election ballot. Except**
18 **when an election results in a tie vote,** [THE] director shall place the name of the
19 candidate receiving **a majority** [THE HIGHEST NUMBER] of votes for an office by
20 a political party on the general election ballot.

21 * **Sec. 28.** AS 15.56.060(a) is amended to read:

22 (a) A person commits the crime of unlawful interference with an election if
23 the person

24 (1) induces or attempts to induce an election official to fail in the
25 official's duty by force, threat, intimidation, or offers of reward;

26 (2) intentionally changes, attempts to change, or causes to be changed
27 an official election document including ballots, tallies, and returns;

28 (3) intentionally delays, attempts to delay, or causes to be delayed the
29 sending of [THE CERTIFICATE, REGISTER,] ballots, or other **election** materials,
30 whether original or duplicate, required to be sent [BY AS 15.15.370]; or

31 (4) is contracted or employed by the state to print or reproduce in any

1 manner an official ballot, and the person knowingly

2 (A) personally appropriates, or gives or delivers to, or permits
3 to be taken by anyone other than a person authorized by the director, official
4 ballots; or

5 (B) prints or reproduces or has printed or reproduced official
6 ballots in a form or with a content other than that prescribed by law or as
7 directed by the director.

8 * **Sec. 29.** AS 15.60.010(2) is amended to read:

9 (2) "ballot" means a hand-marked ballot [AND A PUNCH-CARD
10 BALLOT];

11 * **Sec. 30.** AS 15.60.010(20) is amended to read:

12 (20) "political party" means an organized group of voters that
13 represents a political program and that either nominated a candidate for governor who
14 received at least three percent of the total **first choice** votes cast for governor at the
15 preceding general election or has registered voters in the state equal in number to at
16 least three percent of the total votes cast for governor at the preceding general election;

17 * **Sec. 31.** AS 29.26.060 is amended by adding a new subsection to read:

18 (d) A municipality may, by ordinance, provide for preferential voting under
19 which voters rank candidates in order of preference, and, if no candidate obtains a
20 majority of first choice votes, votes are transferred in sequential tabulations according
21 to voters' preferences in the manner set out in AS 15.15.350(c).

22 * **Sec. 32.** AS 15.10.140; AS 15.15.030(12), 15.15.330, 15.15.360, 15.15.370, 15.15.430;
23 AS 15.20.190(b), 15.20.201(b), 15.20.203(g), 15.20.205(b), 15.20.205(c), 15.20.205(d),
24 15.20.207(g), 15.20.590, 15.20.600, 15.20.609, 15.20.610, 15.20.620, 15.20.630, 15.20.640,
25 15.20.650, 15.20.660, 15.20.670, 15.20.680, 15.20.685, 15.20.690, 15.20.700, 15.20.710,
26 15.20.720, 15.20.730, 15.20.740; and AS 15.60.010(24) are repealed.