

HOUSE CS FOR CS FOR SENATE BILL NO. 99(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/13/99

Referred: Rules

Sponsor(s): SENATE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for preparation for redistricting before appointment of the
2 Redistricting Board; relating to preclearance under the Voting Rights Act of 1965,
3 as amended; clarifying the meaning of 'decennial census of the United States' in
4 art. VI, Constitution of the State of Alaska; prohibiting discrimination and use
5 of census numbers that are estimates or that have been adjusted based on
6 sampling in the redistricting of the house of representatives and the senate; and
7 prohibiting expenditures of public funds for population surveys or sampling for
8 certain purposes relating to legislative redistricting without an appropriation."

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

10 * Section 1. FINDINGS. The legislature finds that

11 (1) a fair and impartial redistricting requires

12 (A) the assimilation, compilation, and analysis of large amounts of data

13 and maps;

1 (B) complex statistical analysis; and

2 (C) a thorough consideration of legal issues under the Constitution of
3 the State of Alaska and the Constitution of the United States;

4 (2) there is an enormous amount of preparatory work that must be done before
5 the appointment of the Redistricting Board if the Redistricting Board is to adopt a fair and
6 impartial plan within 30 days after receiving redistricting data from the United States Bureau
7 of the Census;

8 (3) Alaska's redistricting plan will be subject to review by the United States
9 Department of Justice under 42 U.S.C. 1973 - 1973l (Voting Rights Act of 1965, as amended);

10 (4) ensuring that the redistricting plan complies with the provisions of 42
11 U.S.C. 1973 - 1973l, as amended, will require in-depth analysis of voting patterns over the
12 past decade;

13 (5) the United States Bureau of the Census has traditionally conducted an
14 actual enumeration of the American people and reported the results of that actual enumeration,
15 without statistical adjustment, to the states for purposes of redistricting;

16 (6) the United States Bureau of the Census has announced plans to use
17 sampling and estimates to adjust the actual population counts in the 2000 census;

18 (7) the United States Supreme Court, in *Department of Commerce v. United*
19 *States House*, 119 S.Ct. 765 (1999), has interpreted existing federal law to prohibit the use of
20 adjusted or estimated figures in reapportioning the seats in the United States House of
21 Representatives among the states;

22 (8) the United States Supreme Court, in *Department of Commerce v. United*
23 *States House*, 119 S.Ct. 765 (1999), declined to address the constitutionality of the use of
24 sampling and estimates by the census bureau in developing decennial census counts;

25 (9) the United States Supreme Court's decision in *Department of Commerce*
26 *v. United States House*, 119 S.Ct. 765 (1999), did not resolve the issue of whether the census
27 bureau may supply states with adjusted or estimated census figures for use in redistricting;

28 (10) each decade since statehood, Alaska's redistricting plan has been the
29 subject of expensive litigation;

30 (11) in the past, Alaska's redistricting boards have sometimes relied on surveys
31 and population estimates in order to remove Alaska's military population from the decennial

1 census figures in order to comply with the former wording of art. VI, secs. 3 and 5,
2 Constitution of the State of Alaska, which referred to the "civilian population"; and

3 (12) although recent amendments to the Constitution of the State of Alaska
4 have removed the reference to "civilian" population, court precedent regarding the exclusion
5 of nonresident military personnel and civilian "transients" remains (see Egan v. Hammond,
6 502 P.2d 856, 869 (Alaska 1972); Groh v. Egan, 526 P.2d 863, 869-874 (Alaska 1974);
7 Carpenter v. Hammond, 667 P.2d 1204, 1210-1213 (Alaska 1983); Hickel v. Southeast
8 Conference, 846 P.2d 38, 54-56 (Alaska 1992)).

9 * **Sec. 2. PURPOSE.** It is the purpose of the legislature to eliminate confusion in the
10 event the census bureau's report of the decennial census includes more than one population
11 figure for Alaska, to facilitate the work of the Redistricting Board by identifying the
12 appropriate census figures to be used in developing a redistricting plan, to avoid litigation over
13 the board's redistricting plan, to prevent discrimination against any segment of Alaska's
14 population in redistricting, to make necessary preparations for redistricting in a timely, fair,
15 and impartial fashion, and to make tools needed for the task of redistricting available to the
16 Redistricting Board as soon as that body is appointed.

17 * **Sec. 3.** AS 15.10 is amended by adding new sections to read:

18 **Article 2. Census and Population.**

19 **Sec. 15.10.200. Definition of "decennial census of the United States" and**
20 **use of census numbers by redistricting board.** (a) In art. VI, Constitution of the
21 State of Alaska, reference to the official decennial census of the United States is a
22 reference to the census enumeration used to establish apportionment among the several
23 states.

24 (b) The redistricting plan adopted under art. VI, Constitution of the State of
25 Alaska, may not use census numbers that are estimates or that have been adjusted
26 based on sampling, nor may the redistricting plan exclude or discriminate among
27 persons counted based on race, religion, color, national origin, sex, age, occupation,
28 military or civilian status, or length of residency.

29 (c) A qualified voter may bring an action in the superior court against the
30 redistricting board to enforce the provisions of (b) of this section.

31 **Sec. 15.10.210. Expenditures for population surveys or sampling**

1 **prohibited.** An expenditure of public funds may not be made for a population survey
 2 or sampling conducted for purposes of redistricting the legislature without an express
 3 appropriation by the legislature for that purpose.

4 **Sec. 15.10.220. Voting Rights Act review.** The independent legal counsel for
 5 the Redistricting Board provided for in art. VI, sec. 9, Constitution of the State of
 6 Alaska, shall

7 (1) submit the board's redistricting plan for preclearance to the United
 8 States Department of Justice or the United States District Court for the District of
 9 Columbia under 42 U.S.C. 1973c; and

10 (2) represent the state in all matters concerning redistricting until a final
 11 plan for redistricting and a proclamation of redistricting have been adopted and all
 12 challenges to them brought under art. VI, sec. 11, Constitution of the State of Alaska,
 13 have been resolved after final remand or affirmation.

14 * **Sec. 4.** AS 24.20 is amended by adding a new section to read:

15 **Sec. 24.20.085. Preparation for legislative redistricting.** (a) The Alaska
 16 Legislative Council may seek assistance as necessary from the Department of Law, the
 17 Department of Labor, and the division of elections before the appointment of the
 18 Redistricting Board.

19 (b) The legislative council may make arrangements for office space for the
 20 Redistricting Board and its staff before the convening of the Redistricting Board,
 21 including the leasing of appropriate facilities and office equipment.

22 (c) The legislative council shall compile and provide to, or contract with a
 23 third party to compile and provide to, the redistricting board the information necessary
 24 to implement a successful redistricting plan, including

25 (1) paper maps or a computer data base received from the United States
 26 Bureau of the Census describing all units of census geography;

27 (2) a computer data base of election and voter registration information
 28 from the division of elections to assist the Redistricting Board in determining
 29 compliance with 42 U.S.C. 1973-1973l (Voting Rights Act of 1965, as amended) and
 30 other statutory and constitutional requirements;

31 (3) information indicating the location of cultural, economic,

1 geographic, demographic, and trade area factors in the state; and

2 (4) information or analysis of state and federal court decisions
3 concerning reapportionment.

4 (d) The legislative council is responsible for the development of a
5 computerized system that uses census data and maps to prepare plans for state senate
6 and house districts in conformity with statutory and constitutional criteria and within
7 applicable time constraints. The legislative council may contract for the acquisition
8 of the computer software and hardware and for the provision of computer services that
9 are necessary to prepare for redistricting. The computer system must be developed so
10 that it can be made available for use by the Redistricting Board immediately upon the
11 Redistricting Board's convening.

12 (e) The legislative council

13 (1) shall prepare a budget and an accounting procedure for the
14 Redistricting Board; and

15 (2) may, upon request of the Redistricting Board, prepare and submit
16 supplemental appropriation requests for the work of the board.

17 * **Sec. 5. SEVERABILITY.** Under AS 01.10.030, if a provision of this Act or the
18 application of this Act to any person or circumstance is held invalid, the invalidity does not
19 affect other provisions of the Act that can be given effect without the invalid provision.