

**HOUSE BILL NO. 442**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVES BERKOWITZ, Cissna, Crawford, Croft, Davies, Guess, Hayes, Joule, Kapsner, Kerttula, Kookesh, Moses**

**Introduced: 2/15/02**

**Referred: State Affairs, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the primary election; and providing for an effective date."**

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

3 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
4 to read:

5 PURPOSE. The purpose of this Act is to

6 (1) comply with the decision of the United States Supreme Court in California  
7 Democratic Party v. Jones, 530 U.S. 567 (2000), which required state law to recognize a  
8 political party's right to determine with whom they will associate under the First Amendment  
9 to the Constitution of the United States to nominate candidates of the party to be placed on the  
10 general election ballot;

11 (2) implement the findings of the primary election task force convened by the  
12 lieutenant governor to respond to this court decision; and

13 (3) have a new system in place in time to conduct the next primary election in  
14 an orderly and efficient manner consistent with this court decision.

1 \* **Sec. 2.** AS 15.13.110(f) is amended to read:

2 (f) During the year in which the election is scheduled, each of the following  
3 shall file the campaign disclosure reports in the manner and at the times required by  
4 this section:

5 (1) a person who, under the regulations adopted by the commission to  
6 implement AS 15.13.100, indicates an intention to become a candidate for elective  
7 state executive or legislative office;

8 (2) a person who has filed a nominating petition under AS 15.25.140 -  
9 15.25.200 to become a candidate at the **primary** [GENERAL] election for elective  
10 state executive or legislative office;

11 (3) a person who campaigns as a write-in candidate for elective state  
12 executive or legislative office at the general election; and

13 (4) a group or nongroup entity that receives contributions or makes  
14 expenditures on behalf of or in opposition to a person described in (1) - (3) of this  
15 subsection, except as provided for certain independent expenditures by nongroup  
16 entities in AS 15.13.135(g).

17 \* **Sec. 3.** AS 15.25.010 is repealed and reenacted to read:

18 **Sec. 15.25.010. Provisions for primary election; ballots; voter**  
19 **participation.** (a) Candidates for the elective state executive, and state and national  
20 legislative, offices shall be nominated in a primary election in the manner prescribed  
21 by this chapter.

22 (b) The director shall prepare and provide blanket primary election ballots in  
23 accordance with AS 15.25.013 and the other provisions of this chapter.

24 (c) If modified blanket primary election ballots are provided under  
25 AS 15.25.013(b) to effectuate limitations on who may participate in the selection of a  
26 political party's candidates under the party's bylaws, a voter may use only one of the  
27 ballots. For the purpose of determining which modified blanket ballot a voter may  
28 use, a voter's party affiliation is considered to be the affiliation registered with the  
29 director as of the 30th day before the primary election. If a voter changes party  
30 affiliation within the 30 days before the primary election, the voter's previous party  
31 affiliation shall be used for the determination under this subsection.

1 \* **Sec. 4.** AS 15.25 is amended by adding new sections to read:

2 **Sec. 15.25.013. Blanket primary election ballots.** (a) Except as provided in  
3 (b) of this section, the director shall prepare and provide a blanket primary election  
4 ballot that contains all candidates for elective state executive, and state and national  
5 legislative, offices. All voters may use the blanket primary election ballot prepared  
6 under this subsection.

7 (b) In place of the blanket primary election ballot under (a) of this section, if a  
8 political party notifies the director under AS 15.25.015(a) that the party's bylaws limit  
9 who may participate in the primary election for selection of the party's candidates, and  
10 otherwise meets the requirements of this chapter and other applicable law, the director  
11 shall prepare and provide modified blanket primary election ballots in a manner that  
12 effectuates those limitations. The ballots prepared and provided under this subsection  
13 shall preserve to all voters the right to vote for any candidate except a candidate who  
14 seeks the nomination of a party that has limited voter participation.

15 **Sec. 15.25.015. Participation in primary election selection of a political**  
16 **party's candidates.** (a) No later than 5:00 p.m., Alaska time, on September 1 of the  
17 calendar year before the calendar year in which a primary election is to be held, a  
18 political party must submit a notice in writing to the director stating whether the party  
19 bylaws limit who may participate in the primary election for selection of the party's  
20 candidates for elective state executive, and state and national legislative, offices. A  
21 copy of the party's bylaws limiting who may participate in the primary election for  
22 selection of the party's candidates, documentation required under (d) of this section,  
23 and other information required by the director, must be submitted along with the  
24 notice. The notice, bylaws, documentation, and other information required by the  
25 director must be provided by the party's chairperson or another party official  
26 designated by the party's bylaws.

27 (b) If a political party fails to timely provide the notice and information  
28 required by (a) of this section or to otherwise meet the requirements of this section and  
29 other applicable provisions of law, the director shall place candidates of that party  
30 affiliation on a primary election ballot under AS 15.25.013 in a manner consistent with  
31 no limitation on who may participate in the primary election for selection of the party's

1 candidates.

2 (c) Once a political party timely submits a notice and bylaws under (a) of this  
 3 section and the director finds that the party has met the requirements of this chapter  
 4 and other applicable laws, the primary election ballot for selection of the party's  
 5 candidates will continue to be consistent with that notice. However, for a subsequent  
 6 primary election, the party shall timely submit another notice, bylaws, documentation,  
 7 and other information under (a) of this section if the party's bylaws regarding a  
 8 limitation on who may participate in the primary election for selection of the party's  
 9 candidates change.

10 (d) Party bylaws required to be submitted under (a) of this section must be  
 11 precleared by the United States Department of Justice under 42 U.S.C. 1973c (sec. 5,  
 12 Voting Rights Act of 1965) before submission. Documentation of the preclearance  
 13 must accompany the bylaws submitted under (a) of this section.

14 \* **Sec. 5.** AS 15.25.060 is repealed and reenacted to read:

15 **Sec. 15.25.060. Preparation and distribution of ballots.** Each primary  
 16 election ballot shall be prepared and distributed by the director in the manner  
 17 prescribed for general election ballots except as specifically provided otherwise for the  
 18 primary election. For the blanket primary election ballot under AS 15.25.013(a), the  
 19 director shall print the ballot on white paper and place the names of all candidates who  
 20 have properly filed in groups according to offices filed for, without regard to party  
 21 affiliation. For a modified blanket primary election ballot under AS 15.25.013(b), the  
 22 director shall print the ballot on white paper and place the names of candidates who  
 23 have properly filed, and who may appear on that ballot under AS 15.25.013 and  
 24 15.25.015, in groups according to the offices filed for. The order of the placement of  
 25 the names for each office shall be as provided for the general election ballot. Blank  
 26 spaces may not be provided on a ballot for the writing or pasting in of names.

27 \* **Sec. 6.** AS 15.25.150 is amended to read:

28 **Sec. 15.25.150. Date of filing petition. The petition is** [A CANDIDATE  
 29 SEEKING NOMINATION BY PETITION SHALL SUBMIT THE INFORMATION  
 30 REQUIRED UNDER AS 15.25.180(a)(1) - (8) AND (11) - (17) TO THE DIRECTOR  
 31 IN THE TIME AND MANNER SPECIFIED IN AS 15.25.040. THE FULL

PETITION WITH VOTER SIGNATURES SHALL BE] filed with the director by actual physical delivery in person at or before 5:00 p.m., prevailing time, **June 1** [ON THE DAY OF THE PRIMARY ELECTION] in the year in which a general election is held for the office, or by actual physical delivery to the director by registered or certified mail return receipt requested which is postmarked at or before 5:00 p.m., prevailing time, **June 1** [ON THE DAY OF THE PRIMARY ELECTION] in the year in which a general election is held for the office, and received not more than 15 days after that time. If the postmark is illegible, a dated receipt from the post office where dispatched shall be acceptable as evidence of mailing. **If June 1 is a Sunday or holiday, the deadlines for postmarking and receipt of the petition shall be extended 24 hours in each instance.**

\* **Sec. 7.** AS 15.25.190 is amended to read:

**Sec. 15.25.190. Placement of names on primary [GENERAL] election ballot.** The director shall place the names and the political group affiliation of persons who have been properly nominated by petition on the **primary** [GENERAL] election ballot.

\* **Sec. 8.** AS 15.25.200 is amended to read:

**Sec. 15.25.200. Withdrawal of candidate's name.** If a candidate nominated by petition dies or withdraws

**(1) after the petition has been filed and at least 48 days before the date of the primary election, the director may not place the name of the candidate on the primary election ballot; or**

**(2) on or after the date of the primary election** and 48 days or more before the general election, the director may not place the name of the candidate on the general election ballot.

\* **Sec. 9.** AS 15.25 is amended by adding a new section to read:

**Sec. 15.25.210. Placement of nominee on general election ballot.** (a) Except as provided in (b) of this section, of the names of persons that appear on the primary election ballot under AS 15.25.190, the director shall place on the general election ballot the name of the candidate of each political group that receives the greatest number of votes for an office.

1           (b) For the offices of governor and lieutenant governor, the director shall place  
 2 on the general election ballot the name of the candidate of each political group  
 3 receiving the greatest number of votes for the office of governor together with the  
 4 name of the candidate for lieutenant governor who received the greatest number of  
 5 votes and who is from the same political group as that candidate. However, the  
 6 director may not place on the general election ballot the name of the candidate of a  
 7 political group receiving the greatest number of votes for the office of

8                   (1) governor unless there is also a candidate for lieutenant governor of  
 9 that political group;

10                   (2) lieutenant governor unless there is also a candidate for governor of  
 11 that political group.

12           (c) For purposes of placement of the names of nominees on the general  
 13 election ballot under this section, all candidates who file nominating petitions without  
 14 designating a political group name under AS 15.25.180(a) shall be treated as  
 15 candidates of the same political group.

16 \* **Sec. 10.** AS 15.25.014 and 15.25.180(a)(17) are repealed.

17 \* **Sec. 11.** This Act takes effect immediately under AS 01.10.070(c).