

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 17, 2005
8:07 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Carl Gatto, Vice Chair
Representative Jim Elkins
Representative Bob Lynn
Representative Jay Ramras
Representative Berta Gardner
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 94

"An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration and voter registration records, voter registration through a power of attorney, voter registration using scanned documents, voter residence, precinct boundary and polling place designation and modification, recognized political parties, voters unaffiliated with a political party, early voting, absentee voting, application for absentee ballots through a power of attorney, or by scanned documents, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, initiative, referendum, recall, and definitions in the Alaska Election Code; relating to incorporation elections; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 98

"An Act relating to the compensation of certain public officials, officers, and employees not covered by collective bargaining agreements; and providing for an effective date."

- MOVED CSHB 98(STA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 94

SHORT TITLE: ELECTIONS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/21/05	(H)	READ THE FIRST TIME - REFERRALS
01/21/05	(H)	STA, JUD, FIN
02/03/05	(H)	STA AT 8:00 AM CAPITOL 106
02/03/05	(H)	Heard & Held
02/03/05	(H)	MINUTE(STA)
02/08/05	(H)	STA AT 8:00 AM CAPITOL 106
02/08/05	(H)	Heard & Held
02/08/05	(H)	MINUTE(STA)
02/10/05	(H)	STA AT 8:00 AM CAPITOL 106
02/10/05	(H)	Heard & Held
02/10/05	(H)	MINUTE(STA)
02/17/05	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 98

SHORT TITLE: NONUNION PUBLIC EMPLOYEE SALARY & BENEFIT

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/21/05	(H)	READ THE FIRST TIME - REFERRALS
01/21/05	(H)	STA, FIN
02/17/05	(H)	STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

LAURA GLASIER, Director
Division of Elections
Office of the Lieutenant Governor
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions on behalf of the division during the hearing on HB 94.

REPRESENTATIVE GABRIELLE LEDOUX

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke to Amendment 2 during the hearing on HB 94.

REPRESENTATIVE SAMUELS

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented Amendment 3 during the hearing on HB 94.

MIKE TIBBLES, Deputy Commissioner
Office of the Commissioner
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Presented HB 98 on behalf of the
administration.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House State Affairs Standing Committee meeting to order at [8:07:50 AM](#). Present at the call to order were Representatives Gatto, Elkins, Lynn, Gardner, and Seaton. Representatives Ramras and Gruenberg arrived as meeting was in progress.

[8:08:49 AM](#)

CHAIR SEATON announced that there would be a work session on Saturday, February 19, to address the PERS/TRS issue, and it would be teleconferenced.

HB 94-ELECTIONS

[8:10:43 AM](#)

CHAIR SEATON announced that the first order of business was HOUSE BILL NO. 94, "An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration and voter registration records, voter registration through a power of attorney, voter registration using scanned documents, voter residence, precinct boundary and polling place designation and modification, recognized political parties, voters unaffiliated with a political party, early voting, absentee voting, application for absentee ballots through a power of attorney, or by scanned documents, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, initiative, referendum, recall, and definitions in the Alaska Election Code; relating to incorporation elections; and providing for an effective date."

[Before the committee was the committee substitute (CS) for HB 94, Version 24-GH1048\G, Kurtz, 1/31/05.]

[8:10:57 AM](#)

LAURA GLASIER, Director, Division of Elections, Office of the Lieutenant Governor, offered her understanding that the committee had left off its last hearing of HB 94 in the midst of discussion of Amendment 2, [labeled 24-GH1048\G.9, Kurtz, 2/9/05], which previously had been moved by Representative Gardner.

8:12:16 AM

REPRESENTATIVE GARDNER returned to discussion of Amendment 2, [which she had moved at the end of the House State Affairs Standing Committee meeting on 2/10, without objection.] Amendment 2 read as follows:

Page 6, following line 21:

Insert new bill sections to read:

*** Sec. 10.** AS 15.15.420 is amended to read:

Sec. 15.15.420. Duty to review the ballot counting. The director shall review the counting of the ballots with the assistance of and in the presence of the state ballot counting review board [APPOINTED REPRESENTATIVES FROM THE POLITICAL PARTIES].

*** Sec. 11.** AS 15.15.430 is amended to read:

Sec. 15.15.430. Scope of the review of ballot counting. (a) The review of ballot counting by the director shall include only [A REVIEW OF]

(1) a review of the precinct registers, tallies, and ballots cast; [AND]

(2) a review of absentee and questioned ballots as prescribed by law; and

(3) a hand count of ballots from one randomly selected precinct in each election district that accounts for at least five percent of the ballots cast in that district.

(b) If, following the ballot review set out in (a) of this section, the director finds an unexplained discrepancy in the ballot count in any precinct, the director may count the ballots from that precinct. If there is a discrepancy of more than one percent between the results of the hand count under (a)(3) of this section and the count certified by the election board, the director shall conduct a hand count of the ballots from that district. The director shall certify in writing to the state ballot counting review board and publish on the division's Internet website any changes resulting from a [THE] count performed under this subsection."

Renumber the following bill sections accordingly.

Page 21, line 4:

Delete "secs. 20 - 43"

Insert "secs. 22 - 45"

REPRESENTATIVE GARDNER said Amendment 2 would assure people of the accuracy of machine counting [in elections]. She stated that there had been a question raised regarding the definition of the state ballot counting review board, which she said she thinks is resolved. She clarified, "It is something that's already specifically defined and includes representatives from both parties."

REPRESENTATIVE GARDNER directed attention to page 1, line 14, [as numbered on Amendment 2], regarding a hand count of ballots. She stated her belief that those districts that hand count their ballots would be excluded, because the point is to check the machine counting.

[8:12:44 AM](#)

CHAIR SEATON, in response to comments by Representative Gruenberg, explained that Amendment 2 is an amendment to Version G; any amendments adopted to Version G will be rolled over into the next bill version adopted by the committee. [Version F was in committee packets but had not yet been adopted by the committee.]

[8:13:59 AM](#)

REPRESENTATIVE GARDNER stated her understanding that there will be a fiscal note related to the hand counting. She emphasized the importance of ensuring fairness and accuracy at every level.

[8:14:55 AM](#)

MS. GLAISER reported that 22 of the 287 accuvote precincts don't meet the 5 percent bar. By 2006, she related, every precinct will have at least one touch screen. She requested that the committee change "shall" to "may", to allow the director of the division the discretion as to whether or not a hand count is necessary.

[8:17:27 AM](#)

MS. GLASIER, in response to a question from Representative Gatto, noted that every district has at least one precinct that would meet the bar for testing at 5 percent. In response to a question from Representative Lynn, she said the hand count process would not affect election night, because "this activity does not take place 'til the ballots reach the state review board." In response to a follow-up question from Representative Lynn, regarding what would happen if there is a significant error in one precinct, Ms. Glasier said Amendment 2 would provide that if there is a discrepancy of more than 1 percent between the results and the hand count, the director shall conduct a hand count of the ballots in the entire district. She noted that, in some precincts, 1 percent can mean one vote. She said the division implemented its own standards when it did a statewide recount. She suggested 3 percent as a reasonable margin.

[8:19:46 AM](#)

REPRESENTATIVE GATTO suggested the limit could be 1 percent, but not less than three votes.

[8:20:00 AM](#)

MS. GLASIER responded, "But again, if we recount that whole district, that is going to delay ... certification of election."

[8:20:03 AM](#)

REPRESENTATIVE GARDNER, regarding Representative Gatto's suggestion, said if the hand counted precinct is at least 5 percent of the district, then she wouldn't have a problem changing the language to say "or" a certain number of votes, whichever is greater. Regarding the issue of "shall" versus "may", she said she thinks it should be "shall". She explained that, although she has every confidence in the Division of Elections, there are concerns nationwide regarding the integrity of voting machines. Representative Gardner reiterated that she wants to assure everyone that the state is doing its best to ensure fair and honest elections by requiring a spot check in every district.

[8:21:10 AM](#)

REPRESENTATIVE GRUENBERG indicated that Amendment 2 could also include hand counted ballots. He said it seems to him that the

possibility of a miscount is at least as great in a hand counted precinct "as with a machine."

[8:21:51 AM](#)

MS. GLASIER answered that more discrepancy is probably found in a hand count. She said there is public concern regarding machines; however, the state has proven in five or six recounts in the last three years that the accuvote machines "are on."

[8:23:04 AM](#)

REPRESENTATIVE GRUENBERG suggested it would be wise for the division to be able to select whichever precinct it wants.

[8:23:21 AM](#)

REPRESENTATIVE GARDNER responded that the point is that it be random and representative of the district. She clarified, "If it were a precinct that was just very tiny in a large district, it might not be representative of how the count is really going."

[8:23:38 AM](#)

REPRESENTATIVE GRUENBERG suggested giving the Division of Election more discretion, by allowing a random selection of the precincts.

REPRESENTATIVE GARDNER said that could be acceptable.

[8:25:21 AM](#)

MS. GLASIER, in response to a question from Representative Gruenberg regarding the proposed language change in Amendment 2 from "[APPOINTED REPRESENTATIVES FROM THE POLITICAL PARTIES]" to "**state ballot counting review board**", said she doesn't think the division's process would change. She clarified that the board would be present and conducting its review, while simultaneously, hand count verifications would be taking place. Regarding the current system in which a representative from the political parties is appointed, she confirmed that that is done at no cost to the state.

[8:26:29 AM](#)

MS. GLASIER, in response to a question from Representative Gruenberg, clarified, "We always have the board there; all I think this would change is that while the board is present, ... other appointed members of the party could not be present." She offered an example.

[8:26:58 AM](#)

REPRESENTATIVE GATTO gave an example of how every single vote is crucial. He asked what the threshold is with an optical scanner before it discards a ballot.

[8:27:54 AM](#)

MS. GLASIER said if a mark is light, the optical scanner will "bring it back" for being an "under vote." She clarified that [the machine] would ask the voter if he/she is aware that a vote has been lightly marked or not marked. She said it's part of the Help America Vote Act (HAVA). She noted that some people make a conscious choice not to vote in certain races. Regardless of the efforts made to ensure a vote is read correctly, some people still do not mark their ballots correctly, at which point it becomes "a human call on the intent of the voter."

[8:28:52 AM](#)

CHAIR SEATON asked Ms. Glasier to confirm that [Amendment 2] wouldn't have anything to do with the situation where there is a five-vote discrepancy, because [in that case] there would be an automatic recount.

[8:29:07 AM](#)

MS. GLASIER answered that's correct.

CHAIR SEATON added, "And that bar is at half a percent of the number of votes in the district."

[MS. GLASIER nodded.]

[8:29:14 AM](#)

MS. GLASIER, in response to a question from Representative Gatto regarding whether the recount is done exactly as the count was done using a scanner, said that random hand counts are also done.

[8:29:25 AM](#)

REPRESENTATIVE LYNN asked how difficult it would be to tamper with a voting machine to affect the outcome of a vote.

[8:29:47 AM](#)

MS. GLASIER said there's a group called Black Box Voting that perpetuates the idea [that tampering] could be done. In Alaska, she noted, a state employee programs the machines. In some other states the machine vendor does the programming, and the concern there is whether a vendor could put something in the software to change the outcome of votes. She said the debate is just as strong on either side.

[8:30:39 AM](#)

REPRESENTATIVE GARDNER stated that it is theoretically possible to program the software to favor a candidate, and it's called, "the back door." She said it's never happened in Alaska, but the point of the spot-checking is to guard against that possible eventuality. Regarding the previous questions concerning the state ballot counting review board, she emphasized that the board already exists and is working. She clarified, "This amendment does not address, in any way, whether there can be other people watching or not watching - it simply says that the count is done in the presence of the review board. It doesn't mean that others can't be there, too."

[8:31:26 AM](#)

CHAIR SEATON stated that he thinks the review board and Division of Election's policies have adequately shown that they are "sampling the election." He said, "I think putting in this procedure is a complication that I'm not willing to impose upon the division for a problem that I don't think we have."

[8:32:23 AM](#)

CHAIR SEATON reminded the committee that [Ms. Glasier] had suggested changing the "shall" to "may" on line 4 [as numbered on Amendment 2]. He asked if anyone wished to amend Amendment 2.

[8:32:37 AM](#)

REPRESENTATIVE GRUENBERG noted that the word "shall" appears on lines 4, 10, 21, and 22 [as numbered on Amendment 2].

[8:33:10 AM](#)

REPRESENTATIVE GARDNER indicated that changing "shall" to "may" would make the entire [amendment] unnecessary.

[8:33:25 AM](#)

REPRESENTATIVE GRUENBERG stated concern regarding the merits [of Amendment 2], but expressed a willingness to work further on the issues surrounding it.

[8:34:53 AM](#)

REPRESENTATIVE ELKINS moved Amendment 1 to Amendment 2 to change "shall" to "may" on line 4 [as numbered on Amendment 2].

[8:35:13 AM](#)

REPRESENTATIVE GRUENBERG objected. He opined that the change in words should not be made there, and he asked Ms. Glasier which "shall" would best be changed.

[8:35:34 AM](#)

MS. GLASIER suggested a change to line 14 [as numbered on Amendment 2] as follows:

Between: "(3)" and "a hand count"
Insert: "and may include"

REPRESENTATIVE GARDNER asked Ms. Glasier how that would change the division's current abilities.

MS. GLASIER answered that there would be no change.

CHAIR SEATON offered his understanding that the amendment before the committee was the one suggested by Ms. Glasier. He asked if there was any objection. [The committee treated Ms. Glasier's suggested amendment as Amendment 1 to Amendment 2 and as a replacement for the original Amendment 1 to Amendment 2 moved by Representative Elkins.]

[8:37:05 AM](#)

REPRESENTATIVE GATTO objected to Amendment 1 to Amendment 2.

[8:37:15 AM](#)

REPRESENTATIVE LYNN stated that if the amendment being considered won't change the way things are currently done by the division, then it seems irrelevant whether or not it is adopted.

[8:38:28 AM](#)

A roll call vote was taken. Representative Elkins voted in favor of Amendment 1 to Amendment 2. Representatives Gatto, Lynn, Gardner, Gruenberg, and Seaton voted against it. Therefore, Amendment 1 to Amendment 2 failed by a vote of 5-1.

[8:38:45 AM](#)

CHAIR SEATON asked if there was any more discussion to Amendment 2.

A roll call vote was taken. Representatives Gardner and Gatto voted in favor of Amendment 2. Representatives Elkins, Lynn, Gruenberg, and Seaton voted against it. Therefore, Amendment 2 failed by a vote of 4-2.

[8:40:18 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt the committee substitute (CS) for HB 94, Version 24-GH1048\F, Kurtz, 2/11/05, as a work draft.

[8:40:48 AM](#)

CHAIR SEATON objected.

[8:41:04 AM](#)

REPRESENTATIVE GRUENBERG noted the changes that were incorporated into Version F.

[8:42:02 AM](#)

CHAIR SEATON clarified that the amendments labeled G.6-G.7 are included in the committee packet and were incorporated into Version F.

The committee took an at-ease from [8:42:51 AM](#) to [8:49:48 AM](#).

CHAIR SEATON reminded the committee that a motion was made to adopt Version F [with objection stated by Chair Seaton].

[8:50:26 AM](#)

REPRESENTATIVE GRUENBERG continued a review of the changes effected in Version F, and the reasons for them.

[8:52:43 AM](#)

CHAIR SEATON removed his objection to Version F; therefore, Version F was before the committee as a work draft.

[8:53:08 AM](#)

Representative Gruenberg confirmed that Version F includes all the amendments that had been adopted into Version G.

[8:53:37 AM](#)

CHAIR SEATON directed attention to page 19, [lines 16-19], which read as follows:

Sec. 15.60.008. Recognized political party status. (a) A political group that the director has not recognized as a political party may obtain recognized political party status if, on or before May 31 of the first election year for which the political group seeks recognition, the political group

CHAIR SEATON moved to adopt Amendment 1 as follows:

On page 19, line 18:
Delete "first"

CHAIR SEATON clarified that the language would read, "May 31 of the election year". He asked if there was any objection. There being none, Amendment 1 was adopted.

[8:55:20 AM](#)

REPRESENTATIVE RAMRAS moved to adopt Amendment 2, labeled 24-GH1048\F.5, Kurtz, 2/16/05, on behalf of Representative Gabrielle LeDoux. Amendment 2 read as follows:

Page 7, line 8:

Delete "a [TWO] United States citizen [CITIZENS]"
Insert "an individual [TWO UNITED STATES
CITIZENS]"

Page 8, lines 1 - 2:

Delete "one person who is a United States citizen
and"
Insert "an individual who"

Page 8, line 4:

Delete "person's"
Insert "individual's"

[8:56:48 AM](#)

REPRESENTATIVE GRUENBERG objected to Amendment 2 for discussion purposes.

[8:57:05 AM](#)

REPRESENTATIVE GABRIELLE LEDOUX, Alaska State Legislature, spoke to Amendment 2. She said current statute requires that an absentee voter must sign the voter's certificate in the presence of two persons over the age of 18 years. She said that the division, because of its concern that this requirement disenfranchises those in Alaska who live in remote areas, has proposed amending that requirement. However, Representative LeDoux noted that there would be a requirement that the one witness be a U.S. citizen - a requirement that may disenfranchise those Alaskans living overseas.

[8:59:21 AM](#)

REPRESENTATIVE LEDOUX stated that there is an inconsistency in current statute between the requirements for by-mail voting and those voting by facsimile ("fax"). Amendment 2 asks that both by-mail and by-fax voting requirements either be reduced to one person over 18 or, preferably, that the witness requirement be eliminated altogether. Representative LeDoux mentioned a federal voting assistance program that suggests that Alaska totally eliminate the requirement for overseas voting. She noted that 36 other states and territories have done so.

[9:01:02 AM](#)

REPRESENTATIVE GRUENBERG said he has a substitute for Amendment 2 which would eliminate the requirement entirely.

[9:02:32 AM](#)

REPRESENTATIVE GATTO proffered that the concern is people traveling who wish to vote could not find a U.S. citizen to be a witness. Those residing in the U.S. would not have difficulty finding at least one U.S. citizen as a witness.

[9:03:31 AM](#)

REPRESENTATIVE LEDOUX said she is focusing on people outside of the country. Notwithstanding that, she expressed concern about having different requirements for people inside the country versus those outside.

[9:04:41 AM](#)

REPRESENTATIVE GATTO asked Ms. Glasier how the division would treat an absentee ballot with "N/A" [not applicable] written on the witness signature line.

[9:05:11 AM](#)

MS. GLASIER answered that the ballot would not be counted. In response to a question from Chair Seaton, she said the lieutenant governor opposes dropping the bar for the U.S. citizen [requirement]. She said, "What you're amending is our absentee by-mail program for everyone in the U.S., whether they're traveling overseas or whether they live here in Alaska." Ms. Glasier said that it doesn't follow that just because other states do something one way, Alaska should as well. She noted that other states have problems with fraud and voting totals. She said Alaska has always been an A+ state in regard to voting.

[9:07:19 AM](#)

MS. GLASIER said the committee would be lowering the bar regarding the requirement for by-fax voting, as written in AS 15.20.066.

[9:07:26 AM](#)

CHAIR SEATON added, "But we are raising the bar on the ballots by mail."

[9:07:38 AM](#)

REPRESENTATIVE GRUENBERG directed attention to a letter in the committee packet from Paul Mendez, [Program Analyst], Federal Voting Assistance Program (FVAP), written to Christine Marasigan, Staff to Representative Gabrielle LeDoux.

[9:08:02 AM](#)

MS. GLASIER, in response to a request from Representative Gruenberg, explained that FVAP is an organization that assists those who vote overseas, such as those in the military. She noted that [the division] completes surveys with [FVAP].

[9:08:24 AM](#)

REPRESENTATIVE GRUENBERG said Mr. Mendez recommends that the witness requirement be eliminated. He asked what Ms. Glasier thinks about that idea.

[9:09:30 AM](#)

MS. GLASIER said the voter takes an oath that he/she is a U.S. citizen and so do the witnesses. She reminded the committee that finding a witness is an option second to finding a notary public or uniformed officer.

[9:10:43 AM](#)

REPRESENTATIVE GRUENBERG remarked that a voter takes an oath, under penalty of perjury. He asked Ms. Glasier if she thinks perjury is a stiff penalty for lying.

[9:11:07 AM](#)

MS. GLASIER said she believes so.

[9:12:32 AM](#)

REPRESENTATIVE LYNN asked why two witnesses are required for voting by fax, whereas only one is required for by-mail voting.

[9:12:42 AM](#)

CHAIR SEATON indicated that he thinks the concern may have been that voting by fax is voting by electronic means and thus, tampered could occur.

[9:13:22 AM](#)

REPRESENTATIVE GATTO stated a concern about professionals who can interfere with both e-mail and fax.

[9:14:05 AM](#)

REPRESENTATIVE RAMRAS suggested there are two issues: the intent to maintain the lowest common denominator that will still allow people to participate in the election process, versus the division's concern over the possibility of fraud. He asked Ms. Glasier, "Is that a fair way to assess this amendment?"

[9:14:30 AM](#)

MS. GLASIER answered yes.

[9:14:36 AM](#)

CHAIR SEATON asked if there was further discussion on Amendment 2 to Version F.

[9:15:03 AM](#)

REPRESENTATIVE GRUENBERG said he would support Amendment 2, but would later offer an amendment to eliminate the witness requirement.

[9:15:22 AM](#)

A roll call vote was taken. Representatives Lynn, Ramras, Gardner, Gruenberg, and Gatto voted in favor of Amendment 2 to Version F. Representatives Elkins and Seaton voted against it. Therefore, Amendment 2 passed by a vote of 5-2.

[9:18:02 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 3, labeled 24-GH1048\F.2, Kurtz, 2/16/05, which read as follows:

Page 1, line 8, following "**systems**,"
Insert "**qualifications for elected office**,"

Page 9, following line 1:
Insert new bill sections to read:
"* **Sec. 17.** AS 15.25.030(a) is amended to read:

(a) A member of a political party who seeks to become a candidate of the party in the primary election shall execute and file a declaration of candidacy. The declaration shall be executed under oath before an officer authorized to take acknowledgments and must state in substance

(1) the full name of the candidate;

(2) the full mailing address of the candidate;

(3) if the candidacy is for the office of state senator or state representative, the house or senate district of which the candidate is a resident;

(4) the office for which the candidate seeks nomination;

(5) the name of the political party of which the person is a candidate for nomination;

(6) the full residence address of the candidate, and the date on which residency at that address began;

(7) the date of the primary election at which the candidate seeks nomination;

(8) the length of residency in the state and in the district of the candidate;

(9) that the candidate will meet the specific citizenship requirements of the office for which the person is a candidate;

(10) that the candidate is a qualified voter as required by law;

(11) that the candidate will meet the specific age requirements of the office for which the person is a candidate; if the candidacy is for the office of state representative, that the candidate will be at least 21 years of age on the first day of the first regular session of the legislature convened after the election; if the candidacy is for the office of state senator, that the candidate will be at least 25 years of age on the first day of the first regular session of the legislature convened after the election; if the candidacy is for the office of governor or lieutenant governor, that the candidate will be at least 30 years of age on the first Monday in December following election or, if the office is to be filled by special election under AS 15.40.230 - 15.40.310, that the candidate will be at least 30 years of age on the date of certification of the results of the special election; or, for any other

office, by the time that the candidate, if elected, is sworn into office;

(12) that the candidate requests that the candidate's name be placed on the primary election ballot;

(13) that the required fee accompanies the declaration;

(14) that the person is not a candidate for any other office to be voted on at the primary or general election and that the person is not a candidate for this office under any other declaration of candidacy or nominating petition;

(15) the manner in which the candidate wishes the candidate's name to appear on the ballot; and

(16) that the candidate is registered to vote as a member of the political party whose nomination is being sought.

*** Sec. 18.** AS 15.25.105(a) is amended to read:

(a) If a candidate does not appear on the primary election ballot or is not successful in advancing to the general election and wishes to be a candidate in the general election, the candidate may file as a write-in candidate. Votes for a write-in candidate may not be counted unless that candidate has filed a letter of intent with the director stating

(1) the full name of the candidate;

(2) the full residence address of the candidate and the date on which residency at that address began;

(3) the full mailing address of the candidate;

(4) the name of the political party or political group of which the candidate is a member, if any;

(5) if the candidate is for the office of state senator or state representative, the house or senate district of which the candidate is a resident;

(6) the office that the candidate seeks;

(7) the date of the election at which the candidate seeks election;

(8) the length of residency in the state and in the house district of the candidate;

(9) the name of the candidate as the candidate wishes it to be written on the ballot by the voter;

(10) that the candidate meets the specific citizenship requirements of the office for which the person is a candidate;

(11) that the candidate will meet the specific age requirements of the office for which the person is a candidate; if the candidacy is for the office of state representative, that the candidate will be at least 21 years of age on the first day of the first regular session of the legislature convened after the election; if the candidacy is for the office of state senator, that the candidate will be at least 25 years of age on the first day of the first regular session of the legislature convened after the election; if the candidacy is for the office of governor or lieutenant governor, that the candidate will be at least 30 years of age on the first Monday in December following election or, if the office is to be filled by special election under AS 15.40.230 - 15.40.310, that the candidate will be at least 30 years of age on the date of certification of the results of the special election; or, for any other office, by the time that the candidate, if elected, is sworn into office;

(12) that the candidate is a qualified voter as required by law; and

(13) that the candidate is not a candidate for any other office to be voted on at the general election and that the candidate is not a candidate for this office under any other nominating petition or declaration of candidacy.

* **Sec. 19.** AS 15.25.180(a) is amended to read:

(a) The petition must state in substance

(1) the full name of the candidate;

(2) the full residence address of the candidate and the date on which residency at that address began;

(3) the full mailing address of the candidate;

(4) the name of the political group, if any, supporting the candidate;

(5) if the candidacy is for the office of state senator or state representative, the house or senate district of which the candidate is a resident;

(6) the office for which the candidate is nominated;

(7) the date of the election at which the candidate seeks election;

(8) the length of residency in the state and in the district of the candidate;

(9) that the subscribers are qualified voters of the state or house or senate district in which the candidate resides;

(10) that the subscribers request that the candidate's name be placed on the general election ballot;

(11) that the proposed candidate accepts the nomination and will serve if elected, with the statement signed by the proposed candidate;

(12) the name of the candidate as the candidate wishes it to appear on the ballot;

(13) that the candidate is not a candidate for any other office to be voted on at the primary or general election and that the candidate is not a candidate for this office under any other nominating petition or declaration of candidacy;

(14) that the candidate meets the specific citizenship requirements of the office for which the person is a candidate;

(15) that the candidate will meet the specific age requirements of the office for which the person is a candidate; if the candidacy is for the office of state representative, that the candidate will be at least 21 years of age on the first day of the first regular session of the legislature convened after the election; if the candidacy is for the office of state senator, that the candidate will be at least 25 years of age on the first day of the first regular session of the legislature convened after the election; and if the candidacy is for the office of governor or lieutenant governor, that the candidate will be at least 30 years of age on the first Monday in December following election or, if the office is to be filled by special election under AS 15.40.230 - 15.40.310, that the candidate will be at least 30 years of age on the date of certification of the results of the special election; or, for any other office, by the time that the candidate, if elected, is sworn into office;

(16) that the candidate is a qualified voter; and

(17) if the candidacy is for the office of the governor, the name of the candidate for lieutenant governor running jointly with the candidate for governor."

Renumber the following resolution sections accordingly.

Page 21, line 6:

Delete "secs. 20 - 43"

Insert "secs. 23 - 46"

[9:18:26 AM](#)

CHAIR SEATON objected for discussion purposes.

[9:18:41 AM](#)

REPRESENTATIVE RALPH SAMUELS, Alaska State Legislature, explained that Amendment 3 would require that a person running for office would meet the age requirement of that office by the first day of session, if for the House or Senate, and by the first Monday in December, if running for governor.

[9:20:31 AM](#)

REPRESENTATIVE GRUENBERG stated one problem with Amendment 3 is that it only includes state offices, not federal. Another problem, he indicated, is requiring that a person be a certain age by the first day of session. He said he thinks that may not be constitutional. He said he would like a legal opinion.

[9:21:39 AM](#)

REPRESENTATIVE SAMUELS responded that the constitution requires a person to be of a certain age in order to hold office, and Amendment 3 would only require that the person running for office is going to meet that constitutional requirement by the time he/she holds the office.

[9:22:34 AM](#)

REPRESENTATIVE SAMUELS, in response to a question from Representative Gatto regarding appointed positions, said a person cannot serve unless he/she is 21, 25, or 30 [for the House, Senate, and governor, respectively].

[9:23:04 AM](#)

REPRESENTATIVE SAMUELS noted that the first day of the Alaska State Legislature's session is defined in statute, and it

depends upon whether or not there's a gubernatorial election. In response to a question from Representative Gatto, he clarified that the person must meet the age requirement by the day that the legislature is scheduled to convene.

[9:25:03 AM](#)

REPRESENTATIVE SAMUELS, in response to Representative Gruenberg's reiteration of his idea regarding a legal opinion, said he had thought that Amendment 3 was a "common sense thing."

[9:25:16 AM](#)

REPRESENTATIVE GRUENBERG directed attention to Article 2, Section 2, [of the Alaska State Constitution], which read as follows:

A member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office. A senator shall be at least twenty-five years of age and a representative at least twenty-one years of age.

REPRESENTATIVE GRUENBERG read an attorney general's opinion from 1963 as follows:

The state legislature may not change the qualifications for a public office where the state constitution has set forth the qualifications and the constitution has not specifically provided that the legislature has the power to change or add to the qualifications.

[9:26:26 AM](#)

CHAIR SEATON clarified the intent of Amendment 3 for Representative Gruenberg.

[9:27:33 AM](#)

REPRESENTATIVE GRUENBERG cited a second attorney general's opinion from 1960, which read as follows:

Bills passed by the Senate during a period of service in that body of a Senator who was at the time less than 25 years of age were valid.

REPRESENTATIVE GRUENBERG stated concern that "this would appear to chill the right of a candidate to run who was not going to be 21, or 25, or 30 for a few days later."

[9:28:45 AM](#)

REPRESENTATIVE LYNN said, "I think we're talking about an unfortunate situation that happened in this last election cycle; and this has got to be fixed." He opined that it is not fair to the voters, the opponent, or the candidate, to have someone running for office who [does not meet the age requirement].

[9:28:59 AM](#)

MS. GLASIER responded, "Everybody knows it was ... in the media ... - the problem about certifying a candidate and the date of certification." She characterized [Amendment 3] as "a bright line" for the division to follow when certifying candidates. She noted that because the date session begins and the date the governor is sworn in are in statute, and because the division can check the date of birth, all of those things can be determined by the Division of Elections by June 1, on filing day, to certify a candidate to be placed on the ballot.

[9:29:50 AM](#)

REPRESENTATIVE GRUENBERG observed that people can't file for office until they file a declaration of candidacy, and, under Amendment 3, they couldn't file that declaration of candidacy without certifying that they would be 21 on the date that the legislature convened. The result, he concluded, would mean that nobody could run who would not be 21 on the date that the legislature convened.

[9:30:28 AM](#)

MS. GLASIER confirmed that Representative Gruenberg's observation is correct.

[9:30:44 AM](#)

REPRESENTATIVE GRUENBERG reiterated his concern regarding constitutionality.

[9:31:21 AM](#)

REPRESENTATIVE GARDNER noted that the suggested language in Amendment 3 [on page 2, line 15] is that the candidate must be of a certain age by the date he/she "is sworn into office". She indicated that a candidate may not be 21 until "maybe three days later, and there's a snow storm." She suggested adding language to specify the "regularly scheduled date."

[9:31:49 AM](#)

CHAIR SEATON pointed out that the language on page 2 [lines 6-7] read, "that the candidate will be at least 21 years of age on the first day of the first regular session of the legislature convened after the election".

[9:32:10 AM](#)

REPRESENTATIVE SAMUELS clarified as follows:

The decision on whether or not the candidate would be eligible to run is going to be made the previous summer. So, if the start of the session is January 10, he'll know the previous June whether he'll be 21 on the 10th of January. It doesn't matter if we actually start 'til the 13th, or the 15th, or the 30th - I mean if there's [an] earthquake or ... whatever happens, it doesn't matter, because he will have been certified or not certified to run the previous summer.

[9:32:45 AM](#)

REPRESENTATIVE GATTO said it's impossible for the division to know for certain what the first day will actually be, they just know when it's scheduled to be.

[9:33:15 AM](#)

REPRESENTATIVE GATTO moved [Conceptual] Amendment 1 to Amendment 3, as follows:

On page 2, line 6:
Between "first" and "day"
Insert "scheduled"

CHAIR SEATON clarified that Conceptual Amendment 1 to Amendment 3 would be a conforming amendment that would add "scheduled" between "first" and "day", wherever the phrase appears throughout the bill.

[9:34:00 AM](#)

CHAIR SEATON asked if there was any objection to Amendment 1 to Amendment 3. There being none, it was so ordered.

[9:34:20 AM](#)

REPRESENTATIVE GRUENBERG clarified his objection to [Amendment 3, as amended].

A roll call vote was taken. Representatives Ramras, Gardner, Gatto, Elkins, Lynn, and Seaton voted in favor of Amendment 3, as amended. Representative Gruenberg voted against it. Therefore, Amendment 3, as amended, was adopted by a vote of 6-1.

[9:36:24 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 4, labeled 24-GH1048\F.1, Kurtz, 2/16/05, which read as follows:

Page 1, line 8, following "**systems,**":
Insert "**qualifications for elected office,**"

Page 9, following line 1:
Insert new bill sections to read:
"*** Sec. 17.** AS 15.25.030(a) is amended to read:
(a) A member of a political party who seeks to become a candidate of the party in the primary election shall execute and file a declaration of candidacy. The declaration shall be executed under oath before an officer authorized to take acknowledgments and must state in substance
(1) the full name of the candidate;
(2) the full mailing address of the candidate;
(3) if the candidacy is for the office of state senator or state representative, the house or senate district of which the candidate is a resident, and that the candidate is registered to vote in that district;

(4) the office for which the candidate seeks nomination;

(5) the name of the political party of which the person is a candidate for nomination;

(6) the full residence address of the candidate, and the date on which residency at that address began;

(7) the date of the primary election at which the candidate seeks nomination;

(8) the length of residency in the state and in the district of the candidate;

(9) that the candidate will meet the specific citizenship requirements of the office for which the person is a candidate;

(10) that the candidate is a qualified voter as required by law;

(11) that the candidate will meet the specific age requirements of the office for which the person is a candidate;

(12) that the candidate requests that the candidate's name be placed on the primary election ballot;

(13) that the required fee accompanies the declaration;

(14) that the person is not a candidate for any other office to be voted on at the primary or general election and that the person is not a candidate for this office under any other declaration of candidacy or nominating petition;

(15) the manner in which the candidate wishes the candidate's name to appear on the ballot; and

(16) that the candidate is registered to vote as a member of the political party whose nomination is being sought.

*** Sec. 18.** AS 15.25.105(a) is amended to read:

(a) If a candidate does not appear on the primary election ballot or is not successful in advancing to the general election and wishes to be a candidate in the general election, the candidate may file as a write-in candidate. Votes for a write-in candidate may not be counted unless that candidate has filed a letter of intent with the director stating

(1) the full name of the candidate;

(2) the full residence address of the candidate and the date on which residency at that address began;

(3) the full mailing address of the candidate;

(4) the name of the political party or political group of which the candidate is a member, if any;

(5) if the candidate is for the office of state senator or state representative, the house or senate district of which the candidate is a resident, **and that the candidate is registered to vote in that district;**

(6) the office that the candidate seeks;

(7) the date of the election at which the candidate seeks election;

(8) the length of residency in the state and in the house district of the candidate;

(9) the name of the candidate as the candidate wishes it to be written on the ballot by the voter;

(10) that the candidate meets the specific citizenship requirements of the office for which the person is a candidate;

(11) that the candidate will meet the specific age requirements of the office for which the person is a candidate by the time that the candidate, if elected, is sworn into office;

(12) that the candidate is a qualified voter as required by law; and

(13) that the candidate is not a candidate for any other office to be voted on at the general election and that the candidate is not a candidate for this office under any other nominating petition or declaration of candidacy.

* **Sec. 19.** AS 15.25.180(a) is amended to read:

(a) The petition must state in substance

(1) the full name of the candidate;

(2) the full residence address of the candidate and the date on which residency at that address began;

(3) the full mailing address of the candidate;

(4) the name of the political group, if any, supporting the candidate;

(5) if the candidacy is for the office of state senator or state representative, the house or senate district of which the candidate is a resident, **and that the candidate is registered to vote in that district;**

(6) the office for which the candidate is nominated;

(7) the date of the election at which the candidate seeks election;

(8) the length of residency in the state and in the district of the candidate;

(9) that the subscribers are qualified voters of the state or house or senate district in which the candidate resides;

(10) that the subscribers request that the candidate's name be placed on the general election ballot;

(11) that the proposed candidate accepts the nomination and will serve if elected, with the statement signed by the proposed candidate;

(12) the name of the candidate as the candidate wishes it to appear on the ballot;

(13) that the candidate is not a candidate for any other office to be voted on at the primary or general election and that the candidate is not a candidate for this office under any other nominating petition or declaration of candidacy;

(14) that the candidate meets the specific citizenship requirements of the office for which the person is a candidate;

(15) that the candidate will meet the specific age requirements of the office for which the person is a candidate by the time that the candidate, if elected, is sworn into office;

(16) that the candidate is a qualified voter; and

(17) if the candidacy is for the office of the governor, the name of the candidate for lieutenant governor running jointly with the candidate for governor."

Renumber the following bill sections accordingly.

Page 21, line 6:

Delete "secs. 20 - 43"

Insert "secs. 23 - 46"

[9:37:08 AM](#)

CHAIR SEATON objected for discussion purposes.

[9:37:26 AM](#)

REPRESENTATIVE SAMUELS said a candidate who is not registered to vote "for a year" should have to prove that he/she [has been] a resident of the district [in which he/she is running] for a year.

[9:39:36 AM](#)

REPRESENTATIVE GATTO directed attention to the language that Amendment 4 would add [on page 1, lines 14-15], which read, "**and that the candidate is registered to vote in that district**". He suggested that the language specify that the person is "legally registered to vote."

[9:40:13 AM](#)

MS. GLASIER said the division believes that it is sufficient to say that the person is registered to vote; it means that the division has checked out that person's registration.

[9:41:05 AM](#)

CHAIR SEATON said there's a presumption that if [a candidate] was a registered voter in the district for a year, he/she is a legal resident. He offered his understanding that the intent of [Amendment 4] is not meant to preclude a person whose registration "is only for 6 months," it just means that that person would have to go to the Division of Elections and show "by some other means" that he/she has been a resident of the district for a full year. Chair Seaton asked Ms. Glasier if she thinks the proposed language [previously noted by Representative Gatto] "gets to the intent of the amendment."

[9:42:24 AM](#)

MS. GLASIER said she doesn't know if additional language would then be needed to specify [what the candidate not registered in the district would have to provide to the division. She offered further details.

[9:43:31 AM](#)

CHAIR SEATON stated concern over the language of Amendment 4 and suggested that the committee withdraw it and address the issues surrounding it later.

[9:44:49 AM](#)

REPRESENTATIVE GRUENBERG said [Amendment 4] would definitely place the burden on the candidate. He said Amendment 4 would require a candidate to be a registered voter at the time he/she filed for office; however, he said he doesn't think the language in the constitution requires a candidate to be registered until the time he/she takes office.

[9:46:52 AM](#)

REPRESENTATIVE SAMUELS said, "I don't care if you're a registered voter one day before you take office; my point of the amendment is proving the residency." He said he doesn't want people to move into a district one month before [an election] and claim to be resident there.

[9:48:00 AM](#)

REPRESENTATIVE GRUENBERG withdrew Amendment 4.

[9:48:09 AM](#)

CHAIR SEATON announced that HB 94 was heard and held.

HB 98-NONUNION PUBLIC EMPLOYEE SALARY & BENEFIT

[9:48:25 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 98, "An Act relating to the compensation of certain public officials, officers, and employees not covered by collective bargaining agreements; and providing for an effective date."

[9:48:43 AM](#)

MIKE TIBBLES, Deputy Commissioner, Office of the Commissioner, Department of Administration, presented HB 98 on behalf of the administration. He described [HB 98] as an equity issue that will bring the statutory schedule, for those employees in partially exempt and exempt service, in line with the contracts negotiated under collective bargaining.

[9:50:40 AM](#)

MR. TIBBLES said the Division of Personnel can establish ranges for particular job classes through a classification process;

however, the dollar amount for a particular range is established by one of two mechanisms: collective bargaining or the legislature's adjusting the statutory schedule. The proposed legislation would do the latter.

[9:51:32 AM](#)

MR. TIBBLES told the committee why the bill is so important. He said there are 11 collective bargaining agreements, and by the time the end of the three-year contracts are reached, there will be a 9 percent disparity between the statutory pay schedule and most of the collective bargaining agreements. He said that is a big disparity, a morale issue for employees, and certainly does not provide an incentive for employees to move up into management positions. Mr. Tibbles stated there are certain areas that have demonstrated recruitment problems.

[9:53:17 AM](#)

REPRESENTATIVE LYNN said he would like Mr. Tibbles to state for the record whether [HB 98] in any way would effect the legislators' salaries.

[9:53:31 AM](#)

MR. TIBBLES responded that it would not.

[9:53:53 AM](#)

CHAIR SEATON said:

On page 3 ..., at the top, where we're saying that the salary adjustments are -- the employees are entitled to receive salary adjustments comparable to those of the classified and partially exempt employee.

CHAIR SEATON asked if it would become a problem "attaching those two together."

[9:54:44 AM](#)

MR. TIBBLES said there are employees in executive and judicial branches that are not paid [according to] this salary schedule. He clarified that the bill would apply the same percentage increases to "those employees" [as] the employees on the schedule would receive.

[9:56:07 AM](#)

MR. TIBBLES, in response to a remark made by Representative Gatto, explained that "entitled" is standard language regarding statutory pay increases; it would ensure it's clear that if there's a 2 percent increase and the employee is not being paid [according to] the statutory schedule, he/she would be entitled to receive the same 2 percent.

[9:56:30 AM](#)

REPRESENTATIVE GRUENBERG concurred that that is standard language. He turned to Section 6 and asked if it is standard language that all [the legislature's] authority concerning the pay of "nonrepresented" employees in University is delegated over to the Board of Regents.

[9:57:11 AM](#)

MR. TIBBLES answered, to his knowledge, yes.

[9:57:25 AM](#)

REPRESENTATIVE GRUENBERG questioned the constitutionality of [the legislature's] delegating its authority.

[9:57:48 AM](#)

MR. TIBBLES explained that the legislature has authorized the university to establish its own classification and pay plans. He noted that [the university] does not operate on "our salary ranges or steps."

[9:58:24 AM](#)

CHAIR SEATON read from a copy of "1991 laws."

[9:58:45 AM](#)

REPRESENTATIVE GRUENBERG concluded, "So, there's precedent."

[9:58:52 AM](#)

REPRESENTATIVE GARDNER moved to report HB 98 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GARDNER, in response to a request by the chair, withdrew the motion.

[9:59:20 AM](#)

REPRESENTATIVE ELKINS moved Conceptual Amendment 1, to delete "two" on page 2, line 30, and insert "two[THREE]".

[9:59:55 AM](#)

MR. TIBBLES noted that in AS 39.27.011(f), the existing language does refer to 3 percent; therefore, Conceptual Amendment 1 would match Legislative Legal and Research Service's drafting style.

[10:00:24 AM](#)

CHAIR SEATON asked if there was any objection to Conceptual Amendment 1.

[10:00:44 AM](#)

REPRESENTATIVE GRUENBERG objected, and then removed his objection.

CHAIR SEATON announced that, there being no further objection, Conceptual Amendment 1 was adopted.

[10:01:00 AM](#)

REPRESENTATIVE GARDNER moved to report HB 98, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 98(STA) was reported out of the House State Affairs Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [10:01:26 AM](#).