

HOUSE BILL NO. 178

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES THOMAS, Feige, Tuck

Introduced: 3/7/11

Referred: Community and Regional Affairs, State Affairs

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to election practices and procedures; and providing for an effective**
2 **date."**

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

4 *** Section 1.** AS 15.20.030 is amended to read:

5 **Sec. 15.20.030. Preparation of ballots, envelopes, and other material.** The
6 director shall provide ballots for use as absentee ballots in all districts. The director
7 shall provide a secrecy sleeve in which the voter shall initially place the marked ballot,
8 and shall provide an envelope with the prescribed voter's certificate on it, in which the
9 secrecy sleeve with ballot enclosed shall be placed. The director shall prescribe the
10 form of and prepare the voter's certificate, envelopes, and other material used in
11 absentee voting. The voter's certificate shall include a declaration, for use when
12 required, that the voter is a qualified voter in all respects, a blank for the voter's
13 signature, [A CERTIFICATION THAT THE AFFIANT PROPERLY EXECUTED
14 THE MARKING OF THE BALLOT AND GAVE THE VOTER'S IDENTITY,

1 BLANKS FOR THE ATTESTING OFFICIAL OR WITNESS], and a place for
 2 recording the date the envelope was sealed [AND WITNESSED]. The envelope with
 3 the voter's certificate must include a notice that **a** false **statement** [STATEMENTS]
 4 made by the voter [OR BY THE ATTESTING OFFICIAL OR WITNESS] on the
 5 certificate **is** [ARE] punishable by law.

6 * **Sec. 2.** AS 15.20.045 is amended by adding a new subsection to read:

7 (c) In a municipality in which the division will not be operating an absentee
 8 voting station, the director may designate the municipal clerk as an absentee voting
 9 official for the limited purpose of distributing absentee ballots to qualified voters
 10 under AS 15.20.061(a)(1) and qualified voters' representatives under AS 15.20.072. At
 11 least 15 days before the election, the director shall supply municipal clerks designated
 12 under this subsection with absentee ballots.

13 * **Sec. 3.** AS 15.20.061(c) is amended to read:

14 (c) On receipt of an absentee ballot in person, the voter shall proceed to mark
 15 the ballot in secret, to place the ballot in the secrecy sleeve, to place the secrecy sleeve
 16 in the envelope provided, and to sign the voter's certificate on the envelope [IN THE
 17 PRESENCE OF THE ELECTION OFFICIAL WHO SHALL SIGN AS ATTESTING
 18 OFFICIAL AND DATE THAT SIGNATURE]. The election official shall then accept
 19 the ballot.

20 * **Sec. 4.** AS 15.20.066(b) is amended to read:

21 (b) An absentee ballot that is completed and returned by the voter by
 22 electronic transmission must

23 [(1)] contain the following statement: "I understand that, by using
 24 electronic transmission to return my marked ballot, I am voluntarily waiving a portion
 25 of my right to a secret ballot to the extent necessary to process my ballot, but expect
 26 that my vote will be held as confidential as possible," followed by the voter's signature
 27 and date of signature [; AND

28 (2) BE ACCOMPANIED BY A STATEMENT EXECUTED UNDER
 29 OATH AS TO THE VOTER'S IDENTITY; THE STATEMENT UNDER OATH
 30 MUST BE WITNESSED BY

31 (A) A COMMISSIONED OR NONCOMMISSIONED

1 OFFICER OF THE ARMED FORCES OF THE UNITED STATES;

2 (B) AN OFFICIAL AUTHORIZED BY FEDERAL LAW OR
3 THE LAW OF THE STATE IN WHICH THE ABSENTEE BALLOT IS
4 CAST TO ADMINISTER AN OATH; OR

5 (C) AN INDIVIDUAL WHO IS 18 YEARS OF AGE OR
6 OLDER].

7 * **Sec. 5.** AS 15.20.066 is amended by adding a new subsection to read:

8 (c) In this section, "electronic transmission" means facsimile, electronic mail,
9 and other methods of electronic transmission approved by the director and identified
10 in regulation.

11 * **Sec. 6.** AS 15.20.072(d) is amended to read:

12 (d) The representative shall deliver the special needs ballot and other voting
13 materials to the voter as soon as practicable. The voter shall mark the ballot in secret,
14 place the ballot in the secrecy sleeve, and place the secrecy sleeve in the envelope
15 provided. The voter shall provide the information on the envelope that would be
16 required for absentee voting if the voter voted in person. The voter shall sign the
17 voter's certificate [IN THE PRESENCE OF THE REPRESENTATIVE. THE
18 REPRESENTATIVE SHALL SIGN AS ATTESTING OFFICIAL] and date the
19 voter's signature.

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

21 (a) A qualified voter may apply in person, by mail, or by facsimile, scanning,
22 or other electronic transmission to the director for an absentee ballot under this
23 section. Another individual may apply for an absentee ballot on behalf of a qualified
24 voter if that individual is designated to act on behalf of the voter in a written general
25 power of attorney or a written special power of attorney that authorizes the other
26 individual to apply for an absentee ballot on behalf of the voter. The application must
27 include the address or, if the application requests delivery of an absentee ballot by
28 electronic transmission, the telephone electronic transmission number **or electronic**
29 **mail address**, to which the absentee ballot is to be returned, the applicant's full Alaska
30 residence address, and the applicant's signature. However, a person residing outside
31 the United States and applying to vote absentee in federal elections in accordance with

1 AS 15.05.011 need not include an Alaska residence address in the application. A
 2 person may supply to a voter an absentee ballot application form with a political party
 3 or group affiliation indicated only if the voter is already registered as affiliated with
 4 the political party or group indicated. Only the voter or the individual designated by
 5 the voter in a written power of attorney under this subsection may mark the voter's
 6 choice of primary ballot on an application. A person supplying an absentee ballot
 7 application form may not design or mark the application in a manner that suggests
 8 choice of one ballot over another, except that ballot choices may be listed on an
 9 application as authorized by the division. The application must be made on a form
 10 prescribed or approved by the director. The voter or registration official shall submit
 11 the application directly to the division of elections. For purposes of this subsection,
 12 "directly to the division of elections" means that an application may not be submitted
 13 to any intermediary that could control or delay the submission of the application to the
 14 division or gather data on the applicant from the application form. However, nothing
 15 in this subsection is intended to prohibit a voter from giving a completed absentee
 16 ballot application to a friend, relative, or associate for transfer to the United States
 17 Postal Service or a private commercial delivery service for delivery to the division.

18 * **Sec. 8.** AS 15.20.081(d) is amended to read:

19 (d) Upon receipt of an absentee ballot by mail, the voter [, IN THE
 20 PRESENCE OF A NOTARY PUBLIC, COMMISSIONED OFFICER OF THE
 21 ARMED FORCES INCLUDING THE NATIONAL GUARD, DISTRICT JUDGE
 22 OR MAGISTRATE, UNITED STATES POSTAL OFFICIAL, REGISTRATION
 23 OFFICIAL, OR OTHER PERSON QUALIFIED TO ADMINISTER OATHS,] may
 24 proceed to mark the ballot in secret, to place the ballot in the secrecy sleeve, to place
 25 the secrecy sleeve in the envelope provided, and to sign **and date** the voter's
 26 certificate on the envelope [IN THE PRESENCE OF AN OFFICIAL LISTED IN
 27 THIS SUBSECTION WHO SHALL SIGN AS ATTESTING OFFICIAL AND
 28 SHALL DATE THE SIGNATURE. IF NONE OF THE OFFICIALS LISTED IN
 29 THIS SUBSECTION IS REASONABLY ACCESSIBLE, AN ABSENTEE VOTER
 30 SHALL SIGN THE VOTER'S CERTIFICATE IN THE PRESENCE OF AN
 31 INDIVIDUAL WHO IS 18 YEARS OF AGE OR OLDER, WHO SHALL SIGN AS

1 A WITNESS AND ATTEST TO THE DATE ON WHICH THE VOTER SIGNED
 2 THE CERTIFICATE IN THE INDIVIDUAL'S PRESENCE, AND, IN ADDITION,
 3 THE VOTER SHALL CERTIFY, AS PRESCRIBED IN AS 09.63.020, UNDER
 4 PENALTY OF PERJURY, THAT THE STATEMENTS IN THE VOTER'S
 5 CERTIFICATION ARE TRUE].

6 * **Sec. 9.** AS 15.20.081(e) is amended to read:

7 (e) An absentee ballot must be marked on or before the date of the election. A
 8 [EXCEPT AS PROVIDED IN (h) OF THIS SECTION, A] voter who returns the
 9 absentee ballot by mail, whether provided to the voter by mail or by electronic
 10 transmission, shall use a mail service at least equal to first class and mail the ballot not
 11 later than the day of the election to the election supervisor for the house district in
 12 which the voter seeks to vote. Except as provided in AS 15.20.480, the ballot may not
 13 be counted unless it is received by the close of business on the 10th day after the
 14 election. If the ballot is postmarked, it must be postmarked on or before election day.
 15 After the day of the election, ballots may not be accepted unless received by mail.

16 * **Sec. 10.** AS 15.20.203(b) is amended to read:

17 (b) An absentee ballot may not be counted if

18 (1) the voter has failed to properly execute the certificate;

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

27 (3)] the ballot is not attested on or before the date of the election;

28 (3) [(4)] the ballot, if postmarked, is not postmarked on or before the
 29 date of the election;

30 (4) [(5)] after the day of election, the ballot was delivered by a means
 31 other than mail; or

1 **(5)** [(6)] the voter voted

2 (A) in person and is a

3 (i) first-time voter who initially registered by mail or by
4 facsimile or other electronic transmission approved by the director
5 under AS 15.07.050, has not provided the identification required by
6 AS 15.15.225(a), was not eligible for waiver of the identification
7 requirement under AS 15.15.225(b), and has not provided the
8 identifiers required in AS 15.07.060(a)(2) and (3) that can be verified
9 through state agency records described in AS 15.07.055(e); or

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

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

20 (i) driver's license, state identification card, current and
21 valid photo identification, birth certificate, passport, or hunting or
22 fishing license; or

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

27 * **Sec. 11.** AS 15.20.220(b) is amended to read:

28 (b) The state review board shall review and count absentee ballots under
29 AS 15.20.081(e) [**AND (h)**] and questioned ballots that have been forwarded to the
30 director and that have not been reviewed or counted by a district counting board.

31 * **Sec. 12.** AS 15.25.020 is amended to read:

1 **Sec. 15.25.020. Date of primary.** The primary election is held on the **second**
2 [FOURTH] Tuesday in August of every even-numbered year.

3 * **Sec. 13.** AS 15.25.055 is amended to read:

4 **Sec. 15.25.055. Removal of name from primary ballot.** A candidate's name
5 must appear on the primary election ballot unless notice of the withdrawal from the
6 primary is received by the director at least **52** [48] days before the date of the primary
7 election.

8 * **Sec. 14.** AS 29.20.380 is amended by adding a new subsection to read:

9 (c) The municipal clerk may act as an absentee voting official under
10 AS 15.20.045(c) for the limited purpose of distributing absentee ballots to qualified
11 voters or qualified voters' representatives under AS 15.20.072 in a municipality in
12 which the division of elections will not be operating an absentee voting station.

13 * **Sec. 15.** AS 15.20.081(h), 15.20.081(i), and 15.20.160 are repealed.

14 * **Sec. 16.** This Act takes effect January 1, 2012.