

CS FOR HOUSE BILL NO. 178(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/6/11

Referred: Finance

Sponsor(s): REPRESENTATIVES THOMAS, Feige, Tuck, Lynn

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 15.05.011 is amended by adding a new subsection to read:

5 (e) Notwithstanding (b)(1) of this section, a person residing outside the United
6 States may register and vote absentee if

7 (1) the parent or legal guardian of the person was domiciled in the state
8 immediately before leaving the United States;

9 (2) the director determines that the person meets the requirements of
10 (b)(2) - (5) of this section.

11 *** Sec. 2.** AS 15.20.030 is amended to read:

12 **Sec. 15.20.030. Preparation of ballots, envelopes, and other material.** The
13 director shall provide ballots for use as absentee ballots in all districts. The director
14 shall provide a secrecy sleeve in which the voter shall initially place the marked ballot,

1 and shall provide an envelope with the prescribed voter's certificate on it, in which the
 2 secrecy sleeve with ballot enclosed shall be placed. The director shall prescribe the
 3 form of and prepare the voter's certificate, envelopes, and other material used in
 4 absentee voting. The voter's certificate shall include a declaration, for use when
 5 required, that the voter is a qualified voter in all respects, a blank for the voter's
 6 signature, [A CERTIFICATION THAT THE AFFIANT PROPERLY EXECUTED
 7 THE MARKING OF THE BALLOT AND GAVE THE VOTER'S IDENTITY,
 8 BLANKS FOR THE ATTESTING OFFICIAL OR WITNESS], and a place for
 9 recording the date the envelope was sealed [AND WITNESSED]. The envelope with
 10 the voter's certificate must include a notice that a false **statement** [STATEMENTS]
 11 made by the voter [OR BY THE ATTESTING OFFICIAL OR WITNESS] on the
 12 certificate is [ARE] punishable by law.

13 * **Sec. 3.** AS 15.20.045 is amended by adding a new subsection to read:

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

20 * **Sec. 4.** AS 15.20.061(a) is amended to read:

21 (a) A qualified voter may apply in person for an absentee ballot to the
 22 following election officials at the times specified:

23 (1) to an absentee voting official on or after the 15th day before an
 24 election up to and including the date of the election;

25 (2) to an election supervisor on or after the **22nd** [15TH] day before an
 26 election up to and including the date of the election;

27 (3) to an absentee voting official at an absentee voting station
 28 designated under AS 15.20.045(b) on or after the 15th day before an election up to and
 29 including the date of the election;

30 (4) to an absentee voting official in the precinct in which no volunteers
 31 can be located to serve on the election board on or after the 15th day before an election

1 up to and including election day.

2 * **Sec. 5.** AS 15.20.061(c) is amended to read:

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

9 * **Sec. 6.** AS 15.20.064(a) is amended to read:

10 (a) For 22 [15] days before an election and on election day, a qualified voter
11 who meets the requirements set out in this section may vote in locations designated by
12 the director.

13 * **Sec. 7.** AS 15.20.066 is amended to read:

14 **Sec. 15.20.066. Absentee voting by electronic transmission.** (a) The director
15 shall adopt regulations applicable to the delivery of absentee ballots by electronic
16 transmission in a state election and to the use of electronic transmission absentee
17 voting in a state election by qualified voters. The regulations must

18 (1) require the voter to comply with the same time deadlines as for
19 voting in person on or before the closing hour of the polls;

20 (2) require the voter to comply with the same deadlines for
21 applying for an absentee ballot as those set out for applying in person for an
22 absentee ballot in AS 15.20.061(a)(1), except that a qualified voter who is an
23 absent uniformed services voter or an overseas voter may apply to vote an
24 absentee ballot by electronic transmission at any time during a calendar year;
25 and

26 (3) [(2)] ensure the accuracy and, to the greatest degree possible, the
27 integrity and secrecy of the ballot process.

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

30 [(1)] contain the following statement: "I understand that, by using
31 electronic transmission to return my marked ballot, I am voluntarily waiving a portion

1 of my right to a secret ballot to the extent necessary to process my ballot, but expect
 2 that my vote will be held as confidential as possible," followed by the voter's signature
 3 and date of signature [; AND

4 (2) BE ACCOMPANIED BY A STATEMENT EXECUTED UNDER
 5 OATH AS TO THE VOTER'S IDENTITY; THE STATEMENT UNDER OATH
 6 MUST BE WITNESSED BY

7 (A) A COMMISSIONED OR NONCOMMISSIONED
 8 OFFICER OF THE ARMED FORCES OF THE UNITED STATES;

9 (B) AN OFFICIAL AUTHORIZED BY FEDERAL LAW OR
 10 THE LAW OF THE STATE IN WHICH THE ABSENTEE BALLOT IS
 11 CAST TO ADMINISTER AN OATH; OR

12 (C) AN INDIVIDUAL WHO IS 18 YEARS OF AGE OR
 13 OLDER].

14 * **Sec. 8.** AS 15.20.072(d) is amended to read:

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

23 * **Sec. 9.** AS 15.20.081(a) is amended to read:

24 (a) A qualified voter may apply in person, by mail, or by facsimile, scanning,
 25 or other electronic transmission to the director for an absentee ballot under this
 26 section. Another individual may apply for an absentee ballot on behalf of a qualified
 27 voter if that individual is designated to act on behalf of the voter in a written general
 28 power of attorney or a written special power of attorney that authorizes the other
 29 individual to apply for an absentee ballot on behalf of the voter. The application must
 30 include the address or, if the application requests delivery of an absentee ballot by
 31 electronic transmission, the telephone electronic transmission number, to which the

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

21 * **Sec. 10.** AS 15.20.081(c) is amended to read:

22 (c) After receipt of an application, the director shall send the absentee ballot
 23 and other absentee voting material to the applicant by the most expeditious mail
 24 service. However, if the application requests that an absentee ballot for a state election
 25 be sent by electronic transmission, the director shall send the absentee ballot and other
 26 absentee voting material to the applicant by electronic transmission. **Except as**
 27 **provided in (k) of this section, the** [THE] absentee ballot and other absentee voting
 28 material shall be sent as soon as they are ready for distribution. If the absentee ballot
 29 and other absentee voting material are mailed to the applicant, the return envelope sent
 30 with the ballot and other materials shall be addressed to the election supervisor in the
 31 district in which the voter is a resident.

1 * **Sec. 11.** AS 15.20.081(d) is amended to read:

2 (d) Upon receipt of an absentee ballot by mail, the voter [, IN THE
3 PRESENCE OF A NOTARY PUBLIC, COMMISSIONED OFFICER OF THE
4 ARMED FORCES INCLUDING THE NATIONAL GUARD, DISTRICT JUDGE
5 OR MAGISTRATE, UNITED STATES POSTAL OFFICIAL, REGISTRATION
6 OFFICIAL, OR OTHER PERSON QUALIFIED TO ADMINISTER OATHS,] may
7 proceed to mark the ballot in secret, to place the ballot in the secrecy sleeve, to place
8 the secrecy sleeve in the envelope provided, and to sign **and date** the voter's
9 certificate on the envelope. **In** [IN THE PRESENCE OF AN OFFICIAL LISTED IN
10 THIS SUBSECTION WHO SHALL SIGN AS ATTESTING OFFICIAL AND
11 SHALL DATE THE SIGNATURE. IF NONE OF THE OFFICIALS LISTED IN
12 THIS SUBSECTION IS REASONABLY ACCESSIBLE, AN ABSENTEE VOTER
13 SHALL SIGN THE VOTER'S CERTIFICATE IN THE PRESENCE OF AN
14 INDIVIDUAL WHO IS 18 YEARS OF AGE OR OLDER, WHO SHALL SIGN AS
15 A WITNESS AND ATTEST TO THE DATE ON WHICH THE VOTER SIGNED
16 THE CERTIFICATE IN THE INDIVIDUAL'S PRESENCE, AND, IN] addition, the
17 voter shall certify, as prescribed in AS 09.63.020, under penalty of perjury, that the
18 statements in the voter's certification are true.

19 * **Sec. 12.** AS 15.20.081(e) is amended to read:

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

29 * **Sec. 13.** AS 15.20.081 is amended by adding a new subsection to read:

30 (k) In accordance with 42 U.S.C. 1973ff-1(a)(8)(A), if an application is
31 received at least 45 days before an election and is from an absent uniformed services

1 voter or an overseas voter, the director shall send an absentee ballot and other voting
 2 material to the applicant not later than 45 days before the election. If the absentee
 3 ballot prepared under AS 15.20.030 is not ready for distribution under (c) of this
 4 section at least 45 days before an election, the director shall provide an alternative
 5 absentee ballot to an absent uniformed services voter or overseas voter who requested
 6 an absentee ballot at least 45 days before the election. The alternative absentee ballot
 7 shall be prepared in substantially the same form as an absentee ballot prepared under
 8 AS 15.20.030.

9 * **Sec. 14.** AS 15.20.203(b) is amended to read:

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

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

12 (2) ~~[AN OFFICIAL OR THE WITNESSES AUTHORIZED BY LAW~~
 13 ~~TO ATTEST THE VOTER'S CERTIFICATE FAIL TO EXECUTE THE~~
 14 ~~CERTIFICATE, EXCEPT THAT AN ABSENTEE BALLOT CAST IN PERSON~~
 15 ~~AND ACCEPTED BY AN ABSENTEE VOTING OFFICIAL OR ELECTION~~
 16 ~~SUPERVISOR MAY BE COUNTED DESPITE FAILURE OF THE ABSENTEE~~
 17 ~~VOTING OFFICIAL OR ELECTION SUPERVISOR TO PROPERLY SIGN AND~~
 18 ~~DATE THE VOTER'S CERTIFICATE AS ATTESTING OFFICIAL AS REQUIRED~~
 19 ~~UNDER AS 15.20.061(c);~~

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

21 ~~(4)~~ (3) [(4)] the ballot, if postmarked, is not postmarked on or before the
 22 date of the election;

23 ~~(5)~~ (4) [(5)] after the day of election, the ballot was delivered by a means
 24 other than mail; or

25 ~~(6)~~ (5) [(6)] the voter voted

26 (A) in person and is a

27 (i) first-time voter who initially registered by mail or by
 28 facsimile or other electronic transmission approved by the director
 29 under AS 15.07.050, has not provided the identification required by
 30 AS 15.15.225(a), was not eligible for waiver of the identification
 31 requirement under AS 15.15.225(b), and has not provided the

1 identifiers required in AS 15.07.060(a)(2) and (3) that can be verified
2 through state agency records described in AS 15.07.055(e); or

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

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

13 (i) driver's license, state identification card, current and
14 valid photo identification, birth certificate, passport, or hunting or
15 fishing license; or

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

20 * **Sec. 15.** AS 15.20.220(b) is amended to read:

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

24 * **Sec. 16.** AS 15.25.020 is amended to read:

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

27 * **Sec. 17.** AS 15.25.030 is amended by adding a new subsection to read:

28 (d) A declaration of candidacy is a public record, and all statements required
29 to be included in the declaration of candidacy under this section are open to public
30 inspection.

31 * **Sec. 18.** AS 15.25.042 is amended by adding new subsections to read:

1 (e) When the director changes a previous determination as to the eligibility of
 2 a candidate, the director shall send written notice to the candidate, other candidates for
 3 the office, and, if applicable, a person who has filed a complaint regarding the
 4 candidate's eligibility. The written notice must include an explanation of the reasons
 5 for the change in the determination as to the eligibility of the candidate.

6 (f) A person may challenge a determination as to the eligibility of a candidate
 7 made under (e) of this section. The challenge must be made in writing within 15 days
 8 after the mailing of the written notice of the change in the director's determination.

9 (g) If a determination of the director is challenged under (f) of this section, the
 10 director shall make a final determination within 15 days after receipt of the challenge.

11 * **Sec. 19.** AS 15.25.055 is amended to read:

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

16 * **Sec. 20.** AS 15.25.056(a) is amended to read:

17 (a) If an unopposed incumbent candidate for renomination dies, becomes
 18 disqualified from holding the office the candidate is seeking, or is certified as being
 19 incapacitated between June 1 of the election year and that date which is more than 54
 20 [50] days before the date of the primary election, the candidate's place on the ballot
 21 may be filled by party petition. The petition shall state that the political party requests
 22 the name of the proposed candidate replace that of the incumbent on the primary
 23 election ballot and shall be accompanied by a declaration of candidacy from the
 24 person named in the petition. The petition must be received by the director **not** [NO]
 25 later than 14 days after the death, disqualification, or certification of incapacity of the
 26 incumbent or 52 [48] days before the primary election date, whichever time is earlier.

27 * **Sec. 21.** AS 15.25.056(c) is amended to read:

28 (c) The death, disqualification, or certification of incapacity of the incumbent
 29 within 52 [48] days before or on the primary election date does not affect the counting
 30 and review of the ballots. If the result of the counting and review discloses that the
 31 candidate, if the candidate had lived, would have been nominated, the candidate shall

1 be declared nominated. The vacancy may be filled by party petition as provided in
2 AS 15.25.110 - 15.25.130.

3 * **Sec. 22.** AS 15.25.105 is amended by adding a new subsection to read:

4 (d) A letter of intent is a public record, and all statements required to be
5 included in the letter of intent under this section are open to public inspection.

6 * **Sec. 23.** AS 15.25.110 is amended to read:

7 **Sec. 15.25.110. Filling vacancies by party petition.** If a candidate of a
8 political party nominated at the primary election dies, withdraws, resigns, becomes
9 disqualified from holding the office for which the candidate is nominated, or is
10 certified as being incapacitated in the manner prescribed by this section after the
11 primary election and 64 [48] days or more before the general election, the vacancy
12 may be filled by party petition. The central committee of any political party or any
13 party district committee may certify as being incapacitated any candidate nominated
14 by their respective party by presenting to the director a sworn statement made by a
15 panel of three licensed physicians, not more than two of whom may be of the same
16 political party, that the candidate is physically or mentally incapacitated to an extent
17 that would in the panel's judgment prevent the candidate from active service during
18 the term of office if elected. The director shall place the name of the person nominated
19 by party petition on the general election ballot. The name of a candidate disqualified
20 under this section may not appear on the general election ballot.

21 * **Sec. 24.** AS 15.25.120 is amended to read:

22 **Sec. 15.25.120. Requirements for party petition.** Party petitions for the
23 nomination of candidates shall state in substance that the political party desires and
24 intends to support the named candidate for the named office and requests that the
25 name of the proposed candidate be placed on the general election ballot. The petition
26 may be filed not [NO] later than 64 [48] days before the date of the general election.

27 * **Sec. 25.** AS 15.25.180 is amended by adding a new subsection to read:

28 (d) A petition is a public record, and all statements required to be included in
29 the petition under this section are open to public inspection.

30 * **Sec. 26.** AS 15.25.200 is amended to read:

31 **Sec. 15.25.200. Withdrawal of candidate's name.** If a candidate nominated

1 by petition dies or withdraws after the petition has been filed and 64 [48] days or more
2 before the general election, the director may not place the name of the candidate on
3 the general election ballot.

4 * **Sec. 27.** AS 15.35.135(b) is amended to read:

5 (b) The name of a candidate for retention for supreme court justice, judge of
6 the court of appeals, superior court judge, or district court judge must appear on the
7 general election ballot unless notice under (a) of this section of withdrawal of
8 candidacy is received by the director at least 64 [48] days before the date of the
9 general election.

10 * **Sec. 28.** AS 15.80.010 is amended by adding new paragraphs to read:

11 (43) "absent uniformed services voter" has the meaning given in 42
12 U.S.C. 1973ff-6;

13 (44) "overseas voter" has the meaning given in 42 U.S.C. 1973ff-6.

14 * **Sec. 29.** AS 29.20.380 is amended by adding a new subsection to read:

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

19 * **Sec. 30.** AS 15.20.081(h), 15.20.081(i), and 15.20.160 are repealed.

20 * **Sec. 31.** This Act takes effect January 1, 2012.