

CS FOR SENATE BILL NO. 31(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 1/28/11

Referred: Judiciary

Sponsor(s): SENATORS THOMAS, FRENCH, MENARD, AND WIELECHOWSKI

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the counting of ballots."**

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

3 *** Section 1.** AS 15.15.360(a) is amended to read:

4 (a) The election board **or director, as may be appropriate,** shall count
5 ballots according to the following rules:

6 (1) A voter may mark a ballot only by filling in, making "X" marks,
7 diagonal, horizontal, or vertical marks, solid marks, stars, circles, asterisks, checks, or
8 plus signs that are clearly spaced in the oval opposite the name of the candidate,
9 proposition, or question that the voter desires to designate.

10 (2) A failure to properly mark a ballot as to one or more candidates
11 does not itself invalidate the entire ballot.

12 (3) If a voter marks fewer names than there are persons to be elected to
13 the office, a vote shall be counted for each candidate properly marked.

14 (4) If a voter marks more names than there are persons to be elected to
15 the office, the votes for candidates for that office may not be counted.

1 (5) The mark specified in (1) of this subsection shall be counted only if
2 it is substantially inside the oval provided, or touching the oval so as to indicate
3 clearly that the voter intended the particular oval to be designated.

4 (6) Improper marks on the ballot may not be counted and do not
5 invalidate marks for candidates properly made.

6 (7) An erasure or correction invalidates only that section of the ballot
7 in which it appears.

8 (8) A vote marked for the candidate for President or Vice-President of
9 the United States is considered and counted as a vote for the election of the
10 presidential electors.

11 (9) Write-in votes are not invalidated by writing in the name of a
12 candidate whose name is printed on the ballot unless the election board **or director**
13 determines, on the basis of other evidence, that the ballot was so marked for the
14 purpose of identifying the ballot.

15 (10) In order to vote for a write-in candidate, the voter must write in
16 the candidate's name in the space provided and fill in the oval opposite the candidate's
17 name in accordance with (1) of this subsection.

18 (11) A vote for a write-in candidate, other than a write-in vote for
19 governor and lieutenant governor, shall be counted if the oval is filled in for that
20 candidate and if the name, as it appears on the write-in declaration of candidacy, of the
21 candidate or the last name of the candidate is written in the space provided.

22 (12) If the write-in vote is for governor and lieutenant governor, the
23 vote shall be counted if the oval is filled in and the names, as they appear on the write-
24 in declaration of candidacy, of the candidates for governor and lieutenant governor or
25 the last names of the candidates for governor and lieutenant governor, or the name, as
26 it appears on the write-in declaration of candidacy, of the candidate for governor or the
27 last name of the candidate for governor is written in the space provided.

28 **(13) In counting votes for a write-in candidate, the election board**
29 **or director shall disregard any abbreviation, misspelling, or other minor**
30 **variation in the form of the name of a candidate if the intention of the voter can**
31 **be ascertained.**

1 * **Sec. 2.** AS 15.15 is amended by adding a new section to read:

2 **Sec. 15.15.365. Counting of write-in votes in general election.** (a) Write-in
3 votes on a general election ballot shall be counted by candidate only if the aggregate
4 of all votes cast for all write-in candidates for the particular office is

5 (1) the highest number of votes received by any candidate for the
6 office; or

7 (2) the second highest number of votes received by any candidate and
8 the difference between the total number of votes received by the candidate having the
9 highest number of votes and the aggregate of all votes cast for all write-in candidates
10 for the office is less than the percentage necessary for a recount at the state's cost
11 under AS 15.20.450.

12 (b) Write-in votes that do not meet the requirements of this section may not be
13 individually counted under this section.

14 (c) If the director determines that the requirements of (a) of this section have
15 been met,

16 (1) the director shall establish the place and date for counting those
17 write-in votes; and

18 (2) in an election for federal or statewide office, the director shall
19 count all write-in ballots under AS 15.15.360.

20 (d) This section does not apply to the counting of federal write-in absentee
21 ballots submitted under 42 U.S.C. 1973ff.