ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE
March 29, 2011
8:08 a.m.

MEMBERS PRESENT

Representative Cathy Engstrom Munoz, Chair
Representative Neal Foster, Vice Chair
Representative Alan Austerman
Representative Alan Dick
Representative Dan Saddler
Representative Sharon Cissna
Representative Berta Gardner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 196
"An Act relating to the power project fund and to the bulk fuel revolving loan fund; establishing a bulk fuel loan account and making the bulk fuel loan account and the bulk fuel bridge loan account separate accounts in the bulk fuel revolving loan fund; providing for technical assistance to rural borrowers under the bulk fuel bridge loan program; relating to the administration and investment of the bulk fuel revolving loan fund by the division in the Department of Commerce, Community, and Economic Development responsible for community and regional affairs; and providing for an effective date."

- MOVED HB 196 OUT OF COMMITTEE

HOUSE BILL NO. 178
"An Act relating to election practices and procedures; and providing for an effective date."

- MOVED CSHB 178(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 196
SHORT TITLE: BULK FUEL LOANS/POWER PROJECT FUND
SPONSOR(s): REPRESENTATIVE(s) EDGMON

03/16/11	(H)	READ THE FIRST TIME - REFERRALS
03/16/11	(H)	CRA, FIN
03/24/11	(H)	CRA AT 8:00 AM BARNES 124
03/24/11	(H)	Heard & Held
03/24/11	(H)	MINUTE(CRA)
03/29/11	(H)	CRA AT 8:00 AM BARNES 124

BILL: HB 178
SHORT TITLE: ELECTION PROCEDURES
SPONSOR(s): REPRESENTATIVE(s) THOMAS

03/07/11	(H)	READ THE FIRST TIME - REFERRALS
03/07/11	(H)	CRA, STA
03/15/11	(H)	CRA AT 8:00 AM BARNES 124
03/15/11	(H)	Heard & Held
03/15/11	(H)	MINUTE(CRA)
03/29/11	(H)	CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

ADAM BERG, Staff
Representative Bryce Edgmon
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented HB 196 on behalf of the sponsor, Representative Edgmon.

SCOTT RUBY, Director
Division of Community and Regional Affairs
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska
POSITION STATEMENT: During hearing of HB 196, reviewed the fiscal notes.

CECILE ELLIOT, Staff
Representative Bill Thomas
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Reviewed the changes encompassed in CSHB 178, Version X.

GAIL FENUMIAI, Director
Division of Elections
Office of the Lieutenant Governor
Juneau, Alaska
POSITION STATEMENT: During hearing on HB 178, answered questions.

MARK SAN SOUCI, Regional Liaison Northwest
Defense State Liaison Office
Office of the Deputy Assistant Secretary of Defense (DUSD) (Military Community and Family Policy)
U.S. Department of Defense
Washington State
POSITION STATEMENT: During hearing of HB 178, answered questions.

ACTION NARRATIVE

8:08:49 AM

CHAIR CATHY ENGSTROM MUNOZ called the House Community and Regional Affairs Standing Committee meeting to order at 8:08 a.m. Representatives Austerman, Foster, Dick, Saddler, Cissna (via teleconference), and Gardner were present at the call to order.

HB 196-BULK FUEL LOANS/POWER PROJECT FUND

8:09:18 AM

CHAIR MUNOZ announced that the first order of business would be HOUSE BILL NO. 196, "An Act relating to the power project fund and to the bulk fuel revolving loan fund; establishing a bulk fuel loan account and making the bulk fuel loan account and the bulk fuel bridge loan account separate accounts in the bulk fuel revolving loan fund; providing for technical assistance to rural borrowers under the bulk fuel bridge loan program; relating to the administration and investment of the bulk fuel revolving loan fund by the division in the Department of Commerce, Community, and Economic Development responsible for community and regional affairs; and providing for an effective date."

8:09:48 AM

ADAM BERG, Staff, Representative Bryce Edgmon, Alaska State Legislature, informed the committee that HB 196 has two new fiscal notes. He explained that the goal of the fiscal notes is to pay for the program with the interest from the Bulk Fuel Revolving Loan Fund (BFRLF). With regard to concerns regarding the deleted language on page 3, lines 14-16, Mr. Berg said he spoke with the Offices of Representatives Dick and Gardner who he understands now find the bill acceptable.

REPRESENTATIVE DICK confirmed that the deleted language does help everyone and keeps the process simple.

REPRESENTATIVE GARDNER said that since she doesn't have much experience with small rural areas, she would take her lead from those who do. Still, she expressed some concern as it seems appropriate to have local government involvement.

REPRESENTATIVE DICK emphasized that he wrestled with this issue, but opined that requiring consultation with the local government doesn't work for some communities at all. Therefore, at this time it seems best to leave the language requiring a written endorsement from the governing body of the community out.

8:13:33 AM

SCOTT RUBY, Director, Division of Community and Regional Affairs, Department of Commerce, Community & Economic Development (DCCED), directed attention to the Division of Community and Regional Affairs' (DCRA) fiscal note. Currently, the Bulk Fuel Bridge Loan Program is funded by a general fund (GF) appropriation of $219,000. Those funds pay for the contractor as well as travel for the contractor and staff when providing technical assistance to communities. There is also a reimbursable services agreement (RSA) with the Division of Economic Development for $45,000 to pay for its accounting and administration of the existing program. He explained that initially, Rural Alaska Fuel Services (RAFS) managed everything. In fact, the funds were in a bank account under RAFS' name because they were grant funds. When that had to be brought into the state system, which caused a statutory change, there was no fiscal note to reflect the different form of administrative costs. Therefore, [the state] continued to pay the contractor at the rate that existed prior and then paid the Division of Economic Development (DED) for its costs.

MR. RUBY pointed out that the expectation in 2013 is for program administration, in terms of DCRA's portion, to cost $252,800. Those funds would come from interest earned on the fund and would pay for a DCRA staff person to administer the contract, approve the loans, perform the due diligence on the loans prior to approval, and administer the program. Of that $252,800, $40,000 would pay for the travel of the contractor or DCRA staff when he/she has to provide technical assistance when the contractor is unable to do so. The fiscal note also specifies $120,000 for contractual costs. The DED fiscal note relates

$80,000 for administration, which is based on an accounting technician II position. He recalled that at the previous meeting there was concern that the new cost of running the program is about $333,000 versus the current cost of about $272,000. The concern was that the program was being made more efficient, but it was going to cost more to run the program. He attributed the discrepancy to the fact that all the costs to run the program aren't being reflected in the amount reported. For instance, in the current funding scheme there is no funding for a DCRA position to administer the program. Therefore, part of that position administering the contract and the 11 positions is currently being paid for out of DCRA's GF and isn't reflected in the $219,000 cost. The other issue is that it may not be a full-time position in DCRA to administer the new program, but rather will be only three-quarters of a position. However, fiscal notes require that a full position and the cost for it would have to be added. Mr. Ruby said that DCRA doesn't have the funding, the ability, or the prioritization to take on the administration of the extra 60 loans with DCRA's existing staff.

8:18:02 AM

REPRESENTATIVE GARDNER opined that with the efficiency of one-stop shopping, it still seems there should be a savings.

8:18:21 AM

REPRESENTATIVE DICK inquired as to how the added expense would help fulfill the need to be more accountable.

MR. RUBY related that many of the efficiencies are efficiencies perceived by the communities. Under HB 196, communities will only have to complete one application, the loan approval time will be shortened, and there's no danger of loans being held up by short barge deliveries. With regard to accountability, currently the 60 members under the AEA program [the BFRLF] don't receive technical assistance funded by the Bulk Fuel Bridge Loan Program. However, under HB 196 [those applying for the BFRLF] would have access to this technical assistance on a routine basis.

8:20:23 AM

REPRESENTATIVE AUSTERMAN directed attention to the fiscal note from AEA, which relates that it takes $53,600 from the BFRLF to run the program. He then directed attention to the fiscal notes from the Division of Economic Development and the Division of

Community & Regional Affairs, which total around $333,000. Representative Austerman said that he still doesn't understand. He asked if AEA took $252,000 from the BFRLF annually to run the [Bulk Fuel Bridge Loan Program].

MR. RUBY clarified that part of the funds are supplanting $219,000 in GF that's available. Currently, DCRA receives a $219,000 GF appropriation annually to administer the Bulk Fuel Bridge Loan Program. However, under this fiscal note, those funds would no longer be required; there would be a fund source change and the funds would now come from the proceeds of the loan program. In further response to Representative Austerman, Mr. Ruby pointed out that the funding source for the fiscal note [for DCRA] tries to reflect that by specifying that in 2013 there's a [decrement] of $219,000 and an increase in the fuel loan.

REPRESENTATIVE AUSTERMAN pointed out that even with the decrement of $219,000 the remainder is [$114,000], which is about double the existing $53,000. Therefore, he surmised that the cost to run the program under DCRA is double the cost to run it under AEA.

MR. RUBY specified that it will cost approximately $60,000 more to run the program under DCRA than AEA.

REPRESENTATIVE AUSTERMAN questioned the inefficiency of an operation for which the cost doubles, although the goal is efficiency.

8:24:20 AM

REPRESENTATIVE AUSTERMAN moved to report HB 196 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

8:24:40 AM

The committee took an at-ease from 8:24 a.m. to 8:26 a.m.

HB 178-ELECTION PROCEDURES

8:26:32 AM

CHAIR MUNOZ announced that the final order of business would be HOUSE BILL NO. 178, "An Act relating to election practices and procedures; and providing for an effective date." [Before the

committee was CSHB 178, Version 27-LS0304\E, Bullard, 3/11/11, adopted on 3/15/11.]

8:27:15 AM

REPRESENTATIVE SADDLER moved to adopt CSHB 178, Version 27-LS0304\X, Bullard, 3/18/11, as the working document. There being no objection, Version X was before the committee.

8:27:36 AM

CECILE ELLIOT, Staff, Representative Bill Thomas, Alaska State Legislature, explained that due to the committee's concerns, Version X no longer includes the provisions allowing voting by email. If the legislation moves forward with the 45-day requirement and the ability to deliver information and ballots electronically, it would provide enough time to vote for military and overseas voters.

8:28:24 AM

REPRESENTATIVE SADDLER surmised then that under Version X, overseas voters can receive their ballot application via email, although they can't return them via email.

MS. ELLIOT replied yes.

8:29:24 AM

REPRESENTATIVE GARDNER moved that the committee adopt Conceptual Amendment 1, which would retain the requirement of a witness for an overseas voter. She related her belief that it's difficult to imagine a situation in which an overseas voter can't obtain a witness.

8:30:33 AM

REPRESENTATIVE SADDLER said that although he had concerns with the removal of the witness requirement, those concerns didn't seem to be borne out. However, he did hear from advocates of military voting rights that the witness requirement is a difficulty for serviceman who try to vote. Therefore, he decided to fall on the side of ensuring that overseas voters have every opportunity to vote.

8:31:46 AM

REPRESENTATIVE GARDNER, in response to Chair Munoz, specified that Conceptual Amendment 1 would reinsert the deleted language on page 2, line 6, of Version X. With the adoption of Conceptual Amendment 1, the language on page 2, lines 6-12, would read as follows:

> signature, a certification that the affiant properly executed the marking of the ballot and gave the voter's identity, blanks for the attesting official or witness, and a place for recording the date the envelope was sealed and witnessed. The envelope with the voter's certificate must include a notice that false statements made by the voter or by the attesting official or witness on the certificate are punishable by law.

8:34:18 AM

CHAIR MUNOZ pointed out that on page 3, lines 21-30, of Version E the requirements for a witness are specified.

MS. ELLIOT replied yes.

8:35:01 AM

REPRESENTATIVE GARDNER reiterated that she can't imagine circumstances in which an individual [overseas] could have access to a ballot, the ability to return the ballot, but can't find a witness.

MS. ELLIOT questioned how military and overseas voters would know a foreign witness is 18. Furthermore, an individual can falsify a witness easier than the voter can falsify him/herself. She reminded the committee that in order to vote absentee, the voter has to provide personal information to the Division of Elections, while a witness doesn't have to do any of that. Ms. Elliot acknowledged that it's a policy call. If obtaining a witness is a potential impediment and there's no way to verify that the witness is a witness, she questioned whether this would place an absentee voter without a witness and in a position to falsify a witness.

REPRESENTATIVE GARDNER opined that [all absentee voters] have the ability to falsify a witness.

MS. ELLIOT stated that the witness requirement applies to all absentee voters.

8:37:46 AM

REPRESENTATIVE AUSTERMAN pointed out that in Version X changes to the witness requirement may need to be made throughout the legislation.

8:38:21 AM

CHAIR MUNOZ informed the committee that she had just received an amendment from Legislative Legal Services regarding changes to the witness requirement.

8:38:28 AM

REPRESENTATIVE GARDNER withdrew Conceptual Amendment 1.

8:39:25 AM

CHAIR MUNOZ moved to adopt Amendment 2, labeled 27-LS0304\X.2, Bullard, 3/28/11, which read:

Page 1, line 11, through page 2, line 12:
Delete all material.

Renumber the following bill sections accordingly.

Page 3, lines 2 - 8:
Delete all material.

Renumber the following bill sections accordingly.

Page 3, line 13:
Delete "AS 15.20.066"
Insert "AS 15.20.066(a)"

Page 3, line 14:
Delete "**Sec. 15.20.066. Absentee voting by electronic transmission.**"

Page 3, line 24, through page 4, line 18:
Delete all material.

Renumber the following bill sections accordingly.

Page 5, line 17, through page 6, line 3:
Delete all material.

Renumber the following bill sections accordingly.

Page 6, line 14, through page 7, line 24:
Delete all material.

Renumber the following bill sections accordingly.

Page 9, line 30:
Delete ", 15.20.081(i), and 15.20.160"
Insert "and 15.20.081(i)"

8:39:55 AM

REPRESENTATIVE SADDLER inquired as to the division's experience with witness requirements. He further inquired as to whether there has been evidence of voters fraudulently witness ballots.

8:40:09 AM

GAIL FENUMIAI, Director, Division of Elections, Office of the Lieutenant Governor, said that the division has no evidence of voters trying to fraudulently witness ballots. The main problem with the witness requirement is that the witness provides an identifier, his/her driver's license, on the ballot envelope rather than the voter. She reiterated that the division has seen no evidence of fraud, which she opined would be difficult to prove because the witness merely provides a signature and a date.

8:41:02 AM

REPRESENTATIVE SADDLER surmised then that there's no certification or notarization; it's a matter of trust.

MS. FENUMIAI agreed that it's a matter of trust. The witness requirement statute specifies that the witness be over the age 18 or an individual who is authorized to administer an oath, such as a post master, a commissioned officer in the military, a judge, a magistrate, and a notary. The ballots, she noted, don't require notarization.

8:41:38 AM

REPRESENTATIVE SADDLER inquired as to the four different ways an individual can verify his/her signature for an absentee ballot application.

MS. FENUMIAI confirmed that an individual can verify his/her signature for an absentee ballot application with his/her voter number, date of birth, and last four digits of his/her social security number. She noted that she would let the committee know if there is another verification method. Ms. Fenumiai stressed that the aforementioned verifications are unique identifiers, one of which must be provided on the return by mail ballot in order for the division to accept the ballot.

8:42:28 AM

REPRESENTATIVE SADDLER asked if there are any sanctions/penalties for military voters who falsify a ballot.

MS. ELLIOT informed the committee that it's a Class C felony for anyone who falsifies information on a ballot. With regard to any further federal government punishment, Ms. Elliot deferred to Mr. San Souci.

8:43:18 AM

MARK SAN SOUCI, Regional Liaison Northwest, Defense State Liaison Office, Office of the Deputy Assistant Secretary of Defense (DUSD) (Military Community and Family Policy), U.S. Department of Defense, suggested that the Uniform Code of Military Justice (UCMJ) would probably cover such fraudulent activity. In fact, in the military he presumed that such a charge would result in a stricter [penalty], such as even being court marshaled.

8:43:55 AM

REPRESENTATIVE FOSTER asked if the sponsor has commented on the witness requirements.

MS. ELLIOT related that the sponsor feels strongly about removing impediments to voting for military and overseas voters.

8:44:49 AM

REPRESENTATIVE DICK objected for discussion, and then withdrew his objection.

REPRESENTATIVE SADDLER objected.

8:45:16 AM

A roll call vote was taken. Representatives Austerman, Dick, and Munoz voted in favor of the adoption of Amendment 2. Representatives Gardner, Foster, and Saddler voted against it. Therefore, Amendment 2 failed by a vote of 3-3.

8:46:06 AM

REPRESENTATIVE GARDNER moved that the committee adopt Amendment 3, labeled 27-LS0304\I.1, Bullard, 3/14/11, which read:

> Page 7, following line 2:
> Insert a new bill section to read:
> "*** Sec. 13.** AS 15.25.042 is amended by adding new subsections to read:
> (e) When the director changes a previous determination as to the eligibility of a candidate, the director shall send written notice to the candidate, other candidates for the office, and, if applicable, a person who has filed a complaint regarding the candidate's eligibility. The written notice must include an explanation of the reasons for the change in the determination as to the eligibility of the candidate.
> (f) A person may challenge a determination as to the eligibility of a candidate made under (e) of this section. The challenge must be made in writing within 30 days after the mailing of the written notice of the change in the director's determination."
>
> Renumber the following bill sections accordingly.

REPRESENTATIVE GARDNER related that after the filing deadline, the division determines whether the candidates are qualified to run. The parties have 30 days to object. Occasionally, the Division of Elections determines an individual isn't qualified to run and changes the determination. However, there's no requirement to notify anyone when there's a change in whether the candidate is qualified to run. In a particular case, a candidate was deemed not qualified and some days later there was a change made and the candidate was deemed qualified to run, but no one knew about it. Therefore, the party found itself outside the time period allowed to object to the candidate's change in status because it hadn't been notified of the change. Amendment 3 simply specifies that if the Division of Elections changes its determination, it has to notify the candidate and other candidates seeking office. Upon notification of the change, the

clock starts ticking. Representative Gardner opined that this change encompassed in Amendment 2 just seems fair.

8:48:44 AM

REPRESENTATIVE DICK objected for discussion.

8:48:51 AM

REPRESENTATIVE GARDNER, in response to Representative Austerman, confirmed that the reference to "the office" in Amendment 2 refers to candidates seeking the same office.

8:49:39 AM

MS. FENUMIAI informed the committee that a challenge to a candidate's seat has to be received within 10 days of the close of the filing deadline. If the division makes a determination that the candidate is no longer qualified, under Amendment 3 the director would then notify the candidate and all other candidates in that race of the change in eligibility qualification. At that point, an individual could challenge the director's decision within 30 days of it. Ms. Fenumiai expressed concern that there is no language specifying the length of time the division has to respond to a second challenge to a change in candidate eligibility. She pointed out that statute allows 30 days for the initial eligibility challenge. Ms. Fenumiai suggested that 10 days from receipt of a challenge would be a fairly reasonable response time for the division to make a decision on a secondary challenge.

8:51:32 AM

CHAIR MUNOZ asked if this applies after the filing date has closed.

MS. FENUMIAI replied yes. In further response to Chair Munoz, Ms. Fenumiai clarified that a candidate can be challenged any time after filing his/her paperwork. However, the challenge cannot be filed any later than the 10th day following June 1st. Therefore, an individual who files for candidacy February 2nd can be challenged up until June 11th, 10 days following the candidacy filing deadline. Currently, there are no notification requirements in statute or state regulations to notify other involved parties of the division's decision to overturn a candidacy eligibility decision or qualification determination. Amendment 3 would require the division to provide notice of the

aforementioned to other impacted parties. Ms. Fenumiai, in further response to Chair Munoz, explained that if a candidate is deemed ineligible and there is no other candidate for that party, there are no replacement provisions. However, there are replacement provisions for a candidate that withdraws.

8:53:41 AM

REPRESENTATIVE GARDNER reminded the committee that the recent circumstance was one in which Representative Dick was deemed unqualified, but his opponent in the primary was deemed qualified. The division then changed its decision such that Representative Dick was deemed qualified, but it was too late for anyone to challenge the change in determination. Amendment 3 merely specifies that the division should inform folks if it changes a determination, and at that point the clock starts in terms of how long that determination is open to be challenged.

MS. FENUMIAI remarked that Amendment 3 merely provides notification and allows the opposing party's candidate to further challenge the division's decision within 30 days. She then clarified that after the June 1st deadline there are no provisions to replace a candidate. However, there are provisions addressing situations when something happens to a candidate following the primary.

8:55:04 AM

REPRESENTATIVE DICK related that in his situation once he was deemed eligible, the other candidate within his party chose to withdraw. Therefore, Representative Dick was unopposed in the primary. [Amendment 3] would clarify things for all concerned.

8:55:38 AM

CHAIR MUNOZ expressed concern with a situation in which a candidate is eligible up to June 1st and then is challenged within that 10-day period. However, because of the circumstances, there is no other candidate and no provision to replace that candidate.

REPRESENTATIVE GARDNER clarified that the aforementioned isn't addressed [in Amendment 3]. In further response to Chair Munoz, Representative Gardner clarified that it's not that a candidate becomes unqualified, but rather it's whether the candidate is deemed qualified or not. Representative Gardner pointed out that there are candidates who are not qualified.

MS. FENUMIAI interjected that the rules for challenging a candidate are not being changed by Amendment 3. The rules for challenging a candidate remain in place and the deadline for challenging a candidate's eligibility is 10 days following June 1st, the filing deadline day. Amendment 3 simply provides notification to the involved parties, should a candidate's eligibility determination change as a result of a challenge that was filed timely by the 10th day following the filing deadline.

CHAIR MUNOZ confirmed that she understands that, but noted that it highlights a problem in the process. If a candidate is challenged after June 1st and found to be not qualified, then there could be no candidate. Therefore, she opined that there should be provisions to address that in statute.

8:57:39 AM

MS. FENUMIAI, in response to Representative Saddler, reiterated that Amendment 3 would inform folks that a candidate's eligibility determination has been changed and allows a challenge of that decision within 30 days. She suggested that perhaps that timeframe in which a challenge could occur could be shortened such that a challenge is allowed in 15 days and then the division has 15 days to respond.

8:58:25 AM

REPRESENTATIVE GARDNER moved to a conceptual amendment to Amendment 3, such that the length of days specified in proposed subsection (f) is changed from "30" to "15" days. The conceptual amendment to Amendment 3 would also add a [new subsection] specifying: "The division shall make a decision within 15 days from receipt of the challenge."

[The conceptual amendment to Amendment 3 was treated as adopted.]

8:59:22 AM

REPRESENTATIVE GARDNER, in response to Representative Saddler, clarified that it should be the date of [the receipt of the] challenge.

MS. FENUMIAI said that's up to the will of the committee.

8:59:50 AM

MS. FENUMIAI, in response to Representative Austerman, clarified that the original complaint has to be filed within 10 days of the filing deadline.

REPRESENTATIVE GARDNER explained that the idea is that the onus is on the candidate to check within 10 days [of the filing deadline] who is in the race. However, if there's a change after [the filing deadline], candidates may not check daily because they believe it's finalized.

MS. FENUMIAI informed the committee that the regulations don't specify a deadline for the division to respond. Since time is of the essence and ballots need to be printed, the division responds fairly quickly.

9:01:36 AM

REPRESENTATIVE DICK removed his objection.

9:01:45 AM

There being no further objection, Amendment 3 [as amended] was adopted.

9:01:50 AM

REPRESENTATIVE GARDNER moved that the committee adopt Amendment 4, labeled 27-LS0304\I.2, Bullard, 3/14/11, which read:

> Page 7, following line 2:
> Insert a new bill section to read:
> "*** Sec. 13.** AS 15.25.030 is amended by adding a new subsection to read:
> (d) A declaration of candidacy is a public record, and all statements required to be included in the declaration of candidacy under this section are open to public inspection."
>
> Renumber the following bill sections accordingly.
>
> Page 7, following line 7:
> Insert new bill sections to read:
> "*** Sec. 15.** AS 15.25.105 is amended by adding a new subsection to read:
> (d) A letter of intent is a public record, and all statements required to be included in the letter

of intent under this section are open to public inspection.

*** Sec. 16.** AS 15.25.180 is amended by adding a new subsection to read:

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

Renumber the following bill sections accordingly.

REPRESENTATIVE GARDNER related her understanding that a registered voter can choose to not release his/her address.

MS. FENUMIAI confirmed that a voter can request that his/her residence address be kept confidential, and therefore it wouldn't be released to the general public who may purchase voter lists. The aforementioned can only occur when the voter's mailing address differs from his/her residence address.

9:02:35 AM

REPRESENTATIVE GARDNER pointed out that a candidate can do the same, and thus doesn't have to release his/her residence address. She further pointed out that candidates provide financial disclosures that include information regarding to whom the candidate owes money, what the candidate owns, and from where the candidate's income comes. The same is true for those individuals living with the candidate. Representative Gardner opined that part of whether a candidate is qualified to run for office is the people in the district knowing where the candidate lives. However, currently a candidate doesn't have to publicly disclose that information. Therefore, Amendment 4 simply specifies that a declaration of candidacy, which includes the candidate's residence address, is a public record open to public review.

9:03:27 AM

REPRESENTATIVE AUSTERMAN objected for discussion purposes. He then inquired as to history behind keeping the residence address private.

MS. FENUMIAI related that although she wasn't with the division when that occurred, she recalled that it was due to legislation passed by then-Senators Gretchen Guess and Gene Therriault. She further recalled that the legislation was implemented to protect victims of domestic violence, police officers, and

judicial officers who didn't want their address to be released to the public. Ms. Fenumiai emphasized that the division has access to everyone's residence address, and thus can validate the eligibility of a candidate. However, she acknowledged that a candidate wouldn't be able to obtain his/her opponent's residence address if he/she chose to keep it confidential.

REPRESENTATIVE GARDNER said that it's about the voters' ability to ascertain the validity of a candidate's residence address. She opined that there have been a lot of contested residencies over the years. Representative Gardner further opined that it's fair for voters to be able to determine where candidates who want to represent them live.

CHAIR MUNOZ related that when she became a candidate at the local level and her address was made public, she began to receive visits from an individual who was threatening to her. Therefore, she said she could see the benefit to not making the candidate's residence address public.

9:06:04 AM

REPRESENTATIVE AUSTERMAN inquired as to how often a candidate requests that his/her residence address not be released.

MS. FENUMIAI recalled that last year one candidate wanted his/her residence address to remain confidential, but ultimately decided to release his/her address by the time the voter pamphlet was to be published. She stated that the information disclosed in the voter pamphlet is up to the candidate.

9:07:32 AM

REPRESENTATIVE AUSTERMAN withdrew his objection.

9:07:40 AM

CHAIR MUNOZ objected.

9:07:46 AM

REPRESENTATIVE SADDLER expressed concern that although the title of the legislation is broad enough to include this matter, he didn't believe the sponsor wanted to get into this matter.

9:08:09 AM

REPRESENTATIVE GARDNER related that she spoke with the sponsor's staff regarding [the release of a candidate's residence address] and although she didn't receive an endorsement, there was no objection. She noted that the sponsor has known about [Amendment 4] for over a month.

9:08:25 AM

MS. FENUMIAI, in response to Representative Dick, confirmed that when the division receives a challenge of a candidate's residence, the division reviews that and would make an appropriate decision with regard to the candidate's eligibility.

9:09:46 AM

REPRESENTATIVE GARDNER posed a scenario in which she, as a candidate, could own a residence that she rented with utilities included. She could show the Division of Elections her property deed, taxes, and utility bills while she actually lived elsewhere. The division wouldn't know. The only people who would know she isn't really living at the residence address she provided to the division would be her neighbors. The aforementioned is why it's important for residents in a candidate's district to be able to ascertain such information for themselves.

9:11:12 AM

REPRESENTATIVE AUSTERMAN posed a situation in which a candidate's original declaration kept his residence address confidential. However, as an elected official he must file a financial statement with the state. He asked if his residence address would remain confidential in those financial documents.

MS. FENUMIAI answered that the confidentiality of the candidate's residence address is only at the division level. She said she couldn't address how the Alaska Public Offices Commission (APOC) handles the request for confidentiality of the candidate's residence address [with financial disclosures].

REPRESENTATIVE AUSTERMAN recalled that a candidate's residence address is required with the financial statement.

9:11:59 AM

REPRESENTATIVE FOSTER inquired as to the process followed when a candidate's residency is contested, but the candidate provides

proof such as a utility bill in his/her name. What would the division do if the individual contesting the candidate's residency says the candidate has a renter in the address provided as his/her residence address, he asked.

MS. FENUMIAI related that the statute reads: "if a preponderance of evidence supports the eligibility of a candidate, then the director would issue a final determination of the candidate's eligibility". In a hypothetical situation in which individuals alleged that the residence address of a candidate is being rented to someone else, the division might ask the candidate to respond to that allegation. The division would bring the evidence it had and consult with the Department of Law and make a decision.

9:13:41 AM

CHAIR MUNOZ inquired as to whether Ms. Fenumiai was aware of the history leading to the legislation that allowed a candidate to have his/her residence address remain confidential.

MS. FENUMIAI reiterated that she has been told the legislation was introduced to address victims of domestic violence, people who have been the target of stalkers, and police officers.

9:14:39 AM

CHAIR MUNOZ maintained her objection.

9:14:49 AM

REPRESENTATIVE AUSTERMAN opined that the public has a right to know a candidate's residence address and it should be verifiable by the public.

9:15:13 AM

A roll call vote was taken. Representatives Saddler, Gardner, Austerman, Foster, and Dick voted in favor of the adoption of Amendment 4. Representative Munoz voted against it. Therefore, Amendment 4 was adopted by a vote of 5-1.

9:15:54 AM

REPRESENTATIVE DICK inquired as to the provisions in Version X that address changing the time of the primary. He pointed out that there are fairs throughout the state at which candidates

can make contact with their constituents. This legislation will move the primary to a time prior to the fairs, and therefore the situation will be one in which the incumbent is favored.

REPRESENTATIVE GARDNER said that it wouldn't impact her.

REPRESENTATIVE AUSTERMAN responded that it wouldn't impact him either. In fact, moving the primary forward actually could result in better timing for the general election, assuming he won the primary.

MS. ELLIOT answered that Section 14 specifies the timing of the primary.

9:19:37 AM

CHAIR MUNOZ inquired as to the dates of local fairs.

REPRESENTATIVE DICK replied that although they vary, the fairs tend to be held August 15th through the end of August. He then inquired as to the date of the primary under Version X.

MS. FENUMIAI answered that under the proposed law the 2012 primary would be August 14th versus August 28th, which would be the date of the primary under existing law.

CHAIR MUNOZ asked if the change in the date of the primary impacts other deadlines, which would need to be addressed in the legislation.

MS. FENUMIAI stated that the dates in the proposed legislation are reflective of the change of the primary election to the second Tuesday in August. The division is able to comply with mailing ballots to overseas and military voters 45 days before the election. Ms. Fenumiai pointed out that moving the primary election up two weeks helps with the post primary problems, such as certification, recounts, appeals, and election contests. By moving the primary election ahead two weeks, it places things very close to the 45 days prior to the general election. In further response to Chair Munoz, Ms. Fenumiai confirmed that having the primary on the fourth Tuesday impacts the intent of HB 178.

9:22:00 AM

REPRESENTATIVE DICK remarked that there are pros and cons to the change in the date of the primary and that his district may be

the only one impacted. Ultimately, Representative Dick said that he likes [the legislation] as it is.

9:22:38 AM

REPRESENTATIVE SADDLER related his appreciation for the efforts to expand the voting franchise. Although he maintained his concerns regarding some of the smaller aspects of the legislation and the time that it takes away from recreational activities, he said he would err on the side of helping people to vote rather than hinder their voting. In conclusion, Representative Saddler characterized HB 178 as a good bill that he would support.

9:24:01 AM

REPRESENTATIVE AUSTERMAN inquired as to the fiscal notes for HB 178.

MS. ELLIOT answered that the legislation has an indeterminate fiscal.

9:24:14 AM

REPRESENTATIVE FOSTER moved to report CSHB 178, Version 27-LS0304\X, Bullard, 3/18/11, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 178(CRA) was reported out of the House Community and Regional Affairs Standing Committee.

9:24:45 AM

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:24 a.m.