

**ALASKA STATE LEGISLATURE**  
**HOUSE JUDICIARY STANDING COMMITTEE**

March 11, 2013  
1:05 p.m.

**MEMBERS PRESENT**

Representative Wes Keller, Chair  
Representative Bob Lynn, Vice Chair  
Representative Neal Foster  
Representative Gabrielle LeDoux  
Representative Lance Pruitt  
Representative Max Gruenberg

**MEMBERS ABSENT**

Representative Charisse Millett

**COMMITTEE CALENDAR**

HOUSE BILL NO. 81

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

- MOVED HB 81 OUT OF COMMITTEE

HOUSE BILL NO. 104

"An Act relating to election practices and procedures; relating to public records; relating to the election of an advisory school board in a regional educational attendance area; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 108

"An Act relating to electronic citations; creating the electronic citation fund; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 81

SHORT TITLE: 2013 REVISOR'S BILL

SPONSOR(S): RULES BY REQUEST OF LEGISLATIVE COUNCIL

01/22/13 (H) READ THE FIRST TIME - REFERRALS  
01/22/13 (H) JUD  
03/01/13 (H) JUD AT 1:00 PM CAPITOL 120  
03/01/13 (H) Heard & Held  
03/01/13 (H) MINUTE(JUD)  
03/04/13 (H) JUD AT 1:00 PM CAPITOL 120  
03/04/13 (H) Heard & Held  
03/04/13 (H) MINUTE(JUD)  
03/11/13 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 104

SHORT TITLE: ELECTION PROCEDURES; REAA ADVISORY BOARDS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/06/13 (H) READ THE FIRST TIME - REFERRALS  
02/06/13 (H) STA, JUD  
02/19/13 (H) STA AT 8:00 AM CAPITOL 106  
02/19/13 (H) Moved CSHB 104(STA) Out of Committee  
02/19/13 (H) MINUTE(STA)  
02/20/13 (H) STA RPT CS(STA) NT 5DP 2NR  
02/20/13 (H) DP: HUGHES, ISAACSON, GATTIS, KREISS-  
TOMKINS, LYNN  
02/20/13 (H) NR: MILLETT, KELLER  
02/27/13 (H) JUD AT 1:00 PM CAPITOL 120  
02/27/13 (H) Heard & Held  
02/27/13 (H) MINUTE(JUD)  
03/04/13 (H) JUD AT 1:00 PM CAPITOL 120  
03/04/13 (H) Scheduled But Not Heard  
03/11/13 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 108

SHORT TITLE: SURCHARGE ON FINES/ELEC. CITATION FUND

SPONSOR(S): P.WILSON

02/11/13 (H) READ THE FIRST TIME - REFERRALS  
02/11/13 (H) JUD, FIN  
03/11/13 (H) JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

GAIL FENUMIAI, Director  
Central Office  
Division of Elections  
Office of the Lieutenant Governor  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 104 and responded to questions.

LIBBY BAKALAR, Assistant Attorney General  
Labor and State Affairs Section  
Civil Division (Juneau)  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** During discussion of HB 104, expressed concern regarding the constitutionality of Version O's proposed Section 24.

PADDY MCGUIRE, Deputy Director  
Election Official Assistance  
Federal Voting Assistance Program (FVAP)  
U.S. Department of Defense (DOD)  
Washington, D.C.

**POSITION STATEMENT:** Expressed favor with Section 2 and Section 18 of the proposed committee substitute (CS) for HB 104, Version O.

THOMAS WRIGHT, Staff  
House Majority Office  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented information during discussion of Amendment 1 to HB 104.

ALPHEUS BULLARD, Attorney  
Legislative Legal Counsel  
Legislative Legal and Research Services  
Legislative Affairs Agency (LAA)  
Juneau, Alaska

**POSITION STATEMENT:** As the drafter, responded to questions during discussion of proposed amendments to HB 104.

REPRESENTATIVE PEGGY WILSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 108.

ELIJAH VERHAGEN, Intern  
Representative Peggy Wilson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Assisted with the presentation of HB 108 on behalf of the sponsor, Representative P. Wilson.

RODNEY DIAL, Lieutenant, Deputy Commander

A Detachment  
Division of Alaska State Troopers  
Department of Public Safety (DPS)  
Ketchikan, Alaska

**POSITION STATEMENT:** Testified in support of HB 108 and responded to questions.

KEITH BRIN, Clerk of the Circuit Court  
Lake County  
Circuit Court of the Nineteenth Judicial Circuit  
Second Judicial District  
Circuit Court  
Illinois Courts

Waukegan, Illinois

**POSITION STATEMENT:** Provided comments during discussion of HB 108.

NANCY MEADE, General Counsel  
Administrative Staff  
Office of the Administrative Director  
Alaska Court System (ACS)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of HB 108.

#### **ACTION NARRATIVE**

[1:05:42 PM](#)

**CHAIR WES KELLER** called the House Judiciary Standing Committee meeting to order at 1:05 p.m. Representatives Keller, Gruenberg, Foster, and LeDoux were present at the call to order. Representatives Pruitt and Lynn arrived as the meeting was in progress.

#### **HB 81 - 2013 REVISOR'S BILL**

[1:06:29 PM](#)

CHAIR KELLER announced that the first order of business would be HOUSE BILL NO. 81, "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

CHAIR KELLER relayed that the questions members had regarding several of HB 81's proposed changes have all been answered.

[1:07:25 PM](#)

REPRESENTATIVE GRUENBERG moved to report HB 81 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 81 was reported from the House Judiciary Standing Committee.

**HB 104 - ELECTION PROCEDURES; REAA ADVISORY BOARDS**

[1:07:56 PM](#)

CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 104, "An Act relating to election practices and procedures; relating to the election of an advisory school board in a regional educational attendance area; and providing for an effective date." [Before the committee was CSHB 104(STA); adopted as the work draft on 2/27/2013 was the proposed committee substitute (CS) for HB 104, Version 28-GH1983\O, Bullard, 2/27/13.]

[1:08:44 PM](#)

GAIL FENUMIAI, Director, Central Office, Division of Elections, Office of the Lieutenant Governor, explained that under Version 0, Section 1 of HB 104 would specify that the Division of Elections may conduct an election for an advisory school board in a regional educational attendance area (REAA) on the first Tuesday in October. Currently the division conducts REAA elections in 19 REAAs throughout the state. In response to questions, she indicated that Section 1 is intended to provide local advisory boards with the option of having the state conduct the election instead of conducting it themselves.

MS. FENUMIAI explained that Section 2 of HB 104 would allow [a person who meets certain statutory requirements but] who resides outside the United States to register and vote absentee if his/her parent or legal guardian was domiciled in Alaska immediately before that parent or legal guardian also left the United States. She relayed that this provision is intended to apply to children who reach the age of majority while living overseas with their parents or guardians. In response to questions regarding Section 2's reference to AS 15.05.011(b)(2)-(5), she noted that those referenced provisions specify - either directly or via further statutory reference to AS 15.05.010(1)-(2) - that such a person must be a citizen of the United States; be 18 years of age or older; not have established a domicile, or registered to vote, or voted in another state, territory, or

possession of the U.S. since leaving Alaska; and have a valid passport, card of identity and registration, or other identification issued under the authority of the United States Secretary of State, and identification complying with the requirements of Title 15. In response to comments and further questions, she explained that Section 2 amends the provision addressing the qualifications of overseas voters, and would not impact the ability of a [foreigner] who is moving to the United States, to register to vote, as long as he/she first meets the statutory requirements of being a citizen of the United States, of being 18 years of age or older, and of being a resident of Alaska and of the house district in which he/she seeks to vote for at least 30 days just before the election.

[1:14:59 PM](#)

MS. FENUMIAI explained that Section 3 of HB 104 would require "poll" watchers to be registered to vote in Alaska.

REPRESENTATIVE LYNN relayed that he would be proposing an amendment to Section 3.

REPRESENTATIVE LEDOUX referred to existing statutory language included in Section 3, and expressed concern with its stipulation that only candidates who are not representing a political party may appoint their own poll watchers, whereas candidates who are representing a political party may have their poll watchers appointed by the party. She characterized this as unfair, particularly as that stipulation would be applied in primary elections wherein candidates from the same party run against each other but the party doesn't necessarily support its candidates equally.

REPRESENTATIVE LYNN indicated concurrence with Representative LeDoux's concern.

REPRESENTATIVE GRUENBERG relayed that his concerns with [Section 3 of Version 0] were along the lines of those expressed by the American Civil Liberties Union of Alaska (ACLU of Alaska) in its written testimony [dated February 26, 2013, included in members' packets].

MS. FENUMIAI explained that Section 4 of HB 104 would require members of the state ballot counting review board to be registered to vote in Alaska. She mentioned that during her 15-year tenure with the division, all those whose names have been forwarded by the parties for possible appointment to the board

have been so registered. Section 5 of HB 104 would stipulate that the name of a person requesting an advisory opinion from the Alaska Public Offices Commission (APOC) shall be kept confidential and shall be redacted from the request and from the opinion before they are made public. She offered her understanding that an amendment to Section 5 would be forthcoming. Section 6 of HB 104 would allow the division to designate municipal clerks to serve as absentee voting officials in municipalities where the division isn't operating an absentee voting station. Currently, 49 municipal clerks serve in that capacity, and in [seven locations] additional staff is hired to assist the absentee voting officials. In response to questions about the 15-day time period provided for in Section 6, she explained that absentee voting in person is available 15 days prior to an election, and absentee ballots are supplied to those serving as absentee voting officials in advance of the start of that 15-day period - at least 22 days prior to the election. In response to a request, she agreed to provide a list of the communities in which the aforementioned 49 municipal clerks have been designated to serve as absentee voting officials.

[1:22:18 PM](#)

MS. FENUMIAI explained that Section 7 of HB 104 would clarify that [regulations promulgated by the Division of Elections must require] voters - except for uniformed services voters and overseas voters - who wish to receive their ballots by electronic transmission, to comply with the same deadlines for applying for an absentee ballot as those set out for applying in person for an absentee ballot. She indicated that the exemption Section 7 provides for uniformed services voters and overseas voters comports with a similar exemption provided for under federal law. She then said that Section 8 of HB 104 "clarifies that ballots are sent to voters as soon as they are available for distribution, again with the exception of the uniformed [services] ... and overseas voters, whose ballots, according to federal law, must be mailed 45 days prior to the election."

[Note to the reader: Section 8's exemption regarding uniformed services voters and overseas voters is provided via a statutory reference to a proposed new subsection (k) being added to AS 15.20.081 by Section 10 of the bill.]

MS. FENUMIAI explained that Section 9 of HB 104 would remove a reference to [AS 15.20.081(h), the statute stipulating that timely-cast] ballots returned by mail from outside the U.S. must be received [not later than] 15 days after the election, so that

all mailed absentee ballots must be received [not later than] 10 days after the election. She noted that such voters are now receiving their ballots about three weeks earlier than they used to. Section 10 of HB 104 would add what she called "harmonizing language" from federal law stipulating that ballots for uniformed services voters and overseas voters shall be mailed 45 days prior to an election; and would add a stipulation that ballots for voters living, working, or traveling outside the U.S. or in a remote area of the state at election time shall also be mailed 45 days prior to an election. She said that Section 11 of HB 104 would amend current law related to the mailing of what she called, "partial-count and reject letters," to include absentee ballots from a special election under [proposed] AS 15.40.140 or a special runoff election. Section 12 of HB 104 would amend current law related to free access for absentee voters to check the status of their ballot, to include ballots from a special election under [proposed] AS 15.40.140 or a special runoff election.

[1:24:20 PM](#)

REPRESENTATIVE LEDOUX turned the committee's attention back to Section 9 and questioned the rationale for reducing the time period - from 15 days after the election, to 10 days after the election - by which a [timely-cast] absentee ballot mailed from outside the U.S. or from an overseas voter must be received in order to be counted.

MS. FENUMIAI - noting that uniformed services voters and overseas voters now get their ballots about three weeks earlier than other absentee voters, and that there are now "more modern ways for them to get their ballots electronically through online ballot delivery, or still by fax" - indicated that the rationale for reducing that time period is that doing so would assist the division, particularly when preparing for the general election after a primary election, due to other deadlines that the division must meet. This proposed change, she assured the committee, is not intended to disenfranchise any voters.

REPRESENTATIVE LEDOUX questioned how many timely-cast ballots [from the 2012 election] would have been impacted by Section 9's proposed change.

MS. FENUMIAI offered her understanding that there were 11 such ballots from the 2012 general election.

REPRESENTATIVE LEDOUX, pointing out the lack of deadlines after a general election, expressed disfavor with reducing the time period currently provided for.

[1:27:22 PM](#)

MS. FENUMIAI, returning to her presentation, explained that Section 13 of HB 104 would amend current law related to the mailing of "partial-count and reject letters," to include [those pertaining to] question ballots from a special election under [proposed] AS 15.40.140 or a special runoff election. Section 14 of HB 104 would amend current law related to free access for voters to check the status of their ballot, to include question ballots from a special election under [proposed] AS 15.40.140 or a special runoff election. Section 15 of HB 104 would amend current law related to the mailing of "partial-count and reject letters," to include [those pertaining to] question ballots from a special election under [proposed] AS 15.40.140 or a special runoff election. Section 16 of HB 104 would amend current law related to free access for voters to check the status of their ballot, to include question ballots from a special election under [proposed] AS 15.40.140 or a special runoff election.

MS. FENUMIAI explained that Section 17 of HB 104 would remove the reference to [the statute stipulating that timely-cast] ballots returned by mail from outside the U.S. must be received [not later than] 15 days after the election. Section 18 of HB 104 would change the date of the primary election to the second Tuesday in August. Section 19 of HB 104 would change the deadline by which candidates in a primary election must [provide notice of withdrawal from the primary in order to have their names removed from the primary ballot,] to 52 days prior to the election, rather than 48 days prior. Sections 20 and 21 of HB 104 would change both the deadline by which [dead, disqualified, or incapacitated] unopposed incumbent candidates [may have their names replaced on the primary ballot] by party petition, to [not later than] 54 days prior to the election, rather than [not later than] 50 days prior; and one of the deadlines by which such petition [shall be received, to not later than] 52 days prior to the election, rather than [not later than] 48 days prior. Sections 22 and 23 of HB 104 would change the deadline by which [dead, withdrawn/resigned, disqualified, or incapacitated] candidates nominated at a primary election may have their names replaced [on the general ballot by party petition, to not later than] 64 days prior to the election, [rather than not later than 48 days prior].

MS. FENUMIAI explained that Section 24 of HB 104 would change the deadline by which [candidates seeking nomination by petition would be required to submit their documents,] to June 1; under current law, candidates seeking nomination by petition must file their [declaration of candidacy] by June 1, and must submit "petition signatures" by 5:00 p.m. on the day of the primary election. Section 25 of HB 104 would change the deadline by which candidates [who have died or withdrawn shall have their names removed from the general ballot,] to 64 days prior to the election, rather than 48 days prior. In response to questions, she indicated that Section 25's proposed change is necessary in order to provide the division with adequate time to prepare and mail general election ballots to uniformed services voters and overseas voters by the federal deadline of 45 days prior to an election. Section 26 of HB 104 would change the deadline by which candidates seeking judicial retention [but who have withdrawn shall have their names removed from the general ballot,] to 64 days prior to the election, [rather than 48 days prior].

[1:30:35 PM](#)

MS. FENUMIAI explained that Section 27 of HB 104 would amend AS 15.40.140 with regard to requiring a special election [- and, in certain situations, a special runoff election - under proposed new AS 15.40.141 and AS 15.40.142] in order to fill a vacancy in the office of U.S. senator or U.S. representative. In response to a question, she acknowledged that candidates required to run in a special runoff election could be from the same political party. Section 28 of HB 104 would add two new statutes addressing special elections and special runoff elections for vacancies in the office of U.S. senator or U.S. representative; proposed new AS 15.40.141 would require a special runoff election if no candidate in such a special election receives over 50 percent of the votes cast, with the two candidates receiving the most votes then appearing on the special runoff election ballot, and proposed new AS 15.40.142 would establish when such special elections and special runoff elections shall occur. She paraphrased portions of Section 28's proposed new AS 15.40.142 to illustrate; that proposed provision read:

**Sec. 15.40.142. Time of calling the special election and the special runoff election.** (a) Except as provided in (c) of this section, if a special election is called under AS 15.40.140, it shall be held on a

date not less than 60, nor more than 90, days after the date the vacancy occurs.

(b) Except as provided in (c) of this section, a special runoff election under AS 15.40.141 shall be held on the first Tuesday that is not a state holiday occurring not less than 60 days after the special election.

(c) In an election year in which a candidate for the vacant office is not regularly elected, and the vacancy occurs on a date that is not less than 60, nor more than 90, days before the date of

(1) the primary election, the special election shall be held on the date of the primary election with any subsequent special runoff election under AS 15.40.141 to be held on the date of the general election; or

(2) the general election, the special election shall be held on the date of the general election with any subsequent special runoff election under AS 15.40.141 to be held on the first Tuesday that is not a state holiday occurring not less than 60 days after the special and general election.

MS. FENUMIAI explained that Section 29 of HB 104 would amend AS 15.40.160 to provide for the governor's proclamation of a special election or a special runoff election. Section 30 of HB 104 would amend AS 15.40.165 to add a special runoff election as an election in which a U.S. Senator may be elected to fill an unexpired term. Section 31 of HB 104 would amend AS 15.40.170 to add a special runoff election as an election in which a U.S. Representative may be elected to fill an unexpired term. Section 32 of HB 104 would amend AS 15.40.220 to add a special runoff election [to the statute addressing] the general provisions governing the conduct of a special election; this provision also "appears to allow for write-in candidates in a ... special runoff election for U.S. senator or U.S. representative," she added.

[1:34:55 PM](#)

MS. FENUMIAI explained that Section 33 of HB 104 would amend current law to include a special runoff election as a type of election at which a ballot measure [related to an initiative] could appear on the ballot. Section 34 of HB 104 would amend current law to include a special runoff election as a type of election in which a ballot measure [related to a referendum] could appear. Sections 35 and 36 of HB 104 would amend current

law to include a special runoff election as a type of election for which a primary voter pamphlet would be produced if there was a ballot measure appearing on the ballot. Section 37 of HB 104 would add a new subsection (h) to AS 15.58.030, requiring the lieutenant governor to publish [the photograph and statement of a candidate] on the division's Internet web site at least 15 days prior to the election, [and include notification that] the photograph and statement was paid for by the candidate. Section 38 of HB 104 would amend the definition of the term, "federal election" to include a special runoff election. Section 39 of HB 104 would [in part] add definitions for the terms, "absent uniformed services voter" and "overseas voter" [via references to the federal definition of those terms].

MS. FENUMIAI explained that Section 40 of HB 104 would amend Title 29 to allow the division to designate municipal clerks to serve as absentee voting officials. Section 41 of HB 104 would repeal the provision requiring that [timely-cast] ballots postmarked from overseas be received by the division within 15 days following the election [in order to be counted]; would repeal the provision allowing absentee ballot applications from [absent] uniformed services voters and [absent] overseas voters to be valid for two general elections - this proposed repeal comports with changes made to federal law; and would repeal [the provision requiring] that special absentee ballots be sent - [this proposed repeal addresses the fact that under other changes proposed by the bill], those who qualify for such a ballot would instead be sent an official ballot 45 days prior to an election. Section 42 of HB 104 would provide for an effective date [of January 1, 2014].

MS. FENUMIAI - in response to questions regarding Section 41's proposed repeal of [AS 15.20.081(i), the provision allowing for absentee ballot applications from absent uniformed services voters and absent overseas voters to be valid for two general elections] - offered her understanding that the federal government repealed the like federal provision because [such voters] are transient and the address provided on the application wouldn't necessarily be valid from one year to the next. This comports with the division's experience as well, she relayed, having had a lot of the correspondence sent to such voters [in the second year] be returned as undeliverable; it's best if such voters apply every year, like all other [absentee] voters, so that the division is provided with the voter's most current [address]. She offered to compile and provide related statistics.

[1:40:17 PM](#)

LIBBY BAKALAR, Assistant Attorney General, Labor and State Affairs Section, Civil Division (Juneau), Department of Law (DOL), referring to Version O, explained that the DOL has concerns with Section 24 of HB 104, proposing to repeal and reenact AS 15.25.150 in order to change the deadline by which [candidates seeking nomination by petition would be required to submit certain documents,] from the date of the primary election, to June 1 - a date before the primary election. A review of past legal opinions by the attorney general and of case law - specifically, two Alaska Superior Court cases, one decided in 1988 and one decided in 1990 - indicate that because candidates seeking nomination by petition cannot participate in the primary election and appear only on the general election ballot, imposing the same deadline [and therefore the same subsequent behavioral limitations for the same periods of time] as is imposed on those candidates who do get to participate in the primary election, without also demonstrating sufficient justification for doing so, is likely unconstitutional under both the First Amendment to the U.S. Constitution and what she termed, "the voting-rights clauses" of the Alaska State Constitution. The DOL has previously opined that current law's deadlines for candidates seeking nomination by petition - June 1 for the declaration of candidacy and most candidate information, and the date of the primary election for the full petition with voters' signatures - are likely constitutional; again, Section 24's proposed new deadline may not be.

CHAIR KELLER relayed that an amendment pertaining to Version O's Section 24 would be forthcoming, specifically to address that point.

MS. BAKALAR, in response to questions, relayed that she has reviewed the aforementioned ACLU of Alaska's written testimony, and acknowledged that that testimony raises some valid concerns [regarding Section 3 of the bill] because the [constitutions' equal protection clauses] require - under what she called a sliding-scale analysis - that there be a legitimate state interest connected, in a fair and substantial way, to the proposed change, and yet Section 3's proposed requirement that poll watchers be registered voters doesn't necessarily bring to mind any such connection.

[1:44:50 PM](#)

PADDY MCGUIRE, Deputy Director, Election Official Assistance, Federal Voting Assistance Program (FVAP), U.S. Department of Defense (DOD), expressed favor with Section 18 of HB 104 - which, under Version 0, is proposing to change the date of the primary election to the second Tuesday in August - characterizing it as critical for purposes of ensuring that Alaska can comply with the federal requirement regarding providing uniformed services voters [and overseas voters] with absentee ballots 45 days prior to an election, particularly in years wherein issues arise with the primary election. He also expressed favor with Section 2 of the bill, characterizing it as an important step towards enfranchising the children of U.S. citizens [living abroad]. He acknowledged, though, that the provision is one that would only narrowly apply.

MS. FENUMIAI, in response to a question, added her understanding that under Section 2's proposed new AS 15.05.011(e), both paragraph (1) and paragraph (2) must apply. She surmised that the lack of the word, "and" on page 1, line 14, after the semicolon at the end of paragraph (1), was merely a typographical error.

CHAIR KELLER closed public testimony on HB 104.

[1:51:09 PM](#)

REPRESENTATIVE LYNN made a motion to adopt Amendment 1, labeled 28-GH1983\0.10, Bullard, 3/6/13, which read:

Page 1, line 1, following "**procedures;**":

Insert "**relating to reporting of election campaign contributions and expenditures;**"

Page 3, following line 7:

Insert new bill sections to read:

"\* **Sec. 5.** AS 15.13.074(c) is amended to read:

(c) A person or group may not make a contribution

(1) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 when the office is to be filled at a general election before the date that is 18 months before the general election;

(2) to a candidate or an individual who files with the commission the document necessary to

permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the date that is 18 months before the date of the regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or

(3) to any candidate later than the 45th day

(A) after the date of the primary election if the candidate was on the ballot and was not nominated at the primary election; or

(B) after the date of the general election, or after the date of a municipal or municipal runoff election.

\* **Sec. 6.** AS 15.13.110 is amended by adding a new subsection to read:

(j) Before the primary election, a candidate seeking nomination by petition under AS 15.25.140 - 15.25.200 for the office of governor, lieutenant governor, state senator, or state representative shall file the reports under (a)(1) and (2) of this section."

Renumber the following bill sections accordingly.

[1:51:57 PM](#)

THOMAS WRIGHT, Staff, House Majority Office, Alaska State Legislature, mentioning that he'd had discussions with the DOL, offered his understanding that Amendment 1 to HB 104 would address the DOL's concerns with Section 24 of Version 0, with the exception of one detail. Amendment 1 would in part - via the addition of a proposed new subsection (j) to AS 15.13.110 - require candidates seeking nomination by petition to file reports both 30 days before and 7 days before the primary election even though such candidates don't appear on the primary election ballot; Amendment 1 would provide transparency regarding their campaigns, similar to that provided for candidates who do appear on the primary election ballot.

MR. WRIGHT, with regard to the aforementioned one detail, recommended that Section 24 of Version 0 be deleted via a conceptual amendment and the drafter be allowed to make any conforming changes necessary as a result. In response to a

question, he indicated that [the drafter] has provided a written legal opinion [regarding Section 24 of Version 0].

CHAIR KELLER confirmed receipt of that written legal opinion.

REPRESENTATIVE GRUENBERG observed that Amendment 1 would insert a new Section 5 and a new Section 6 [and would renumber the remaining bill sections accordingly].

[1:55:05 PM](#)

ALPHEUS BULLARD, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), in response to a question regarding whether Amendment 1 would comply with Alaska's single-subject rule for legislation, explained that HB 104 addresses various election practices and procedures, and offered his belief that that would include campaign finance in the context of Alaska's elections.

REPRESENTATIVE GRUENBERG, in response to comments, [although no objection to the motion was stated] announced that he was removing his objection to the motion to adopt Amendment 1.

CHAIR KELLER ascertained that there were no further objections to the motion, and announced that Amendment 1 was adopted.

[1:56:06 PM](#)

REPRESENTATIVE LYNN made a motion to adopt Conceptual Amendment 2, to delete Section 24 of Version 0. There being no objection, Conceptual Amendment 2 was adopted.

CHAIR KELLER said, "Section 24 is deleted as part of a conceptual amendment to go with Amendment 1."

MR. WRIGHT again pointed out that the drafter should also be given the latitude to make any necessary conforming changes related to the deletion of [Section 24].

CHAIR KELLER said, "So moved unless there's an objection; yeah, so [thank you,] we're fine with that - thank you."

[1:56:39 PM](#)

REPRESENTATIVE LYNN made a motion to adopt Amendment 3, labeled 28-GH1983\0.11, Bullard, 3/11/13, which read:

Page 2, line 17:

Delete "registered to vote in the state"

Insert "a United States citizen"

Page 3, lines 2 - 3:

Delete "registered to vote in the state"

Insert "United States citizens"

CHAIR KELLER ascertained that there were no objections, and announced that Amendment 3 was adopted.

[1:57:45 PM](#)

REPRESENTATIVE LYNN made a motion to adopt Amendment 4, labeled 28-GH1983\0.9, Bullard, 3/4/13, which read:

Page 3, lines 10 - 13:

Delete "except that the name of a person requesting an advisory opinion shall be kept confidential, and the commission shall redact the name of the requester from a request and from an advisory opinion before making the request and opinion public"

Insert "except that if a person requesting an advisory opinion requests that the person's name be kept confidential, the person's name shall be kept confidential and the commission shall redact the name of the requester from the request and from the advisory opinion before making the request and opinion public"

REPRESENTATIVE LYNN explained that under Amendment 4, Version O's proposed AS 15.13.374(f) would instead stipulate that in order for the name of a person requesting an advisory opinion from the Alaska Public Offices Commission (APOC) to be kept confidential and to be redacted from the request and from the opinion before they are made public, the person must so request it.

CHAIR KELLER objected.

REPRESENTATIVE GRUENBERG characterized Amendment 4 as a really good amendment.

CHAIR KELLER removed his objection, ascertained that there were no further objections, and indicated that Amendment 4 was adopted.

[1:59:55 PM](#)

REPRESENTATIVE GRUENBERG [made a motion to adopt] Conceptual Amendment 5, to add the word, "and" on page 1, line 14, after the semicolon. This would address the typographical error previously noted by Ms. Fenumiai, and would clarify that under Section 2's proposed new AS 15.05.011(e), both paragraph (1) and paragraph (2) must apply.

CHAIR KELLER ascertained that there were no objections. [Although not formally stated, Conceptual Amendment 5 was treated as having been adopted.]

[2:00:44 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 6, labeled 28-GH1983\0.6, Bullard, 3/4/13, which read:

Page 2, following line 2:

Insert new bill sections to read:

**\* Sec. 3.** AS 15.10.105(a) is amended to read:

(a) The division of elections is created. The lieutenant governor shall control and supervise the division of elections. The lieutenant governor shall appoint a director of elections. The director shall act for the lieutenant governor in the supervision of central and regional election offices, the hiring, performance evaluation, promotion, termination, and all other matters relating to the employment and training of election personnel, and the administration of all state elections as well as each municipal election [THOSE MUNICIPAL ELECTIONS] that the state is required to conduct. The director is responsible for the coordination of state responsibilities under 42 U.S.C. 1973gg (National Voter Registration Act of 1993). The director serves at the pleasure of the lieutenant governor.

**\* Sec. 4.** AS 15.10.105 is amended by adding a new subsection to read:

(c) The director shall establish by regulation the date before which a municipality must notify the director of its decision to have the division conduct a municipal election and the date before which a municipality must provide the director with ballot information for the municipal election. If a municipal governing body has adopted an ordinance establishing the date of the state primary or general election as

the date of the municipality's election and has otherwise complied with this subsection, the director shall conduct the municipal election under AS 15 (Election Code), and the state shall pay the costs of administering the election."

Renumber the following bill sections accordingly.

Page 13, following line 22:

Insert new bill sections to read:

"\* **Sec. 43.** AS 29.26.010 is amended to read:

**Sec. 29.26.010. Administration. Except as provided in (b) of this section, the** [THE] governing body shall prescribe the rules for conducting an election and shall appoint an election board composed of at least three judges for each precinct. A judge shall be a voter of the precinct for which appointed unless no voter is willing to serve.

\* **Sec. 44.** AS 29.26.010 is amended by adding a new subsection to read:

(b) If the governing body has adopted an ordinance to have the state conduct a municipal election under AS 15.10.105(c), the director of elections shall conduct the election, and the state shall pay the costs of administering the election. However, if a runoff election is required under AS 29.26.060, the runoff election may not be conducted by the director of elections, and the state may not pay the costs of the election, unless the regular municipal election is on the date of the state primary election under AS 15.25.020, and the municipality adopts an ordinance making the date of the runoff election the date of the state general election under AS 15.15.020."

Renumber the following bill sections accordingly.

CHAIR KELLER objected.

REPRESENTATIVE GRUENBERG acknowledged that adoption of Amendment 6 might require that conforming changes be made with regard to Section 1 of the bill, and relayed that he was not prepared to address that issue at this time.

REPRESENTATIVE GRUENBERG therefore then withdrew Amendment 6.

[2:02:12 PM](#)

REPRESENTATIVE GRUENBERG referred to a proposed amendment included in members' packets, labeled 28-GH1983\0.5, Bullard, 3/4/13, and relayed that he would not be offering it at this time; that proposed amendment read:

Page 4, following line 25:

Insert a new bill section to read:

"\* **Sec. 10.** AS 15.20.081(i) is repealed and reenacted to read:

(i) An absentee ballot application submitted by a qualified voter or on behalf of a qualified voter is valid through the two general elections following the date the application is submitted. If a voter casts an absentee ballot in accordance with (d) - (f) of this section, the voter's absentee ballot application remains valid through the two general elections following the election in which the ballot was cast. However, nothing in this subsection requires the director or an election supervisor to send an absentee ballot to a voter after the director or election supervisor has received actual notice that mail sent to the permanent mailing address of the voter, or a different address provided by the voter, is undeliverable to the voter at that address."

Renumber the following bill sections accordingly.

Page 13, line 23:

Delete ", 15.20.081(i),"

MR. MCGUIRE - in response to a question regarding Section 41's proposed repeal of AS 15.20.081(i), which allows for absentee ballot applications from absent uniformed services voters and absent overseas voters to be valid for two general elections - explained that the like federal provision was repealed because of a concern that state and local governments were spending huge amounts of money and resources sending [absentee] ballots to invalid addresses. Furthermore, because [deployed military personnel] are so transient, the DOD has been spending a lot of resources encouraging such voters to fill out absentee ballot applications every year anyway. Reducing the applicability period for such applications therefore made sense.

REPRESENTATIVE GRUENBERG - remarking on the size of Alaska, on the difficulty of getting to the polls, and on the fact that [many] Alaskans therefore customarily vote absentee - indicated

an interest in making all absentee ballot applications be valid for two years. He asked whether the federal government had given that any consideration, particularly with regard to people who are less mobile and therefore more dependent, or at least as dependent, on voting absentee by mail.

MR. MCGUIRE offered his understanding that it had not.

[2:05:45 PM](#)

REPRESENTATIVE LEDOUX expressed interest in adopting a conceptual amendment to Section 3 of HB 104 such that in primary elections, each candidate may select his/her own poll watcher.

CHAIR KELLER, in response to a question, indicated that his preference would be to have an amendment drafted to that effect.

REPRESENTATIVE GRUENBERG suggested that a new proposed CS incorporating the amendments adopted thus far be drafted.

CHAIR KELLER acknowledged that suggestion.

[HB 104, Version 0 as amended, was held over until later in the meeting.]

**HB 108 - SURCHARGE ON FINES/ELEC. CITATION FUND**

[2:07:30 PM](#)

CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 108, "An Act relating to electronic citations; creating the electronic citation fund; and providing for an effective date." [Included in members' packets was a proposed committee substitute (CS) for HB 108, Version 28-LS0383\0, Wayne, 2/21/13.]

The committee took an at-ease from 2:08 p.m. to 2:12 p.m.

CHAIR KELLER [although no motion was recorded] announced that the proposed committee substitute (CS) for HB 108, Version 28-LS0383\0, Wayne, 2/21/13, was before the committee as the working document.

REPRESENTATIVE GRUENBERG objected.

[2:12:23 PM](#)

REPRESENTATIVE PEGGY WILSON, Alaska State Legislature, sponsor, said that HB 108 would allow [Alaska's law enforcement agencies] to add a surcharge of \$10 on what she referred to as, "all minor-offense tickets," as a means of funding the purchase and maintenance of electronic-citation equipment used to issue electronic citations. She offered her understanding that over 75 percent of Alaska's law enforcement officers are currently using or becoming familiar with such equipment, and that its use dramatically reduces the time it takes to issue and process citations, thereby reducing associated costs. Such equipment is currently being paid for by federal grants, but such grants are being eliminated. Without passage of HB 108, she predicted, the costs associated with such equipment would have to be paid for by the State. Under HB 108, those costs would instead be passed on to offenders; the bill would amend current statute authorizing the assessment of a \$10-surcharge on [certain offenses/violations/infractions in certain situations] for purposes of police training, such that it would instead authorize the assessment of a \$20-surcharge.

REPRESENTATIVE P. WILSON offered her understanding that the Alaska Court System (ACS) would be able to make any resulting necessary conforming changes to its operations and to citation forms with its existing budget and staff. Legislation similar to HB 108 was adopted six years ago in Illinois and has been very successful. Members' packets contain letters of support from two Illinois counties, [as well as a letter of support from the Fairbanks Police Department]. She offered her understanding that many others - including the Department of Public Safety (DPS), the Division of Alaska State Troopers, the Alaska Association of Chiefs of Police, Inc. (AACOP), the Municipality of Anchorage (MOA), the [City of Fairbanks,] the City and Borough of Juneau (CBJ), and the [City of Ketchikan] - also support HB 108, believing it will greatly help Alaska. In conclusion, she urged the committee to pass HB 108, offering her belief that doing so would improve safety - for both the public and law enforcement officers - and would eliminate certain tasks performed by the ACS.

REPRESENTATIVE FOSTER questioned whether [law enforcement agencies in] Alaska's rural-hub communities such as Nome, Bethel, Kotzebue, and Barrow would be making use of electronic-citation equipment and have access to the funds generated by HB 108.

[2:18:46 PM](#)

ELIJAH VERHAGEN, Intern, Representative Peggy Wilson, Alaska State Legislature, on behalf of the sponsor, Representative P. Wilson, said yes, and indicated that Nome is currently using some form of electronic-citation equipment and that many rural law enforcement agencies are being outfitted with electronic-citation equipment through what he referred to as an Anchorage-based "track steering committee." He offered to provide the committee with a list of participating law enforcement agencies.

REPRESENTATIVE PRUITT asked who would determine how the collected surcharge funds shall be spent.

MR. VERHAGEN pointed out that language on page 2, lines 28-31, of Version 0 read in part, "The legislature may make appropriations from the fund to the Department of Public Safety for the purchase and maintenance of equipment and supplies that are used by the state or by municipalities to issue electronic citations". Should the bill pass, he surmised, the Department of Public Safety (DPS) would be promulgating regulations to address that issue, and someone within the DPS would be responsible for distributing the collected surcharge funds. Furthermore, language on page 2, lines 18-21, read in part, "**The department and the administrative director of the Alaska Court System may enter into agreements with each other and with other state agencies and municipalities to provide a statewide system to administer electronic citations**". He indicated a belief, therefore, that under that language, any law enforcement agencies interested in [obtaining electronic-citation equipment and receiving electronic-citation surcharge funds] could simply enter into such an agreement with the DPS. Most rural law enforcement agencies would never be able to afford such equipment on their own, he ventured.

REPRESENTATIVE P. WILSON, in response to a question, reiterated that the electronic-citation equipment currently being used in Alaska is being paid for by federal [grants, but such grants are being eliminated;] that therefore without passage of HB 108, the costs associated with the continued use of such equipment are going to have to be paid for by the State, whereas under HB 108, such costs would instead simply be passed on to offenders; and that [the ACS] would be able to make any resulting necessary conforming changes to its operations and to citation forms with its existing budget and staff.

[2:24:30 PM](#)

MR. VERHAGEN, in response to a question regarding paying for a citation at the time of receipt via credit card, offered his understanding, based on a demonstration he'd seen of the electronic-citation equipment currently being used by the Juneau Police Department (JPD), that such isn't possible yet because the information necessary to complete such a transaction isn't entered into the system until the law enforcement officer uploads it from his electronic-citation equipment upon returning to the police station. In response to a question about paying for a citation via the Internet, he surmised that it probably varies by municipality, and offered to research that issue further.

CHAIR KELLER - referring to [the language on page 1, lines 5-8, of Version 0 that read in part, "A citation ... may be created, executed, transmitted, or stored electronically"] - sought confirmation that that language is not intended to allow for the [future] use of "a radar camera that can send tickets in the mail," for example.

REPRESENTATIVE P. WILSON offered her belief that the language on page 2, lines 28-31, through page 3, line 1, of Version 0 would preclude such, but, if it doesn't, she would be amenable to [adding] language that would; that existing bill language read in part:

The legislature may make appropriations from the fund to the Department of Public Safety for the purchase and maintenance of equipment and supplies that are used by the state or by municipalities to issue electronic citations. Nothing in this section creates a dedicated fund.

CHAIR KELLER opined that [that language] doesn't yet sufficiently describe what the collected surcharge funds would be used for. For example, perhaps a definition of what constitutes an "electronic citation" could be added to HB 108. He also noted that the bill would [nonetheless] establish a separate fund within the general fund (GF) from which appropriations may be made.

REPRESENTATIVE P. WILSON indicated that she would be amenable to adding such a definition.

MR. VERHAGEN, in response to a question, offered his understanding that an electronic citation may be signed electronically.

2:32:10 PM

REPRESENTATIVE P. WILSON - in response to a question regarding the meaning of that aforementioned language, specifically that which read, "The legislature may make appropriations" - reiterated that the goal is to provide [Alaska's law enforcement agencies] with a means of funding the purchase and maintenance of electronic-citation equipment and supplies used to issue electronic citations, without requiring those agencies to come before the legislature for that funding.

REPRESENTATIVE GRUENBERG suggested, then, that further review of that language was therefore warranted.

REPRESENTATIVE PRUITT cautioned against allowing policy decisions to be made by the department via language addressing funding.

REPRESENTATIVE GRUENBERG removed his objection to adopting Version 0 as the working document.

CHAIR KELLER [again] announced that Version 0 was before the committee.

2:34:22 PM

RODNEY DIAL, Lieutenant, Deputy Commander, A Detachment, Division of Alaska State Troopers, Department of Public Safety (DPS), in response to the question posed earlier regarding providing for citations to be paid for at the time of receipt, relayed that that raises a concern about the appearance of law enforcement officers soliciting funds; [also, providing for such early payment] might result in citation recipients then being discouraged from contesting their citations in court as allowed by law. Of the electronic-citation software currently being used by the DPS - Traffic and Criminal Software - he said, "It's an application that combines a laptop computer in our patrol vehicles, ... computers in the central office, and data communications that allow us to prepare and issue electronic citations." The use of electronic-citation equipment, in reducing the amount of time spent "on the side of the road," increases productivity and the safety of both officers and citation recipients, he relayed. The majority of Alaska State Troopers in close connection with the road system are currently using electronic-citation equipment, and [the DPS] is expanding usage whenever it's able to. Maintenance and software licensure

currently cost approximately \$62,000 per year, and hardware - including computer terminal, mount, scanner, and printer - currently costs approximately \$7,500 per vehicle; federal funds received through the Alaska Highway Safety Office (AHSO) are currently being used to pay [those costs]. In closing, he said [the DPS] supports HB 108 as a means of maintaining its electronic citation program and expanding its usage throughout the state.

[2:36:50 PM](#)

KEITH BRIN, Clerk of the Circuit Court, Lake County, Circuit Court of the Nineteenth Judicial Circuit, Second Judicial District, Circuit Court, Illinois Courts, concurred that HB 108 is very similar to [legislation] adopted years ago in Illinois. [In Illinois,] he relayed, electronic citations are very popular with law enforcement and the courts; electronic citations are typed rather than handwritten, they can be sent electronically to the court by the issuing officer, and they can be automatically incorporated into the court's record-management system. The use of electronic-citation equipment greatly reduces the time it takes to issue and process citations, thereby reducing associated costs. The surcharge currently imposed on offenders in Illinois for purposes of financing electronic-citation projects is \$5, and government systems have been improved via the use of such funds. Government officials in Illinois therefore support the law authorizing the surcharge, and it's been used as model legislation in 17 other states.

CHAIR KELLER ascertained that no one else wished to testify on HB 108.

[2:43:24 PM](#)

NANCY MEADE, General Counsel, Administrative Staff, Office of the Administrative Director, Alaska Court System (ACS), in response to questions, indicated that the ACS did work with the sponsor's staff and did speak with the DPS in order to ensure that the ACS would be able to implement any changes required under Version 0 of HB 108, though the ACS is neutral with regard to the policy issue raised by the bill, that being whether to create an electronic citation fund. The ACS already collects surcharges on some electronically-filed [citations] and distributes those funds to the Alaska Police Standards Council (APSC) for purposes of law enforcement training, and the Alaska Supreme Court has already adopted rules addressing electronic citations, and so may not necessarily need to adopt additional

rules or issue any orders as a result of the bill's passage. In response to the question posed earlier regarding paying for a citation via the Internet, she relayed that such is already possible.

REPRESENTATIVE GRUENBERG referred to the language on page 2, lines 30-31, that read in part, "for the purchase and maintenance of equipment and supplies that are used by the state or by municipalities to issue electronic citations." He asked Lieutenant Dial whether that language ought to be broadened in order to provide for the funding of other types of equipment as well.

LIEUTENANT DIAL indicated that that issue would be researched. Ideally, should the changes proposed by HB 108 become law, the DPS would encourage those municipal law enforcement agencies wishing to participate in a statewide electronic-citation program, to adopt a statewide standard; adopting such a standard would reduce software-licensing costs. He said he envisions that a working group would be formed to address such issues.

[HB 108, Version 0, was held over.]

#### **HB 104 - ELECTION PROCEDURES; REAA ADVISORY BOARDS**

[2:48:46 PM](#)

CHAIR KELLER announced that as the final order of business, the committee would return to the hearing on HOUSE BILL NO. 104, "An Act relating to election practices and procedures; relating to the election of an advisory school board in a regional educational attendance area; and providing for an effective date." [Before the committee was CSHB 104(STA); adopted as the work draft on 2/27/2013 and amended earlier in the meeting today was the proposed committee substitute (CS) for HB 104, Version 28-GH1983\0, Bullard, 2/27/13.]

CHAIR KELLER offered his understanding that the drafter was seeking clarification regarding Conceptual Amendment 2. He added, "That was the one ... where we deleted Section 24, and gave discretion to the drafter to make conforming amendments."

[2:49:54 PM](#)

REPRESENTATIVE LYNN made a motion that the committee rescind its action in adopting Conceptual Amendment 2.

CHAIR KELLER objected.

[2:50:08 PM](#)

ALPHEUS BULLARD, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), clarified that he was merely seeking permission to make conforming changes to Amendment 1 in light of the adoption of Conceptual Amendment 2.

REPRESENTATIVE LYNN [withdrew] his motion.

CHAIR KELLER, in response to comments, indicated a preference for providing the drafter with permission to make necessary conforming changes. He made a motion but then sought clarification regarding what the motion should be.

MR. BULLARD reiterated that he was merely seeking permission to make conforming changes to Amendment 1 in light of the adoption of Conceptual Amendment 2.

REPRESENTATIVE GRUENBERG, in response to comments, suggested that a committee substitute (CS) incorporating all the amendments adopted thus far be drafted, along with a proposed amendment addressing any necessary conforming changes.

MR. BULLARD sought confirmation that he was to draft a new CS incorporating all the amendments adopted thus far except for Amendment 1, and also draft a new amendment with conforming changes already included to take the place of Amendment 1.

CHAIR KELLER [initially] concurred.

The committee took an at-ease from 2:54 p.m. to 2:55 p.m.

CHAIR KELLER clarified that instead, the committee would not be rescinding any of its actions, and a new CS incorporating all the amendments adopted thus far would be drafted, as well as a new amendment addressing any necessary conforming changes; the committee could then consider whether to adopt those proposed conforming changes during the bill's next hearing.

[HB 104, Version 0 as amended, was held over.]

[2:56:02 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:56 p.m.