

**ALASKA STATE LEGISLATURE  
HOUSE STATE AFFAIRS STANDING COMMITTEE**

February 19, 2013  
8:07 a.m.

**MEMBERS PRESENT**

Representative Bob Lynn, Chair  
Representative Wes Keller, Vice Chair  
Representative Lynn Gattis  
Representative Shelley Hughes  
Representative Doug Isaacson  
Representative Charisse Millett  
Representative Jonathan Kreiss-Tomkins

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

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."

- MOVED CSHB 104(STA) OUT OF COMMITTEE

HOUSE BILL NO. 10

"An Act authorizing state agencies to pay private legal fees and costs incurred by persons exonerated of alleged violations of the Alaska Executive Branch Ethics Act; allowing certain public officers and former public officers to accept state payments to offset private legal fees and costs related to defending against complaints under the Alaska Executive Branch Ethics Act; and creating certain exceptions to limitations under the Alaska Executive Branch Ethics Act on the use of state resources to provide or pay for transportation of spouses and children of the governor and the lieutenant governor."

- MOVED CSHB 10(STA) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

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

BILL: HB 10

SHORT TITLE: EXEC ETHICS: LEGAL FEES/FAMILY TRAVEL

SPONSOR(s): GRUENBERG

01/16/13 (H) PREFILE RELEASED 1/7/13  
01/16/13 (H) READ THE FIRST TIME - REFERRALS  
01/16/13 (H) STA, JUD  
01/31/13 (H) STA AT 8:00 AM CAPITOL 106  
01/31/13 (H) Heard & Held  
01/31/13 (H) MINUTE(STA)  
02/19/13 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

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

**POSITION STATEMENT:** Presented the sectional analysis for HB 104, Version 28-GH1983\N, Bullard, 2/15/13.

PADDY McGUIRE, Deputy Director  
Federal Voting Assistance Program  
U.S. Department of Defense (DoD)  
Alexandria, Virginia

**POSITION STATEMENT:** Testified during the hearing on HB 104.

TED MADSEN, Staff  
Representative Max Gruenberg  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Explained changes made in the proposed committee substitute (CS) for HB 104, Version 28-GH1983\N, Bullard, 2/15/13, on behalf of Representative Gruenberg, sponsor.

**ACTION NARRATIVE**

8:07:07 AM

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at 8:07 a.m. Representatives Keller, Isaacson, Millett, Hughes, Gattis, Kreiss-Tomkins, and Lynn were present at the call to order.

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

[8:07:24 AM](#)

CHAIR LYNN announced that the first order of business was 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."

[8:07:28 AM](#)

REPRESENTATIVE KELLER moved to adopt the proposed committee substitute (CS) for HB 104, Version 28-GH1983\N, Bullard, 2/15/13, as a work draft. [No objection was stated, and Version N was considered before the committee.]

[8:07:57 AM](#)

GAIL FENUMIAI, Director, Division of Elections, Office of the Lieutenant Governor, presented the sectional analysis for Version N to HB 104 [included in the committee packet], and brought attention to Section 1 of the sectional analysis, which read as follows [original punctuation provided]:

Section 1 - specifies that the division may conduct elections for advisory school boards in regional educational attendance areas.

MS. FENUMIAI said the division already conducts regional attendance area elections the first Tuesday of October in approximately 19 regional educational attendance areas (REAs). She continued to Section 2 in the analysis, which read as follows [original punctuation provided]:

Section 2 - allows a child turning 18 who resides outside the U.S. to register and vote absentee if their parent or guardian was domiciled in Alaska immediately before leaving the U.S. This section is aimed at voters who turn 18 while living abroad with their parents or guardians.

MS. FENUMIAI, in response to Chair Lynn, confirmed that many of those children are military dependents living abroad, but some are children of parents who have jobs overseas but maintain their registered voter status in Alaska. She turned attention to Sections 3-6 of the sectional analysis, which read as follows [original punctuation provided]:

Section 3 - Amends AS 15.10.170 to require that poll watchers be persons that are registered to vote in the state.

Section 4 - Amends AS 15.10.180 to require that persons on the state ballot counting review board be registered voters in the state.

Section 5 - Amends AS 15.13.374(f) to provide that the name of a person requesting an advisory opinion from the Alaska Public Offices Commission is confidential and must be redacted from both the request and the opinion before the opinion is made public.

Section 6 - allows the division to designate municipal clerks to serve as absentee voting officials in municipalities where the division does not have an absentee voting station.

MS. FENUMIAI, regarding Section 3, pointed out that to date, no one who has served on the ballot counting review board has not been a registered voter. She said the political parties in Alaska are allowed to present the division with "some names of people who can serve on the review board." Regarding Section 6, she said currently many municipal clerks serve as absentee voting officials in municipalities where the division does not have absentee voting stations and to provide voting to all voters 15 days before and including Election Day.

[8:10:40 AM](#)

MS. FENUMIAI directed attention to Section 7 of the sectional analysis, which read as follows [original punctuation provided]:

Section 7 - clarifies that voters (other than uniformed services voters or overseas voters) who wish to receive their ballot by electronic transmission must comply with the same ballot application deadlines applicable to absentee voting in person.

MS. FENUMIAI explained that someone who is not a member of the military or overseas voter must wait until 15 days before the election to receive a ballot electronically, whereas members of the military and uniformed, overseas citizens can apply anytime throughout the calendar year per federal law. She returned to the Section Analysis, to Section 8, which read as follows [original punctuation provided]:

Section 8 - clarifies that ballots are sent to voters as soon as they are available for distribution with the exception of uniformed services and overseas voters whose ballots must be mailed 45 days prior to the election.

MS. FENUMIAI, in response to the chair, clarified that the division currently follows that federal law, but thinks it is best to put it into state law, as well. She said the federal requirement has been in place since November 2010. She directed attention to Section 9 of the sectional analysis, which read as follows [original punctuation provided]:

Section 9 - removes the reference to receipt of by-mail ballots (postmarked from overseas) 15 days following the election.

MS. FENUMIAI said the division is proposing that be removed, because "they are getting their ballots about three weeks earlier than normal, and we feel that they are having plenty of time to return their ballots." She indicated that [under HB 104], all ballots would be due back 10 days following the election, which would assist the division in closing out the primary in time to prepare for the general election. In response to Chair Lynn, she said the division waits to count the absentee ballots turned in until after doing the voter history of people who have voted at their polling places, to ensure that there are not any people who voted both at the polling place and absentee or absentee in person.

[8:13:09 AM](#)

REPRESENTATIVE HUGHES expressed concern that under Version N of HB 104, there may not be sufficient time for an overseas voter's ballot, postmarked on Election Day, to reach the division in time to be counted.

MS. FENUMIAI said there is a slight possibility that might happen; however, she said she cannot guess how often. She

reported that the number of ballots received between day 10 and 15 is small. She noted that the State of Alaska has one of the more liberal policies for receiving by-mail ballots post-Election Day; many states require receipt of ballots by close of polls on Election Day. She said the division feels that many of the military and overseas voters, by receiving ballots about three weeks ahead of time, are timely in returning their ballots. In response to a follow-up question, she said the division would be proactive in getting the word out to voters about the time requirements of postmarking and returning their ballots.

REPRESENTATIVE HUGHES surmised that mail service to Alaska takes longer; therefore, she opined that it would be important to "have a greater allowance than other states."

MS. FENUMIAI responded that she has no knowledge regarding mail service taking longer to get overseas. She emphasized, "That extra five days at the end of the primary election does push the division to the limit to be able to get ... the election certified, because we can't start the certification process until after all those ballots are in and counted in order to meet that 45-day deadline for the General Election." In response to Representative Hughes, she said she would have to research to find out how many of the ballots are currently coming in between the tenth and fifteenth days after the election. In response to the chair, she reiterated that it is a very small number.

REPRESENTATIVE HUGHES clarified her request is to know how many of those ballots that are received by the division between the tenth and fifteenth days after election have been mailed from overseas.

[8:16:31 AM](#)

REPRESENTATIVE ISAACSON, regarding Section 7, asked why there are different timelines set between uniformed and non-uniformed overseas citizens.

MS. FENUMIAI answered that it would be up to the Alaska State Legislature to decide whether to change the timelines. She stated that [the Uniform Overseas Citizens Absentee Voting Act (UOCAVA)] applies only to uniformed overseas citizens. She continued:

Forty-five days mailing a ballot - delivering a ballot to them - they can apply any time during the calendar year to receive their ballot electronically. And our current state law just allows for those voters that are non-UOCAVA to wait until the 15-day period before the election to apply.

REPRESENTATIVE ISAACSON asked what the advantage is to the military person to have a much more liberal time period.

MS. FENUMIAI deferred to Paddy McGuire of the Federal Assistance Voting Program to answer that question.

[8:18:17 AM](#)

MS. FENUMIAI returned to the sectional analysis, to Section 10, which read as follows [original punctuation provided]:

Section 10 - adds harmonizing language from federal law that ballots for uniformed services and overseas voters will be mailed 45 days prior to an election. Also adds that voters living, working, traveling outside the U.S. at election time or those living in remote areas of the state will have a ballot mailed 45 days prior to an election.

CHAIR LYNN queried as to the definition of "remote area".

MS. FENUMIAI said she would find the definition in statute.

[8:19:09 AM](#)

CHAIR LYNN, in response to Representative Keller, related that the language of Section 5 [text provided previously] was added to Version N at his request to prevent people who request an advisory opinion from being publicly attacked. He posited that it is important that people not be reluctant to ask for an advisory opinion from the Alaska Public Offices Commission (APOC). He surmised that 99 times out of 100 the answer to the question asked "applies to everyone."

[8:21:11 AM](#)

MS. FENUMIAI, regarding the definition of "remote area", brought the committee's attention to [AS 15.20.082(a)], in which the term is used as follows [original punctuation provided]:

(a) The director shall prepare special absentee ballots under this section for use in a state primary election, a state general election, and a state special election when the voter notifies the director in writing that the voter expects to be living, working, or traveling outside the United States at the time of the election, or in a remote area of the state where distance, terrain, or other natural conditions deny the voter reasonable access to a polling place at the time of the election. ...

MS. FENUMIAI brought attention to Sections 11 and 12 in the sectional analysis, which read as follows [original punctuation provided]:

Section 11 - removes the reference to receipt of by-mail ballots (postmarked from overseas) 15 days following the election.

Section 12 - changes the date of the primary election to the second Tuesday in August (currently is the fourth Tuesday in August).

MS. FENUMIAI, in response to Chair Lynn, explained the purpose of Section 12 is to ensure that the division will be able to comply with the 45-day ballot mailing for the General Election. Currently, she said, there is a three-day window in which to get the ballots mailed for the General Election per federal law. She indicated that recounts and court challenges can push the division close to exceeding the current time limit.

[8:22:50 AM](#)

MS. FENUMIAI moved on to Sections 13 through 19 of the sectional analysis, which read as follows [original punctuation provided]:

Section 13 - changes the withdrawal date for primary election candidates to 52 days prior to the primary election (currently is 48 days).

Sections 14 and 15 - change the date to replace unopposed incumbent candidates to 54 days prior to the primary election (currently is 50 days) and filling of vacancy by party petition to 52 days prior to the primary election (currently is 48 days).

Sections 16 and 17 - change the date to replace a candidate nominated at the primary election to 64 days before the general election (currently is 48 days).

Section 18 - changes the withdrawal date for a candidate appearing on the general election ballot to 64 days prior to the general election (currently is 48 days).

Section 19 - changes the withdrawal date for judicial candidates to 64 days prior to the general election (currently is 48 days).

[8:23:51 AM](#)

MS. FENUMIAI, in response to Representative Isaacson, explained that the "52 days" [in Section 13] refers to the primary election, and judicial candidates appear only on the General Election ballot; judicial and legislative candidates will have the same withdrawal deadline: 64 days.

[8:24:24 AM](#)

MS. FENUMIAI brought attention to Sections 20-23 of the sectional analysis, which read as follows [original punctuation provided]:

Section 20 - Adds a new subsection amending AS 15.58.030 to require the lieutenant governor to publish an electronic election pamphlet on the division's internet website before each state election. Photograph and statement are provided and paid for by candidate and that the information must be published within one week from receipt of the information.

Section 21 - adds federal definitions of absentee uniformed services voters and overseas voters.

Section 22 - allows municipal clerks to serve as absentee voting officials in municipalities where the division does not have an absentee voting station.

Section 23 - repeals provision for ballots postmarked from overseas to be received 15 days following election (all ballots would be received 10 days following the election as provided in AS 15.20.081(e)); repeals the allowance of an absentee application from a uniformed services or overseas

voter to be extended for two general elections (harmonize with federal law); repeal the requirement to send special absentee ballots.

[8:25:32 AM](#)

MS. FENUMIAI, in response to a series of questions from Representative Hughes, said a person age 18 or over who is in Alaska may register to vote in Alaska [at least] 30 days prior to an election. She said she cannot answer questions about residency and how that would apply to the Permanent Fund Dividend (PFD). She clarified that under the proposed legislation, a person under the age of 18 who was originally domiciled in Alaska but turned 18 while living overseas would be able to register to vote an Alaska ballot.

[8:29:05 AM](#)

MS. FENUMIAI, in response to Chair Lynn, said a person who registers to vote in Alaska while living overseas must provide an out-of-state postmark. Further, he/she must provide proof of ties to Alaska, which could include the following: a military leave and earnings statement, a residence address in Alaska, and a copy of property tax records. The person gives this information to the division as true and correct under penalty of perjury.

[8:29:52 AM](#)

REPRESENTATIVE KELLER asked Ms. Fenumiai to address the significance of the repeal of [AS 15.20.081(i)] in Section 23.

MS. FENUMIAI explained that currently absentee by-mail applications by military and overseas voters are good for the next two General Elections, but under HB 104 they would expire after one year.

[8:31:19 AM](#)

REPRESENTATIVE GATTIS asked Ms. Fenumiai to outline the timeline of a ballot for a person voting absentee in Florida.

MS. FENUMIAI said the person would most likely receive the ballot about three weeks prior to the election, would have to get it postmarked by Election Day, and the ballot would have to be received by the division no more than 10 days following the

election. She said that gives the person about 30 days after receipt of the ballot to get it back to the division.

REPRESENTATIVE GATTIS offered her understanding that under HB 104, the voters overseas would have 10 days after the election to return their ballots instead of 15 days, which would make the time they are given equal to the time a domestic voter currently has.

MS. FENUMIAI confirmed that is correct and added that those nondomestic voters "are also getting their ballot about 22 days before the domestic voters."

REPRESENTATIVE GATTIS said Ms. Fenumiai had addressed her question.

[8:33:10 AM](#)

REPRESENTATIVE KREISS-TOMKINS, regarding Sections 3 and 4 of Version N, asked how common it is for poll watchers and state ballot counting review board members to be registered out of state.

[8:33:42 AM](#)

MS. FENUMIAI answered that poll watchers are appointed by political party; the division receives a list of those poll watchers and issues a badge for each to wear. She said campaigns can also appoint them. She said currently there is no provision that those poll watchers must be registered voters in Alaska. The state review board members are also appointed by political party, so they have to be registered with the party, and there has never been a member of the board that was not a registered voter in Alaska. She added, "That's where we get our names from."

[8:34:32 AM](#)

CHAIR LYNN said there was concern raised at the last General Election about overseas oversight of elections. He indicated that under Sections 3 and 4 of Version N, there would be no possibility of a noncitizen influencing elections, because those overseeing elections would have to be registered voters, and in order to be a registered voter, a person must be a U.S. citizen. He offered his understanding that "this doesn't stop anybody from overseas or here from observing the electing process as any one of us might."

MS. FENUMIAI confirmed, "It does not stop anybody from observing an election, but however they would not have poll watcher authority." She explained that a poll watcher has certain authorizations, which include standing by the election workers, hearing the names of voters, and challenging voters' qualifications.

[8:35:59 AM](#)

MS. FENUMIAI, in response to Representative Kreiss-Tomkins, reviewed the changes that would be made to Section 11 under Version N.

[8:36:31 AM](#)

MS. FENUMIAI, in response to a question from Representative Kreiss-Tomkins regarding Section 20, said currently statute requires a printed version of a pamphlet for a primary election only when ballot measures appear on the primary election ballot. The statute further requires the division to post candidate information on line.

CHAIR LYNN said ideally the primary election information would be published the same as the General Election information, but doing so would be too costly. The best alternative is to direct a voter to find the information on line.

[8:37:41 AM](#)

MS. FENUMIAI, in response to Representative Hughes, said the division posts a full electronic version of the pamphlet on line, but there has been no consideration of discontinuing the paper version, because many people still do not have access to the Internet.

[8:39:49 AM](#)

PADDY McGUIRE, Deputy Director, Federal Voting Assistance Program, U.S. Department of Defense (DoD), stated that the Federal Voting Assistance Program is the Pentagon agency that works to ensure military and overseas voters have an opportunity to successfully cast a ballot. He commended the governor and lieutenant governor of Alaska, as well as Ms. Fenumiai, for their leadership in this issue. Mr. McGuire opined that moving the primary earlier would be a significant change that would support the efforts of the program to ensure the ballots cast by

military and overseas voters are counted. He offered to answer questions from the committee.

CHAIR LYNN observed that having a shorter election period before the primary election may mean a less expensive campaign.

[8:42:11 AM](#)

REPRESENTATIVE ISAACSON asked what the benefit would be to a service member to be able to "request an absentee ballot all year round and then have a greater period of time in which to respond." He continued:

If it's good for the service member, conceivably would it be good for anyone who is a ... civilian voter overseas? We have many civilians who also follow our troops; this would not apply to them; and I'm thinking contractors and so forth.

CHAIR LYNN, regarding absentee rolls, said there are civilians living in extremely remote locations who apply for absentee ballots.

REPRESENTATIVE ISAACSON said he would like Mr. McGuire to clarify the benefit to the military member and tell the committee whether he thinks the benefit should be applied more broadly to civilians.

[8:43:31 AM](#)

MR. MCGUIRE responded that his office produces the federal postcard application, which is a national form that allows military and overseas voters to register to vote. He offered his understanding that the proposed legislation would "change the applicability of the federal postcard application to one calendar year in Alaska." He said the message to military and overseas voters to fill out a new form each year is sent out world-wide every January and July; therefore, changing to a one-year applicability for that form would be in line with the information already being sent out to those voters. He added, "We think it makes sense."

REPRESENTATIVE ISAACSON asked, "Was my question mistaken that the uniform service voter and the overseas voter both have the same provision with this?"

MS. FENUMIAI answered yes. She clarified, "It is uniformed overseas officers and citizens who are living abroad."

REPRESENTATIVE ISAACSON said, "So, the first part is just to ensure, no matter where they are, they are able to vote."

MS. FENUMIAI responded yes.

REPRESENTATIVE ISAACSON said he likes that.

8:45:48 AM

REPRESENTATIVE HUGHES asked if Mr. McGuire is familiar with mail delivery time overseas and whether he thinks shortening the return time period to 10 days will be sufficient.

MR. McGuire replied that for the 2012 General Election, the military postal service agency delivered military ballots back home via express mail service, and the average delivery time was 5.5 days from receipt to delivery in the U.S. He said he does not think the reduction from 15 to 10 days will make any difference. In response to a follow-up question, he said military voters send mail home via the postal service, because it is free and fast. Regarding those overseas, but not in the military, he ventured there are not many places on earth where there is any sort of postal system that cannot return a ballot in 45 days, which is the amount of time a person could have if they vote promptly.

8:49:25 AM

MR. McGUIRE, in response to questions from Chair Lynn, said spouses of overseas military members are afforded the same method of sending mail. He said there are military personnel in some unique circumstances, such as submariners who will go below the surfaces for extended periods of time; however, he said he thinks those people can plan ahead and work within the 45-day period to get their ballots mailed to the division on time.

8:51:40 AM

REPRESENTATIVE HUGHES said she has son in the military who has been deployed multiple times and a son-in-law who is currently serving in the military overseas. She stated concern about "those votes being counted" and thanked Mr. McGuire for his reassurance. She asked the division to watch for votes that may

not make it in on time because of the shortened time period under HB 104.

[8:52:24 AM](#)

MS. FENUMIAI, in response to Representative Gattis, stated that for the 2004 General Election, the division implemented an on-line electronic ballot delivery method for voters. She said receiving a ballot via facsimile ("fax") was still an option, but the on-line delivery method was more highly requested.

[8:53:36 AM](#)

MS. FENUMIAI, in response to Representative Hughes, said the voter has the option to return his/her ballot by one of three methods: via a secure, on-line ballot delivery system, which is not via e-mail; via mail; or via fax.

[8:54:11 AM](#)

REPRESENTATIVE KELLER thanked Ms. Fenumiai for her contributions to the proposed legislation and for her presentation to the committee.

[8:54:43 AM](#)

CHAIR LYNN, after ascertaining that there was no one else who wished to testify, closed public testimony.

CHAIR LYNN announced that there being no objection to the previous motion to adopt the proposed committee substitute (CS) for HB 104, Version 28-GH1983\N, Bullard, 2/15/13, as a work draft, Version N was before the committee.

[8:55:24 AM](#)

REPRESENTATIVE KELLER moved to report CSHB 104, Version 28-GH1983\N, Bullard, 2/15/13 out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection CSHB 104(STA) was reported out of the House State Affairs Standing Committee.

[8:55:45 AM](#)

The committee took an at-ease from 8:56 a.m. to 9:00 a.m.

**HB 10-EXEC ETHICS: LEGAL FEES/FAMILY TRAVEL**

[9:00:43 AM](#)

CHAIR LYNN announced that the last order of business was HOUSE BILL NO. 10, "An Act authorizing state agencies to pay private legal fees and costs incurred by persons exonerated of alleged violations of the Alaska Executive Branch Ethics Act; allowing certain public officers and former public officers to accept state payments to offset private legal fees and costs related to defending against complaints under the Alaska Executive Branch Ethics Act; and creating certain exceptions to limitations under the Alaska Executive Branch Ethics Act on the use of state resources to provide or pay for transportation of spouses and children of the governor and the lieutenant governor."

[9:00:51 AM](#)

REPRESENTATIVE KELLER moved to adopt the proposed committee substitute (CS) for HB 10, Version 28-LS0040\N, Wayne, 2/15/13, as a work draft. [No objection was stated; therefore Version N was treated as before the committee.]

[9:01:10 AM](#)

TED MADSEN, Staff, Representative Max Gruenberg, Alaska State Legislature, explained the changes made in Version N. The first change was to incorporate an amendment adopted by the committee without objection during the previous hearing of HB 10 [on 1/31/13], which changed "or mental" to ", intellectual, or developmental", on [page 3, line 12 of the original bill version], which is found on page 3, line 5 of Version N. The second change, he said, was to delete the language of Sections 4 and 5 from the original bill. Mr. Madsen explained that that language dealt with attorneys' fees. He noted that there was also a corresponding title change made in Version N to reflect the deletion of those sections.

[9:03:08 AM](#)

REPRESENTATIVE GATTIS moved to report CSHB 10, Version 28-LS0040\N, Wayne, 2/15/13 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 10(STA) was reported out of the House State Affairs Standing Committee.

[9:03:49 AM](#)

## **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:04 a.m.