

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

April 11, 2013

9:07 a.m.

MEMBERS PRESENT

Senator Fred Dyson, Chair
Senator Cathy Giessel, Vice Chair
Senator John Coghill
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Bert Stedman

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 104(2D JUD)

"An Act relating to election practices and procedures; relating to the reporting of election campaign contributions and expenditures; relating to identification requirements for a communication paid for by a political party; 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."

- MOVED CSHB 104(2D JUD) 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
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
03/11/13	(H)	Heard & Held
03/11/13	(H)	MINUTE(JUD)
03/15/13	(H)	JUD AT 1:00 PM CAPITOL 120
03/15/13	(H)	Moved CSHB 104(JUD) Out of Committee
03/15/13	(H)	MINUTE(JUD)
03/18/13	(H)	JUD AT 1:00 PM CAPITOL 120
03/18/13	(H)	Moved CSHB 104(JUD) Out of Committee
03/18/13	(H)	MINUTE(JUD)
03/20/13	(H)	JUD RPT CS(JUD) NT 6DP 1AM
03/20/13	(H)	DP: MILLETT, PRUITT, FOSTER, LEDOUX, LYNN, KELLER
03/20/13	(H)	AM: GRUENBERG
03/22/13	(H)	RETURNED TO JUD COMMITTEE
04/05/13	(H)	JUD AT 1:00 PM CAPITOL 120
04/05/13	(H)	Moved CSHB 104(2d JUD) Out of Committee
04/05/13	(H)	MINUTE(JUD)
04/08/13	(H)	JUD RPT CS(2D JUD) NT 4DP 1AM
04/08/13	(H)	DP: PRUITT, FOSTER, LEDOUX, LYNN
04/08/13	(H)	AM: GRUENBERG
04/08/13	(H)	TRANSMITTED TO (S)
04/08/13	(H)	VERSION: CSHB 104(2D JUD)
04/09/13	(S)	READ THE FIRST TIME - REFERRALS
04/09/13	(S)	STA
04/11/13	(S)	STA AT 9:00 AM BUTROVICH 205

WITNESS REGISTER

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

POSITION STATEMENT: Presented information related to HB 104.

PAUL DAUPHINAIS, Executive Director
Alaska Public Offices Commission (APOC)
Department of Administrations
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to HB 104.

LIBBY BAKALAR, Assistant Attorney General
Labor and State Affairs Section
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions related to HB 104.

ACTION NARRATIVE

9:07:20 AM

CHAIR FRED DYSON called the Senate State Affairs Standing Committee meeting to order at 9:07 a.m. Present at the call to order were Senators Coghill, Giessel, and Chair Dyson.

HB 104-ELECTION PROCEDURES; REAA ADVISORY BOARDS

CHAIR DYSON announced that the business before the committee would be HB 104. He noted that the committee previously heard the Senate version of the bill and many changes were made from that version. [CSHB 104 (2D JUD) was before the committee.]

GAIL FENUMAI, Director, Division of Elections, Office of the Lieutenant Governor, presented information related to HB 104. She related that many changes were made to the companion bill SB 44, mainly in the House Judiciary Committee.

MS. FENUMAI explained that the first change is in Section 3, which requires poll watchers to be United States citizens, versus registered voters. Section 4 was amended to allow candidates to appoint poll watchers.

CHAIR DYSON asked if the version before the committee is I.

MS. FENUMAI said yes. She continued to explain that current statute only allows the parties to appoint poll watchers. Section 5 was amended to require that members of the State Review Board be United States citizens. Section 6 is an Alaska Public Offices Commission (APOC) amendment, which requires new party candidates to file appropriate APOC reports on the same timeline as party candidates. Sections 7 - 9 amend the APOC statutes related to identification requirements for communications paid for by a political party. The top three donors must be listed.

CHAIR DYSON asked Mr. Dauphinais to stand by to answer questions related to APOC.

9:11:07 AM

MS. FENUMAI continued with the change in Section 11, which was amended to allow a person requesting an advisory opinion from APOC to have their name redacted if requested. Section 14 was amended to allow ballots postmarked from overseas to be received 10 days following the primary election and 15 days following the general election. Sections 16 - 21 were added to include a

special run-off election to fill a vacancy in the U.S. Senate, if the candidate did not receive at least 50 percent of the vote.

CHAIR DYSON thought that might cause some timing problems.

MS. FENUMAI said it would be tight, but doable. She related that Section 22 was amended to move the primary election from the second Tuesday to the third Tuesday. Section 31 is related to a special run-off election. Sections 32 - 39 were amended to include language related to a special run-off election. She explained that Section 41 adds "special run-off election" to the current definition of a federal election. Section 44 deletes the repeal of a statute that said all ballots had to be in by the 15th day.

[9:13:25 AM](#)

CHAIR DYSON asked Ms. Fenumai if the division sees any problems with the changes.

MS. FENUMAI replied that the division can work with the changes.

PAUL DAUPHINAIS, Executive Director, Alaska Public Offices Commission (APOC), Department of Administrations, offered to answer questions related to HB 104.

SENATOR COGHILL asked about Section 8, the requirement for a "paid for by" advertising statement. He said that he thought the advertisement would only have to say "paid for by x party" and not have to list the donors.

MR. DAUPHINAIS said that is correct.

SENATOR COGHILL inquired about the reason behind the request for confidentiality.

MR. DAUPHINAIS said it was an amendment put forth by a member of the House. He noted that APOC has no problem with it.

SENATOR WIELECHOWSKI joined the meeting.

[9:15:37 AM](#)

CHAIR DYSON surmised it was aimed at someone who makes an accusation of impropriety against a candidate a few days before the election and there is no time for a response or an APOC ruling.

MR. DAUPHINAIS replied he assumes that is correct.

SENATOR COGHILL said it looks like the person who is requesting the information is exempt from having their name put forward, not the candidate.

CHAIR DYSON agreed.

MR. DAUPHINAIS explained that a third party cannot request an advisory opinion. The person who requests the advisory opinion bears the association of the request.

SENATOR COGHILL said he understood.

CHAIR DYSON asked if there is a difference between an advisory opinion and an accusation of impropriety.

MR. DAUPHINAIS said yes. An advisory opinion is a formal process for APOC covered under AS 15.13 and an accusation would more than likely come from the public and is not an APOC term.

[9:18:23 AM](#)

CHAIR DYSON gave an example of a citizen making an accusation that a candidate is acting in an unethical manner. He asked how APOC deals with that.

MR. DAUPHINAIS said that the situation posed is not an advisory opinion.

CHAIR DYSON agreed.

MR. DAUPHINAIS gave an example of an advisory opinion; a candidate requests APOC's formal opinion about whether they can bring their campaign manager along in their car to an event. He said Chair Dyson's example may or may not be looked at by APOC. It must be contrary to a statute or regulation that falls under an APOC aegis. He clarified that APOC is limited by statute as to how long it has to deliver an advisory opinion.

CHAIR DYSON said it came up the in the last election cycle. He explained that a candidate asked APOC how to handle a situation, was given advice which they followed, then APOC made a decision that what they did was incorrect, and then it was made public that the candidate violated the filing requirements.

[9:22:10 AM](#)

MR. DAUPHINAIS explained that with advisory opinion requests, if the candidate follows advice given by APOC staff, he/she is shielded from wrong doing.

CHAIR DYSON asked if it must be in writing.

MR. DAUPHINAIS answered yes.

CHAIR DYSON gave an example of advice given with no written record.

MR. DAUPHINAIS said he misunderstood. He called that example informal advice, of which APOC gives very little unless it is clear cut, like a due date. All other advice must be requested in writing.

CHAIR DYSON asked how long the turnaround is.

MR. DAUPHINAIS said 7 calendar days.

[9:24:56 AM](#)

SENATOR WIELECHOWSKI asked about Sections 7, 8, and 9; if political parties must list their top three contributors.

MR. DAUPHINAIS replied that APOC has interpreted it that way, but recognizes the difficulty in picking just three.

SENATOR WIELECHOWSKI asked how much a person or an organization can contribute to a political party.

MR. DAUPHINAIS said a group, such as a political action committee or a union, can contribute up to \$1,000 in the aggregate per year to a political party.

SENATOR WIELECHOWSKI asked what the maximum contribution is.

MR. DAUPHINAIS said an individual can contribute up to \$5,000 per year.

[9:26:57 AM](#)

SENATOR WIELECHOWSKI asked about the special elections changes in Sections 30 and 31.

MS. FENUMAI explained that Section 30 addresses provisions for a special election for Congress and AS 15.40.142 is a new section that would require a special run-off election should no candidate receive at least 50 percent of the vote.

CHAIR DYSON asked if the top two candidates would have a run-off.

MS. FENUMAI said yes, regardless of party.

SENATOR WIELECHOWSKI asked who offered that change.

MS. FENUMAI said it was an amendment made by a committee member in House Judiciary.

SENATOR WIELECHOWSKI gave an example.

MS. FENUMAI said the special election would be the primary and only if a candidate does not receive at least 50 percent of the vote would there be a special run-off.

SENATOR WIELECHOWSKI said there is no primary.

MS. FENUMAI agreed.

[9:29:46 AM](#)

CHAIR DYSON pointed out that the primary election is for parties.

MS. FENUMAI said that is correct. She said she was comparing a special election for Congress followed by the need for a special run-off to a primary and general election.

SENATOR WIELECHOWSKI gave an example. He noted the change does not impact elections elsewhere.

MS. FENUMAI agreed that it only applies to filing a vacancy in Congress.

[9:30:53 AM](#)

CHAIR DYSON asked if this is a change.

MS. FENUMAI said the only provision that changed is the one that applies if no candidate receives at least 50 percent of the vote.

SENATOR WIELECHOWSKI asked if the top vote getter currently wins.

MS. FENUMAI said yes.

CHAIR DYSON hypothesized a situation where a candidate wins a primary and needs to be replaced for some reason post primary.

MS. FENUMAI related that the process is that the candidate's political party would replace the candidate via a party petition.

CHAIR DYSON asked how far in advance of the general election that process can work.

MS. FENUMAI said that HB 104 states that it can occur 64 days before the general election.

CHAIR DYSON said if it is 10 days before, then the ballots go out as usual.

MS. FENUMAI noted that the current statute would not help that situation. She said she assumes the governor would take nominations from the party in order to fill the vacancy.

[9:33:30 AM](#)

LIBBY BAKALAR, Assistant Attorney General, Civil Division, Labor and State Affairs Section, Department of Law, offered to research the issue and follow up with the committee.

CHAIR DYSON thanked Mr. Dauphinais for his work.

[9:35:18 AM](#)

SENATOR WIELECHOWSKI asked why the number of days changes from 48 to 52 days and from 48 to 64 days in Sections 23 - 28.

MS. FENUMAI replied that it is to allow time for the ballots to be printed and mailed.

SENATOR WIELECHOWSKI asked about the change from 48 to 64 days in Section 26 for the same thing.

MS. FENUMAI said it was for the general election.

[9:36:30 AM](#)

CHAIR DYSON noted that the first part of HB 104 was heard during the hearing of SB 44. He said the division does not have a problem with the House version.

SENATOR COGHILL pointed out that the primary was moved to the third week, which necessitated date changes.

MS. FENUMAI agreed.

SENATOR WIELECHOWSKI said he was trying to absorb the change of not having to report a candidate's top three donors. He did not see it as being in the state's best interest.

[9:38:00 AM](#)

SENATOR GIESSEL thought the changes amplify the amount of "paid for by" information to be reported. She opined that the special election timeframe is beneficial.

MS. FENUMAI suggested that the changes to the APOC statutes related to campaign finance reporting levels the playing field for political party candidates and no party candidates.

SENATOR GIESSEL agreed that "paid for by" falls under APOC.

SENATOR WIELECHOWSKI said he was referring to Sections 7, 8, and 9 where political parties don't have to reveal their top three donors.

MR. DAUPHINAIS agreed that Senator Wielechowski has a point, in that, with the party not providing a list of three top contributors, there is not as much information going out. However, because of the limitations on contributions from individuals and groups, many contribute the maximum allowed. Where there are more than three people at the level, it is hard to decide which three to choose.

SENATOR WIELECHOWSKI opined that the public likes the idea that they are getting some feel for who is funding campaigns. He expressed a desire to keep that information in statute.

[9:40:52 AM](#)

MR. DAUPHINAIS said it was the legislature's purview.

SENATOR COGHILL said he understood both sides. He opined that the real issue is about special groups and their top donor list.

[9:41:54 AM](#)

SENATOR GIESSEL said she is also okay with the change because the contribution level is higher at \$5,000.

SENATOR WIELECHOWSKI pointed out that it is \$5,000 for an individual.

CHAIR DYSON said a group is limited to \$1,000.

SENATOR WIELECHOWSKI concluded it was a good thing.

SENATOR COGHILL asked if parties are required to list their donors like candidates do.

MR. DAUPHINAIS said that is correct.

SENATOR WIELECHOWSKI asked if donors are on the APOC cycle for listing donors.

MR. DAUPHINAIS said yes.

[9:43:43 AM](#)

MS. BAKALAR returned to the question about what would happen to a candidate who was elected and then died before taking office. She stated that another person would be appointed.

SENATOR GIESSEL moved to report CS for HB 104, labeled 28-GH1983\I, from committee with individual recommendations and attached zero fiscal note.

SENATOR WIELECHOWSKI said he did not believe the bill should be moved so quickly, but he wouldn't object.

CHAIR DYSON pointed out that there was a lot of discussion on the House side.

There being no objection, CSHB 104(2D JUD) was reported from the Senate State Affairs Standing Committee.

CHAIR DYSON thanked the staff and committee members for their work.

[9:45:46 AM](#)

There being no further business to come before the committee, Chair Dyson adjourned the Senate State Affairs Standing Committee at 9:45 a.m.