

**ALASKA STATE LEGISLATURE**  
**HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**  
February 18, 2017  
10:00 a.m.

**MEMBERS PRESENT**

Representative Zach Fansler, Co-Chair  
Representative Justin Parish, Co-Chair  
Representative Harriet Drummond  
Representative Dean Westlake  
Representative George Rauscher  
Representative David Talerico

**MEMBERS ABSENT**

Representative Dan Saddler  
Representative DeLena Johnson (alternate)  
Representative Jonathan Kreiss-Tomkins (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 7  
"An Act relating to the exhibition of marked ballots."

- MOVED CSHB 7(CRA) OUT OF COMMITTEE

HOUSE BILL NO. 84  
"An Act relating to a municipal property tax exemption."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 7  
SHORT TITLE: DISPLAY OF PHOTOS OF MARKED BALLOT  
SPONSOR(S): REPRESENTATIVE(S) KREISS-TOMKINS

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	STA, CRA
01/31/17	(H)	STA AT 3:00 PM GRUENBERG 120
01/31/17	(H)	Heard & Held
01/31/17	(H)	MINUTE(STA)
02/02/17	(H)	STA AT 3:00 PM GRUENBERG 120
02/02/17	(H)	Moved CSHB 7(STA) Out of Committee
02/02/17	(H)	MINUTE(STA)

02/06/17 (H) STA RPT CS(STA) NT 7DP  
02/06/17 (H) DP: JOHNSON, WOOL, LEDOUX, KNOPP,  
BIRCH, TUCK, KREISS-TOMKINS  
02/18/17 (H) CRA AT 10:00 AM BARNES 124

#### **WITNESS REGISTER**

ALICIA NORTON, Intern  
Representative Jonathan Kreiss-Tomkins  
Alaska State Legislature

**POSITION STATEMENT:** Presented HB 7 on behalf of Representative Kreiss-Tomkins, prime sponsor.

ERIC GLATT, Staff Attorney  
American Civil Liberties Union of Alaska (ACLU of Alaska)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 7.

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

**POSITION STATEMENT:** Answered questions during the hearing on HB 7.

REED MAGDANZ, Staff  
Representative Jonathon Kreiss-Tomkins  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 7, on behalf of Representative Kreiss-Tomkins, prime sponsor.

BRIAN JACKSON, Election Programs Manager  
Central Office  
Division of Elections  
Office of the Lieutenant Governor  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 7.

#### **ACTION NARRATIVE**

[10:00:33 AM](#)

**CO-CHAIR ZACH FANSLER** called the House Community and Regional Affairs Standing Committee meeting to order at 10:00 a.m.

Representatives Parish, Talerico, Westlake, Drummond, Rauscher, and Fansler were present at the call to order.

**HB 7-DISPLAY OF PHOTOS OF MARKED BALLOT**

[10:01:45 AM](#)

CO-CHAIR FANSLER announced that the only order of business would be HOUSE BILL NO. 7, "An Act relating to the exhibition of marked ballots." [Before the committee was CSHB 7(STA).]

[10:02:42 AM](#)

ALICIA NORTON, Intern, Representative Jonathan Kreiss Tomkins, presented HB 7 on behalf of Representative Kreiss-Tomkins, prime sponsor. She explained that the proposed bill would change language [in AS 15.15.280 to allow voters to take "ballot selfies" while at the polling place]. She explained that although it is currently illegal to share a ballot selfie in Alaska, the [law] goes unenforced.

[10:03:19 AM](#)

REPRESENTATIVE DRUMMOND asked if the sponsor has found any instance in which the law that currently exists has actually been enforced.

[10:03:43 AM](#)

MS. NORTON clarified that there has not been a single case in Alaska where the law [prohibiting the sharing of ballot selfies] was enforced.

[10:04:44 AM](#)

REPRESENTATIVE WESTLAKE questioned whether an issues may arise as a result of HB 7.

[10:05:19 AM](#)

ERIC GLATT, Staff Attorney, American Civil Liberties Union of Alaska (ACLU of Alaska), in response to Representative Westlake, stated that the ACLU of Alaska does not find anything of concern regarding HB 7 or "the amendments that have been put forward" and supports the proposed legislation as a great way in which to clarify Alaska's election law and ensure that people's constitutional rights are respected and honored.

[10:06:19 AM](#)

LIBBY BAKALAR, Assistant Attorney General, Labor and State Affairs Section, Civil Division (Juneau), Department of Law (DOL), responded to Representative Westlake's question by echoing the response of Mr. Glatt. She said it has been a long-standing issue for the Division of Elections. She relayed that DOL receives calls from the division regarding the practice of taking selfies at the polling place, and she offered her understanding that it is the Division of Election's position that HB 7 would "clarify those questions" and give the voting public confidence that taking a ballot selfie is a protected First Amendment right, as has been interpreted in the cases that have come out thus far. She pointed out that the original statute was made law in the '60s, long before selfies existed. She said the proposed legislation is clarifying language that she thinks is consistent with "the direction this is going around the country."

[10:07:56 AM](#)

CO-CHAIR FANSLER asked Ms. Bakalar what reason was behind the original law.

MS. BAKALAR answered that the law initially was not about photographs; it was about physical exhibition of the ballot and persuasion at the polls. In response to a follow-up question, she said she does not think HB 7 would undo those prohibitions of the past, because the various iterations of the bill language all would leave that prohibition intact. She said she thinks the intent of the proposed legislation is to clarify for the members of the public that they are not committing a civil or criminal violation by documenting their own voting experiences.

[10:09:59 AM](#)

CO-CHAIR PARISH noted that in Section 2 of HB 7, [AS 15.15.280 would be amended to exclude a voter who] "(1) requests assistance under AS 15.15.240". He asked if AS 15.15.240 refers to an individual who is visually impaired.

MS. BAKALAR confirmed that is correct. She read AS 15.15.240, which relates to voter assistance, as follows:

A qualified voter needing assistance in voting may request an election official, a person, or not more

than two persons of the voter's choice to assist. If the election official is requested, the election official shall assist the voter. If any other person is requested, the person shall state upon oath before the election official that the person will not divulge the vote cast by the person assisted.

MS. BAKALAR said the statute was enacted in 1960 and amended three times. She stated the purpose of the statute is assist visually impaired or otherwise disabled voters in casting a ballot.

[10:11:07 AM](#)

REPRESENTATIVE DRUMMOND said she is considering the way people can physically display a photo, and she noted that the word "shares" is in HB 7. She offered a scenario in which someone posts a ballot selfie to his/her Facebook page and someone else displays that page on his/her cell phone while within the 200-foot prohibition area of the polling place. She asked Ms. Bakalar if she anticipates that could be a problem.

MS. BAKALAR deferred to the bill sponsor.

[10:12:09 AM](#)

REED MAGDANZ, Staff, Representative Jonathon Kreiss-Tomkins, Alaska State Legislature, on behalf of Representative Kreiss-Tomkins, prime sponsor of HB 7, related that the exact scenario Representative Drummond described was addressed during discussion by the House State Affairs Standing Committee, the previous committee of referral for HB 7, and there is an amendment forthcoming to address that and make clear that within the 200-foot buffer, a person is not allowed to physically display a photo of his/her own ballot or that of another person.

[10:12:54 AM](#)

CO-CHAIR FANSLER opened public testimony on HB 7.

[10:13:26 AM](#)

REPRESENTATIVE WESTLAKE interjected that he thought one result of HB 7 might be an inducement to vote.

[10:13:57 AM](#)

CO-CHAIR FANSLER, after ascertaining that there was no one who wished to testify, closed public testimony on HB 7.

[10:14:29 AM](#)

REPRESENTATIVE WESTLAKE reiterated that he thinks HB 7 would be a great vehicle for getting people to go vote. He talked about the influence of the social media posts of older people on younger people.

[10:14:56 AM](#)

REPRESENTATIVE RAUSCHER inquired whether HB 7 would have a hearing with the House Finance Committee.

[10:15:11 AM](#)

CO-CHAIR PARISH pointed out that the proposed legislation has a zero fiscal note.

[10:15:23 AM](#)

MR. MAGDANZ confirmed that there are no further committees of referral for HB 7.

[10:15:44 AM](#)

REPRESENTATIVE DRUMMOND asked if the aforementioned amendment would be offered today.

[10:16:08 AM](#)

CO-CHAIR PARISH moved to adopt Amendment 1 to CSHB 7(STA), [labeled 30-LS0111\D.2, Bullard, 2/16/17], which read as follows:

Page 1, line 10, following "person's":  
Insert "or another person's"

REPRESENTATIVE DRUMMOND objected for the purpose of discussion.

CO-CHAIR PARISH indicated that the addition of "or another person's" would address a previously stated concern.

[10:16:57 AM](#)

REPRESENTATIVE RAUSCHER questioned the designation of line 10 and asked for the language, as it would be amended by the proposed Amendment 1, to be read.

CO-CHAIR PARISH read, "physically display a photo, video, or other image of the person's or another person's marked ballot". He offered his understanding that even though the language inserted would flow past line 10, the insertion would begin at line 10.

[10:17:57 AM](#)

CO-CHAIR FANSLER asked if there may be unintended consequences from the proposed Amendment 1. For example, he said maybe in the event of a long waiting line to vote, someone may peruse his/her phone within the aforementioned 200-foot parameter, open Facebook, and stumble upon a photo of someone else who has posted a ballot selfie.

[10:18:58 AM](#)

MR. MAGDANZ offered his understanding that "it only prohibits the display if you are displaying that photo within 200 feet in an attempt to persuade a person to vote for or against a candidate, proposition, or question." He said seeing a post accidentally while scrolling through a social media site should not be a problem. He deferred to Ms. Bakalar for further insight.

[10:19:25 AM](#)

MS. BAKALAR added, "It's a state of mind issue and an intent issue. Accidentally scrolling through and happening upon someone else's voted ballot in your Facebook feed doesn't meet the letter of the statute about ... attempt to persuade." The intent is to prevent electioneering, and "there's no electioneering going on if your ... eyeballs just happen to fall upon someone else's ballot in a Facebook feed."

[10:20:24 AM](#)

REPRESENTATIVE DRUMMOND removed her objection to the motion to adopt Amendment 1. There being no further objection, Amendment 1 was adopted.

[10:20:47 AM](#)

CO-CHAIR PARISH directed attention to Section 1(b), which read as follows:

(b) The election officials shall post warning notices at the required distance in the form and manner prescribed by the director.

CO-CHAIR PARISH asked if there would be the option of there being no warning.

[10:21:39 AM](#)

BRIAN JACKSON, Election Programs Manager, Central Office, Division of Elections, Office of the Lieutenant Governor, answered that the election officials have, in their materials at polling places, a kit with a string that is 200 feet long that they can use to measure the 200-foot distance, and they also post notices at polling places.

CO-CHAIR PARISH recollected that he had not seen signs regarding the 200-foot parameter. He asked Mr. Jackson, "In your interpretation, would this require ... you to do anything that you're not already doing?"

MR. JACKSON answered, "I do not believe that this would require any additional work for the election officials."

[10:23:29 AM](#)

REPRESENTATIVE DRUMMOND mentioned seeing the municipal clerk in Anchorage [at work], and she said she thinks it would be "an enormous amount of work" to "take that radius and post it at 200 feet." She added that she has "seen that kit in action, and it's quite interesting."

[10:24:02 AM](#)

REPRESENTATIVE TALERICO said he has had experience in local government working with the Division of Elections. He said there are postings available for doorways, entrances, and windows. He said it is not uncommon, particularly in rural communities, for people to walk in [wearing] a [campaign] button or with a sign on their cars. He said he has never seen anyone arrested for doing so. He commended the election staff for being well-trained to politely ask people to remove propaganda to outside of the polling place area, and he has not seen anyone challenge that. He said the display of campaign material by

voters at the polling place is accidental, and he thinks "this will apply here with Facebook posts."

10:25:23 AM

CO-CHAIR PARISH moved to report CSHB 7(STA), as amended, out of committee with individual recommendations and the attached zero fiscal note. There being no objection CSHB 7(CRA) was reported out of the House Community and Regional Affairs Standing Committee.

10:27:15 AM

The committee took an at-ease from 10:27 a.m. to 10:29 a.m.

10:29:45 AM

#### **ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 10:30 a.m.