

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

May 2, 2019

3:34 p.m.

MEMBERS PRESENT

Senator Mike Shower, Chair
Senator John Coghill, Vice Chair
Senator Lora Reinbold
Senator Peter Micciche
Senator Scott Kawasaki

COMMITTEE CALENDAR

SENATE BILL NO. 116

"An Act relating to elections and voter registration; designating as a class C felony the intentional opening or tampering with certain election materials; establishing an election offense hotline; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 116

SHORT TITLE: BALLOT CUSTODY/TAMPERING; VOTER REG

SPONSOR(S): SENATOR(S) SHOWER

04/24/19	(S)	READ THE FIRST TIME - REFERRALS
04/24/19	(S)	STA, JUD, FIN
04/30/19	(S)	STA AT 3:30 PM BUTROVICH 205
04/30/19	(S)	-- Meeting Postponed to 5/1/19 at 3:30 p.m. --
05/01/19	(S)	STA WAIVED PUBLIC HEARING NOTICE, RULE 23
05/01/19	(S)	STA AT 3:30 PM BUTROVICH 205
05/01/19	(S)	-- Meeting Rescheduled to 5/2/19 --
05/02/19	(S)	STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

SCOTT OGAN, Staff
Senator Mike Shower
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Delivered the sectional analysis for SB 116.

TERRANCE SHANIGAN, Staff

Senator Mike Shower

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Provided information related to SB 116.

GAIL FENUMIAI, Director

Division of Elections

Juneau, Alaska

POSITION STATEMENT: Answered questions and provided information related to SB 116.

ACTION NARRATIVE

[3:34:45 PM](#)

CHAIR MIKE SHOWER called the Senate State Affairs Standing Committee meeting to order at 3:34 p.m. Present at the call to order were Senators Reinbold, Coghill, Micciche, and Chair Shower. Senator Kawasaki arrived as the meeting was in progress.

SB 116-BALLOT CUSTODY/TAMPERING; VOTER REG

[3:35:22 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 116, "An Act relating to elections and voter registration; designating as a class C felony the intentional opening or tampering with certain election materials; establishing an election offense hotline; and providing for an effective date."

He stated that this is the first hearing and the intent is to hear the introduction, go through the sectional analysis and take committee questions.

CHAIR SHOWER, speaking as sponsor, introduced SB 116 reading from the following sponsor statement: [Original punctuation provided.]

Election integrity matters. Every vote counts. Gaps in the current law have changed the outcome of recent elections. In 2019 one vote was not counted because of the automatic mandatory voter registration on the Permanent Fund application. Other elections in the recent past have been called into question because of

ambiguous election protocol policy. Patriots have given their last full measure for the sacred right to elect our representatives in our republic. We hold that sacrifice sacred.

SB 116 codifies strict chain of custody protocols into the handling of ballots and election reports. It mandates that all ballots be in a strict chain of custody all the way back to a central location where they can be destroyed after all ballots have been accounted for by the Elections Board. Current practice allows ballots to be destroyed in precinct without central accounting.

SB 116 requires the director to establish in regulation, best practices for chain of custody protocols, and provides affected parties reasonable notice for ballot handling observation opportunities. It establishes an election offence hotline number that is conspicuously posted at polling areas and on the election privacy envelopes. It "deputizes" citizens and every voter becomes empowered, if they see something, they can now effectively say something. It requires election workers to immediately notify the Director of any irregularities, then allows for an audit of ballots in precinct, immediately after the election;

There are no better checks and balances than empowering voters themselves to become election watchdogs.

Other Highlights in the bill:

- Requires reasonable notice to affected parties of ballot handling out of chain of custody;
- Eliminates mandatory PFD voter's registration and converts it to "opt in";
- Codifies the Division of Elections to notify voters if their ballot was not counted;
- Does not allow the Director or Lt. Governor to certify the results until every ballot has been accounted for;
- Requires electronic and paper ballots to be destroyed at a single location, only after the director expressly authorizes destruction and subsequently certifies via public notary, that the ballots and paper records have been destroyed;

- Prohibits facsimile voting;
- Makes it a Class C Felony to intentionally open or tamper with ballots without the express authorization of the Director

CHAIR SHOWER related the intent is to improve the integrity of the election process. He advised that the election system is currently under audit so the bill won't move forward until that is complete and the suggestions and findings are analyzed.

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SCOTT OGAN, Staff, Senator Mike Shower, Alaska State Legislature, Juneau, introduced himself.

TERRANCE SHANIGAN, Staff, Senator Mike Shower, Alaska State Legislature, Juneau, introduced himself.

[3:39:18 PM](#)

MR. OGAN delivered the following sectional analysis for SB 116:

Section 1: Codifies opt in to register to vote on the PFD application.

Section 2: Eliminates facsimile language changes it to form of electronic transmission.

Section 3: Clarifies that the division shall register voters.

Section 4: Cleans up language with new voter registration protocols.

Section 5: Applicant must expressly request to be registered to vote.

Section 6: Adds new section requiring the director to establish by regulation a strict chain of custody protocol.

1. All ballots will be returned to a single point of receipt.
2. Digital reports treated with same chain of custody protocols.
3. All ballots must be accounted for before the election can be certified.
4. Breaks in chain of custody, requires the director to notify the Attorney General, the Lt.

Governor, each affected candidate, or organized group that sponsors or opposes an issue on the ballot.

5. Requires the director to give 24 hours' notice to said groups of any planned breaks in the chain of custody.

6. Election workers that see an irregularity can call for a hand audit of ballots and records immediately after the polls close.

7. Election offense hotline is established during voter hours to receive citizen reports of any observed irregularities. Signs will be conspicuously posted at polling places and on ballot envelopes and voting machines.

Section 7: Requires the Division to provide election offense notices and requires the notices to be posted.

Section 8: Outlines protocols for voter notification if their vote is not counted and how to avoid the issue in the future.

Section 9: The director may not certify the election until each ballot or paper record is accounted for.

Section 10: Outlines protocols for ballot destruction. Requires a notarized statement of destruction from the director.

Section 11: Prohibits voting by facsimile.

Section 12: Conforming language with electronic voting modalities.

Section 13: Adds "opens or tampers" with a sealed ballot certificate, or ballot packages, without express authorization from the director.

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SENATOR REINBOLD asked if this addresses the potential for tampering associated with mail-in ballots for Anchorage municipal elections.

MR. OGAN clarified that the bill does not apply to municipal elections.

SENATOR REINBOLD opined that the discussion about mail-in ballots for municipal elections needs to continue and it should be in the context of this bill. She stated support for SB 116.

CHAIR SHOWER related that the states his office contacted generally have not given a lot of thought to the integrity issues associated with mailed ballots. Those states claim their systems work great, but he doesn't buy it if they don't have verification protocols in place. He said his office is looking at ways to tighten Alaska's voting system but at this point he doesn't see any good answers to the problems associated with mailed ballots. He clarified that this is an ongoing discussion and he welcomes any and all feedback.

MR. OGAN said he'd be happy to look into the authority the state has to look into municipal elections if directed to do so.

CHAIR SHOWER said he believes in decision-making at the lowest possible level, but it doesn't hurt to ask about the authority.

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SENATOR COGHILL said he doesn't know about the legality of state overreach into municipal elections, but while discussing the new system "it might be interesting to hear what that might look like both for us and the municipals."

MR. OGAN continued the sectional analysis for SB 116.

Section 14: Conforming language to opt in voter registration.

Section 15: Additional conforming language for opt in voter registration.

Section 16: Codifies date of when the changes in bill apply.

Section 17: Authorizes the department to adopt necessary transition regulations.

Section 18: Establishes the effective date for Sec. 17 immediately.

Section 19: Establishes the effective date for the rest of the bill.

Please Note: Sections 1-5, and 14 & 15 are clarifying and technical sections that all revolve around the main policy call change in this bill that ensures that a dividend applicant must request to be a registered voter, changing from current law where dividend applicants become voters automatically without expressed permission.

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MR. SHANIGAN suggested that the director of the Division of Elections may be able to answer questions about mail-in ballots and the state's ability to influence local elections.

[3:52:37 PM](#)

GAIL FENUMIAI, Director, Division of Elections, Juneau, explained that the Municipality of Anchorage (MOA) receives the list of registered voters from the Division of Elections and that any registered voter who claims an intent to return to the state remains on the list. She said the onus is largely on the individual to notify the division that they wish to cancel their registration, because the division cannot cancel a voter registration without written notice from the voter. She also described the process of notification from other state elections offices and the cross-state project to match voter registration lists with other states, all of which help with accuracy.

SENATOR REINBOLD asked if she had an idea of how many people aren't residing in Alaska and voting but claim an intent to return to the state.

MS. FENUMIAI answered that she didn't know. About 550,000 people are registered but the division doesn't track how many are physically present in the state.

SENATOR REINBOLD said she's trying to figure out how many ballots are sent out that never reach the addressee because they aren't living in the state. She cited the example of her two sons who aren't in the state right now but received mail-in ballots from the MOA. She asked if there is a penalty for tampering with municipal mail-in ballots.

MS. FENUMIAI said she didn't know but the division encourages residents to return any elections mail that is not theirs so the division can update its records.

SENATOR REINBOLD expressed surprise that it's up to individuals to contact the division when they leave the state.

CHAIR SHOWER asked her to talk about the timeline for updating the division's records.

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MS. FENUMIAI explained that the division conducts annual list maintenance as required by the National Voter Registration Act. This entails a four-year lookback to see who has not voted, has had mail returned as undeliverable, or who has had no contact with the division. Those individuals are sent two notices. If they don't respond to the second notice within 45 days, they are placed in inactive status and will remain there for the following two general elections after which they are removed from the rolls.

SENATOR REINBOLD restated that she is not a fan of blanket mail-in ballots. She clarified that she has no complaints about the work Ms. Fenumiai does or with the Division of Elections. She extended her thanks to Ms. Fenumiai for the work she does.'

CHAIR SHOWER added that he, too, has had good experience working with Ms. Fenumiai and the division generally.

[3:58:08 PM](#)

SENATOR COGHILL thanked the sponsor for introducing the bill. He said he particularly likes the opt-in for the permanent fund dividend but wonders if there may be procedural glitches.

MS. FENUMIAI answered no; it will relieve some administrative burden which will help because the division did not receive additional funding when the opt-in process was implemented.

SENATOR COGHILL asked about the timing to replace the current voting system and how the new system will help with the proposed chain of custody requirements.

MS. FENUMIAI said the division hopes to identify a successful bidder within the next couple of weeks and sign a contract in July. The new system will be similar to the current system with paper ballots and an accessible voting unit in every precinct as required by the Help America Vote Act.

SENATOR COGHILL asked if the chain of custody will be similar to the existing system.

MS. FENUMIAI said the bill has some fairly heavy requirements for post-election ballot tracking and the division has to look at those to determine what processes will need to change.

SENATOR COGHILL commented that he, too, thought the proposed requirements were heavy-handed and that he wasn't aware that Alaska had anything other than technical glitches in any of its elections. He referenced the chain of custody section and asked if on page 4, line 9, the term "ballot accounting" should be changed to "ballot auditing."

MS. FENUMIAI replied the State Review Board currently does what's called an audit of the election. This entails going through every precinct register to compare the number of ballots counted by the electronic voting equipment to the number of ballots that were reported and the signatures in the precinct register. The same process is followed for question and absentee ballots.

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SENATOR COGHILL asked her thoughts on the difficulties associated with staff recruitment and training as the election system becomes more technical in nature.

MS. FENUMIAI said that could be a real problem because the division already relies on these individuals to perform the bulk of the duties on Election Day. They have a lot of responsibility, the hours are long, and they're not paid very much. She said the training for the 2020 election will be more intense due to the new ballot tabulation system and the division will also try to ensure that everyone understands any new policies and procedures. "It is a big undertaking to implement a new ballot tabulation system and so to implement that on top of some pretty significant other changes is going to be challenging," she said.

CHAIR SHOWER asked Mr. Ogan to respond to Senator Coghill's question about chain of custody.

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MR. OGAN advised that the bill allows the division to develop best practices regulations related to chain of custody and ensuring that all the ballots are returned to the division. He noted that he's been very impressed with the division's existing practices.

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SENATOR KAWASAKI joined the committee.

SENATOR COGHILL said he imagines that the election hotline is heavily used during primary elections, general elections, and during the counting and certification process. He asked her perspective of the hotline.

MS. FENUMIAI said the division already has a hotline for individuals to call and file complaints because it's a requirement of the Help America Vote Act. That number could probably be used to fulfill the requirements of the proposed statute. She clarified that the division collects the information but it does not have an investigative unit to research every complaint. That will need to be discussed, she said.

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CHAIR SHOWER said voting is one of the more important civic duties that should be honored by ensuring that the system is as good as possible. He related that in 2003 after Saddam Hussein was gone, Iraqi citizens risked their lives for the right to vote.

MR. OGAN shared an anecdote.

MS. FENUMIAI said the division looks forward to working with the sponsor and committee going forward.

CHAIR SHOWER held SB 116 in committee.

[4:12:19 PM](#)

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 4:12 pm.