

HOUSE BILL NO. 23

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES RAUSCHER, McCabe, Vance, McCarty

Introduced: 2/18/21

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to elections and voter registration; relating to ballot custody, retention,**
2 **and destruction; prohibiting possession of another voter's ballot; requiring signature**
3 **verification; establishing an election offense hotline; and providing for an effective**
4 **date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 15.07.060(e) is amended to read:

7 (e) For an applicant requesting initial registration by mail or [,] by facsimile or
8 other electronic transmission approved by the director under AS 15.07.050, [OR BY
9 COMPLETING A PERMANENT FUND DIVIDEND APPLICATION,] the director
10 shall verify the information provided in compliance with (a)(2) and (3) of this section
11 through state agency records described in AS 15.07.055(e). If the applicant cannot
12 comply with the requirement of (a)(2) of this section because the applicant has not
13 been issued any of the listed numbers, the applicant may instead submit a copy of one
14 of the following forms of identification: a driver's license, state identification card,

1 current and valid photo identification, birth certificate, passport, or hunting or fishing
2 license.

3 * **Sec. 2.** AS 15.07.070(f) is amended to read:

4 (f) Incomplete or inaccurate registration forms may not be accepted. A person
5 who submitted an incomplete or inaccurate registration form may register by
6 reexecuting and resubmitting a registration form in person, by mail, or by facsimile or
7 other electronic transmission approved by the director under AS 15.07.050. The
8 requirements of (c) or (d) of this section apply to a registration form resubmitted under
9 this subsection. [NOTWITHSTANDING THE FOREGOING, AN APPLICATION
10 MADE UNDER AS 43.23.015 THAT CONTAINS THE INFORMATION
11 REQUIRED BY AS 15.07.060(a)(1) - (4) AND (7) - (9), AND AN ATTESTATION
12 THAT SUCH INFORMATION IS TRUE, SHALL NOT BE DEEMED AN
13 INCOMPLETE REGISTRATION FORM AND SHALL BE ACCEPTED IN
14 ACCORDANCE WITH AS 15.07.070(i).]

15 * **Sec. 3.** AS 15.15 is amended by adding new sections to read:

16 **Sec. 15.15.055. Ballot security and chain of custody.** (a) The director shall
17 provide by regulation for a system to account for each used and unused ballot and
18 paper record of an electronically generated ballot under AS 15.15.032 through a
19 redundant, secure, and sealed system that tracks the location and entity that has
20 custody of a ballot or record from the time the ballot is printed or paper record
21 produced, until the applicable election is certified under AS 15.15.450 or, if a recount
22 is conducted, until the election is certified under AS 15.20.490. The division shall
23 continually update the system adopted under this section to ensure that state election
24 practices and procedures are consistent with the best practices and procedures and
25 protect the integrity of state elections held under this title.

26 (b) The system established in (a) of this section must provide that

27 (1) each ballot or record of an electronically generated ballot under
28 AS 15.15.032 for an election is tracked and accounted for at all times through a chain-
29 of-custody protocol;

30 (2) each ballot or record of an electronically generated ballot under
31 AS 15.15.032 for an election is returned to a single point of receipt at a designated

1 division location;

2 (3) immediately after the polls close, digital reports from an electronic
3 voting machine are printed in paper form and tracked and accounted for under this
4 section.

5 (c) Before certifying an election under AS 15.15.450 and, if a recount is
6 conducted, before certifying an election under AS 15.20.490, the director shall account
7 for each used or unused ballot and record of an electronically generated ballot under
8 AS 15.15.032. The state ballot counting review board shall audit and certify the ballot
9 accounting under this subsection in accordance with generally accepted accounting
10 principles.

11 (d) If, under the system established in (a) of this section, a ballot or record is
12 not accounted for, there is a break in the scheduled chain of custody, there is a lapse in
13 system security, or the director has reason to anticipate a break in the scheduled chain
14 of custody or lapse in system security before an election is certified under
15 AS 15.15.450 or, if a recount application is accepted, under AS 15.20.490, the director
16 shall notify the attorney general, the lieutenant governor, each affected candidate, and
17 each affected organization or organized group that sponsors or opposes an initiative,
18 referendum, or recall. The director shall provide an affected candidate or affected
19 organization or organized group a minimum of 24 hours' notice to appoint a watcher
20 under AS 15.10.170 and ensure the watcher is present before any further ballots in the
21 election are counted.

22 (e) An election official or watcher who has reasonable cause to believe that a
23 voting machine, election ballot, record, certificate, or package of ballots has been
24 opened or otherwise tampered with, or another irregularity has occurred, shall
25 immediately notify the director and call for an audit of the affected election materials
26 following the closing of the polls. If an election official or watcher at a precinct calls
27 for an audit under this subsection, the director shall require an audit of the affected
28 election materials before the materials are mailed under AS 15.15.370.

29 **Sec. 15.15.057. Election offense hotline.** (a) The director shall establish a toll-
30 free election offense hotline to receive telephone calls reporting election offenses
31 under this chapter. The director shall publicize the availability of the toll-free hotline

1 and encourage the public to provide information to the division related to voter
 2 misconduct or other election offenses under this chapter. The director shall ensure the
 3 hotline is continuously staffed during the hours an absentee voting station is open
 4 under AS 15.20.045, during the hours an early voting location is open under
 5 AS 15.20.064, and for 24 hours after the time the polls open on election day. From 24
 6 hours after the polls open until all election results are certified under AS 15.15.450,
 7 the director shall ensure an election official is continuously available to respond to
 8 calls made to the hotline.

9 (b) The director shall have the election offense hotline number printed on a
 10 sticker and placed on voting machines, ballot envelopes, and other election materials
 11 in a manner the director determines will provide maximum public notice of the
 12 election offense hotline.

13 * **Sec. 4.** AS 15.15.060 is amended by adding a new subsection to read:

14 (f) The director shall provide each election board in the state with notices
 15 containing the election offense hotline telephone number. The election board shall
 16 post at least two of the notices in each polling place. The election board shall post the
 17 notices so that they are conspicuous to voters.

18 * **Sec. 5.** AS 15.15 is amended by adding new sections to read:

19 **Sec. 15.15.374. Notice of voter disqualification.** If a voter's vote for or
 20 against a candidate, proposition, or question is not counted, the director shall notify
 21 the voter by mail of the reason the vote was not counted and action the voter may take
 22 to avoid the issue in a future election. The director shall mail the explanation not later
 23 than

24 (1) 10 days after completion of the review of ballots by the state
 25 review board for a primary election or a special primary election under AS 15.40.140;

26 (2) 60 days after certification of the results of a general election or
 27 special election other than a special primary election described in (1) of this section.

28 **Sec. 15.15.375. Free access system.** The director shall make available through
 29 a free access system to each voter a system to check to see whether the voter's ballot
 30 was counted and, if not counted, the reason why the ballot was not counted. The
 31 director shall make this information available through the free access system not less

1 than

2 (1) 10 days after certification of the results of a primary election or a
3 special primary election under AS 15.40.140; and

4 (2) 30 days after certification of the results of a general or special
5 election other than a special primary election described in (1) of this section.

6 * **Sec. 6.** AS 15.15.450 is amended by adding a new subsection to read:

7 (b) The director or lieutenant governor may not certify the results of an
8 election under (a) of this section until each ballot and paper record of an electronically
9 generated ballot under AS 15.15.032 is accounted for under AS 15.15.055(c).

10 * **Sec. 7.** AS 15.15.470 is amended to read:

11 **Sec. 15.15.470. Preservation and destruction of election ballots, papers,
12 and materials. (a)** The director shall preserve all precinct election certificates, tallies,
13 and registers for four years after the election.

14 **(b) A ballot or paper record of an electronically generated ballot under**
15 **AS 15.15.032 may not be destroyed before the result of the election in which the**
16 **ballot was cast is certified under AS 15.15.450. However, the** [ALL] ballots and
17 **paper records of electronically generated ballots under AS 15.15.032** [STUBS] for
18 elections other than national elections may be destroyed 30 days after the certification
19 of the state ballot counting review unless an application for recount has been filed and
20 not completed, **the election is being contested under AS 15.20.540,** or [UNLESS]
21 their destruction is **otherwise** stayed by an order of the court. All ballots for national
22 elections may be destroyed in accordance with federal law. The director may permit
23 the inspection of election materials upon call by the Congress, the state legislature, or
24 a court of competent jurisdiction. **A ballot or paper record of an electronically**
25 **generated ballot under AS 15.15.032 may not be destroyed unless the destruction**
26 **is authorized by the lieutenant governor. When authorized, ballots and paper**
27 **records of electronically generated ballots under AS 15.15.032 must be destroyed**
28 **at a single location designated by the division. The director or the director's**
29 **designee shall witness the destruction. The director shall then certify before a**
30 **notary public that the ballots and paper records have been destroyed.**

31 * **Sec. 8.** AS 15.20.066(a) is amended to read:

1 (a) The director shall adopt regulations applicable to the delivery of absentee
 2 ballots by electronic transmission in a state election and to the use of electronic
 3 transmission absentee voting in a state election by qualified voters. The regulations
 4 must

5 (1) require the voter to comply with the same time deadlines as for
 6 voting in person on or before the closing hour of the polls;

7 (2) ensure the accuracy and, to the greatest degree possible, the
 8 integrity and secrecy of the ballot process;

9 **(3) prohibit absentee voting by facsimile in a state election.**

10 * **Sec. 9.** AS 15.20.203(a) is amended to read:

11 (a) The district absentee ballot counting board shall examine each absentee
 12 ballot envelope and shall determine whether the absentee voter is qualified to vote at
 13 the election, **whether the signature on the certificate is consistent with the voter's**
 14 **signature in voter registration records,** and whether the absentee ballot has been
 15 properly cast.

16 * **Sec. 10.** AS 15.20.203(b) is amended to read:

17 (b) An absentee ballot may not be counted if

18 (1) the voter has failed to properly execute the certificate;

19 (2) an official or the witnesses authorized by law to attest the voter's
 20 certificate fail to execute the certificate, except that an absentee ballot cast in person
 21 and accepted by an absentee voting official or election supervisor may be counted
 22 despite failure of the absentee voting official or election supervisor to properly sign
 23 and date the voter's certificate as attesting official as required under AS 15.20.061(c);

24 (3) the ballot is not attested on or before the date of the election;

25 (4) the ballot, if postmarked, is not postmarked on or before the date of
 26 the election;

27 (5) after the day of election, the ballot was delivered by a means other
 28 than mail; [OR]

29 (6) the voter voted

30 (A) in person and is a

31 (i) first-time voter who initially registered by mail or by

1 facsimile or other electronic transmission approved by the director
 2 under AS 15.07.050, has not provided the identification required by
 3 AS 15.15.225(a), was not eligible for waiver of the identification
 4 requirement under AS 15.15.225(b), and has not provided the
 5 identifiers required in AS 15.07.060(a)(2) and (3) that can be verified
 6 through state agency records described in AS 15.07.055(e); or

7 (ii) voter other than one described in (i) of this
 8 subparagraph, did not provide identification described in
 9 AS 15.15.225(a), was not personally known by the election official,
 10 and has not provided the identifiers required in AS 15.07.060(a)(2) and
 11 (3); or

12 (B) by mail or electronic transmission, is a first-time voter who
 13 initially registered by mail or by facsimile or other electronic transmission
 14 approved by the director under AS 15.07.050 to vote, has not met the
 15 identification requirements set out in AS 15.07.060, and does not submit with
 16 the ballot a copy of a

17 (i) driver's license, state identification card, current and
 18 valid photo identification, birth certificate, passport, or hunting or
 19 fishing license; or

20 (ii) current utility bill, bank statement, paycheck,
 21 government check, or other government document; an item described
 22 in this sub-subparagraph must show the name and current address of
 23 the voter; or

24 **(7) the signature on the certificate is inconsistent with the voter's**
 25 **signature in voter registration records.**

26 * **Sec. 11.** AS 15.20.490 is amended by adding a new subsection to read:

27 (b) The director or lieutenant governor may not certify the results of an
 28 election under (a) of this section until each ballot and paper record is accounted for
 29 under AS 15.15.055(c).

30 * **Sec. 12.** AS 15.56.035(a) is amended to read:

31 (a) A person commits the crime of unlawful interference with voting in the

1 second degree if the person

2 (1) has an official ballot in possession outside of the voting room
3 unless the person is an election official or other person authorized by law or local
4 ordinance, or by the director or chief municipal elections official in a local election;

5 (2) makes, or knowingly has in possession, a counterfeit of an official
6 election ballot;

7 (3) knowingly solicits or encourages, directly or indirectly, a registered
8 voter who is no longer qualified to vote under AS 15.05.010, to vote in an election;

9 (4) as a registration official

10 (A) knowingly refuses to register a person who is entitled to
11 register under AS 15.07.030; or

12 (B) accepts a fee from an applicant applying for registration;

13 (5) violates AS 15.20.081(a) by knowingly supplying or encouraging
14 or assisting another person to supply to a voter an absentee ballot application form
15 with a political party or group affiliation indicated if the voter is not already registered
16 as affiliated with that political party or group;

17 (6) knowingly designs, marks, or encourages or assists another person
18 to design or mark an absentee ballot application in a manner that suggests choice of
19 one ballot over another as prohibited by AS 15.20.081(a); [OR]

20 (7) knowingly submits or encourages or assists another person to
21 submit an absentee ballot application to an intermediary who could control or delay
22 the submission of the application to the division of elections or who could gather data
23 from the application form as prohibited by AS 15.20.081(a); **or**

24 **(8) knowingly possesses a ballot provided to another voter under**
25 **this title unless the person**

26 **(A) is a family member of the voter;**

27 **(B) is a caregiver of the voter; or**

28 **(C) is engaged in official duties as an election official or a**
29 **worker for the United States Postal Service or a private commercial**
30 **delivery service.**

31 * **Sec. 13.** AS 15.56.035 is amended by adding a new subsection to read:

1 (d) In this section,

2 (1) "caregiver" means a person who provides medical, health care, or
3 other assistance to the voter in a state or federal correctional center, nursing care
4 institution, hospice facility, assisted living center, assisted living facility, assisted
5 living home, residential care institution, adult day health care facility, or adult foster
6 care home;

7 (2) "family member" means a person who is related to the voter by
8 blood, marriage, adoption, or legal guardianship.

9 * **Sec. 14.** AS 15.56.060(a) is amended to read:

10 (a) A person commits the crime of unlawful interference with an election if
11 the person

12 (1) induces or attempts to induce an election official to fail in the
13 official's duty by force, threat, intimidation, or offers of reward;

14 (2) intentionally changes, attempts to change, or causes to be changed
15 an official election document including ballots, tallies, and returns;

16 (3) intentionally delays, attempts to delay, or causes to be delayed the
17 sending of the certificate, register, ballots, or other materials whether original or
18 duplicate, required to be sent by AS 15.15.370;

19 **(4) intentionally opens or tampers with a sealed election ballot,**
20 **certificate, or package of ballots without express authorization from the director;**
21 or

22 **(5)** [(4)] is contracted or employed by the state to print or reproduce in
23 any manner an official ballot, and the person knowingly

24 (A) personally appropriates, or gives or delivers to, or permits
25 to be taken by anyone other than a person authorized by the director, official
26 ballots; or

27 (B) prints or reproduces or has printed or reproduced official
28 ballots in a form or with a content other than that prescribed by law or as
29 directed by the director.

30 * **Sec. 15.** AS 15.07.050(a)(5), 15.07.070(i), 15.07.070(j), 15.07.070(k), 15.07.070(l),
31 15.07.070(m); AS 43.23.015(b)(3), 43.23.101, 43.23.110(a)(7), and 43.23.110(c) are repealed.

1 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 APPLICABILITY. AS 15.56.035(a)(8), enacted by sec. 12 of this Act, and
4 AS 15.56.060(a)(4), enacted by sec. 14 of this Act, apply to offenses committed on or after
5 the effective date of secs. 12 and 14 of this Act.

6 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 APPLICABILITY: PERMANENT FUND DIVIDEND APPLICATIONS. The
9 changes made by secs. 1 and 2 of this Act and the repeals of AS 15.07.050(a)(5),
10 AS 43.23.015(b)(3), 43.23.101, 43.23.110(a)(7), and 43.23.110(c) by sec. 15 of this Act apply
11 to permanent fund dividend applications filed on or after January 1, 2022.

12 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 TRANSITION: REGULATIONS. The Department of Revenue and the division of
15 elections may adopt regulations necessary to implement the changes made by this Act. The
16 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
17 effective date of the law implemented by the regulation.

18 * **Sec. 19.** Section 18 of this Act takes effect immediately under AS 01.10.070(c).

19 * **Sec. 20.** Except as provided in sec. 19 of this Act, this Act takes effect January 1, 2022.