

HOUSE BILL NO. 368

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE -SECOND SESSION

BY REPRESENTATIVE KURKA

Introduced: 2/22/22

Referred: State Affairs, Judiciary, Finance

A BILL**FOR AN ACT ENTITLED**

1 **"An Act relating to elections; and providing for an effective date."**

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

3 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
4 to read:

5 SHORT TITLE. This Act may be known as the Alaska Election Transparency and
6 Security Act.

7 * **Sec. 2.** AS 15.10.170 is amended by adding new subsections to read:

8 (c) Immediately after voting ends, a watcher at a precinct or counting center
9 may request that the precinct election board hand count precinct ballots for a
10 candidate, initiative, referendum, or recall. The board shall allow the watcher to
11 observe the hand count. The board shall transmit the result of the hand count to the
12 director if the hand count provides different vote totals than the precinct ballot
13 counting voting machine or precinct tabulator.

14 (d) The division shall adopt a watcher handbook that includes methods for
15 documenting misconduct by election officials. The division shall publish the handbook

on the division's public Internet website not later than 180 days before a general election.

(e) In this section, "counting center" includes a location at which the division counts early, questioned, or absentee ballots.

* **Sec. 3.** AS 15.15.010 is amended by adding a new subsection to read:

(b) The division may not accept funding or material assistance for the administration of an election from a corporation, an individual, a foundation, an organization, or government, including the federal government.

* **Sec. 4.** AS 15.15.030 is amended by adding a new paragraph to read:

(18) To allow the division to authenticate the ballots, official ballots must be printed on proprietary security paper that includes a watermark or other system to prevent duplication.

* **Sec. 5.** AS 15.15.060 is amended by adding a new subsection to read:

(f) The division shall use a video recording device to record while ballots are being cast or votes are being counted at a precinct, counting center, or polling place.

* **Sec. 6.** AS 15.15.240 is amended to read:

Sec. 15.15.240. Voter assistance. 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. **The election board shall record the names of a voter receiving assistance and the election official, person, or persons providing the assistance.**

* **Sec. 7.** AS 15.15.250 is amended to read:

Sec. 15.15.250. Disposition of spoiled ballot. If a voter improperly marks, damages, or otherwise spoils a ballot, the voter may request and the election board shall provide another ballot, with a maximum of three. The board shall record on the precinct register that there was a spoiled ballot. **The board shall preserve spoiled ballots as prescribed in AS 15.15.470** [AND DESTROY THE SPOILED BALLOT IMMEDIATELY WITHOUT EXAMINING IT].

* **Sec. 8.** AS 15.15.350(a) is amended to read:

(a) The director may adopt regulations prescribing the manner in which the precinct ballot count is accomplished so as to ensure accuracy in the count and to expedite the process. **An official ballot may not be destroyed at a precinct.** The election board shall account for all ballots by completing a ballot statement containing (1) the number of official ballots received; (2) the number of official ballots voted; (3) the number of official ballots spoiled; (4) the number of **unused** official ballots. **The board shall report all unused ballots by number and transfer the unused ballots to a counting center. Before an election is certified, a candidate who ran for an office that appears on an unused ballot may review the unused ballot under an election official's supervision** [UNUSED AND EITHER DESTROYED OR RETURNED FOR DESTRUCTION TO THE ELECTIONS SUPERVISOR OR THE ELECTION SUPERVISOR'S DESIGNEE]. The board shall count the number of questioned ballots and compare that number to the number of questioned voters in the register. Discrepancies shall be noted and the numbers included in the certificate prescribed by AS 15.15.370. The election board, in hand-count precincts, shall count the ballots in a manner that allows watchers to see the ballots when opened and read. A person handling the ballot after it has been taken from the ballot box and before it is placed in the envelope for mailing may not have a marking device in hand or remove a ballot from the immediate vicinity of the polls.

* **Sec. 9.** AS 15.15.470 is amended to read:

Sec. 15.15.470. Preservation of election ballots, papers, and materials. The director shall preserve all precinct election certificates, tallies, and registers for four years after the election. All **division records relating to an election,** ballots, and stubs, **including spoiled ballots and electronic images and other electronic records in a voting machine or precinct tabulator,** for elections other than national elections may be destroyed **22 months** [30 DAYS] after the certification of the state ballot counting review unless an application for recount has been filed and not completed, or unless their destruction is stayed by an order of the court. All ballots for national elections may be destroyed in accordance with federal law. The director **shall** [MAY] permit the inspection of election materials upon call by the Congress, the state legislature, or a court of competent jurisdiction.

1 * **Sec. 10.** AS 15.15 is amended by adding new sections to read:

2 **Sec. 15.15.490. Duplication of ballots.** An election official may not duplicate
3 a facsimile ballot, electronic ballot, or damaged ballot unless the election official
4 duplicates the ballot in front of a video recording device.

5 **Sec. 15.15.495. Election audits.** (a) The division shall audit and authenticate
6 ballots for each state election. The audit must begin not later than 120 days after the
7 election.

8 (b) The division shall conduct a forensic audit of all voting databases and
9 voting machine and precinct tabulator hardware and software for each state election.
10 The audit must begin not later than 120 days after the election.

11 (c) Not later than 30 days after completing an audit under (a) or (b) of this
12 section, the division shall provide to the governor, the lieutenant governor, and each
13 member of the legislature a written report, including recommendations for
14 improvement, of the audit results. Not later than 60 days after completing an audit
15 under (a) or (b) of this section, the division shall publish on the division's public
16 Internet website a written report of the election results and audit results.

17 * **Sec. 11.** AS 15.20.064 is amended by adding a new subsection to read:

18 (e) The ballot box at an early voting location must be a transparent, secured
19 container. During the early voting period, until the ballot is reviewed for counting, an
20 early voting ballot must be in view of a video recording device, and, if the Internet is
21 available, the division shall continuously livestream video of the ballot box to the
22 division's public Internet website. The division shall, three days before removing early
23 voting ballots from a ballot box, notify all parties authorized to appoint poll watchers
24 under AS 15.10.170.

25 * **Sec. 12.** AS 15.20.081 is amended by adding a new subsection to read:

26 (m) Until an absentee ballot received by the division is reviewed for counting,
27 the ballot must be stored in a transparent, secured container in view of a video
28 recording device, and, if the Internet is available, the division shall continuously
29 livestream video of the container to the division's public Internet website. The division
30 shall, three days before removing absentee ballots from a container, notify all parties
31 authorized to appoint poll watchers under AS 15.10.170.

1 * **Sec. 13.** AS 15.20.430(a) is amended to read:

2 (a) A defeated candidate or 10 qualified voters who believe there has been a
3 mistake made by an election official or by the counting board in counting the votes in
4 an election, may file an application within five days after the completion of the state
5 review to the director for a recount of the votes from any particular precinct or any
6 house district and for any particular office, proposition, or question. However, the
7 application may be filed only within three days after the completion of the state review
8 after the general election for a recount of votes cast for the offices of governor and
9 lieutenant governor. If there is a tie vote as provided in AS 15.15.460, the director
10 shall initiate the recount and give notice [TO THE INTERESTED PARTIES] as
11 provided in AS 15.20.470.

12 * **Sec. 14.** AS 15.20.430 is amended by adding a new subsection to read:

13 (c) In a precinct that is not a hand-count precinct, an interested party may,
14 within five days after the completion of the state review, file an application with the
15 director requesting a hand recount of ballots that were counted by a voting machine or
16 precinct tabulator. However, the application may be filed only within three days after
17 the completion of the state review after the general election for a recount of votes cast
18 for the offices of governor and lieutenant governor. The interested party shall include
19 a \$1,000 deposit for each precinct in which the party requests a hand count and may
20 observe the hand count. If the hand count results in a difference in vote totals that is
21 more than one percent of total votes cast or is enough to change the outcome of the
22 election in the precinct, the division shall refund the deposit. If the entire deposit is not
23 refunded, the director shall refund any money remaining after the cost of the recount
24 has been paid from the deposit. In this subsection, "interested party" includes a
25 candidate on a ballot, candidate's political party, or political group designated on the
26 ballot.

27 * **Sec. 15.** AS 15.20.910 is amended by adding new subsections to read:

28 (b) The division shall develop strict chain of custody and dual control
29 protocols for delivering to a precinct and storing a voting machine or precinct
30 tabulator. When delivering a voting machine or tabulator to a precinct, the division
31 shall follow the strict chain of custody and dual control protocols developed by the

1 division. If a machine or tabulator is delivered by a contractor, the division shall
 2 require a division employee or provide for a state trooper to accompany the machine
 3 or tabulator in transit. The division shall store a machine or tabulator at an election
 4 precinct in compliance with strict chain of custody and dual control protocols
 5 developed by the division, in a secure and locked location that is subject to video
 6 surveillance and is accessible only to division employees.

7 (c) Before using a voting machine or precinct tabulator in an election in the
 8 state, the division shall designate the machine or tabulator by numeric identifier and
 9 designate the precinct at which the machine or tabulator will be deployed. Not later
 10 than seven days before the election, the division shall test each machine or tabulator.
 11 The division shall physically disconnect the machine or tabulator from the Internet and
 12 disable the ability of the machine or tabulator to connect to the Internet before the test
 13 date. The division shall provide

- 14 (1) public notice of the upcoming test;
- 15 (2) access for the public to observe the test; and
- 16 (3) livestream video of the test to the division's public Internet website.

17 (d) After testing a voting machine or precinct tabulator that will be used in an
 18 election, the division shall

- 19 (1) store the machine or tabulator in view of a video recording device
 20 that continuously livestreams video of the machine or tabulator to the division's public
 21 Internet website;
- 22 (2) follow strict chain of custody and dual control protocols developed
 23 under (b) of this section;
- 24 (3) physically monitor the machine or tabulator; and
- 25 (4) monitor the livestream of the video.

26 (e) One hundred twenty days after an election, the division may enable the
 27 ability of a voting machine or precinct tabulator used in the election to connect to the
 28 Internet.

29 (f) An electronic record of a voting machine or precinct tabulator used in an
 30 election in the state must be saved on two storage devices. The first device must be
 31 used to transmit results to the division for reporting. The second device must be stored

1 in an anti-tampering sealed envelope. After the division posts on the division's public
2 Internet website the results transmitted on the first device, the division shall open the
3 anti-tampering sealed envelope and use a computer that is not connected to the
4 Internet to compare the results on the second device with the posted results.

5 * **Sec. 16.** This Act takes effect June 1, 2022.