

Offered: 3/22/89
Referred: Judiciary

6-0512E

Original sponsor: Judiciary Committee

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 192 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to absentee ballots, to certain
7 court orders regarding elections, and to filling
8 certain legislative vacancies; and providing for an
9 effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 15.20.081(d) is amended to read:

12 (d) Upon receipt of an absentee ballot by mail, the voter, in
13 the presence of a notary public, commissioned officer of the armed
14 forces including the National Guard, district judge or magistrate,
15 United States postal official, registration official, or other person
16 qualified to administer oaths, may proceed to mark the ballot in
17 secret, to place the ballot in the small envelope, to place the small
18 envelope in the larger envelope, and to sign the voter's certificate
19 on the back of the larger envelope in the presence of an official
20 listed in this subsection who shall sign as attesting official and
21 shall date the signature. If none of the officials listed in this
22 subsection is reasonably accessible, an absentee voter shall sign and
23 date the voter's certificate in the presence of [HAVE THE BALLOT
24 WITNESSED BY] two persons over the age of 18 years, who shall sign as
25 witnesses and attest to the date on which the voter signed the certif-
26 icate in their presence, and, in addition, the voter shall provide the
27 certification prescribed in AS 09.63.020.

28 * Sec. 2. AS 15.20.510 is amended by adding a new subsection to read:

29 (b) If the court concludes that it is not possible to determine

1 whether certain ballots, parts of ballots, or marks for candidates on
2 ballots are valid or to which candidate or division on the question or
3 proposition the vote should be attributed, and that these ballots, if
4 counted, could change the outcome of an election, the court shall
5 enter judgment setting aside the action of the director on recount and
6 ordering a new election. The director shall schedule a special elec-
7 tion to be held not more than 90 days after the date of the court's
8 order and the director shall supervise the election in the general
9 manner prescribed by this title. If an order for a new election under
10 this subsection results in the office of a legislator being unfilled,
11 the governor shall appoint a person qualified to hold the office to
12 serve in that office until the results of the new election are cer-
13 tified and the successor takes office.

14 * Sec. 3. AS 15.20.560 is amended to read:

15 Sec. 15.20.560. JUDGMENT OF COURT. The judge shall pronounce
16 judgment on which candidate was elected or nominated and whether the
17 question or proposition was accepted or rejected. The director shall
18 issue a new election certificate to correctly reflect the judgment of
19 the court. If the court decides that the election resulted in a tie
20 vote, the director shall immediately proceed to determine the election
21 by lot as is provided by law. If the court decides that no candidate
22 was duly elected or nominated, the judgment shall be that the con-
23 tested election be set aside and that a new election be held. The
24 director shall schedule a special election to be held not more than 90
25 days after the date of the court's order and the director shall super-
26 vide the election in the general manner prescribed by this title. If
27 an order for a new election under this subsection results in the
28 office of a legislator being unfilled, the governor shall appoint a
29 person qualified to hold the office to serve in that office until the

1 results of the new election are certified and the successor takes
2 office. AS 15.40.320 - 15.40.470 do not apply to an appointment made
3 under this section. The person appointed must be confirmed by major-
4 ity vote of the full membership of the house to which the person is
5 appointed before the person may take office. The provisions of this
6 section and AS 15.20.540 and 15.20.550 are not intended to limit or
7 interfere with the power of the legislature to judge the election and
8 qualifications of its members.

9 * Sec. 4. This Act takes effect January 1, 1990.