

**CS FOR HOUSE BILL NO. 47(STA)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE STATE AFFAIRS COMMITTEE**

**Offered: 3/5/93**

**Referred: Judiciary, Finance**

**Sponsor(s): REPRESENTATIVE MARTIN**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to primary elections and to the delivery of the primary ballots  
2 to persons making application for them when, by operation of political party rule,  
3 two or more primary ballots must be provided to the public."

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

5 \* Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) To implement the stipulation  
6 and approval entered into between the state and various parties in the case captioned Zawacki  
7 v. State, No. A-92-414-Civil, in the United States District Court for the District of Alaska, the  
8 lieutenant governor prepared and adopted a series of emergency regulations, codified as 6  
9 AAC 28. Among the provisions was a subsection, 6 AAC 28.040(c), directing that "if an  
10 applicant for an absentee ballot does not indicate a ballot preference on the absentee ballot  
11 application, the director [of elections] will send the applicant the open primary (statutory)  
12 ballot." As a result of the stipulated subsection, persons registered to the one political party  
13 whose rules then required the use of a ballot containing a listing of candidates limited to those  
14 who were registered as members of that political party received the absentee ballot for the

1 September 8, 1992, primary that contained the names of candidates seeking the nomination  
2 of other political parties. The regulations in question lapsed, effective November 7, 1992, and  
3 do not apply to future primary elections.

4 (b) The purpose of AS 15.20.155, added by sec. 2 of this Act, is to establish that, for  
5 purposes of guiding future primary elections, if a political party's rules require the use of an  
6 absentee ballot containing a listing of candidates limited to those who were registered as  
7 members of that political party, absentee ballot applicants shall receive the primary election  
8 ballot of their choice or, in the event of failure to indicate a choice or lack of opportunity to  
9 make the choice, shall receive the appropriate primary election ballots and shall be directed  
10 to make a choice between them, and will not be required to vote an absentee ballot that  
11 contains the names of candidates seeking the nomination of other political parties.

12 (c) It is the intent of the legislature in enacting secs. 3 and 4 of this Act to amend the  
13 nominating process to take into account the decision in Tashjian v. Republican Party of  
14 Connecticut, 479 U.S. 208 (1986).

15 \* Sec. 2. AS 15.20 is amended by adding a new section to read:

16 Sec. 15.20.155. DELIVERY OF PRIMARY BALLOT. (a) The provisions  
17 of this section apply when

18 (1) the central committee or other governing body of a political party  
19 adopts a rule that, notwithstanding AS 15.25.010 - 15.25.130, nominees of the party  
20 may not be chosen by a primary election open to all voters, but rather shall be chosen  
21 by a primary election that is limited to voters whose political affiliation or  
22 nonaffiliation is designated by the party rules; and

23 (2) the director is prevented by application of that rule from providing  
24 to a voter the ballot of a political party if, under the rules of that party, the voter  
25 would not be eligible to vote in that party's primary election.

26 (b) If an applicant for an absentee ballot under AS 15.20.071, 15.20.081, or  
27 15.20.082

28 (1) indicates a ballot preference on the absentee ballot application when  
29 opportunity to indicate the preference has been provided on the absentee ballot  
30 application, the director shall deliver to the applicant the primary ballot indicated on  
31 the application;

1 (2) does not indicate a ballot preference on the absentee ballot  
2 application when opportunity to indicate the preference has been provided on the  
3 absentee ballot application, or the applicant has not been given an opportunity on the  
4 absentee ballot application to indicate the applicant's preference, the director shall  
5 deliver to the applicant all primary ballots that are appropriate to the primary election  
6 of the applicant's political party affiliation or nonaffiliation, together with an  
7 instruction to vote only one of the ballots; the director shall make the determination  
8 of appropriateness of the primary ballots on the basis of voter registration documents  
9 maintained by the director.

10 \* Sec. 3. AS 15.25.060 is amended to read:

11 Sec. 15.25.060. PREPARATION AND DISTRIBUTION OF BALLOTS. The  
12 primary election ballot shall be prepared and distributed by the director in the manner  
13 prescribed for general election ballots except as specifically provided otherwise for the  
14 primary election. Except when (b) of this section otherwise requires, the [THE]  
15 director shall place the names of all candidates who have properly filed in groups  
16 according to offices filed for, without regard to party affiliation. The names for each  
17 office shall be rotated as provided for the general election ballot. Blank [NO  
18 BLANK] spaces may not [SHALL] be provided on the ballot for the writing or  
19 pasting in of names. The ballot prepared under this subsection shall be designated,  
20 prominently labeled, and referred to as the "statutory primary ballot." In this  
21 subsection, "statutory primary ballot" means that the ballot is available to all  
22 qualified and eligible voters of the state.

23 \* Sec. 4. AS 15.25.060 is amended by adding new subsections to read:

24 (b) If (1) the central committee or other governing body of a political party  
25 adopts a rule that, notwithstanding AS 15.25.010 - 15.25.130, nominees of the party  
26 may not be chosen by a primary election open to all voters, but rather shall be chosen  
27 by a primary election limited to voters whose political affiliation or nonaffiliation is  
28 designated by the party rule; (2) the central committee or other governing body of the  
29 party delivers a copy of the rule to the director no later than March 1 of the year in  
30 which a primary election is to take place; and (3) the rule has been submitted to the  
31 United States Department of Justice for review under 42 U.S.C. 1973c (section 5,

1 Voting Rights Act of 1965, as amended) and the Department of Justice has provided  
2 an affirmative indication of nonobjection to the rule's implementation, the director  
3 shall prepare a separate ballot listing only the candidates of that party, and shall  
4 authorize the distribution of that ballot only to the registered voters who are eligible  
5 to vote in that party's primary under the party rule. Candidates who are listed on a  
6 separate ballot under this subsection may not be listed on the ballot described in (a)  
7 of this section. The names of the candidates for each office shall be rotated as  
8 provided for the general election ballot, and blank spaces may not be provided on the  
9 ballot for the writing or pasting in of names. A ballot prepared under this subsection  
10 shall be designated, prominently labeled, and referred to as the "(insert name of the  
11 party whose candidates appear on the ballot) party primary ballot."

12 (c) If at a primary election under AS 15.25.010 there is more than one ballot  
13 available, a registered voter may choose which ballot the voter wishes to use. A voter  
14 may not be given more than one ballot, and may not be given a ballot of a political  
15 party if, under the rules of that party as delivered to the director under (b) of this  
16 section, the voter would not be eligible to vote in that party's primary election.