

HB

409

COMMITTEE REPORT

HOUSE

(7)

FURTHER:

5/19/83

Date: 5-16-83

Mr. Speaker:

The Committee on JUDICIARY has had HB 409

"An Act relating to the primary and general elections."

under consideration and reports it back as follows:

- do pass do not pass
 do pass with attached amendments(s)
 replace with CS for HB 409 (JUD) same title
 new title
and recommends _____
 AND attaches a "Letter of Intent" New Fiscal Note
 Zero Fiscal Note Attached
 reports it back without recommendation
 referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] _____
[Signature] _____
[Signature] _____

[Signature]
CHAIRMAN

AMENDMENT

OFFERED IN THE HOUSE:

By: Judiciary

To: _____ HOUSE BILL No. 409

SENATE BILL No. _____

PAGE: 4

LINE: 1

Delet: (general)

Insert: primary

A M E N D M E N T

M E M O R A N D U M

CSHB 409 (Judiciary)

page 3:

Sec. 10. AS 15.60.010(20) is amended to read:

CHANGE FROM:

(20) "political party" means a group of organized voters which represents a political program and which nominated a candidate for governor who received at least five [10] percent of the total vote cast at the preceding general election for governor;

CHANGE TO:

(20) "political party" means a group of organized voters which represents a political program and which nominated a candidate for governor who received at least five [10] percent of the total vote cast at the primary election for governor;

Libertarians hit election limit plan

AINOWS 5-17-83

Legislation aimed at limiting names on the general election ballot to two parties—the top cumulative vote-getters in the primary—was blasted this morning at a press conference by Libertarian Dick Randolph.

The former state legislator and current party chairman said (HB 409) is designed to keep Libertarians off the ballot and is being pushed through the Legislature at "breakneck" speeds.

"I think it's an extreme example of the arrogance-of-power politics," Randolph said.

HB 409 passed from the House Judiciary Committee Monday and is scheduled to be considered by the full house today.

If adopted, candidates would appear on the general election ballot if their parties won the largest or second largest votes for their candidates as a group.

For example, if three Republicans, three Democrats and three Libertarians ran for a House seat, votes from all three candidates in each party would be totalled to see which parties appeared on the ballot. Under that scenario, the top vote-getter could fail to make the general election if his party was outpolled.

Randolph, a former Libertarian House member and unsuccessful candidate for governor, said HB 409 is moving faster than any other piece of legislation this session. The bill was referred to only one committee, and the full House calendar was held Monday to allow it to be added, Randolph said.

"Only one hearing was held without any notice to us," Randolph said.

As evidence of Republican Party desire for its passage, Randolph quoted a letter reportedly circulated by Republican State Chairman Kenneth O. Stout:

"House Bill 409 is probably the most significant piece of legislation for Republicans that we will have in this decade," the letter said. "This legislation is desperately needed to protect the major parties from being diluted (sic) by lesser party candidates to the point that confusion is the order of the day."

"Clearly it's an orchestration between the party and their hacks in the Legislature," Randolph said.

The three Democrats on the committee voted against referring the bill out of committee.

Randolph said Alaska election law ought to be rewritten, but not to protect major parties from competition.

House kills measure to reduce candidates

By HARRY McFARLAND

The Associated Press

JULIAU — The House by a 23-16 vote Friday defeated a measure aimed at reducing the often-crowded general election ballot facing Alaska voters. Under the measure, the two candidates receiving the most votes would have competed in the general election.

Currently, the top vote-getters in Alaska's three recognized parties — Democratic, Republican and Libertarian — and any candidates who qualify by petition advance to the general election.

The bill, however, would have precluded candidates who qualify by petition from having their names on the general election ballot.

An amendment by House Judiciary Chairman Charlie Bussell and Rep. Mae Tischer, both R-Anchorage, would have allowed the possibility of two Democrats or two Republicans running against each other in the general election. The amendment was adopted on a 21-17 vote, then lawmakers beat down the measure.

House lawmakers argued that the bill would reduce the choices given to voters in elec-

tions and thus thwart the presentation of ideas.

Former Libertarian gubernatorial candidate and state lawmaker Dick Randolph, in a press release, called the bill (HB409) a Republican priority and said it was pushed through the legislature at "breakneck speed."

Randolph promised to challenge the measure's constitutionality in court if it passed the legislature.

Randolph's press release included a May 11 form letter from Ken Stout, chairman of the Republican Party of Alaska, to lawmakers. In the letter was the statement that "this legislation is definitely needed to protect the major parties from being deluded (sic) by lesser party candidates to the point that confusion is the order of the day. We experienced this during our last election with some rather ludicrous candidates going into the General Election and being a constant source of agitation to all concerned, not to mention the enormous expense to the state that we incurred."

Bussell had the bill held for another vote when he gave a notice of reconsideration.

Opinion

Richard Morgan / Publisher

Wayne Dunworth
General manager

John Marrs
Editor

A bill written to be unfair

House Bill 409 is a bill in dire need of amendment.

Anyone who believes in fair play should agree.

HB 409 is about taking references to gender out of the election codes, plus a tidy little section about primary elections.

What the plus provides is that only the leading candidates of the two parties that gather the most votes in a primary election can be on the general election ballot. The key word there is *parties*. The primary would produce no more than two winners, and they would be from the parties that accumulated the

most votes. It would turn the primary into a semifinal, qualifying heat with handicaps for small parties.

A little imagination applied to the last gubernatorial race could provide a tally sheet like this one:

Republican - Tom Fink	33,000
Republican - Terry Miller	32,000
Democrat - Bill Sheffield	29,000
Democrat - Steve Cowper	28,000
Libertarian - Dick Randolph	35,000

HB 409 would return Randolph and other Libertarians into the oblivion from which they only recently emerged.

The point here is not to support Randolph or the Libertarian Party, or any other party, but to sound the call on behalf of equality and fair play.

The Libertarians, despite winning no public offices, finally won in the last general election more than 10 percent of the vote and legal status as a political party in the state of Alaska. That means they are eligible for the first time to enter candidates in the primary election for selection as general election candidates.

Some of the Libertarians' political foes just can't abide that possibility.

So some of the members of the House Judiciary Committee concocted HB 409. It has the committee's name as its sponsor, a fact that provides a little political camouflage.

But the committee has voted on 409. Speaker of the House Joe Hayes, Majority Leader Ramona Barnes, Judiciary Chairman

Charlie Bussell and Rep. John Liska -- all Anchorage area Republicans -- voted to recommend the bill to the House. Democrats Hugh Malone of Kenai, Don Clocksin of Anchorage and Ron Wendte of Ketchikan voted against it.

HB 409 got referred on to the Rules Committee, where it sits now. The Rules Committee -- Hayes and Barnes are two of its nine members -- ought to amend it or kill it. Whether it will, is another question.

The bill's purpose, as written, is obvious. In the scenario imagined above, the voters would wind up getting to choose only between the second and fourth votegetters and No. 1 would go begging for write-ins, if anything.

Randolph says measure would 'kill' Libertarians

AB
409

by Bill White
Times Writer

H8409

5-11-83 Times

Juneau — A bill that could wipe out the Libertarian Party and other minor political parties is scheduled for action in the House of Representatives next week.

As introduced by the Judiciary Committee, the bill would let no more than two candidates run for each office in general elections.

The two political parties — not candidates — that received the greatest number of votes for an office in the primary would field their best candidate in the general election, under the bill.

The House majority has targeted the proposal for passage this year.

"I haven't read it thoroughly, but it looks like a 'kill the Libertarian bill,'" said Dick Randolph, a former state legislator from Fairbanks and now head of the Libertarian Party.

"Major parties would be in a position to shut out the minority parties," said Randolph, who ran third in last fall's gubernatorial election.

"A bill like this would kill us off," he said.

Anchorage Rep. Charlie Bussell, chairman of

the Judiciary Committee, said the bill appears to have been drafted improperly.

The measure is intended, he said, to require just two names on the general election ballot so the candidate who wins can get a majority of the votes cast.

Only once since statehood has the governor been elected by a majority of the voters, he said. Last fall, Bill Sheffield won the gubernatorial office with about 45 percent of the vote.

Rep. Ramona Barnes, R-Anchorage, a member of the committee, said the last draft she saw of the bill wouldn't have shut out the Libertarian Party. She said the proposal might be changed at hearings next week.

Several amendments are awaiting the bill in the Judiciary Committee.

One amendment would give independents and write-in candidates a shot at the general election. But members of political parties still would have an advantage. The total votes for all members of a party running for an office would be counted together and matched against total votes for an independent or write-in candidate.

2-party election vote set

by Bill White
Times Juneau Bureau

5-17-83

Juneau — The House is scheduled to vote today on a bill that, according to the state's top Libertarian, would give the Democratic and Republican parties "a stranglehold on Alaska politics."

The bill would let the names of only two candidates appear on the general election ballot for any state office.

Those candidates would be determined by a method unique to American politics. Total votes cast for candidates from a political party in a primary election would be matched against total votes for candidates of other parties and for independents and write-ins.

For example, in an six-person primary race, an independent might get 10,000 votes, a Libertarian 9,000 votes, two Democrats get 8,000 and 4,000 (for 12,000 total), and Republicans 7,000 and 5,000 (also a 12,000 total). Selected for the general election ballot would be the top Democratic vote-getter and the top Republican.

"The right to vote and to asso-

See Bill, page A-4

Bill would limit candidates

Continued from page A-1

ciate freely are fundamental to the ideal of American government. They should not be trampled upon in such a brazen fashion as contemplated by this bill," said former Fairbanks Rep. Dick Randolph, head of the Libertarian Party, in a statement presented to the Judiciary Committee Monday.

Randolph called the bill "plainly unconstitutional," an effort "to legislate these alternative viewpoints off the ballot" and "an arrogant slap in the face of Alaskan voters."

"They (voters) should have the right to decide which approach to issues best suits them. If competition is good in the mar-

ketplace, why isn't it desirable in politics?" said Randolph, whose statement was read by a local Libertarian.

The bill has been on a fast track since the Judiciary Committee introduced it eight days ago. The committee had been working for months on how to limit general election ballots to just two candidates per office.

Libertarians received no notice that the bill would be introduced, Randolph said.

The bill was scheduled for a floor vote today even before the committee approved it on a 4-3 Republican vs. Democrat vote.

Republican State Chairman Ken Stout in a May 11 letter urged his party's legislators to support the bill. Calling it "the most significant piece of legisla-

tion for Republicans that we have in this decade," Stout said it is needed to protect "major parties from being diluted by lesser party candidates."

The letter was made public by Libertarians Tuesday.

In the letter, Stout said some "rather ludicrous candidates" were a "constant source of agitation" in the last general election. This is the only piece of legislation he has lobbied for during this session, he added.

Sen. Fritz Pettyjohn, R-Anchorage, said that because more than two candidates ran in general elections, just once since 1962 has the governor been elected with a majority of the votes cast. One of the 20 senators and eight of the 40 representatives also were not picked by most of the voters, he said.

More than half the voters in Alaska belong to no political party.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 11,



SUBJECT: Primary and general election
(CSHB 409 (Judiciary))

TO: Representative Charlie Bussell
Chairman, House Judiciary Committee

FROM: Richard A. Bradley *B*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative statement of the contents of the bill; the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please address a specific request to this office.

Section 1 of the bill amends AS 15.15.030(5). AS 15.15.030 deals with the preparation of the official ballot. The amendment to sec. 30(5) is intended to delete the requirement of present law that "no-party" candidates have their names appear on the general election ballot. As will appear as the bill is examined, these candidates will now be voted on at the primary election.

Section 2 amends AS 15.25.010. The section provides that candidates will be nominated under the provisions of AS 15.25.010 - 15.20.200. Since a new section 201 is being added by the bill which will also regulate the nomination process, the amendment is necessary.

Section 3 adds a new Sec. 15.25.025. It changes the thrust of existing law by stating affirmatively that the director "shall place the names and political group affiliation of person who have been properly nominated under this chapter on the primary election ballot." As you recognize, under

present law, "no-party" candidates are nominated under that chapter (AS 15.25) but do not go on the primary election ballot.

For a full explanation of what it means to be nominated under this chapter, see the comments on AS 15.25.201, below.

In connection with this section, note the repeal (in section 11) of AS 15.25.190; the latter section provides:

Sec. 15.25.190. PLACEMENT OF NAMES ON GENERAL ELECTION BALLOT. The director shall place the names and the political group affiliation of persons who have been properly nominated by petition on the general election ballot.

Section 4 amends AS 15.25.030(14). That section is a portion of the section that provides for the contents of the "Declaration of Candidacy" of candidates of political parties. Apart from the changes required by Chapter 58, SLA 1982, the changes to this section requires a candidate to state that the candidate is not a candidate for any other office to be voted on at the "primary [OR GENERAL] election". As suggested, under existing law party candidates appear on the primary election ballot; "no-party" candidates appear on the general election ballot only. The purpose of existing law is to prevent an individual from seeking two offices simultaneously. Since candidates may not appear on the general election ballot in any case under this law unless they are nominated, the bill eliminates the reference to the general election.

Section 5 amends AS 15.25.060. Existing law provides that no write-in votes may be counted at the primary election. See AS 15.25.070. This bill repeals AS 15.25.070 in sec. 11 and reverses the policy stated in this section by directing the director to provide spaces for write-in votes on the primary election ballot.

Section 6 repeals and reenacts AS 15.25.180(7). AS 15.-25.180 regulates the contents of the nominating petition of no-party candidates. The existing provision provides, in context:

Sec. 15.25.180. Requirements for Petition. The petition shall state in substance

* * *

(7) the date of the election at which the candidate seeks election,

The amendment simply makes clear the fact that "no-party candidates will have their names appear on the primary election ballot."

Section 7 amends AS 15.25.180(15). AS 15.25.180(15) is a "no-party" counterpart to the party nominee requirement discussed above at sec. 4, amending AS 15.25.030. It requires the "no-party" candidate to certify that no other office is being sought at the primary election. Since candidates may go to the general election ballot only by nomination at the primary, the reference to the possibility of being a candidate at the general election is eliminated.

Section 8 amends AS 15.25.200. The section amends law regulating withdrawal of a "no-party" candidate's name. Because the candidate will be voted on at the primary election in place of the general election, a modification of the scheme of the section was necessary. The section deals affirmatively with a subject that the law is presently silent on: the effect on the candidacy of a team of candidates for governor and lieutenant governor when only one dies or withdraws. The amendment permits the remaining member of the team to submit a replacement name.

Section 9 establishes a new AS 15.25.201. The section is the heart of the bill.

Sec. 201(a) provides that only two candidates are nominated at the primary election for each office for which there will be a vacancy. To determine who those candidates are, the director counts the votes cast for each "no-party" candidate, each write-in candidate, and each candidate of a political party. The director then cumulates the votes of all candidates of each "political party" (as defined in AS 15.60.010(20) and as amended in sec. 10 of the bill. From these totals, the director will determine "which candidate or political party received the largest and the second largest number of votes cast." Then, if "a no-party candidate or a write-in candidate received the largest or second largest count, that candidate shall appear on the general election ballot. If a political party received the largest or second largest count, the candidate of that party who

Representative Charlie Bussell

Page 4

May 11, 1983

received the largest number of votes shall appear on the general election ballot."

Sec. 201(b) provides that to determine the parties that have nominated candidates for governor and lieutenant governor, the votes cast for candidates for lieutenant governor are disregarded and the votes for candidates for governor in each party are cumulated.

Section 10 amends AS 15.60.010(20). It changes the definition of "political party" to conform to the requirements of the Supreme Court decision in Vogler v. Miller. It reduces to five percent (from the former ten percent) the number of votes required for a political party candidate for governor at the previous general election for continued status as a political party.

Section 11 repeals AS 15.25.070, 15.25.100, and 15.25.190.

Those sections now provide:

Sec. 15.25.070. SPECIAL PROVISIONS ON COUNTING BALLOTS. No voter may vote for a person whose name is not on the ballot. Votes cast for a person whose name is not on the ballot shall not be counted, but writing in a candidate's name does not invalidate the entire ballot.

Sec. 15.25.100. PLACEMENT OF NOMINEES ON GENERAL ELECTION BALLOT. The director shall place the name of the candidate receiving the highest number of votes for an office by a political party on the general election ballot.

Sec. 15.25.190. PLACEMENT OF NAMES ON GENERAL ELECTION BALLOT. The director shall place the names and the political group affiliation of persons who have been properly nominated by petition on the general election ballot.

If I may be of further assistance, please advise.

RAB:ljb
19/013

SUMMARY OF VOTER TOTALS, PERCENTAGES OF GOV. ELECTIONS, GENERAL
1962-1982

YEAR	TOTAL VOTES	CANDIDATE #1 / %	CAN. #2 / %	CAN. #3 / %	CAN. #4 / %
1962	60,084 (56,681)*	29,627 49.3% (52.2%)	27,054 45% (47.7%)		
1966	67,361 (66,294)	33,145 49.2% (49.9%)	32,065 47.6% (48.3%)	1084 1.6% (1.6%)	
1970	82,405 (80,779)	42,309 51.3% (52.3%)	37,264 45.2% (46.1%)	1206 1.4% (1.4%)	
1974	98,557 (96,163)	45,840 46.5% (47.6%)	45,553 46.2% (47.3%)	4770 4.8% (4.9%)	
1978	129,705 (126,910)	49,580 38.2% (39.%)	33,555 25.8% (26.4%)	25,656 19.8% (20.2%)	
			<u>CAN #4 / %</u>	<u>CAN. #5 / %</u>	
			15,656 12.0% (13.%)	2,463 1.9% (1.94%)	
1982	199,358 (194,511)	89,918 45.1% (46.2%)	72,291 36.2% (37.1%)	29,067 14.5% (14.9%)	
			<u>CAN. #4 / %</u>		
			3235 1.6% (1.66%)		

* NOTE: These numbers and percentages in ()s are totals excluding votes not cast for one of the candidates listed above; all small write-in votes.

(B)

CS HJR 9 / CS175A (58)
By the Judiciary Comm.

Comments by the Division of Elections

CS HJR 9 "Proposing an amendment to the Constitution of the State of Alaska relating to elections for candidates for Governor and Lieutenant Governor and for members of the legislature."

ANALYSIS : This bill would require that any candidate for state elective office (executive and legislature) receive 50% of the votes cast for the office plus one vote, in the general election. If a candidate for office does not receive this amount, a runoff election shall be held between the top two vote getters.

A review of the 1982 legislative races shows that, if this law were then in effect, one (1) Senate race and eight (8) House races would require runoff elections. It should be noted that in every one of these nine races there were strong Libertarian and Independent candidates.

	<u>Senate #15&16</u>	<u>House #5 A</u>	<u>House #5 B</u>	<u>House #10 B</u>	<u>House #14 B</u>
winner %	41%	45%	49%	48.2%	49%
back #	-876	-504	-101	-145	-95

	<u>House #16 B</u>	<u>House # 18</u>	<u>House # 19</u>	<u>House # 17</u>
winner %	36%	41%	48.7%	42%
back #	-1529	-425	-66	-363

Additionally, for point of reference, there were two (2) Senate races won with 50% plus 6 and 12 votes respectively, four (4) Senate race won between 51% and 55%, and four (4) House races won with barely more than 50% (plus 12, 34, 60 and 63 votes respectively)

As was noted previously in comments on the original HJR 9, all gubernatorial races except 1970 would have required a runoff election. Even the decisive 17,000 vote margin of the 1982 race left the winner with 45% of the ballots cast for that race, again due to the strong showing of the Libertarian and Independent candidates.

***** BROWSE FILE IN BILL ORDER *****

BILL NUMBER	STATUTE	ACTION
HB 409	15.15.030	AMENDED
HB 409	15.25.025	ADDED
HB 409	15.25.030	AMENDED
HB 409	15.25.060	AMENDED
HB 409	15.25.070	REPEALED
HB 409	15.25.140	REFERENCE
HB 409	15.25.150	REFERENCE
HB 409	15.25.160	REFERENCE
HB 409	15.25.170	REFERENCE
HB 409	15.25.180	AMENDED
HB 409	15.25.180	REPL&REIN
HB 409	15.25.180	REFERENCE
HB 409	15.25.190	REPEALED
HB 409	15.25.190	REFERENCE
HB 409	15.25.200	AMENDED
HB 409	15.25.200	REFERENCE
HB 409	15.25.201	ADDED
HB 409	15.60.010	AMENDED
HB 409	15.60.C10	REFERENCE

SELECT A BILL NUMBER AND HIT ENTER BILL NUMBER HB 409 STATUTE 1560010
RETURN TO MAIN MENU ?

***** BROWSE FILE IN BILL ORDER *****

BILL NUMBER	STATUTE	ACTION
HB 409	15.60.010	AMENDED
HB 409	15.60.010	REFERENCE
HB 410	16.05.340	AMENDED
HB 411	01.10.070	REFERENCE
HB 412	18.50.030	REFERENCE
HB 412	18.50.500	ADDED
HB 412	18.50.500	REFERENCE
HB 412	18.50.510	ADDED
HB 412	18.50.510	REFERENCE
HB 412	18.50.520	ADDED
HB 412	18.50.520	REFERENCE
HB 412	25.23.000	REFERENCE
HB 412	25.23.185	ADDED
HB 412	47.35.100	REFERENCE
HB 413	39.20.180	REFERENCE
HB 413	39.50.200	ADDED
HB 413	41.35.300	ADDED
HB 413	41.35.300	REFERENCE
HB 413	41.35.305	ADDED

SELECT A BILL NUMBER AND HIT ENTER BILL NUMBER HB 413 STATUTE 4135305
RETURN TO MAIN MENU ?

I. REQUEST

Bill/Resolution No.: HR 409
 Title: Relating to Prim & Gen Elections
 Sponsor: House Judiciary Committee
 Requestor: House Judiciary Committee

II. FISCAL DETAIL

Agency Affected: Office of the Governor
 Program Category Affected: Exec Operations
 BRU, Program of Subprogram(s) Affected: Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not Provided

IV. ANALYSIS: The passage of this legislation would not have an appreciable fiscal impact on the division.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dana C. Coffman, Deputy Director

Phone: 586-6181

Division: Division of Elections

Date: May 10, 1983

Approved by Commissioner: 

Date: May 11, 1983

Department: Lieutenant Governor

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
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