

HB

541

HOUSE
COMMITTEE REPORT

(7)

Date referred: 2/5/86

FURTHER REFERRALS: JUDICIARY

DATE: 2/19/86

The STATE AFFAIRS Committee has considered HR 541

"An Act relating to absentee voting by personal representative."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 541 (SA) same title

and recommends DO PASS new title

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note ~~_____~~

SIGNING DO PASS:

Katie Hurley

Bette Cobb

SIGNING OTHER RECOMMENDATIONS:

M. Hovane NO REC.

_____ NO REC.

Katie Hurley
Chairman

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: HB 541

Page 1, lines 10 - 15, delete all material and insert:

"(a) A qualified voter who is physically disabled, imprisoned, or confined to an institution may vote by [APPLY FOR AN] absentee ballot through a personal representative. A personal representative may apply for an absentee ballot on behalf of a qualified voter who is physically disabled, imprisoned, or confined to an institution to the following election officials at the times specified:"

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill Resolution No. : HB541
 Title : Absentee Voting by Personal Representative
 Sponsor : Gruenberg
 Requestor : Sponsor
 Date of Request : 2-13-86

FISCAL DETAIL

Agency Affected : Office of the Governor
 BRU : Elections
 Components : Primary and General Elections

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Linda Edgeworth Phone : 465-4611
 Division : Elections Date : 2-18-86
 Approved by Commissioner : Harry Calentine Date : 2/18/86
 Agency : Elections

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA
THE LEGISLATURE

COMMISSIONER OF STATE GOVERNMENT
LEGISLATIVE AGENCY
907 556 3000

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 3, 1986

SUBJECT: Absentee voting by personal representative
(Work Order No. 17 1722)

TO: Senator Bill Ray

FROM: Richard A. Bradley *B*
Legislative Counsel

You have asked for our comments on the draft of a bill prepared for Representative Gruenberg. You have asked whether the bill would apparently enfranchise individuals who are disenfranchised by the Alaska Constitution.

The answer is that the bill might be made somewhat clearer.

The first paragraph of AS 15.20.071(a) is amended in section 1 as follows:

Sec. 15.20.071. ABSENTEE VOTING BY PERSONAL REPRESENTATIVE. (a) A qualified voter who is physically disabled, imprisoned, or confined to an institution may vote by [APPLY FOR AN] absentee ballot through a personal representative. A personal representative may apply for an absentee ballot on behalf of a physically disabled voter or a voter imprisoned or confined to an institution to the following election officials at the times specified:

* * *

The section starts out addressing the concerns of "a qualified voter" but by the second sentence, the "qualified" aspect has been dropped. While to some extent the phrase a "qualified voter" is a tautology since a person cannot become a voter unless qualified, the usage within AS 15 frequently contains the "qualified voter" usage and it would be preferred here.

Senator Bill Ray
Page 2
February 3, 1986

Note of course that neither imprisonment nor confinement within an institution is, in itself, disqualifying. Sec. 2 of art. V of the Alaska Constitution addresses these questions:

SECTION 2. DISQUALIFICATIONS. No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed.

Thus a person convicted of a crime that is either a misdemeanor of any character or a felony not involving moral turpitude may vote. And a person who has been institutionalized without a determination of "unsound mind" may vote.

I suggest the following improvement to the lead paragraph of sec. 1:

Sec. 15.20.071. ABSENTEE VOTING BY PERSONAL REPRESENTATIVE. (a) A qualified voter who is physically disabled, imprisoned, or confined to an institution may vote by [APPLY FOR AN] absentee ballot through a personal representative. A personal representative may apply for an absentee ballot on behalf of a qualified voter who is physically disabled or a qualified voter imprisoned or confined to an institution to the following election officials at the times specified:

* * *

If I may be of further assistance, please advise.

R: B:mkr
M: 133

most be voted by election day but may be returned to the Division up to 15 days after the election and still be counted. Research shows that 30% of all mailed ballots have no postmark affixed. Concern has been expressed by candidates and legislators that with such a liberal extension period and the high percentage of missing postmarks, the potential for fraudulent absentee voting is excessive. In close races, which occur frequently in our State, casting of late ballots after initial returns are announced could impact final outcomes.

The 15 day extension also causes considerable delay in the certification process. With our late primary, and especially in situations where recounts are necessary, any delay can become critical, and create an additional burden for candidates and administrators preparing for the general election. It is interesting to note that only a few other states provide any extension beyond an election day deadline with none of those offering more than a few days. In an analysis of 1857 actual ballots cast by mail in Alaska's 1984 general election, the Division found that 98% of the ballots returned with postmarks took 5 or fewer days to be delivered, with 70% requiring fewer than 4 days.

House Bill 284 continues to provide leniency to safeguard absentee voting by military and overseas voters, however, by allowing a 10 day extension for any ballot being mailed from a foreign country, APO or FPO address. The Division found that 97.7% of ballots in these categories were delivered in less than 10 days.

Of major concern in considering these bills is timing, according to Sandra Stout, Director. Preliminary preparation for this year's major elections is already underway. It is hoped that any action taken by the legislature on election issues will be completed soon enough to allow implementation in the 1986 elections.

all-mail jurisdictions was higher than at communities using traditional polling place methods. In local candidate elections the average turnout for all-mail voting was 73.3% while the process garnered 57% turnout in water district elections.

A typical contrast was reflected in the turnout experienced by 2 very similar communities in Golden Valley County. Lavena, using regular polling place voting, had 39% of its voters cast ballots, while its counterpart Ryegate, only 16 miles away, reported a 68% turnout using the all-mail process in the same type of election.

Such findings are impressive and may point the way to solving similar problems facing Alaska in its conduct of regional elections. Specifically, the state continues to experience disappointing turnout in Rural Educational Attendance Area School Board and Coastal Resource Service Area elections held every October, while absorbing the high costs incurred in utilizing the traditional polling place system. In the 1985 REAA/CRSA elections, the total turnout was just over 26% of the eligible registered voters. At a total election cost in excess of \$125,000, it averaged to approximately \$13.00 for every vote cast.

Relating the positive results experienced by Montana to the potential of an all-mail system in the conduct of our regional elections, there could be some substantial benefits. If, through an all-mail system we were also able to achieve an approximate 70% turnout rate, that would increase the number of voters casting ballots in REAA and CRSA elections from about 9500 to nearly 26,000. In addition, based on an analysis of election costs anticipated in an all-mail system, the Division determined that actual expense of the election would be reduced by nearly \$36,000 per year, resulting in an average cost per vote of only \$3.17.

As we continue to look for positive ways to increase voter participation and seek constructive ways to reduce costs, there is no doubt that the all-mail alternative offers some tantalizing food for thought.

Alaska Gears Up to Improve Polling Place Access for Handicapped and Elderly

A new law has been passed by Congress which provides that all polling places used for federal elections be handicapped accessible. The law which applies to any election for President, Vice President, U.S. Senate and U.S. House of Representatives, went into effect December 31, 1985. Its purpose is to improve access to registration locations and polling places for elderly people and individuals who have a physical disability, by doing everything possible to remove the physical barriers that prevent these people from getting to the polls and voting.

Public Law 98-435 allows each state to develop its own guidelines for determining whether or not a polling place provides the best accessibility possible or available. The Division of Elections has developed the guidelines which will be used by Alaska. The Division will be conducting a survey of each of the 442 polling places currently being utilized. The survey will

cover such items as adequate handicapped parking, easily opened doors that are wide enough to accommodate a wheelchair, stairs, ground and floor surfaces which may be slippery or uneven, and the distance which must be walked to get to the actual voting area. In some cases accessibility can be improved by making very simple changes. For example, at a school it may be found that a different entrance may be closer to the parking area, or a polling place currently located on the second floor of a commercial building can be changed to a room on the ground floor. Chairs can be provided for elderly or disabled voters waiting in line.

"We recognize that in some communities, especially in rural areas, it may be difficult to find a suitable facility which can meet all the standards, but our purpose will be to assure that in all locations our polling places are the best they can be," said Sandra Stout, Director.

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
P.O. BOX AF
JUNEAU, ALASKA 99811-0105
PHONE (907) 465-4611

January 27, 1986

The Honorable Max Gruenberg
Alaska State House of Representatives
P. O. Box V
Juneau, AK 99811

Dear Representative Gruenberg:

In response to your request, we have enclosed possible changes that could be made to streamline the statutory provisions covering absentee voting by personal representative. At best, this method of voting has historically placed an undue burden on the personal representative who volunteers to assist handicapped or confined individuals in exercising their right to vote.

Under the existing statutes a personal representative has been required to:

1. go to an election supervisor's office or other absentee official and request an application;
2. take the application to the disabled voter for completion;
3. return the completed application to the election official and pick up a ballot packet;
4. return the ballot packet to the disabled voter;
5. return the voted ballot to the election official.

Our goal has been to alleviate some of these steps. You will note ~~in both versions of amendments~~ we have virtually eliminated trips 1 and 2 by allowing the personal representative to make application rather than the disabled voter.

We have also eliminated the witnessing requirement. Under the current statutes, the disabled voter was required to acquire a letter from a licensed physician or a statement signed by two persons, stating that the voter is unable to go to the polls because of physical disability. This requirement has been made illegal under H.R.1250, passed

The Honorable Max Gruenberg
January 27, 1986
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this last year by the U.S. Congress. The elimination of this requirement, therefore, is necessary to conform with federal law. This amendment is also part of Senate Bill 252, sponsored by Senator Ray, which passed the Senate last year and is awaiting calendaring in the House.

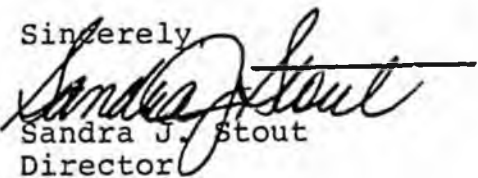
Pursuant to the conceptual amendment passed in Judiciary Committee last week, we have also eliminated the witnessing requirement by the personal representative.

A suggestion was proposed by Dixie Belcher that the law also be changed to allow a personal representative to return the voted ballots in person, or by mail. We have given this option serious thought, and want to bring to your attention a potential problem which we feel deserves cautious consideration. Our concern is that the vast majority of absentee by personal representative voting is applied for and voted on election day, and not in advance. Allowing the personal representative to return the ballot by mail might result in many ballots not being counted, if ballots are mailed very late in the day, after the post office is closed, or after the final mail pick up. This would be especially likely in very small communities where postal offices close early and there are no after hour mail pick ups scheduled. This would result in those ballots being postmarked the following day, too late to be counted. We are also concerned that accountability could be jeopardized if two methods of delivery were implemented.

Finally, we would like to point out that the suggested amendments we have provided have not had the benefit of review by law, and are only suggestions. We trust that should you choose to offer any of these suggestions in committee that they will be reviewed by a legislative attorney.

We appreciate your interest and assistance in working with the bills regarding election laws. Please call on us if we can provide you with more information or if we can be of assistance.

Sincerely


Sandra J. Stout
Director

Enclosures

State of Alaska

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
(Co-Chairman)
HOUSE JUDICIARY
HOUSE COMMUNITY AND
REGIONAL AFFAIRS



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4968
914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

February 6, 1986

PRESS RELEASE

"Alaska's elections are often cliffhangers. Every vote counts, and every voter should have a chance to be counted," said Rep. Max Gruenberg, Anchorage Democrat. "That's why I introduced the absentee voting bill yesterday."

Current law burdens the handicapped, the confined, and the imprisoned, making it difficult for them to exercise their right to vote. "The proposed changes would delete two steps from today's five-step process for absentee voting, so that our elderly, our ill and others less fortunate can participate more fully in the democratic process," explained Gruenberg.

"We have a tradition here of major statewide races being decided by less than 300 votes, of legislative seats being won by less than 20 votes. It's not fair to keep unnecessary hurdles restricting anyone's ability to vote."

The bill (HB 541) allows a personal representative of the voter to apply directly for the voter's absentee ballot. It deletes a requirement for a physician's statement of physical disability, a provision made illegal last year by federal statutes. "With these changes, the paperwork is cut in half," stated Gruenberg. For more information, contact Nancy Bennett at 465-3759.