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547

SB 547. relating to address information required for voter registration and providing for an effective date.

OFF TELECONFERENCE!

TO TESTIFY;

Linda Edgeworth, Division of Elections.

NOTES;

Letter received today from the Federal Voting Assistance Program supporting this bill on behalf of military voters.

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 4/17/90

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: _____

State Affairs

Committee considered

SB 547

Address information required for voter registration; efd.

and recommended:

- replace with _____ CS _____ same title
- attached amendment(s) new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Al Adams

Finn Kelly

Jan Fuchs

F. J. ...

 Chair: Signature and Recommendation

COMMENTS IN SUPPORT OF SB547

"An Act relating to address information required for voter registration; and providing for an effective date."

Prepared by
Division of Elections
April 19, 1990

Why Is This Bill Necessary?

Senate Bill 547 was developed in direct response to a hostile court decision which has the potential of disenfranchising between 19,000 and 25,000 voter throughout rural areas of Alaska for this year's Primary and General Elections. (Baird vs. State of Alaska.)

The issues in the case related to the conduct of a local liquor option election in Red Devil, involving 28 voters. This election was conducted by mail. The primary issue of the court case centered around the countability of votes cast by voters who had registered to vote claiming Red Devil as their place of residence but who provided what the court held were insufficient residence addresses. These voters identified their residence address by their box numbers in Red Devil, or as General Delivery, Red Devil.

Background Regarding Residency Issues:

This case is the first in which the sufficiency of residence address information for rural voters residing in remote villages was tested. While several recent Supreme Court Cases focused on residence address information, their focus was on urban areas involving multiple districts and multiple precincts. In Fischer vs. Stout, and Finklestein vs. State of Alaska, both centering around absentee ballots cast by voters registered at Elmendorf Air Force Base, the court ruled that use of a PSC Box (or military mail stop) as residence address information was insufficient in determining the residence of the voter, and, therefore the votes of these individuals should not be counted.

However, in those same cases, the Court also indicated that identifying Elmendorf Air Force Base by itself would be sufficient because the Base was totally contained within the boundaries of a single precinct. Clearly, the location in a single precinct was a distinguishing factor.

In the case of rural voters, the villages in which voters claim residence lie totally within the boundaries of a single precinct. Additionally, in many villages and rural communities, street names and subdivisions are not commonly utilized. It is also significantly less likely, that a person identifying a rural village as his or her place of residence and permanent mailing address, could easily or readily cross district lines. In view of these circumstances the Division has interpreted the sufficiency of residence address information in rural areas more liberally.

For the first time, address information for rural voters has been tested. Even in this case, no one made any allegation that the individuals whose registrations were challenged did not live in the village. On the contrary, parties concurred that they were residents. The central issue was based on how they technically completed their registration forms, not on where they actually lived.

The State is appealing the case to the Supreme Court. We have been advised that at that time, the plaintiffs also intend to challenge registrations of individuals who provide only the village name in identifying the location of their residence.

Significant Impact:

The impact on rural voters is significant. As part of the Division's review for the court case, a preliminary survey of the voter rolls was completed for several specific districts, to determine the extent of the potential impact on voters who registered in the manner found to be insufficient in the court's ruling. Our preliminary findings were as follows:

| District | Potentially Impacted (Rural Communities) | % of Total Registered Districtwide | % Alaska Native (Average of Communities Included) |
|----------|--|------------------------------------|---|
| 2 | 1347 | 19.75% | 67.5% |
| 22 | 3849 | 63.75% | 89.63% |
| 23 | 3287 | 63.59% | 93.19% |
| 24 | 4199 | 80.22% | 82.7% |
| 25 | 2934 | 58.95% | 94.4% |
| 26 | 3485 | 47.40% | 76.1% |

Note: It is also important to understand that over 50% of these individuals have been registered for many years, with no changes in their records since before the State's registration rolls were computerized. They are long standing, non-transient voters.

THE SOLUTION:

To ensure that these voters are not disenfranchised SB 547 was proposed. Not only does it safeguard the voting rights of these voters, it also lays a sound foundation to clarify the rules for determining the sufficiency of residence information for all voters

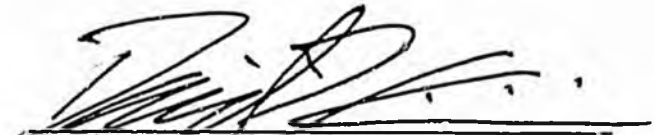
statewide, rural, urban, and military, once and for all. This legislation would add the layer of clarity that is needed to avoid repeated lawsuits over the same issue of residence address which threatens each and every election.

In considering this bill, it is important to know that:

1. the bill does not change anything....it only clarifies the rules on which the Division of Elections will determine the sufficiency of address information; and,
2. the bill is consistent with the rulings of the two major Supreme Court cases while addressing the realities that exist across our widely diversified State.

Attached is a brief summary of how the bill is structured, and how it distinguishes the rules for urban and rural voters to apply fair and neutral standards that are reasonable and feasible.

We urge your prompt support.



David G. Koivuniemi
Director

4.20.90
Date

BRIEF ANALYSIS OF SB547

Prepared by Division of Elections
April 20, 1990

- Section (a):** This section sets out the purpose of requesting address information at the time of registration or reregistration. It identifies the fundamental criteria which must be met in providing a residence address.
- Section (b):** The second section clarifies that rules for determining sufficiency of residence address information may vary based on certain conditions which influence how specific rules will be defined. Such conditions would include: size of area, population and location of the community; whether the location is divided into more than one precinct, or other election subdivisions; and whether or not street names, and other official physical descriptions are commonly utilized in the area.
- Section (c):** This section specifies the kinds of descriptions which must be included on the registration application if the voter is claiming residence in an urban area which includes more than one precinct or election subdivision, more than one district, etc. It also specifies that in these areas provision of a mail designation as a residence address is not sufficient in establishing the residence of the voter.
- Sections (d) & (e):** These sections set out different criteria for rural areas where the community lies solely within one precinct and in which there are no election subdivisions. It provides that only the community name is sufficient, and further, that provision of excess information will not cause the registration to be rejected, even if the excess information would commonly be considered a mailing address. It also identifies other criteria on the application which could be considered evidence of the person's residence.
- Section (f):** In this section, provision is made for voters identifying a military installation, institution or other fixed reservation as their residence instead of identifying a community by name. It provides that this information is acceptable if the location is within the boundaries of a single precinct, but also stipulates that provision of a mailing address

in these circumstances would be insufficient in establishing the residence of the voter.

Section (g): Finally, this section allows the director to apply the provisions of this bill in evaluating the registrations of individuals who registered before this bill was enacted.



FEDERAL VOTING ASSISTANCE PROGRAM
OFFICE OF THE SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

April 23, 1990

The Honorable Pat Pourchot
Chairman, Senate State Affairs Committee
State Capitol
Juneau, Alaska 99811

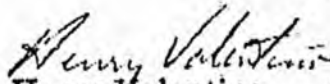
Dear Mr. Chairman:

This office administers the Uniformed and Overseas Citizens Absentee Voting Act of 1986 which covers approximately 6,000,000 potential voters including the military, their dependents, and overseas citizens. The Act recommends that states provide maximum access to the polls by these citizens while considering their special needs.

I understand that Senate Bill 547 will be reviewed by the Senate State Affairs Committee this afternoon. We urge your support of this legislation because our surveys of local election officials show that approximately 79% of the military voters who have their applications for registration or for absentee ballots rejected, the rejection is caused by the lack of or inadequate home address. Military members are in a very unique situation and have a higher chance of being disenfranchised because of the transient nature of their assignments, and thus it usually takes more time for mail to reach them and to get a response for additional information. This bill would alleviate this problem for Alaska citizens in the military by accepting the Federal Post Card Application in cases where it only lists the name of the military base and not a more specific street address.

Thank you for your support. Please do not hesitate to contact me if you have any questions.

Sincerely,


Henry Valentino
Director

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS,
CHAIR

ETHICS COMMITTEE,
CHAIR



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Senator Pat Pourchot

MEMORANDUM

DATE: 5/2/90

TO: All Senators

FROM: Senator Pourchot *Pat*

RE: SB 547, Relating to Address Information Required for Voter Registration

SB 547 was introduced in direct response to a hostile court decision which has the potential of disfranchising between 19,000 and 25,000 voters throughout rural Alaska in this year's primary and general elections.

The court case centers around the countability of votes cast by voters who had listed box numbers or general delivery as their residence in a recent rural election. Although the court has ruled that use of a PSC Box number as a residence is sufficient for military personnel stationed on a military base located within a single precinct, they recently held that use of a box number was insufficient for determining residence in a local liquor option election held in Red Devil.

The impact on rural voters could be significant. Of the approximately 19,000 voters whose votes could be disqualified, over 50% are long standing, non-transient voters.

To safeguard the voting rights of those who could be affected, this bill clarifies the rules for determining the sufficiency of residence information for all voters statewide, rural, urban, and military, once and for all. By clarifying present procedures in statute, we would avoid repeated lawsuits over residence address which threatens each and every election.

The bill makes no substantive changes in current law - it simply clarifies the rules on which the Division of Elections will determine the sufficiency of address information. It is consistent with the rulings of the two major Supreme Court cases and addresses the geographical realities that exist within Alaska.



FEDERAL VOTING ASSISTANCE PROGRAM
OFFICE OF THE SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

April 23, 1990

The Honorable Pat Pourchot
Chairman, Senate State Affairs Committee
State Capitol
Juneau, Alaska 99811

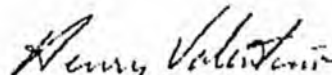
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Thank you for your support. Please do not hesitate to contact me if you have any questions.

Sincerely,


Henry Valentino
Director

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the election.¹⁴ However, although there is contrary authority,¹⁵ the courts in most jurisdictions have adopted the rule that if the intervening period is not unreasonably long, the statute may be sustained even though its effect is to prevent from voting a few individuals who may become qualified in the interim, but were not qualified at the time of registration, on the theory that to afford an opportunity to the registration officers to prepare a list of the electors who will be entitled to vote in the next election and to check on the qualification of such electors it is necessary that the registration of voters terminate a reasonable time before the election.¹⁶ So, the fact that some persons who, because of sickness or absence, could not avail themselves of the opportunity of registering and the further fact that the statute makes no provision for proof of qualifications of such persons on the day of election will not, as a general rule, invalidate the registration law.¹⁷ Differences of opinion exist, however, as to what constitutes a reasonable intervening time, and in some jurisdictions the courts have gone to the extent of declaring such a law unconstitutional because of the period prescribed, quite independent of the question of its reasonableness.¹⁸

§ 101. — Requirement as to uniformity.

Registration laws should be impartial, uniform, and reasonable,¹⁹ giving to all who have a right to vote a fair and reasonable opportunity to exercise such right.²⁰ Thus, where the constitution requires the legislature to provide for the registration of all persons entitled to vote, a law providing for the registration of a class or part only of the voters is void,¹ and a law

sions declaring that all elections shall be free and equal and that every citizen 21 years of age, who has resided in the state 2 years, or in the county, city, or town 1 year, and in the election precinct 60 days prior to the election, shall be entitled to vote. *Owensboro v Hickman*, 90 Ky 629, 14 SW 688.

A voters' registration law which gives a period of 85 days in which to register for the next succeeding primary election and 232 days in which to register for the general election gives a reasonable opportunity to register and therefore does not violate the constitutional right to vote. *Blue v State*, 206 Ind 98, 188 NE 583, 91 ALR 334, *ovrld* on other grounds *Harrell v Sullivan*, 220 Ind 108, 40 NE2d 115, 140 ALR 455, *reh den* 220 Ind 125, 41 NE2d 354, 140 ALR 470, *ovrld* on other grounds *State ex rel. Buttz v Marion Circuit Court*, 225 Ind 7, 72 NE2d 225, 170 ALR 187.

14. *Stephens v Albany*, 84 Ga 630, 11 SE 150; *Perkins v Lucas*, 197 Ky 1, 246 SW 150. *Annotation*: 91 ALR 361.

15. *Page v Allen*, 58 Pa 338 (holding that statute which required registration 10 days prior to day of election was unconstitutional as depriving of right to vote those who became qualified under the constitution between day of registration and day of election, such as persons becoming of age or naturalized in that interim).

16. *People ex rel. Grinnell v Hoffman*, 116 Ill 587, 5 NE 596, 8 NE 788; *Kinneen v Wells*, 144 Mass 497, 11 NE 916.

Annotation: 91 ALR 358.

17. *Blue v State*, 206 Ind 98, 188 NE 583, 91 ALR 334, *ovrld* on other grounds *Harrell v Sullivan*, 220 Ind 108, 40 NE2d 115, 140 ALR 455, *reh den* 220 Ind 125, 41 NE2d 354, 140 ALR 470, *ovrld* on other grounds *State ex rel. Buttz v Marion Circuit Court*, 225 Ind 7, 72 NE2d 225, 170 ALR 187.

Annotation: 91 ALR 358.

18. *Annotation*: 91 ALR 359.

19. *Morris v Powell*, 125 Ind 281, 25 NE 221; *State ex rel. Boyle v State Examiners*, 21 Nev 67, 24 P 614.

Annotation: 91 ALR 373.

20. *Morris v Powell*, 125 Ind 281, 25 NE 221.

A statutory affidavit which discriminates between claims of naturalized citizens in that it permits the foreign-born elector naturalized by court process to vote if otherwise qualified, but excludes from voting those electors naturalized by being within the terms of the act of congress naturalizing certain foreign-born residents within the limits of the state at the time of its admission into the Union, and also those electors similarly naturalized by act of congress because of having been residents of other states upon the admission of such state into the Union, is unconstitutional and void. *State ex rel. Miller v Flaherty*, 23 ND 313, 136 NW 76.

1. *Morris v Powell*, 125 Ind 281, 25 NE 221.

which requires one person to be registered in order to be entitled to vote, while it permits another person to vote without being registered, is also void.² But the requirement of uniformity may not be so applied as to prevent the enactment of different forms of registration in different parts of the state, for, manifestly, there may be need for greater precaution in legislation in densely populated cities than in smaller towns or villages or country districts.³ Accordingly, a reasonable classification for this purpose will be upheld⁴ and, in fact, is sometimes expressly provided for in the constitution itself.⁵ In such a case the circumstance that a registration law in force in municipalities in a certain class differs in essential particulars from that regulating registration in other municipalities does not in itself deny to citizens of such a municipality the equal protection of the laws entitling them to relief under the Fourteenth Amendment to the Federal Constitution.⁶ Nor, as a general rule, does the fact that a registration law omits to provide for the registration of voters at school elections render it unconstitutional.⁷

§ 102. Necessity for registration or proof of qualifications.

In most jurisdictions constitutional and statutory provisions requiring registration of qualified voters as a condition precedent to the exercise of suffrage are regarded as mandatory,⁸ and as a general rule votes that election officials

2. *Brewer v McClelland*, 144 Ind 423, 32 NE 299 (holding that a statute requiring notice to be registered in the county clerk's office of a claim to be a legal voter, as condition of right to vote, by every person who since voting has been absent from the state for 6 months, or leaves it with intent to vote elsewhere, or has voted elsewhere, or has not resided at least 6 months within the county, is in violation of constitutional provisions for general registration law giving every citizen of 21 years of age who has resided in the state 6 months, in the township 60 days, and in the ward or precinct 30 days immediately preceding the election the right to vote, and also providing that no person shall lose his residence by reason of his absence on business of the state or of the United States).

3. *Harrell v Sullivan*, 220 Ind 108, 40 NE 2d 115, 140 ALR 455, reh den 220 Ind 125, 41 NE2d 354, 140 ALR 470, ovrl'd on other grounds State ex rel. Buttz v Marion Circuit Court, 225 Ind 7, 72 NE2d 225, 170 ALR 187 (holding that the fact that a law relating to registration of voters provides for creation of registration boards of two members in counties having population of 80,000 or more, whereas in smaller counties the clerk of the circuit court is made sole registration officer, does not make the law invalid, under a constitutional provision requiring that all laws be general and of uniform operation throughout the state).

4. *Mason v Missouri*, 179 US 328, 45 L ed 214, 21 S Ct 125; *Harrell v Sullivan*, 220 Ind 108, 40 NE2d 115, 140 ALR 455, reh den 220 Ind 125, 41 NE2d 354, 140 ALR 470, ovrl'd on other grounds State ex rel. Buttz v Marion Circuit Court, 225 Ind 7, 72 NE2d 225, 170 ALR 187.

Annotation: 91 ALR 369.

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5. *Fraser v Brown*, 203 NY 136, 96 NE 365.

6. *Mason v Missouri*, 179 US 328, 45 L ed 214, 21 S Ct 125; *People v Gordon*, 274 Ill 462, 113 NE 864.

A statute granting a limited right of suffrage and authorizing women to vote at elections on questions of municipal indebtedness in cities containing a certain population, without requiring registration as a prerequisite to the right to vote, is not unconstitutional as class legislation. *Coggeshall v Des Moines*, 138 Iowa 730, 117 NW 309.

Annotation: 91 ALR 369.

7. *Blue v State*, 206 Ind 98, 188 NE 583, 91 ALR 334, ovrl'd on other grounds *Harrell v Sullivan*, 220 Ind 108, 40 NE2d 115, 140 ALR 455, reh den 220 Ind 125, 41 NE2d 354, 140 ALR 470, ovrl'd on other grounds State ex rel. Buttz v Marion Circuit Court, 225 Ind 7, 72 NE2d 225, 170 ALR 187 (holding that the fact that a voters' registration law omits to provide for registration of voters at school elections does not render it violative of the equal privileges and immunities clause of the state constitution, or a constitutional provision that in all cases where a general law can be made applicable it must be done, where the registration law relates only to elections held under a provision of the constitution other than that for school elections).

8. *Preston v Culbertson*, 58 Cal 198; *Taylor v Betts*, 141 Ky 138, 132 SW 162; *Richardson v Blackstone*, 135 Md 530, 109 A 440; State ex rel. Harrison v Frazier, 98 Mo 426, 11 SW 973; *People ex rel. Frost v Wilson*, 62 NY 186; *Clark v Statesville*, 139 NC 490, 52 SE 52; *Bryer v Seigney*, 42 RI 187, 106 A 155.

Annotation: 101 ALR 658.

A constitutional provision directing regis-

STATE OF ALASKA

OFFICE OF THE GOVERNOR

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

May 7, 1990

The Honorable David Finkelstein
Alaska State House of Representatives
P. O. Box V
Juneau, Alaska 99811

Dear Representative Finkelstein:

With regard to the issues you have raised about the wording of the sentence in Section (c) of SB 547 dealing with the use of P. O. Box, PSC Box and other types of mailing address information, it is my understanding the Dick Bradley concurs with our belief that changing the word "identified" to "qualified" will make no substantive change in the bill's intent.

Apparently you are concerned about the instance in which a voter provides an address such as "PSC BOX 233, Elmendorf AFB or P. O. Box 1486, Anchorage, on the residence line and leaves the mailing address line blank. You believe that the language of the Senate version implies that this voter will not have "identified"...the address...."as only a mailing address" and that therefore the Division would accept the information as sufficient in establishing residence.

On the contrary, the Division would reject the application on the basis that the voter did not provide a sufficient residence address. The basis of our rejection would be Section (c) taken as a whole. In addition to the statement about which you have some concern, Section (c) also clearly stipulates:

"In addition to the name of the municipality or established village, the voter shall provide the director with information that describes a physical location that may be:

- (1) a street name, including a number on the street if one exists;
- (2) a highway name and mile post number;
- (3) a mobile home court and space number;.....or,

- (7) another descriptive phrase from which the physical location of the residence of the voter within the municipality or established village can be determined."

A PSC or P. O. Box number on the residence address line would not

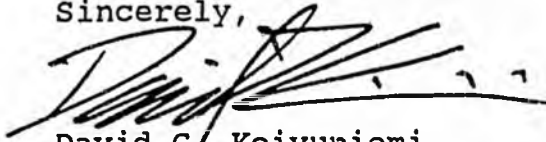
The Honorable David Finkelstein
May 7, 1990
Page 2

"describe a physical location" and therefore would not fulfill the total requirement stipulated in Section (c).

In an effort to raise your comfort level with the Senate version of the bill, the Division would be willing to adopt an Administrative Regulation clarifying the specific point about which you are concerned.

We appreciate your commitment to ensuring that this bill resolves the problems it is intended to resolve. Our attorneys have reviewed the section in question and believe that, taken in the context of the entire provision to which it relates, the Division is adequately guided with regard to the insufficiency of mail address information in establishing the residence of the voter.

Sincerely,

A handwritten signature in black ink, appearing to read "David G. Koivuniemi", with a stylized flourish at the end.

David G. Koivuniemi
Director