

SB

5

HFIN

FILE

MEMBER

TENTH ALASKA LEGISLATURE
ELEVENTH ALASKA LEGISLATURE
TWELFTH ALASKA LEGISLATURE
THIRTEENTH ALASKA LEGISLATURE
FOURTEENTH ALASKA LEGISLATURE
FIFTEENTH ALASKA LEGISLATURE
SIXTEENTH ALASKA LEGISLATURE
EIGHTEENTH ALASKA LEGISLATURE

ALASKA STATE SENATE



SENATOR TIM KELLY

STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-3822
FAX (907) 465-3756

718 WEST 4TH, SUITE 400
ANCHORAGE, ALASKA 99501
(907) 258-8180
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Sponsor Statement & Analysis: CS SB 5 (STA)

"Relating to the Alaska Election Code and to state election administration"

SB 5 was originally introduced to 1) Require that primary ballots be printed on white paper, so as to prevent the invasion of voting secrecy that occurred with different colored ballots for the two primaries this last election cycle; and 2) Require that one-half of the voting booths in each polling place be curtained. The original Senate bill, as it passed the Senate, is contained in sections 6, 7, and 8.

Alaskans from across the State have complained about the different colored primary ballots. The use of different colored ballots readily indicates to anyone at the polling place which primary ballot a person is voting. Further, if a voter chose to wear her "I Have Voted" stub, it would be apparent to any onlooker which primary ballot had been voted. Additionally, Senator Kelly received complaints about the "new" suitcase "curtainless" voting booths which did little to protect the secrecy of the voting process.

The bill before you now, CS SB 5 (STA) contains additional provisions which were added in the House State Affairs Committee. These additional changes were taken from the Division of Elections Transition Team Report. The CS does not incorporate all of the suggested changes, but does include those that should enjoy bipartisan support. They were developed in cooperation with the Lt. Governor's office and the Division of Elections. It should be noted that sections 9 through 21 incorporate the entirety of HB 132, which requires all candidates for office to appear on the primary ballot, and was included with the consent of that bill's sponsor, Representative Mackie, and the Speaker.

It is the sponsor's firm belief that if we are to improve our voting laws to remedy some of the problems experienced in the last election cycle, it must be done this year. It is extremely difficult to change election procedures in an election year.

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Sectional Analysis

Section 1: Provides that the information requested when voting a questioned ballot constitutes a "change of address" request and/or registration for future elections. (Rather than having to fill out the same information on another form.)

Section 2: Provides that the division director is directly responsible for the hiring, performance evaluation, promotion, termination, and all other employee matters in the division. (This is part of the effort to de-politicize the division).

Sections 3: Provide that all division employees, with the exception of the division director and four regional directors, are subject to the same personnel rules as classified employees. (This is also part of the effort to de-politicize the division).

Section 4: "Beefs-up" training requirements of division staff by requiring the director to prepare and file with the lieutenant governor a plan describing the comprehensive training provided to division employees during that calendar year.

Section 5: Provides that the order of names on the ballot in each election district be randomly selected rather than rotating names every 25th ballot.

Section 6 & 7: Provides that one-half of the voting booths in each precinct be the standard 6-foot tall curtained booths rather than the "shoulder-height" suitcase booths.

Section 8: Requires that all primary ballots are white.

Sections 9 through 21: Provide that all candidates must appear on the primary ballot.

Section 22: Deletes the \$.50 payment provided to registrars for each voter they register. (Incorporated at the Division of Elections request.)

FROM THE OFFICE OF **JIM SYKES**

Phone & Fax: 907-278-7436 E-mail: jsykes@znet.net PO Box 1 Anchorage, AK 99524-0001

DT: 4/17/95

TO: House Finance and State Affairs Committee Members

cc: Senators Kelly and Salo, Representative Mackie

FR: Jim Sykes

RE: HCS CSSB5(STA), Section 10 referring to AS15.25.150

Please copy all committee members.

Honorable Committee Chairs and Members,

As you consider this bill you should be aware that I successfully sued the State of Alaska in 1990 over this section, (3AN-90-7508-CI). The court held that the August 1 deadline was unconstitutional. The court further required the state to hold the deadline open until the date of the primary election, since a nominating petition is the legal equal of the primary process and the state had no compelling reason for requiring nominees by petition to file before the primary election date.

This court action was never remedied legislatively. Unless the legislature could demonstrate a compelling reason to discriminate against those who are nominated by petition, this will easily be held unconstitutional again. The legislative history was very clear to the court and to the public that legislators attempted to eliminate competition by requiring a filing date advantageous to Democrats and Republicans. The legislature is responsible for guaranteeing the rights of all Alaska citizens--not just members of the largest parties.

I don't know what the thinking is behind this bill, but it seems to me that it restricts the democratic process rather than opening it up. Actions of this sort run contrary to the judicial precedents that are being set in our region and others as well.

I will be happy to answer any questions you may have. Please be aware two Libertarians also won a similar case two years prior to mine. Unless the primary election is moved to June 1st, I can't see any court upholding an early petition deadline requirement.

Jim Sykes

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-3450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 18, 1995

SUBJECT: Communication from Jim Sykes regarding section 10 of
HCS CSSB 5 (STA) (Work Order No. 9-LS0075\O)

TO: Representative Jerry Mackie
ATTN: Dave Gray

FROM: Jack Chenoweth
Legislative Counsel

Jim Sykes did indeed sue the state. He was running, in the 1990 election, as a candidate by petition for the office of governor and filed the petition later than the August 1 deadline set in current law but just ahead of the August primary election. The superior court found the August 1 deadline unconstitutional and said that, under the circumstances in which Sykes raised his challenge, any deadline which precedes the date of the primary election would not pass constitutional muster. The names of Sykes and a companion candidate for lieutenant governor were ordered added to the November, 1990, general election ballot.

I can't tell by the context in which it is presented but one apparent flaw in this communication is that Mr. Sykes may perceive that the nomination by petition method will continue to be available as a means by which to obtain a spot on the general election ballot. If this bill passes in its current form, that is not true.

Taken together, several sections within HCS CSSB 5 (STA) propose to eliminate the nomination by petition method and replace it with the requirement that (except for write-ins) all names of nominees first appear on the primary ballot. Thus, it seems to me, there is a necessary relationship between that and the requirement that all filings for the primary election ballot be completed by June 1 (or some other specified deadline).

There are precedents in other jurisdiction to support the idea that the state may eliminate the nomination by petition directly to the general election ballot as an option and require some sort of preliminary winnowing of all the prospective candidates through participation in the primary election process. See *Riter v. Douglass*, 109 P. 444 (Nev. 1910), *Waples v. Marrast*, 184 S.W. 180 (Tex. 1916), 25 Am. Jur. 2d Elections, sec. 150. Setting a primary election nominating petition deadline seems to me a necessary part of the process. If you concede that the state may require all candidates to participate in the primary election, then Mr. Sykes's objections to the June 1 deadline are without merit.

JBC:klb
95-269.klb

AMENDMENT

OFFERED IN THE SENATE

To: SB ~~148~~⁵ (9-LS0997A)

Page 1, line 5:

delete the words "the back of"

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 5, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/22/95

The FINANCE Committee considered:

CSSB 5(STA)

CS FOR SENATE BILL NO. 5(STA)

ELECTION BALLOTS

"An Act prescribing the use and characteristics of voting booths employed in elections and the color of ballots used in state primary elections."

recommends it be replaced the same title
 with the following committee substitute HCS CS SB 5 (FIN) a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) office of gov 2/16/95

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i> Mulder	✓			
<i>[Signature]</i> Martin	✓			
<i>[Signature]</i> Kohring	✓			
<i>[Signature]</i> Grussendorf	x			
<i>[Signature]</i> Brown	✓			
<i>[Signature]</i> Theriault	x			
<i>[Signature]</i> Hanley	x			
<i>[Signature]</i> Foster	x			

CO CHAIR'S SIGNATURE

[Signature] Hanley *[Signature]* Foster

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 5

Revision Date: _____
Title: Election Ballots

Department Affected: Office of the Governor
BRU: Division of Elections
Component: General and Primary

Sponsor: Senator Kelly
Requestor: _____

COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
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FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY95) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: David Koivuneimi, Acting Director
Division: Division of Elections

Phone: 465-4611

Date: 2-13-95

Approved by Commissioner: Fran Ulmer, Lieutenant Governor
Agency: Office of the Governor

Date: _____

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NO OBJ
adp

4/22/95 pm 9-LS007510.2
Chenoweth
4/22/95

AMENDMENT 1

OFFERED IN THE HOUSE

TO: HCS CSSB 5(STA)

Brown

- 1 Page 4, lines 26 and 27:
- 2 Delete "The names for each office shall be rotated as provided for the general election
- 3 ballot."
- 4 Insert "The order of placement of the names for each office shall be [ROTATED]
- 5 as provided for the general election ballot."

Attachment 4

NO 0B1

4/22/95

adopted

AMENDMENT

2

OFFERED IN THE SENATE

To: SB ~~148~~⁵ (9-LS0997A)

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Sponsor Statement
CS SB 5 ()

Privacy of Voting

This past election many of the voters in my district and throughout the state complained about two things: different colored ballots and the new curtainless suitcase voting booths. This legislation is designed to address these concerns by ensuring the secrecy of ballots and the privacy of voting in two ways: by requiring that half of all booths at each precinct be curtained booths, and by having all primary ballots printed on white paper only.

As it stands now the secrecy of voting in this state is severely compromised. There simply have not been enough curtained voting booths at all polling places; in fact, my own precinct had just one curtained booth. As well, these new suitcase voting booths the division is utilizing have lower walls and no curtain, so that one can simply look over and see the ballot of the next voter. Finally, with the different colored ballots in the primary, as one carries their ballot and their stubs through the precinct, and when one wears their "I Have Voted" stubs the selection of ballot is obvious and not private or secret.

The ballot a voter chooses and how he or she casts their vote is a secret matter, not to be shared indiscriminately without consent. The secret ballot is one of the basic protections in a democracy. This legislation remedies these corruptions of the voting process, and carries a zero fiscal note.

4/22/95 pm

9-LS007510.2

Chenoweth

4/22/95

NO OBJ
adopted
AMENDMENT 1

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TO: HCS CSSB 5(STA)

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Attachment

4/22/95

ND 0B)

adopted

AMENDMENT

2

OFFERED IN THE SENATE

To: SB ⁵~~48~~ (9-LS0997A)

Page 1, line 5:

delete the words "the back of"