

HB

94

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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MEMORANDUM

April 11, 2005

SUBJECT: CSHB 94(JUD)
(Work Order No. 24-GH1048/S)

TO: Representative Lesil McGuire
Attn: Vanessa Tondini

FROM: Kathryn L. Kurtz *KL*
Legislative Counsel

Enclosed is the final committee version you requested.

The amendments made by the committee raised a number of drafting issues. Note that amendments 2, 3, and 4 were not drafted by our office (although they had my name on them, perhaps in an effort to identify the bill version they were amending). Please ask the drafter of those amendments not to draft their own amendments in a manner that suggests they came from us.

Please review the language implementing conceptual amendments 1 and 15 (both amending AS 15.20.081(d)). I do not see any legal effect of adding the words "under penalty of perjury," since that language is part of the certification already required under AS 09.63.020, referred to in the existing AS 15.20.081(d). However, I have reworded the last sentence in the subsection to make this more obvious. I have also inserted a new section into the bill amending AS 15.20.030 to require the notice necessary to make a false statement by a witness punishable as unsworn falsification under AS 11.56.210. This section also makes a conforming change, from "witnesses" to "witness."

Amendment 2 changed AS 15.45.130(8) and the corresponding sections relating to referenda and recalls to remove the requirement that petition circulators attest that they have listed the name of each person or organization paying the circulator to circulate the petition on the petition, and to require disclosure of that information in the circulator's affidavit only. The requirement in AS 15.45.090(a)(5) and the corresponding sections that the lieutenant governor provide sufficient space on each petition signature page for this information should be repealed as well, unless there is some aesthetic desire for additional white space, or a spiritual need for a koan in the statutes. Please pass this on to your colleagues in the Finance Committee.

Amendment 4 added "or" in AS 15.60.010(23). This draft incorporates that change, but please note that it is directly contrary to the drafting manual, which states: "[a]fter

Representative Lesil McGuire

April 11, 2005

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deciding whether 'and' or 'or' is appropriate in a listing of several items, include the 'and' or 'or' only between the last two items in the list, not between each of the items." Manual of Legislative Drafting at 57. This is a stylistic choice that is applied throughout the Alaska Statutes; including the extra "or" is not necessary and could undermine other statutes by opening the door to the argument that the list should be read as "and, and, or." Please help us maintain the stylistic continuity that is one of the great virtues of the statutes in our state by alerting your colleagues in Finance so this can be fixed in that committee. Note that the Manual is subject to approval of the Legislative Council; if the committee feels strongly that the and/or list question has been resolved incorrectly in the current drafting manual, the solution is to change the manual, and all existing statutes where the form is used, rather than taking a piecemeal approach.

Please review the implementation of the conceptual amendment 2 to amendment 11, amending AS 15.15.430 to ensure that it captures the committee's intent.

KLK:med
05-245.med

Enclosure

Joe Sonneman, Ph.D. (Government), J.D.
324 Willoughby, Juneau AK 99801

March 22, 2005

Rep. McGUIRE, CHAIR

House Judiciary Committee
State Capitol, Juneau AK 99801

Re: CSHB 94 (STA)

Thank you for the opportunity to testify yesterday on this important Elections procedures bill and some amendments. Because so many Committee members had to leave for other functions, I am also sending in my testimony in print, so that those members can read it also.

A brief introduction: I've been an Alaskan for 33+ years, earned a Ph.D. in Government (Public Finance, writing about the effects on Alaska State budgeting styles of the North Slope Oil Lease Bonus Sale), and a J.D. (cum laude) from Georgetown. I worked many Alaskan jobs, from fighting a forest fire to building a mountain hiking trail, to commercial fishing, delivering the mail, driving tour bus and cab, reporting on the Legislature for the All-Alaska Weekly and other newspapers and TV, teaching at the University of Alaska and working as a State budget analyst and department internal auditor. I filed suit against the State for ending the rotation of candidate names and in late 2004 I chaired "Alaskans for Fair Elections," the group which got a Recount of the U.S. Senate race in order to check the accuracy of our computerized optical scan voting machines. I am here writing independently, not representing any group I may or may not be a member of.

POSITIONS:

I FAVOR the passage of CSHB94 (STA).

I also FAVOR the amendment that would require a hand count of one precinct per district in each election.

I OPPOSE the G.12 amendment that would radically increase the amount of deposits Recount requesters would have to post.

Details

Section 10 I particularly favor the passage of Section 10, which brings back to Alaska some of the benefits of rotation of candidate names on ballots, with no or little cost.

Short History: People have not always known about statistics. But about 150 years ago, people did begin to understand statistics. In time, though, statisticians began to look at voting patterns. Especially when there were long lists of unknown candidates—as with elected judges in New York, for example—they discovered that people had a tendency to vote more often for whoever was first on the list ... and, to a lesser extent, to whoever was last on the list. Even Woodrow Wilson [only political scientist to become President] wrote about this 'positional bias', about 1911 or so.

As candidates began to read about these findings of political science, in this age when candidates' names were listed alphabetically on the ballot, more astute candidates actually began to change their names—for example, from Monkey to Aardvark—so as to get that favored first-position slot!

To combat candidates who were 'gaming the system,' a number of States and Territories—Alaska among them—set up a system of ballot rotation. Under the Alaska system, for each office, Alaska printed as many types of ballots as there were candidates. If there were, say, three candidates, there would be three ballot types, and on each a different candidate would be in the top, middle, and last position. The first voter would get a ballot from stack A, the second voter a ballot

from stack B, the third voter a ballot from stack C, the fourth from stack A again, and so on.

This system lasted with few problems for about 70 years. Then, about 1996, a new governor and lieutenant governor were elected and the Lt. Governor's Task Force recommended doing away with ballot rotation, allegedly, to save money. The task force claimed a savings of about \$180,000, but the Supreme Court actually found that Elections itself admitted saving only about \$60,000.

In any event, that system of ballot rotation ended.

Since 1998, instead for each House District, the Division of Elections draws all 26 letters from a box in random order, and candidates are listed in the order of those letters. This system is fair, but, assuming that there IS a positional bias [and recent studies dispute this, especially if there is strong Party identification ... something not true in Alaska, where so many people register as Independent or no party and say "I vote for the person, not the Party"], the present system gives ONE person ALL of whatever positional bias there may be.

Because so many elections in Alaska are close, this means that often the winner may be decided by the drawing of letters, not by the votes of voters. So the method may be FAIR, but the present method is a DRAWING and NOT an ELECTION.

The creative proposal that passed State Affairs brings back much of the benefit of ballot rotation ... but it does so by rotating candidate names BY HOUSE DISTRICT, not by ballot. Of course this means that there are 40 'rotations' possible for statewide candidates (Governor, Lt. Governor, U.S. Senator, U.S. Representative) and two rotations possible for State Senate races. This method does NOT allow for any rotation for State House races, however ... but, on the other hand, this method does not cost any more than the method Alaska is now using.

So Section 10 provides a clear advantage over the present system, at NO additional cost.

I agree, this partial rotation by House District is not as good as the full ballot rotation method that Alaska used and could afford for about 70 years, during most of which time Alaska had NO oil revenue, so it is a mystery to me why Alaska cannot afford full ballot rotation now, when Alaska has BILLIONS of oil revenue, but that broader question I leave to you to ponder. My understanding is that last year House State Affairs passed a full ballot rotation bill, but—perhaps for fiscal reasons—it did not pass.

This year's creative Section 10 allows the rotation of candidate names for all offices involving two or more House Districts and costs nothing extra. So it's a clear win-win. Please pass it.

Section 19 Section 19 just lets the Elections director pick vote tally machines and systems that meet certain Federal requirements. It was already Alaska law, passed last year, that any such machines must also create a paper trail that the voter could check [to make sure the machine voted as instructed] and to be used in any recount. House State Affairs rightly added a final sentence to make this requirement EXPLICIT and not just implied. Good work! Please include the final sentence when you pass Section 19.

The Automatic 5% Hand Count Amendment You will have offered to you an important amendment which would require that in every election, at least one precinct per House District (comprising at least 5% of the voters of that District) shall be hand counted. Please PASS this amendment.

Time have changed. Alaska now has computerized optical scanners and is moving towards computerized DRE [direct response electronic] voting machines. DRE machines have NO paper to vote on [but, thanks to AS 15.15.032, must have a paper receipt for voter double-check and for use in any recount].

We now have only ONE civil service programmer who programs ALL the optical scanning machines used in Alaska elections. That person seems to be a fine, honorable, upstanding person; no one thinks other-wise.

But all the same, if you are running a bank with just ONE teller or cashier, no matter how long that person worked for the bank, it's only responsible bank management to AUDIT that teller or cashier from time to time.

A hand count of actual ballots [in optical scanning] or a hand count of paper receipts [with DRE machines] or a recount that includes a hand count -any of these perform an audit function for elections, the same way that a bank audit performs it for the bank.

Why is this necessary? At State Affairs, which had but defeated a similar amendment, some members said "Why defend against a problem we don't have yet?"

The answer is, because, with computers involved, only the programmer may know when something's gone wrong, and maybe not even then. What if someone makes 'an offer you can't refuse' to the ONE programmer for ALL of the State's elections? What if someone succeeds in hacking into the State's computers?

So I see this as being similar to a pedestrian crossing over a horse path. Only now there are cars racing along the road. And the maker of this amendment-and, I can tell you from having talked and worked with them, many members of Alaskans for Fair Elections-believe that in this computerized age, Alaska needs the equivalent of a 'traffic light' at this crossing, even if 'no one has died' yet. That is, Alaska needs this 'automatic hand count' "audit equivalent", even if no election has yet been stolen by computer in Alaska. At State Affairs, in essence, some member said, why put up a traffic signal if no one died yet, but the problem is, if 'someone dies', that is, if an election is stolen by unfair computer programming or 'hacking', none of

us non-programmers will know about it.

So this is a very important amendment, necessary to this present and increasingly computerized age.

Please pass the amendment that calls for automatic hand count of at least one precinct (of 5% of the District's population) in every election.

Finally (for me, though there are many other aspects to HB 94),

Please follow the lead of House State Affairs and KILL the Amendment G.12 that would drastically increase the cost of Recount Deposits [and make liability unlimited].

Here's why:

1. Recounts Perform a Needed Audit Function. I chaired Alaskans for Fair Elections and I, with Prof. David Koester (UAF), wrote a draft White Paper on Elections, based on our experience. Prof. Koester's essay in that White Paper said Recounts have an audit function in elections, much as cash audits have to a bank or business.

The threat of Recounts [voting counting audits] helps prevent election fraud. Actual Recounts help catch intentional error or fraud in elections, just as actual audits help catch fraud or error in accounting for money.

2. Raising the Deposit Is Like Telling Everyone Alaska Rarely Aud' Elections. So if Alaska announces a huge and unlimited increase in liability for Recounts, that's equivalent to Alaska announcing that it's not going to audit elections very often, that it's going to audit elections RARELY. And THAT is just like issuing an invitation to vote fraud specialists.

3. The Deposit is ALREADY too High. At \$10,000, the Deposit requirement for statewide recounts is already too high, because the time period allowed is just five (5) days. Alaskans for

Fair Elections members are not, so far as is known, personally wealthy. AFE raised its money via a website and small contributions .. which, in just 5 days, totalled just \$9,600. An AFE member had to chip in the last \$400. So if we could not really raise the whole \$10,000 in five days, or just barely, then a \$50,000 requirement would be IMPOSSIBLE to meet. As is, statewide recounts occur only about once every 10 years, so there is no present abuse of the process.

4. Recount Deposits are Not "User Fees"

The Proposed Amendment treats those who request Recounts as if they alone were the users and beneficiaries of the Recount. That's just not true. Alaska lets citizens [as well as candidates] ask for recounts. All Alaskans, all candidates, and Alaska's government itself all benefit by knowing the election count was accurate. So since everyone benefits, Government (everyone) ought to pay ... not just the people who request a Recount. The "user fee" approach is WRONG thinking and will produce a wrong result.

5. Four Percent is Too High

The G.12 Amendment let's Elections keep the Recount Deposit even if Election's own initial count was wrong by 3,999 votes out of 100,000 votes cast. That's quite a bit of sloppiness, yes? If Recounts are automatic when the challenger is within 0.5% of the winner, isn't it fair for Elections to have to refund Deposits when the initial count by Elections is more than 0.5% off the Recount total? That would be 500 votes off per 100,000, not 4,000 per 100,000. In the 2004 Recount, the biggest precinct variation I remember was only 7 votes, and there was no persistent trend. No need for Elections to have so wide and sloppy a margin of error. Hold Elections to a tigher standard.

6. No Unlimited Spending for Elections.

The G.12 amendment also in its last sentence makes the liability of Recount requesters unlimited! That means, Elections need have no thought of operating the Recount in a cost effective manner, if it can almost always go after the Recount Request group and get paid whatever it costs. That's wrong.

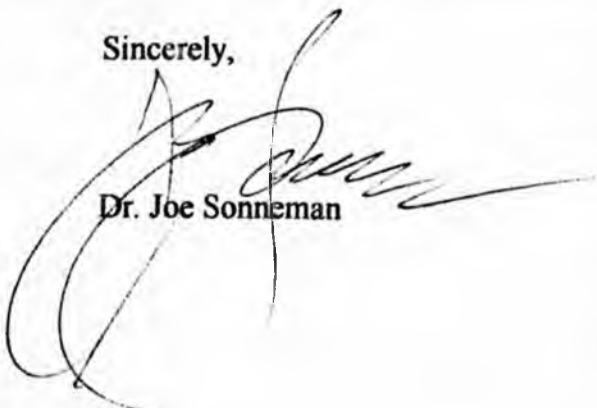
Elections needs to economize, just like other parts of Government. Unfair to tag requesters with what could be 'gold-plated' Recounts. Recount request candidates and groups need to know how much they need to raise, and they should not have to face an unlimited kind of blank-check liability here.

7. Too Severe a Line

The G.12 Amendment offers free Recounts to candidates who trail by 0.49%, but would cost candidates who trail by 0.51% or more \$10,000 per District or \$50,000 statewide. That's a pretty STEEP jump in cost, for too narrow a margin difference in votes. That method implies that if you trail by 0.51%, your request for a Recount is "frivolous." But in fact, that's NOT frivolous. The State of Maine uses a graduated system, with the Recount Deposit increasing in amount as the difference in votes widens. House State Affairs seemed to think that was too complicated a method, but I think that would be more fair than the too-step dividing line that Amendment G.12 proposes. But, as others among Alaskans for Fair Elections point out, any good computer programmer or hacker can defeat even the State of Maine method by making the result come out over 10% different and so incur the maximum Deposit amount.

So for all these reasons, please follow the lead of House State Affairs and DEFEAT amendment G.12 [the amendment that would drastically increase the Deposit for Recounts].

Sincerely,


Dr. Joe Sonneman

JUNEAU ENQUIRY
MARCH 3 2005
P. A 4



HB 94



Letters to the editor

Make hand recounts easy in the future

When the House State Affairs Committee took up HB 94 dealing with various reforms to our election process, Rep. Berta Gardner introduced an amendment calling for automatic manual counts of election results of at least 1 precinct per district. And the precinct is to have at least 5 percent of the district's voters in it.

I applaud Rep. Gardner's effort to put this idea forward. I believe it is an important element in improving Alaska elections and would give citizens greater confidence in the democratic process.

While the House State Affairs Committee did not see fit to add that provision to its version of the bill, the House Judiciary, Senate State Affairs, and Senate Judiciary committees should take up this excellent idea and include it in the legislation currently before them.

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Some may say we do not have a problem of computer hacking in Alaska that would indicate a need for such measures. It would be wise to be proactive in setting procedures in place that would uncover any such tampering should there be a reason to suspect it some time in the future. This is not a wild speculation. There are well-founded suspicions that this may have occurred elsewhere already.

We should oppose any bill that raises the fee for requesting a hand recount. It was extremely hard to raise the \$10,000 fee currently in Alaska law. Provisions that would tie recount fees to a margin of difference between candidates wouldn't make much sense, since anyone bent on fraud involving programming could get whatever margin they wanted.

And an increase in the price of statewide recounts from \$10,000 to \$50,000 to start, and responsibility for anything the Division of Elections spends over that amount, currently part of the House State Affairs version of HB 94, would be a serious setback for democratic processes for the citizens of Alaska and should be removed.

Another important electoral reform that should be adopted would let felons vote again once released from prison, even if on probation or parole.

Amy Palge
Juneau

Letters to the editor

Fair recounts should be a right

Ben Brown's opinion piece in the Empire Feb. 2 proposes a dangerous and undemocratic position. Mr. Brown, who has been a campaign worker for Republican candidates, says the Legislature should raise the amount charged to persons wanting ballot recounts from the current "mere" \$10,000 to \$50,000 so that "money is not wasted" in needless recounts.

What would the effect of this change be? It would be that fewer candidates could afford recounts, pure and simple. Higher charges for recounts means only the wealthier candidates and their well-off supporters could afford recounts. And who would likely be the beneficiaries of fewer recounts? The candidates of the party that has always had more money behind it, the Republicans.

Let us look at the fundamentals here. Isn't running a fair election a core duty of government? We can outsource a lot of government functions, but should we outsource the duty to ensure fair ballots and fair recounting? Why should making sure that ballots are counted properly be a right that only private persons can invoke, and only private persons with substantial funds?

We long ago abandoned the idea that only the wealthy could vote. That is why the Constitution forbids poll taxes and other devices to give votes only to the wealthy. Why would we even consider making the right to a fair recount depend on wealth?

Until the day comes when every voter has confidence that every ballot is properly counted, every election, we need fair and full recounts. And because

voting is a right that should not depend on wealth, we should not have the right to a recount depend on whether you have \$50,000 in spare funds. If there is one expense that should be long to the state, it is to provide for a fair recount of our vote.

Douglas K. Mertz
Juneau

Win at Berner and move on

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Letters to the editor

time and continuity that we measure our residence in decades or centuries simply be able to fully appreci-

this mean for a Does it mean should be for- icted? No, but n't be easy. beted that no ne Alaska chitec- 8 future, ture, as its ill miss. an a big public s of input, I sug- designer do his at we have one ar- s give him a chance to und.

ott H. Miller
Juneau

Affordable recounts

Amy Paige makes several good points in her March 3 letter, "Make Hand Recounts Easy." Nothing is more central to the functioning of a democracy than the right to vote and to know that your vote has been counted correctly. The recount is one way to protect the validity of our elections. Some folks, fearing frivolous recounts, want to raise the cost to citizens who might feel a recount is warranted. An increase will put the recount beyond the reach of the voting public. If an increase in the recount fee from \$10,000 to \$50,000 goes into effect, citizens will have one less avenue available to them to se-

cure fair elections. Raising \$10,000 in the short time allotted for the filing of a recount is not an activity that lends itself to frivolity unless the money is being raised by the wealthy.

Several factors came together in the November election nationwide to create doubt in many members of the voting public as to the fairness of the election: memories of the 2000 election, the shift to electronic voting and the concerns surrounding the partisan connections of the three major voting machine providers, the expected closeness of the election, the climate of fear stemming from 9/11, the anomalies in the exit polls, and the polarization of the voting public. With all of these factors converging at one point in time, it is not surprising that large numbers of voters were uneasy with the election results.

What did Alaskans learn from their recount in December? They learned that Alaska election officials know how to run a recount in a manner that is professional, and that safeguards put in place over the years by the Office of the Lieutenant Governor can be depended upon for an accurate vote count. In contrast, the recount in Ohio is still generating court filings and recriminations. If the recount costs equaled \$50,000, as reported shortly after the recount was completed, it seems a reasonable price for the state to pay to bolster confidence in our election system. The burden should not fall totally on private citizens because the fairness of the voting process is a bipartisan concern that all citizens share.

Judy Andree
Juneau

Don't raise cost of recounts

By NINA MOLLETT

As one of the people who requested the recount of our U.S. Senate race, I am distressed that a successful exercise in democracy is being used as an excuse to raise the fee citizens must pay to a prohibitive amount.

Currently, Alaska law requires that citizens put up \$10,000 for a statewide recount. As we just learned, that is a very difficult amount to raise in five days. Any more would not be feasible.

A recount amounts to an audit, and as such should be part of the cost of doing business. The cost to the state was minor in comparison to other costs, such as \$238,000 to reprint a poorly worded ballot, which could have been easily avoided, and would have paid for six recounts at \$40,000 each.

Recent editorials have presumed that the recount was a waste of time and money. It was not. It was educational, and most of us were reassured that the vote count in a race that attracted extraordinary outside interest, was indeed fair. This was not true of recounts in other states. In Ohio, for example, the hand recounts were not done randomly, elections officials acted defensive in a thousand ways, and citizens were far from reassured.

Experts in voting technology recommend that a statistically valid number of random hand recounts be done routinely after elections. A costlier idea would be to conduct a complete recount every elec-

tion. That would amount to duplicate data entry, which is often used in social science research to ensure accuracy. The audit method we use, requiring that citizens request and pay a portion of the cost of a recount, is cheaper because it only occurs occasionally (once in the last 10 years), but acts as a deterrent to fraud because it is always a possibility. If the cost is raised further, we lose the deterrent effect of our law. We also lose the point of having paper ballots if we never actually recount them.

Alaska is one of the few states that still gets high marks for its safeguards and basic fairness. As lieutenant governor, Fran Ulmer bent over backwards to be fair to all sides. Loren Leman inherited the system she designed so well, and all he needs to live up to our history is to be fair, too. Elections Chief Laura Glaiser has so far done a commendable job; she took the new touchscreen computers out of commission until they are outfitted with a paper record. She ran the recount fairly. People in other states who are worried about their elections systems are looking to Alaska as a model.

One of the things we found reassuring was that we program our own elections and the vendor, Diebold, has little to do with the election process in Alaska. This highly partisan company has been in the news for its tawdry behavior a bit too much. The New York Times ran an editorial about Diebold's lack of integrity. It was good to find out that their

role is confined at this point to repairing machines. I hope we keep it that way.

This issue may appear partisan to some. Democrats and independents have been feeling most threatened lately, nationwide. But of course, vote tampering is as old as elections themselves and the chips can fall either way. In Washington state right now it is Republicans who are arguing that the state and its taxpayers should pay not thousands but millions, not for a recount but a revote.

Republicans in the Alaska legislature could bully through this idea to raise the amount citizens must raise to a prohibitive \$50,000. But please reconsider. Last year a bill passed with bipartisan support requiring a paper trail by 2006 in any voting machine used in Alaska. In the current atmosphere of nationwide concern, it makes no sense to weaken our safeguards. Instead, we should be looking for ways to strengthen them further. Random hand recounts for example, conducted after each election, could ensure accuracy and ward off or catch tampering.

Here in Alaska we can still pride ourselves on a system that is not corrupt. But we must not allow it to erode, and that could happen easily.

The House State Affairs Committee may try to attach this astronomical fee hike as an amendment to a more general voting bill, HB94, on Tuesday. I urge citizens concerned about election integrity to contact their legislators.

• Nina Mollett is a Juneau resident and freelance writer.

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE

TO: CSHB 94(STA), Draft version "F"

Page 11, line 5:

Following "signature"

Insert "date of signature"

Page 11, line 31:

Following "substance":

Delete "that"

Page 12, line 1:

Following "(1)":

Insert: "that"

Page 12, line 3:

Following "(2)":

Insert: "that"

Page 12, line 4:

Following "(3)":

Insert "that"

Page 12, line 5:

Following "(4)":

Insert **“that”**

Page 12, line 7:

Following **“(5)”**:

Insert **“that”**

Page 12, line 9:

Following **“(6)”**:

Insert **“that”**

Page 12, line 11:

Following **“(7)”**:

Insert **“that”**

Page 12, lines 13 – 17:

Delete all material and insert:

“(8) whether the circulator has received payment or agreed to receive payment for the collection of signatures on the petition, and if so, the name of each person or organization that has paid or agreed to pay the circulator for collection of signatures on the petition.

Page 13, line 24:

Following **“signature”**

Insert **“date of signature”**

Page 15, line 2:

Following **“substance”**

Delete **“that”**

Page 15, line 3:

Following **“(1)”**:

Insert: **“that”**

Page 15, line 5:

Following **“(2)”**:

Insert: **“that”**

Page 15, line 6:

Following **“(3)”**:

Insert **“that”**

Page 15, line 7:

Following **“(4)”**:

Insert **“that”**

Page 15, line 9:

Following **“(5)”**:

Insert **“that”**

Page 15, line 11:

Following **“(6)”**:

Insert **“that”**

Page 15, line 13:

Following **“(7)”**:

Insert **“that”**

Page 15, lines 15 – 19:

Delete all material and insert:

“(8) whether the circulator has received payment or agreed to receive payment for the collection of signatures on the petition, and if so, the name of each person or organization that has paid or agreed to pay the circulator for collection of signatures on the petition.

Page 17, line 1:

Following “signature”

Insert “date of signature”

Page 18, line 17:

Following “substance”:

Delete “that”

Page 18, line 18:

Following “(1)”:

Insert: “that”

Page 18, line 20:

Following “(2)”:

Insert: “that”

Page 18, line 21:

Following “(3)”:

Insert “that”

Page 18, line 22:

Following “(4)”:

Insert “that”

Page 18, line 24:

Following **“(5)”**:

Insert **“that”**

Page 18, line 26:

Following **“(6)”**:

Insert **“that”**

Page 18, line 28:

Following **“(7)”**:

Insert **“that”**

Page 18, lines 30 – 31, and page 19, lines 1 – 3:

Delete all material and insert:

“(8) whether the circulator has received payment or agreed to receive payment for the collection of signatures on the petition, and if so, the name of each person or organization that has paid or agreed to pay the circulator for collection of signatures on the petition.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB94
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title "An Act relating to qualifications of voters, requirements and procedures regarding..." RDU Elections
 Component Elections
 Sponsor House Rules Committee
 Requester House State Affairs Committee Component No. 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual		16.8		16.8		16.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	16.8	0.0	16.8	0.0	16.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		16.8		16.8		16.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	16.8	0.0	16.8	0.0	16.8

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Current law requires the Division to send written verification to voters in the affected precinct when a polling place change occurs. If passed as amended, this legislation would require the Division to provide notice of change by publication in a local newspaper of general circulation, in addition to the written notice currently mailed. The cost of the additional notice in a newspaper is estimated at 19.0 for publishing polling place locations prior to a primary and general election.

Current law requires the Division to provide notice of a precinct boundary change by publication on three different days in a local newspaper. If passed as amended, this legislation would reduce the number of days a precinct boundary change is published in a local newspaper from three days to one day. Reducing the notice to one publication is estimated to save the Division 2.2. A total of 16.8 will need to be added to the Division's Primary and General budget in future years.

Prepared by: Lauri Allred, Administrative Assistant Phone 465-5347
 Division Division of Elections Date/Time 3/17/05 4:36 PM
 Approved by: Laura A. Glaiser, Director Date 3/17/2005
 Agency Office of the Lt. Governor, Division of Elections

RECEIVED
FEB 16 2005
DIVISION OF ELECTIONS

24-GH1048\G.12
Kurtz
2/11/05

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 94(STA), Draft Version "G"

1 Page 8, following line 12:

2 Insert a new bill section to read:

3 **** Sec. 15. AS 15.20.450 is amended to read:**

4 **Sec. 15.20.450. Requirements of deposit and recount cost.** The application
5 must include a deposit in cash, by certified check, or by bond with a surety approved
6 by the director. The amount of the deposit is \$2,500 [\$300] for each precinct, \$10,000
7 [\$750] for each house district, and \$50,000 [\$10,000] for the entire state. If the
8 recount includes an office for which candidates received a tie vote, or the difference
9 between the number of votes cast was 20 or less or was less than .5 percent of the total
10 number of votes cast for the two candidates for the contested office, or a question or
11 proposition for which there was a tie vote on the issue, or the difference between the
12 number of votes cast in favor of or opposed to the issue was 20 or less or was less than
13 .5 percent of the total votes cast in favor of or opposed to the issue, the application
14 need not include a deposit, and the state shall bear the cost of the recount. If, on the
15 recount, a candidate other than the candidate who received the original election
16 certificate is declared elected, or if the vote on recount is determined to be four percent
17 or more in excess of the vote reported by the state review for the candidate applying
18 for the recount or in favor of or opposed to the question or proposition as stated in the
19 application, the entire deposit shall be refunded. If the entire deposit is not refunded,
20 the director shall refund any money remaining after the cost of the recount has been
21 paid from the deposit. **If the cost of the recount exceeds the amount of the deposit,**
22 **the recount applicant shall pay the remainder upon notification by the state of**
23 **the amount due.**

- 1
- 2 Renumber the following bill sections accordingly.
- 3
- 4 Page 21, line 4:
 - 5 Delete "secs. 20 - 43"
 - 6 Insert "secs. 21 - 44"

Political Party Status /Percentage of Registered Voters

2004

Number of registered voters on General Election Day	472,160			
3% of those who voted for US Senate	9,329			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	
3% of those who voted for US Representative	9,298			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	Green
2% of those registered to vote 4/03/04	8,977			
Parties who would have qualified		Republicans	Democrats	AIP

2002

Number of registered voters on General Election Day	460,855			
3% of those who voted for Governor	6,986			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	
3% of those who voted for US Senate	6,986			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	Green
3% of those who voted for US Representative	6,986			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	Green
2% of those registered to vote 04/02/02	8,964			
Parties who would have qualified		Republicans	Democrats	AIP

2000


Number of registered voters on General Election Day	473,648			
3% of those who voted for US Representative	8,519			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	AIP Green
2% of those registered to vote 4/03/00	9,094			
Parties who would have qualified		Republicans	Democrats	AIP

Director's Office
PO Box 110017
Juneau, Alaska 99811-0017
907.465.4611 907.465.3203 FAX
elections@gov.state.ak.us

Regional Offices
Anchorage 907.522.8683
Fairbanks 907.451.2835
Juneau 907.465.3021
Nome 907.443.5285

STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

TO: Representative Lesil McGuire, Chair
House Judiciary Committee

FROM: Laura A. Glaiser, Director 
Division of Elections

DATE: March 15, 2005

SUBJECT: Scheduling Request: CSHB 94 (STA) – pending referral

I respectfully request that you schedule Committee Substitute for House Bill 94 (STA), "An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration and voter registration records, voter registration through a power of attorney, voter registration using scanned documents, voter residence, precinct boundary and polling place designation and modification, recognized political parties, voters unaffiliated with a political party, early voting, absentee voting, application for absentee ballots through power of attorney, or by scanned documents, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, qualifications for elected office, initiative, referendum, recall, and definitions in the Alaska Election Code; relating to incorporation elections" for a hearing in the House Judiciary Committee at your earliest convenience.

This bill passed out of the House State Affairs Committee today, with multiple amendments, one in particular, which certainly requires a fiscal note. As neither the CS nor the fiscal note has been prepared, I am not attaching them with the request. The bill, fiscal note, and all "back up" material will be provided to you as soon as possible.

Please let me know if you have any questions or need additional information from me.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS HB94(STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title "An Act relating to qualifications of voters, requirements and procedures regarding..." RDU Elections
 Component Elections
 Sponsor House Rules Committee
 Requester House State Affairs Committee Component No. 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual		16.8		16.8		16.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	16.8	0.0	16.8	0.0	16.8

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		16.8		16.8		16.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	16.8	0.0	16.8	0.0	16.8

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Current law requires the Division to send written verification to voters in the affected precinct when a polling place change occurs. If passed as amended, this legislation would require the Division to provide notice of change by publication in a local newspaper of general circulation, in addition to the written notice currently mailed. The cost of the additional notice in a newspaper is estimated at 19.0 for publishing polling place locations prior to a primary and general election.

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Prepared by: Lauri Allred, Administrative Assistant Supervisor Phone 465-5347
 Division Division of Elections Date/Time 3/17/05 5:26 PM
 Approved by: Laura A. Glaiser, Director Date 3/17/2005
 Agency Office of the Lt. Governor, Division of Elections

ADDENDUM TO TESTIMONY
to the
HOUSE JUDICIARY COMMITTEE

DATE: April 7, 2005
FROM: Jim Sykes
RE: HB94

Dear Madam Chair and Members of the House Judiciary Committee,

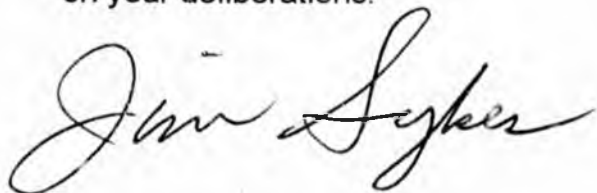
Yesterday I testified on a couple of items on HB94 and a couple of people said they didn't fully understand my testimony, so this is a brief clarification.

1) Regarding the "D" subsection defining a political party by number of registered voters, I recommended that you make the requirement the same as the number of signatures for a nominating petition. That is 1% of the number who voted in the Governor's race. Since it is many times more difficult to register people to a specific political party than get a signature for a nominating petition, the number easily meets the requirement for a "modicum of support". I believe it is simple, good and defensible public policy that is in line with State Supreme Court rulings.

2) Regarding the requirement of a proposed \$50,000 deposit for a statewide recount, I do not support the 500% increase. What I suggested is that an automatic hand count verification take place for at least 40 precincts of the 439. If that takes place, I strongly doubt that there will be requests such as the recount request on the U.S. Senate race. It would be premature to enact a rise in the deposit amount without implementing an automatic verification recount first and finding out if additional requests are made. Raising the deposit risks making fair elections inaccessible to those who are not rich.

Only after an election can one determine whether there was a machine problem, a programming problem, a hacking problem, or something else. Without after-election verification there is no proof that some problem didn't affect the election.

I hope this clarifies my previous testimony. Thank you very much. Good luck on your deliberations.



Jim Sykes 745-6962

Subject: Public Testimony/Comment on HB94 House Judiciary Committee

Date: Fri, 1 Apr 2005 11:20:46 -0900

From: David Koester <swarming@mosquionet.com>

To: Fairbanks_LIO@legis.state.ak.us

To the House Judiciary Committee:

You are now considering a bill that would raise the cost of voter-initiated statewide recounts to \$50,000. In essence, you are now considering a bill that would eliminate voter-initiated statewide recounts. In the electronic age, a vote recount is one of the means by which vote-tally security can be maintained. Regular audits of the system need to be conducted to prevent or catch, fraud, hacking or systematic machine error. Alaska has an excellent system to check the functioning of voting machine settings and insure that the optical scanning machines are set the way that they should be. Alaska does not, and cannot, however, control the hard programming of the machines, including the programming by which the machines receive instructions. It is important to understand that, in theory, any card that enters an optical scanning machine can reprogram the machine. Any electronic hookup of the machine via modem also presents a security risk. These risks are an unavoidable downside of electronic technology. The upside is that using optical scanning of physical ballots means that it is always possible to recount those paper ballots and that this can be done efficiently and securely by a combination of machine and hand recounting.

There are two good security options.

One that is recommended by voting experts is random hand recounts of every election. Depending on the distribution of machines, recounting of something less than ten percent of precincts or machines could provide very secure results.

Alternatively, allowing for occasional recounts that check the integrity of the whole system can catch errors when there is reason to think they might have occurred. This is possible with voter-initiated recounts, the system we currently have. The potential for a recount not only checks the count done by the machines but offers a significant disincentive for anyone who would seek to tamper with elections.

This past fall Alaskans for Fair Elections were barely able to raise the necessary funds in time for a statewide recount with the limit at \$10,000. Raising the limit to \$50,000 would open the system to considerable security risk because it would essentially remove the voter-initiated audit possibility.

It is important to note as well that most of the recount done in 2004 was done by machines, checked by random hand counts. This very secure procedure is much cheaper than that which could have been anticipated by the original legislation that called for a \$10,000 deposit.

Voting and the will of the voters is the heart of democracy. In the electronic age we need proper safeguards to protect the sanctity of this institution. Voter-initiated audits of the system is a critical safeguard that should not be put out of reach. The "G.12" amendment that would raise the fee for a statewide recount is not a good idea in the age of electronic vote tallying.

David Koester
Fairbanks

VOTER CERTIFICATE and IDENTIFICATION

By law your ballot cannot be counted unless you include your signature, have it witnessed and provide an identifier.

I declare that I am a citizen of the United States and that I have been a resident of Alaska for at least 30 days. I have not requested a ballot from any other state and am not voting in any other manner in this election. If I had this certification attested by witnesses other than an authorized official, it was because no official empowered to administer an oath was reasonably available. I certify that the foregoing is true and accurate.

**YOU MUST
SIGN
AND
PROVIDE
AT LEAST
ONE
IDENTIFIER**

VOTER'S SIGNATURE: _____

VOTER'S IDENTIFIER: _____ OR _____ OR _____ OR _____
Voter Number AK Driver's License # Date of Birth Last 4 of SSN

OPTION I - WITNESSING AFFIDAVIT

Official authorized to administer an oath.

SUBSCRIBED AND SWORN TO BEFORE ME:

This ____ day of _____, 20__ at _____
(City and State or Country)

Official's Signature: _____

Official's Title: _____

**YOUR
SIGNATURE
MUST BE
WITNESSED
BY ONE (1)
OPTION
PROVIDED**

OPTION II - WITNESSING AFFIDAVIT

If no authorized official is available, your certificate MUST be witnessed by two (2) persons over the age of 18.

Witness Signature: _____

Witness Signature: _____

City, State: _____ Date: _____

Review Board Use Only

Count Code _____ No Count Code _____

Purge Date: _____ Sequence No _____

Carolyn Holbert

From: Donald Anderson [don.anderson@softwarenorth.com]
Sent: Monday, March 21, 2005 2:22 PM
To: Rep. Lesil McGuire; Rep. John Coghill; Rep. Nancy Dahlstrom; Rep. Pete Kott; Rep. Les Gara; Rep. David Guttenberg; Rep. Tom Anderson
Subject: Amendment to HB 94



040321_HB 94
testimony.doc (39...

Chairman McGuire and members of the House Judiciary Committee,

I have prepared a few comments for the Monday 3/21/05 session of your committee.

I understand the meeting has been delayed and my teleconference line has disconnected so I will send the comments by e-mail.

I enclose my testimony in support of an amendment to be offered by Les Gara which mandates sample post-election audits to assure overall ballot count integrity.

Don

Donald N. Anderson, Ph.D.
Anchorage Alaska
907-561-4412 / 800-228-3846

HB 94.

My testimony:

Chairman McGuire, member's of the Judiciary Committee, my name is Donald Anderson.

I am a former member of the state election board and have been in the computer programming business for 40 years. I have run the software construction firm, Software North for the past 27 years.

I am familiar with the operation of computer-based electronic voting machines although I have no financial interest or association with any voting machine company. --- I will send copies of this testimony to members of the committee so no note taking is needed.

Based upon my background as a programmer and my experience with election oversight, **I support HB 94** as a necessary update to the language of our election laws.

My main point today is to speak in favor of Representative Gara's amendment to add **post-election audits** to the election process. I wish to thank Laura Glaiser, and Tom Godkin from the Division of Elections, and my Representative Berta Gardner for their input and emphasize that my testimony does not represent the Division's position. Please be aware that this amendment is intended as a backstop to other checks and procedures to ascertain if they have been compromised. It is virtually the only economical way of being sure the voting software has not been compromised at some stage. Deliberately causing the software to perform in a fraudulent manner is difficult and requires access to the memory cards at some point, so this must be classified as a low probability event.

We currently hand count the ballots in cases where the machine count is close. This however does not attempt to detect serious cases of vote theft which can skew an election decisively – outside the limits for an automatic recount.

Alaska's current Diebold voting machines where a paper ballot is scanned and secured for possible recount or audit are quite satisfactory, and much superior to any of the paperless devices. Last year the legislature added a

requirement for a paper audit trail in cases where we use the touch screen voting devices (the so-called DREs). Less than 2 months ago Diebold announced they were submitting for certification a device to print the required paper audit trail. It displays to the voter in a transparent window the results of his voting. This is a welcome development and provided it survives security testing makes the DREs a reasonable choice.

For both scanners and DREs, pre and post-election testing is touted by manufacturers as providing protection against fraud. This is not true!.

With access to the memory cards it is possible to add code that would be undetectable during pre and post-election testing. A trap door can be set to record erroneous counts only during the election hours. I will be glad to discuss the general means by which this is accomplished with those interested.

The best means of detecting election fraud is a post-election audit in which the marked ballots are hand counted and compared to the scanned totals, or the audit tape is compared to the reported totals.

The the audit team should not be informed of which precinct they are auditing and the comparative results should be posted on the Division of Elections website along with the scanned totals immediately. This will help maintain the confidence of our citizens in their elections.

Much of the value of the audit can be obtained with a small number of precincts.

A more rapid audit to check specifically for election day specific trap doors is to successively run after the election:

- 1) The test set used for pre-election testing,
- 2) The ballots scanned on election day, and
- 3) The test set again.

By comparing the results (and posting them to the website) any strange counts reported on election day may be detected. This method is not applicable to the DREs.

I thank you for your attention.

STATE OF ALASKA ABSENTEE BY MAIL APPLICATION

Refer to instructions on reverse side for specific information and identification requirements.
This application **MUST** be received **AT LEAST 7 DAYS** prior to the election. **APPLY EARLY.**

- 1. Are you a citizen of the United States? Yes No
- Are you at least 18 years old or will be within 90 days of completing this application? Yes No
- Are you a resident of Alaska? Yes No

If you checked NO to any of these questions, DO NOT COMPLETE THIS FORM.

2. Send ballot(s) for All in Calendar Year Primary Election General Election REAA/CRSA

3. Last Name: [REDACTED] First Name: [REDACTED] Middle Initial: [REDACTED] Suffix: [REDACTED]

4. Name Previously Registered

5. You **MUST** Provide the Alaska Residence Address Where You Claim Residency - do not use PO, PSC, HC or RR
House # [REDACTED] Street Name [REDACTED] Apt # [REDACTED] City [REDACTED] State [REDACTED]
FAIRBANKS ANCHORAGE ALASKA

6. Permanent Mailing Address City State Zip Code
FAIRBANKS ST ANCHORAGE AK 99503

7. Ballot Mailing Address City State Zip Code

8. You **MUST** provide at least **ONE**
- Social Security No. _____/_____/_____
 - Last 4 Digits of SSN _____
 - Alaska Driver's License No. _____
 - Alaska State ID Card No. _____
 - Alaska Voter No. _____
- I have not been issued a Social Security, Alaska Driver's License or State ID number.

9. You **MUST** provide Date of Birth ____/____/____
Month Day Year

10. Gender Male Female

11. Affiliation (Select only ONE)
- Alaska Democratic Party
 - Alaska Libertarian Party
 - Alaskan Independence Party
 - Green Party of Alaska
 - Republican Moderate Party, Inc.
 - Republican Party of Alaska
 - nonpartisan (no party affiliation)
 - undecleared (no party declared)

12. Primary Election Ballot Choice
- See reverse side (#6) for the parties that will appear on each ballot type
- Combined Party Ballot (available to any voter)
 - Democrat-Combined Party Ballot (available to any voter, except Republicans)
 - Republican Party Ballot (only available to Republican, undecleared and nonpartisan voters)

13. For Remote Alaska ONLY
If you are living, working, or traveling in a remote area of Alaska that does not have access to a polling place and would like a special advanced ballot mailed to you (mailed 60 days prior to the election), check this box.

14. Daytime Phone No. () _____
Evening Phone No. () _____
E-mail _____

15. For Military and Overseas Voters ONLY
- I AM (Check One):
- a member of the Uniformed Services or merchant marine active duty, or an eligible spouse or dependent.
 - a U.S. citizen temporarily residing outside the U.S.
 - other U.S. citizen residing outside the U.S.
- AND:
- Check this box if you would like to receive ballots for the next two regularly scheduled general elections at the ballot mailing address you provided above.

16. If you will be living, working, or traveling outside the United States and would like a special advanced ballot mailed to you (mailed 60 days prior to the election), check this box.

17. Voters Certificate. Read and sign below:
I swear or affirm, under penalty of perjury, that:
The information on this form is true, accurate, and complete to the best of my knowledge and I am eligible to vote in the request jurisdiction, I am not requesting a ballot from any other state, and I am not voting in any other manner in this (these) election(s).
I further certify that I have not been convicted of a felony, having been so convicted, have been unconditionally discharged from incarceration, probation and/or parole. I am not registered to vote in another state or I have taken the necessary steps to cancel that registration.

Voter Signature _____ Date _____
WARNING: If you provide false information on this application you can be convicted of felony and/or misdemeanor. (AS 18.56.050, AS 18.56.050)
Per Office Use Only

ADDENDUM TO TESTIMONY
to the
HOUSE JUDICIARY COMMITTEE

DATE: April 7, 2005
FROM: Jim Sykes
RE: HB94

Dear Madam Chair and Members of the House Judiciary Committee,

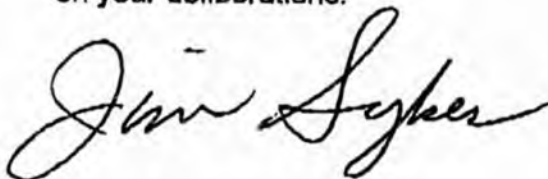
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I hope this clarifies my previous testimony. Thank you very much. Good luck on your deliberations.



Jim Sykes 745-6962

Source: Ballot Access News
 Editor, Richard Winger. P.O. Box 470298, San Francisco, CA 94147 Ph: (415) 622-9778

WHAT MUST A PARTY DO TO NOMINATE WITHOUT PETITIONING?

State	Must Poll for Which Office?	How Many Votes Needed?	History	Code Cite
Ala	any statewide	20%	2000	17-16-2
Ala	Gov. (or regis. of 3% gub vt)	3% (or reg. 3% last gub vt)	2002	15.60.010
AZ	President or Governor	5% (or reg of .0007%)	2002	16-804A
Ark	President or Governor	5%	1996	7-1-101(1)
Cal	any statewide, gub years	2% of voter turnout	2002	5100a
Colo	any statewide	1% (or have 1,000 registr.)	2002	1-4-1303
Cl	any (each office separate)	1%	2002	9-372(f)
Del	party's vote irrelevant	must have reg of .05%	2002	3001
Fla	party's vote irrelevant	just file list of officers	2002	97.021(14)
Ga	any statewide	1% of no. of reg. voters	2002	21-2-180(2)
Hi	party's vote irrelevant	must have been on 3 elections	2002	11-62(d)
Id	party's vote irrelevant	must have run 3 candidates	2002	34-501(1)(a)
Il	any statewide	5%	1996	10-2
Ia	Secretary of State	2%	2002	3-8-7-25
Io	President or Governor	2%	2000	48.2
Kan	any statewide	1%	2002	25-302(b)
Ky	President	2%	1996	118.325
La	President	5%	1996	441
Ma	President or Governor	5% at either of last 2 elect.	2002	321.1
Md	President or Governor	1%	2000	law suit
Ma	any statewide	5% (or have 1% regis.)	2002	90-1
Mi	any statewide	1% of Sec St winner's vote	2002	168.685(3)
Mn	any statewide	5% at either of last 2 elec.	2002	200.02.7
Ms	party's vote irrelevant	must be organized	2002	23-1-81(c)
Mo	any statewide	2% at either of last 2 elec.	2002	115.013(10)
Ms	any statewide, either of last 2	5% of Gub winner's vote	2002	13-10-411
Neb	any statewide	5%	2002	32-921
Nev	any	1% of Congress vote	2002	293.1715
NH	Governor or US Senate	4%	1996	652:11
NJ	average of assembly cand.	10%	1913	19:1-1
NM	Governor or President	5% (also must regis. 3%)	2002	1-7-2(C)
NY	Governor	must poll 50,000 votes	2002	1-104.3
NC	President or Governor	10%	1968	169-96(1)
ND	President or Governor	5%	1996	16.1-11-30
Oh	President or Governor	5%	1996	3517.01
Ok	President or Governor	10%	1996	1-109
Ore	any statewide	1% of Congress vote	2002	248.008(2)
Pa	party's vote irrelevant	must have reg. of 15.0%	never	2872.2(a)
RI	President or Governor	5% at either of last 2 elec.	2000	17-1-2(f)
SC	party's vote irrelevant	must run at least 1 candidate	2002	7-9-10
SD	Governor	2.5%	1994	12-1-3(3)
Tn	any statewide	5%	1968	2-104(27a)
Tx	any statewide	5% (or, 2% for Governor)	2000	181.005(b)
Ut	any	2% of Congress vote	2000	20-3-2(a)
Vt	party's vote irrelevant	must be organized 10 towns	2002	2103(23)
Va	any statewide, either of last 2	10%	1994	24.1-1(7)
Wa	any statewide	5%	2000	29.01.090
WV	Governor	1%	2000	9-1-8
Wis	any statewide, either of last 2	1%	2002	5.62(1b)
Wy	Congress, Gov. or secy of st	2%	2002	22-1-102(18)
DC	any districtwide	must poll 7,500 votes	2002	1-1108h(2)

*Per: State
 Affm: Green
 Please distribute
 to all State Affairs
 Committee members*

"History" column tells the last year in which any third party met the current standard. If a state has more than one way for a party to obtain qualified, the easier method is shown above. ALL PROCEDURES ABOVE PERMIT A PARTY TO PLACE ITS NOMINEES ON THE NOVEMBER BALLOT WITH NO PETITION. Chart prepared Dec. 10, 2003. "Law suit" entry for Maryland refers to Green Party v Bd. of Elections, 832 A 2d 214 (2003).

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

GOVERNMENTAL AFFAIRS SECTION
P.O. BOX 110300
DIAMOND COURT HOUSE, 6TH FLOOR
JUNEAU, ALASKA 99811-0300
PHONE: (907)463-3600
FAX: (907)455-2520

September 22, 2000

The Honorable Fran Ulmer
Lieutenant Governor
Office of the Lieutenant Governor
P.O. Box 110015
Juneau, Alaska 99811-0015

Re: Additional Effect of *Buckley v. American
Constitutional Law Foundation* on State of
Alaska Initiative Statutes
AG file no: 663-01-0051
2000 Op. Att'y Gen. No. 3

Dear Lt. Governor Ulmer:

I. Introduction

We have prepared this opinion to advise you and your staff further about the effect on Alaska statutes of the United States Supreme Court decision, *Buckley v. American Constitutional Law Foundation*, 525 U.S. 182, 119 S.Ct. 636, 142 L.Ed. 2d 599 (1999). As you recall, we initially advised you about this matter on December 10, 1999, in 1999 Op. Att'y Gen. No. 2. In that opinion we concluded that *Buckley* rendered certain of Alaska's laws on initiatives unconstitutional. We suggested that these laws be amended and not enforced until the constitutional defects were cured. Subsequently, the legislature enacted ch. 82, SLA 2000 (SCS CSHB 163(RLS) am S), sections of which cured the constitutional defects we had identified.

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Last month you received and forwarded to us a complaint dated August 28, 2000, concerning certain of Alaska's laws on initiative petition circulation that we had not addressed in our earlier opinion. The substance of the complaint was that a woman was very worried about her name being printed on the initiative petition she was circulating. This woman had been circulating the petition and had been harassed by a man who was opposed to the issue she was trying to have placed on the ballot. The harasser approached the petition circulator, took down her name from the initiative petition booklet she was circulating, and took her photograph. The petition circulator is concerned that she will be subject to further harassment or stalking. We have reexamined *Buckley* and Alaska's laws on initiative petition circulation in light of this recent complaint.

We again advise you that certain provisions in Alaska's laws on initiative petition circulation are clearly unconstitutional, and that these provisions should not be enforced until the constitutional defects are cured by amendment.¹

II. *Buckley* Court's Invalidation of Identification Badge Requirement Is So Broad As To Invalidate Requirement of Other Similar Forms of Identification at the Time of Petition Circulation

In *Buckley* the Court invalidated the requirement that initiative petition circulators wear identification badges containing the circulator's name. *Buckley*, 119 S.Ct. at 646. The Court found that this control was excessively restrictive of political speech, and thus violated the

¹ As you will see from the discussion below, the Court's holding in *Buckley* as applied to certain of Alaska's statutes on initiative petition circulation satisfies the requirement of the Alaska Supreme Court's holding in *O'Callaghan v. Coghill*, 888 P.2d 1302, 1304 (Alaska 1995) (executive branch may abrogate a statute that is clearly unconstitutional under a United States Supreme Court decision dealing with a similar law, without having to wait for another court decision specifically declaring the statute unconstitutional).

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First Amendment to the United States Constitution. As shown by the following excerpts from *Buckley*, the Court's rationale in support of this holding is equally applicable to the requirement that the petition circulator's name be displayed on the petition booklet at the time of circulation.

First, the Court in *Buckley* set out the plaintiffs' argument against requiring that petition circulators wear identification badges:

Evidence presented to the District Court, that court found, "demonstrated that compelling circulators to wear identification badges inhibits participation in the petitioning process." [Citation omitted.] The badge requirement, a veteran ballot-initiative-petition organizer stated, "very definitely limited the number of people willing to work for us and the degree to which those who were willing to work would go out in public." [Citation omitted.] Another witness told of harassment he personally experienced as circulator of a hemp initiative petition. [Citation omitted.] He also testified to the reluctance of potential circulators to face the recrimination and retaliation that bearers of petitions on "volatile" issues sometimes encounter: "with their name on a badge it makes them afraid."

Buckley, 119 S.Ct. at 644.

Next, the *Buckley* Court set out the reasons advanced by the State of Colorado in support of the identification requirement:

Colorado urges that the badge enables the public to identify, and the State to apprehend, petition circulators who engage in misconduct. [Citation omitted.] Here again, the affidavit requirement, unsuccessfully challenged below . . . is responsive to the State's concern; as earlier noted . . . each petition section must contain, along with the collected signatures of voters, the circulator's name, address, and signature. This notarized submission, available to law enforcers, renders less needful the State's provision for personal names on identification badges.

Buckley, 119 S.Ct. at 645.

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The Court then explained the reasons for invalidating Colorado's identification badge requirement:

While the affidavit reveals the name of the petition circulator and is a public record, it is tuned to the speaker's interest as well as the State's. Unlike a name badge worn at the time a circulator is soliciting signatures, the affidavit is separated from the moment the circulator speaks. As the Tenth Circuit explained, the name badge requirement "forces circulators to reveal their identities at the same time they deliver their political message,"[citation omitted] it operates when reaction to the circulator's message is immediate and "may be the most intense, emotional, and unreasoned" The affidavit, in contrast, does not expose the circulator to the risk of "heat of the moment" harassment.

...

The injury to speech is heightened for the petition circulator because the badge requirement compels personal name identification at the precise moment when the circulator's interest in anonymity is greatest.

Buckley, 119 S.Ct. at 645.

The complaint you received from the Alaskan initiative petition circulator fits squarely within the Court's rationale invalidating the identification badge requirement. The petition circulator was subjected to harassment at the time of petition circulation, in the same manner as identified by the *Buckley* Court. The effect of Alaska's requirement that the petition circulator be identified by name on the petition booklets at the time of circulation is functionally equivalent to the effect of Colorado's identification badge requirement. The same First Amendment rights are implicated, and the same dangers of the petition circulator being harassed are present with Alaska's requirement that the circulator's name appear on the petition booklet at the time of circulation. Therefore, we see no reason to distinguish this requirement from the identification badge requirement invalidated in *Buckley*.

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Under this analysis the requirement set out in AS 15.45.090(5) and AS 15.45.130(8) that initiative petition circulators must include their names in bold capital letters at the bottom of each page of the petition would be clearly unconstitutional and should not be enforced.² The remaining requirements in these statutes, including the affidavit described in AS 15.45.130, would stand.³

² As an alternative to the current statutory requirement, if the Division of Elections wished to monitor the activities of initiative petition circulators it could use a unique identifier on each petition booklet, such as an alphanumeric code. This code could be assigned to each petition and to each affidavit submitted by an initiative petition circulator. (Of course, social security numbers should not be used for this purpose.)

³ The requirement that an initiative petition circulator provide an affidavit to the Division of Elections after completion of petition circulation is set out in AS 15.45.130, as follows:

Sec. 15.45.130. Certification of circulator. Before being filed, each petition shall be certified by an affidavit by the person who personally circulated the petition. The affidavit must state in substance that (1) the person signing the affidavit meets the residency, age, and citizenship qualifications of AS 15.05.010, (2) the person is the only circulator of that petition, (3) the signatures were made in the circulator's actual presence, (4) to the best of the circulator's knowledge, the signatures are those of the persons whose names they purport to be, (5) the signatures are of persons who were qualified voters on the date of signature, (6) the person has not entered into an agreement with a person or organization in violation of AS 15.45.110(c), (7) the person has not violated AS 15.45.110(d) with respect to that petition, and (8) the circulator prominently placed, in the space provided under AS 15.45.090(5) before circulation of the petition, in bold capital letters, the circulator's name and, if the circulator has received payment or agreed to receive payment for the collection of signatures on the petition, the name of each person or organization that has paid or agreed to pay the circulator for collection of signatures on the petition. In determining the sufficiency of the petition, the lieutenant governor may not count subscriptions on petitions not properly certified.

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III. Corrective Action in Light of *Buckley*

The next consideration is determining what action the state should take regarding the Alaska statutes that contain elements that are clearly unconstitutional under *Buckley*. First, we recommend that corrective legislation be introduced to cure the constitutional defects. During the past legislative session we worked with staff of the Division of Elections on HB 163, legislation to update the elections code. This bill was enacted as ch. 82, SLA 2000. We are available to work with your staff on legislation to address the constitutional problems with the initiative statutes noted above. Second, for the reasons set out in this opinion we advise you not to enforce the sections discussed above as we have concluded that they are "clearly unconstitutional."

Sincerely,



Bruce M. Botelho
Attorney General

cc: Janet Kowalski, Director
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STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

**SECTIONAL ANALYSIS
CS HB Bill 94 (STA) – version “I”**

“An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration and voter registration records, voter registration and absentee ballot requests through a power of attorney, voter registration using scanned documents, voter residence, precinct boundary and polling place designation and modification, recognized political parties, voters unaffiliated with a political party, early voting, absentee voting, application for absentee ballots through power of attorney, or by scanned documents, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, qualifications for elected office, initiative, referendum and recall, and definitions in the Alaska Election Code; relating to incorporation elections.”

Section One – STATUTORY FORM POWER OF ATTORNEY

Amends General Power of Attorney form to include a line “voter registration and absentee ballot requests” that may be checked by a person wishing to designate another as attorney in fact or agent by power of attorney. The House State Affairs Committee amended this section to meet the Division's request to allow an individual with the express power of attorney to register or request an absentee ballot on behalf of a voter.

Section Two – INTERPRETATION OF PROVISIONS IN STATUTORY FORM POWER OF ATTORNEY

Amends this section to clarify the authority conferred to the “agent” to register the principal to vote or request an absentee ballot on behalf of the “principal” (the voter). The House State Affairs Committee amended this section to meet the Division's request to allow an individual with the express power of attorney to register or request an absentee ballot on behalf of a voter.

Section Three – VOTER RESIDENCY

Changes the reference *from* "temporary construction camps" *to* "temporary work sites" to provide a more accurate definition of what fails to constitute a dwelling place.

Clarifies that the address of a voter as it appears on the voter registration RECORD, *not* the voter registration CARD is proof (presumptive evidence) of that voter's residence.

Section Four – MANNER OF REGISTRATION

Adds language to allow an individual with the express power of attorney to register on behalf of the voter.

Adds "scanning" as another means to transmit a voter registration application to the Division.

Section Five – REQUIRED INFORMATION FOR VOTER REGISTRATION

An Alaska residence address is required on a voter registration application, and the voter signs an oath that the information provided is true. Legislative Legal removed language in the first work draft for House State Affairs, that removed "as specified in regulations adopted by the director" related to defining the applicant's Alaska residence.

Removes dated language that refers to information proving residency that might be requested by the Division. Elections does not require proof nor does the Division compile voter files that contain this type of information.

Section Six - PROCEDURE FOR REGISTRATION

Adds "scanning" as another means to transmit a voter registration application to the Division.

Adds language to allow an individual with the express power of attorney to allow the individual to register on behalf of the voter.

Section Seven – VOTERS UNAFFILIATED WITH POLITICAL PARTIES

Proposes to set out the definitions of voters unaffiliated with political parties to reflect the Division's previous policy. Legislative Legal set this out as a section under "Voter Registration," rather than in the "Definitions" section of Title 15.

Section Eight - PREPARATION OF MASTER REGISTER

Ensures protection of voter information of those victims of domestic violence in accordance with changes made to the following section (AS 15.07.195) last year in Senate Bill 284.

Section Nine – PRECINCT BOUNDARY CHANGES

Changes made by House State Affairs increase public notice when the Division establishes or abolishes a precinct or if the boundaries of a precinct are designated, abolished, or modified, or if a polling place is changed.

This language requires the Division to send voters affected by any of the above changes by:

- Whenever possible written notice to each affected voter in the precinct
- Providing notice of the change by publication once in a local newspaper or by posting the notice in conspicuous places if no such newspaper exists
- Posting notice on the Division's website
- Providing notification of the changes to municipal clerks, community councils, tribal groups, Native villages, and village regional corporations.

The additional notice requirements result in a fiscal note of \$16.8 (in thousands) to the Primary and General Election budget.

Section Ten – PREPARATION OF OFFICIAL BALLOT

This subparagraph was amended by House State Affairs to implement "ballot rotation" for the names of those candidates running for governor, lieutenant governor, United States senator, United States representative, and state senator on the ballots printed for each house district.

Placement of names of candidates for State House races will appear in random order as determined by the Director, as is the current practice. Ballot rotation WILL NOT occur for candidates for State House.

Current law requires the Director to determine a random order for ALL candidates placed on ballots used in each house district.

Section Eleven – INDEPENDENT PRESIDENTIAL CANDIDATES

When preparing the general election ballot, the names of the candidates from each political party running for President and Vice President shall be placed on the ballot, rather than the names of the electors.

This language allows that the names of those running as Independents for President and Vice President shall be treated the same as those candidates representing a political party.

Section Twelve – BALLOT COUNTING

For the purposes of maintaining accountability of ballots, the number of ballots returned to the elections supervisor or designee for destruction must be reported by the election board.

Section Thirteen – EARLY VOTING

Early voting sites would need to be designated by the Director by January 1st of an election year. This ensures that proper notice is available to voters and that regions can order sufficient ballots and election materials. Additionally, it allows supervisors to schedule election workers accordingly.

Legislative Legal changed language to clarify the intent.

Section Fourteen – ABSENTEE VOTING BY ELECTRONIC TRANSMISSION

Reduces the number of witnesses required to sign the oath accompanying a voter's absentee ballot (transmitted electronically) *from two to one*. Rural Alaskans and those who travel to remote locations believe that the requirement for two witnesses creates an undue hardship.

House State Affairs removed the requirement that the witness be a United States citizen.

Section Fifteen – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Adds ways a voter may apply for an absentee ballot to include by fax or scanning an application.

Adds that an individual with the express power of attorney to allow the individual to apply for an absentee ballot on behalf of the voter may do so.

Section Sixteen – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Reduces the number of witnesses required to sign the oath accompanying a voter's absentee ballot (transmitted by mail or electronically) **from two to one**. Once again, rural Alaskans and those who travel to remote locations believe that the requirement for two witnesses creates an undue hardship.

House State Affairs removed the requirement that the witness be a United States citizen.

Section Seventeen – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Defines more accurately "overseas voter" by referring to definition in AS 15.05.011. Current language describing military APO or FPO addresses is too limiting.

Section Eighteen – "BY MAIL" VOTING

Absentee ballots, the ballots shall be mailed by first class, **nonforwardable** mail and that ballots will not be mailed to a voter whose address has been identified as being undeliverable.

This language is proposed to ensure ballot security and the integrity of the election process.

Section Nineteen – STANDARDS FOR VOTING MACHINES

Adds a new section to Title 15 regarding the use of voting machines or vote tally systems. The Division of Elections will only utilize systems certified by the Federal Election Commission. All updates to the data management system must be certified before the State implements a modification of the current system or a new system.

House State Affairs added the last line to clarify that a voting system approved by the Director must satisfy the requirements of AS 15.15.032 (c) – which clearly states that the Director SHALL provide for a paper record of each electronically generated ballot that can be reviewed and corrected by a voter.

Section Twenty – DECLARATION OF CANDIDACY

Added in House State Affairs, this section adds language to ensure that a candidate shall take an oath when making a declaration for office that the candidate will be the age required by the Alaska Constitution at the times noted:

- If a candidate for state representative:

Be at least 21 on the first scheduled day of the first regular session of the legislature convened after the election

- If a candidate for state senator:

Be at least 25 on the first scheduled day of the first regular session of the legislature convened after the election

- If a candidate for governor or lieutenant governor:

Be at least 30 on the first Monday in December following the election

Section Twenty-One – WRITE-IN CANDIDATES

Added in House State Affairs, this section adds language to ensure that a write-in candidate shall state in a letter of intent that the candidate will be the age required by the Alaska Constitution at the times noted above in the "Declaration of Candidacy" section.

Section Twenty-Two – REQUIREMENTS FOR PETITION

Added in House State Affairs, this section adds language to ensure that a candidate filing for office by petition shall state in the petition that the candidate will be the age required by the Alaska Constitution at the times noted above in the "Declaration of Candidacy" section.

Section Twenty-Three – QUALIFICATIONS FOR INDEPENDENT CANDIDATES FOR PRESIDENT/VICE PRESIDENT/SELECTION OF ELECTORS

Adds new language to describe the process for Independent candidates running for President.

An Independent candidate for President may file no earlier than January 1st of a presidential election year and no later than 90 days prior to the presidential general election. An Independent candidate for President must also provide the name, Alaska mailing address, and signature of the candidate's state campaign chair, which must be an Alaskan resident. This requirement exists ONLY for Independent candidates.

Section Twenty-Four – INTERPRETATION OF VOTES CAST

In voting for presidential electors, votes marked for Independent candidates for President and Vice President are counted the same as votes marked for electors for party candidates.

Section Twenty-Five - DUTIES OF ELECTORS

Duties for electors representing Independent candidates for President and Vice President are the same as those of electors representing other candidates.

Section Twenty-Six – PETITIONS /FORM OF APPLICATION

Adds the requirement for the printed name and date of birth to be included when signing an application for petition. As the date of birth is now required on voter registration applications, it becomes another "identifier" to assist the Division in qualifying the voter's signature. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

These changes, and those that follow related to the petition process, are proposed to improve the petition process and make the process more "user friendly" for Alaskans.

Section Twenty-Seven – PETITIONS/DESIGNATION OF SPONSORS

Adds clarification that the sponsors are in support of the bill proposed in the initiative application.

Adds that additional sponsors, when providing their names and addresses, must also include date of birth.

Section Twenty-Eight – PETITIONS/PREPARATION OF PETITION

Adds the requirement for the printed name and date of birth to be included when signing a petition. As the date of birth is now required on voter registration applications, it becomes another "identifier" to assist the Division in qualifying the voter's signature.

The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and deletes language that refers to a record of petition booklets assigned to the sponsors. Judge Suddock criticized the requirement for these "accountability reports" in the Hinterberger case.

Section Twenty-Nine – PETITIONS/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Thirty – PETITIONS/WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and date of birth to be included when signing an application for petition.

Section Thirty-One – PETITIONS/CERTIFICATION OF CIRCULATOR

Circulators of a petition are required to sign an affidavit that they meet residency, age, and citizenship qualifications for circulating a petition.

The requirement that the circulator's name be prominently displayed on the petition was deleted. This language has not been enforced since 2000 in compliance with the Supreme Court decision in *Buckley v. American Constitutional Law Foundation*.

Section Thirty-Two – PETITIONS/DISPLAY OF PROPOSED LAW

Reduces the copies of the proposed law that are provided to each of the 439 election boards for distribution and posting at a polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the proposed law being initiated to the election board, and AT LEAST one copy of the proposed law will be posted.

Section Thirty-Three – REFERENDUM/FORM OF APPLICATION

Adds the requirement for the printed name and date of birth to be included when signing an application for referendum. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

Section Thirty-Four – REFERENDUM/DESIGNATION OF SPONSORS

Adds clarification that the sponsors are in support of the referendum.

Adds that additional sponsors, when providing their names and addresses, must also include date of birth.

Section Thirty-Five – REFERENDUM/ PREPARATION OF PETITION

Adds the requirement for the statement of rejection or approval, the signer's printed name and date of birth be included on a petition for referendum. The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and replaces language that refers to a record of petition booklets assigned to the sponsors.

Section Thirty-Six – REFERENDUM/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the referendum petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Thirty-Seven – REFERENDUM/CIRCULATION

Adds the prohibitions and penalties applicable to initiative petitions and applies these to the circulation of referendum petitions. (May not be paid more than \$1 per signature, nor may the circulator receive more than \$1 per signature)

Section Thirty-Eight – REFERENDUM/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and date of birth to be included when signing an application for petition.

Section Thirty-Nine – REFERENDUM/CERTIFICATION OF CIRCULATOR

This section more clearly defines the certification of circulators, to conform to the requirements for circulation of initiative petitions. Circulators of a petition are required to sign an affidavit that they meet residency, age, and citizenship qualifications for circulating a petition.

Section Forty – REFERENDUM/DISPLAY OF ACT BEING REFERRED

Reduces the copies of the act being referred that are provided to each of the 439 election boards for distribution and posting at a polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the act being referred to the election board and AT LEAST one copy of the act will be posted.

Section Forty-One – RECALL/FORM OF APPLICATION

Adds the requirement for the printed name and date of birth to be included when signing an application for recall. Removes requirement for additional 100 signatures of qualified voters. The current statute was unclear as to whether the 100 who signed were required to have voted in the preceding general election of the official sought to be recalled. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

Section Forty-Two – RECALL/DESIGNATION OF SPONSORS

Proposes to add a new section with language similar to that regarding initiative petitions and referendum, stating the sponsors are in support of the recall and regarding the designation of additional sponsors.

Adds that additional sponsors, when providing their names and addresses, must also include date of birth.

Section Forty-Three - RECALL/PREPARATION OF PETITION

Adds the requirement for the printed name and date of birth to be included when signing the recall petition. The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and replaces language that refers to a record of petition booklets assigned to the sponsors.

Section Forty-Four - RECALL/STATEMENT OF WARNING

Removes language referring to a "duplicate copy" as there are no "duplicate copies" assigned in a recall petition effort. This language would mirror language in the initiative and referendum sections.

Section Forty-Five - RECALL/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the recall petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Forty-Six - RECALL/CIRCULATION

Adds the prohibitions and penalties applicable to initiative petitions and referendum and applies these to circulation of recall petitions.

Section Forty-Seven - RECALL/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and date of birth to be included when signing a recall petition.

Section Forty-Eight - RECALL/CERTIFICATION OF CIRCULATORS

This section more clearly defines the certification of circulators, to conform to the requirements for circulation of initiative petitions. Circulators of a petition are required to sign an affidavit that they meet citizenship, residency and age qualifications for circulating a petition.

Section Forty-Nine - RECALL/DISPLAY OF GROUNDS FOR AND AGAINST RECALL

Reduces the copies of the statement of the grounds for recall and the statement made by the official subject to recall in justification of the official's conduct in office that are provided to each of the election boards for distribution and posting at each polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the statement of grounds for recall and AT LEAST five copies of the statement made by the official subject to recall in justification of the official's conduct in office to the election board for distribution and AT LEAST one copy of the act to be posted.

Section Fifty - CONTENTS OF PAMPHLET (OFFICIAL ELECTION PAMPHLET)

House State Affairs added a new section that requires the Division to publish establishment/abolishment of a precinct, designation abolition, or modification of precinct boundaries, or changes in location of polling places in the Official Election Pamphlet (OEP).

As explained to members of the Committee, the Division would include all changes that are known at the time that the OEP goes to print. Additional changes that affect voters may occur after printing of the OEP and would NOT be included in the publication.

Section Fifty-One - RECOGNIZED POLITICAL PARTY STATUS

Political groups may be recognized as a party if, on or before May 31 of the election year that seek recognition they have:

- Filed an application with the Director
- Submitted their bylaws to the Director and the Department of Justice *and*
- Met the requirements related to nominating a candidate *or* obtained the required number of registered voters

Provides that the Director will verify the numbers of registered voters who have declared an affiliation with a group or recognized political party and describes the process for notification when a political group obtains political party status. Likewise provides the notification process to recognized political parties that have lost their status.

Finally, this section adds that during an election year, recognized political party status cannot be withdrawn by the Director for the period from June 1st through the date of the first verification that occurs after the certification of the general election results.

Recognized Political Party status cannot be withdrawn except following the verification immediately after a general election at which a governor was elected.

House State Affairs added that monthly verification political party status would be suspended during the period of time when the Director may not withdraw political party status.

Section Fifty-Two – DEFINITION OF POLITICAL PARTY

House State Affairs added language that defines a party as a group of voters that represents a political program AND THAT

--nominates a candidate for governor who receives 3% of the votes cast for that office at the preceding general election at which a governor was elected

--nominates a candidate for US senator who receives 3% of the votes cast for that office at the preceding general election or at the most recent election at which a governor was elected

--nominates a candidate for US representative who receives 3% of the votes cast for that office at the preceding general election or at the most recent election at which a governor was elected **OR**

--has registered voters equal in number to 2% of voters registered in the state on March 31st of the most recent election year.

Section Fifty-Three - DEFINITION OF "REREGISTRATION"

Reregistration is defined as the submission of a registration form by a voter whose registration was inactivated during the list maintenance process (AS 15.07.130) or due to conviction of a felony involving moral turpitude. The voter once removed from the voter rolls due to conviction of a felony involving moral turpitude, must provide proof that they were unconditionally discharged from custody before being allowed to register. (AS 15.07.135)

Section Fifty-Four - INCORPORATION ELECTION

Clarifying language in Title 29 for incorporation elections that a qualified voter is a voter who has been registered to vote within the proposed municipality at least 30 days prior to the election.

Section Fifty-Five - INCORPORATION ELECTION

Clarifying language in Title 29 for incorporation elections that a qualified voter is a voter who has been registered to vote within the proposed borough at least 30 days prior to the election.

Section Fifty-Six - INCORPORATION ELECTION

Defines "qualified voter" to have the same meaning as that in AS 15.60.010.

AS 15.60.010 (26) "qualified voter" means a person who has the qualification of a voter and is not disqualified as provided by art. V, Sec. 2, of the state constitution and AS 15.05.030.

Section Fifty-Seven – REPEALERS

Repeals section requiring written notice of changes to precinct boundaries or polling places and

Repeals AS 15.20.048 as it includes duplicative language that allows the Director to designate locations for absentee voting, and office of election supervisors will be designated as such.

Section Fifty-Eight - APPLICABILITY

Provides that changes made by Sections 26 through 49 of this bill apply to an initiative, referendum, or recall for which an application was filed with the lieutenant governor or director of elections on or after the effective date of the bill.

Section Fifty-Nine - TRANSITION

An initiative, referendum, or recall for which the application was filed before the effective date of the bill is subject to the provisions of statute that existed on the day before the effective date of the bill.

THE IMMEDIATE EFFECTIVE DATE CLAUSE WAS REMOVED IN HOUSE STATE AFFAIRS