

HB

115

Alaska State Legislature House Judiciary Committee

Representative Jay Ramras
Chairman
(907) 465-3004

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1292 Sadler Way, Suite 324
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Committee Members
Representative Nancy Dahlstrom
Vice Chairman
Representative Bob Lynn
Representative Carl Gatto
Representative Bob Herron
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

House Judiciary Committee Memo

To: Tom Wright, Aide
Representative Mike Chenault
Speaker of the House

From: Jane W. Pierson *JWP*
House Judiciary Committee Aide

Date: February 18, 2010

Re: Judiciary Referral for HB115

Today, Representative Gatto came to speak to me about a Judiciary referral for HB115 "An Act establishing a permanent absentee voting option for qualified voters; and providing for an effective date." Upon review of this bill there appears to be issues that should be addressed by the Judiciary Committee. They are as follows:

- Constitutional right to vote
- The potential for voter fraud
- Potential for election tampering
- Enforcement issues

Thank you.

Representative_Jay_Ramras@legis.state.ak.us

CS FOR HOUSE BILL NO. 115(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES BUCH, Gruenberg

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a permanent absentee voting option for qualified voters; and**
2 **providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 15.07.127 is amended by adding a new subsection to read:

5 (b) The director shall maintain the list under (a) of this section so that the
6 names of persons who have the status of permanent absentee voters under
7 AS 15.20.085 may be readily identified.

8 *** Sec. 2.** AS 15.07.130(e) is amended to read:

9 (e) For purposes of (b) and (d) of this section, a voter "appears to vote" if

10 (1) the voter is present at a polling place or at an absentee voting
11 station at a time when the polling place or absentee voting station is operating, for the
12 purpose of casting a vote;

13 (2) the voter applies to the division

14 (A) to obtain an absentee ballot; **or**

1 (B) for permanent absentee voter status under
 2 AS 15.20.085; or

3 (3) in an election conducted by mail under AS 15.20.800, a voter who
 4 has not received a ballot by mail makes a timely request to the division for a ballot.

5 * **Sec. 3.** AS 15.20 is amended by adding a new section to read:

6 **Sec. 15.20.085. Permanent absentee voting.** (a) A qualified voter may apply
 7 to the director in person, by mail, or by facsimile, scanning, or other electronic
 8 transmission, as provided in AS 15.07.070, for permanent absentee voting status. The
 9 application must include the address to which absentee ballots are to be returned, the
 10 applicant's full Alaska residence address, and the applicant's signature.

11 (b) A person may supply to a voter a permanent absentee voting application
 12 form with a political party or group affiliation indicated only if the voter is already
 13 registered as affiliated with the political party or group indicated. Only the voter may
 14 mark the voter's choice of primary ballot on the permanent absentee voting
 15 application. A person supplying a permanent absentee voting application form may
 16 not design or mark the application in a manner that suggests choice of one ballot over
 17 another, except that ballot choices may be listed on an application as authorized by the
 18 division. The application must be made on a form prescribed or approved by the
 19 director. The voter or registration official shall submit the application directly to the
 20 division of elections. In this subsection, "directly to the division of elections" has the
 21 meaning given in AS 15.20.081(a). However, nothing in this subsection is intended to
 22 prohibit a voter from giving a completed permanent absentee voting application to a
 23 friend, relative, or associate for transfer to the United States Postal Service or a private
 24 commercial delivery service for delivery to the division.

25 (c) For each state primary, general, and special election, and each other
 26 election for which the state has responsibility for the conduct of the election, the
 27 director or an election supervisor shall send an absentee ballot to each voter designated
 28 as a permanent absentee voter for that election and who is otherwise qualified to vote
 29 in that election. The director or election supervisor shall send the ballot to the
 30 permanent mailing address set out on the official registration list unless the voter has
 31 notified the director or an election supervisor of a different address to which the ballot

1 should be sent. The director or an election supervisor shall send the absentee ballots

2 (1) by first class, nonforwardable mail;

3 (2) not later than the 15th day before the election; and

4 (3) with an accompanying explanation of the absentee voting
5 procedure under AS 15.20.020 and notice that the voter's permanent absentee voting
6 status will be removed if the voter does not vote or appear to vote in a primary,
7 special, or general election for a period of four calendar years.

8 (d) The director shall make available a change of address form for permanent
9 absentee voters.

10 (e) Nothing in this section requires the director or an election supervisor to
11 send an absentee ballot under (c) of this section to a permanent absentee voter after the
12 director or election supervisor receives actual notice that mail sent to the voter's
13 permanent mailing address or a different address provided by a voter under this
14 section is undeliverable to the voter at the address.

15 (f) A permanent absentee voter to whom a ballot is provided under this section
16 may cast the ballot under AS 15.20.081(d) and (e).

17 (g) Ballots voted under this section shall be reviewed under procedures
18 established for the review of absentee ballots under AS 15.20.201 and 15.20.203.

19 (h) Nothing in this section limits a voter's eligibility to vote

20 (1) in person at a precinct under AS 15.15.195 or 15.15.198;

21 (2) in person before an absentee voting official under AS 15.20.061;

22 (3) early under AS 15.20.064; or

23 (4) by electronic transmission under AS 15.20.066.

24 (i) If a voter designated as a permanent absentee voter under this section does
25 not vote or appear to vote in a primary, special, or general election for a period of four
26 calendar years, the director shall remove the voter's permanent absentee voter status.

27 (j) In this section, "appear to vote" has the meaning given in AS 15.07.130(e).

28 * **Sec. 4.** AS 15.56.030(a) is amended to read:

29 (a) A person commits the crime of unlawful interference with voting in the
30 first degree if the person

31 (1) uses, threatens to use, or causes to be used force, coercion,

1 violence, or restraint, or inflicts, threatens to inflict, or causes to be inflicted damage,
2 harm, or loss, upon or against another person to induce or compel that person to vote
3 or refrain from voting in an election;

4 (2) knowingly pays, offers to pay, or causes to be paid money or other
5 valuable thing to a person to vote or refrain from voting in an election;

6 (3) solicits, accepts, or agrees to accept money or other valuable thing
7 with the intent to vote for or refrain from voting for a candidate at an election or for an
8 election proposition or question;

9 (4) violates AS 15.20.081(a) or 15.20.085(b) by knowingly supplying
10 or encouraging or assisting another person to supply to a voter a permanent absentee
11 voting or [AN] absentee ballot application form with a political party or group
12 affiliation indicated if the voter is not already registered as affiliated with that political
13 party or group, and the person has been previously convicted of unlawful interference
14 with voting in the second degree under AS 15.56.035(a)(5);

15 (5) knowingly designs, marks, or encourages or assists another person
16 to design or mark a permanent absentee voting or [AN] absentee ballot application
17 in a manner that suggests choice of one ballot over another as prohibited by
18 AS 15.20.081(a) or 15.20.085(b), and the person has been previously convicted of
19 unlawful interference with voting in the second degree under AS 15.56.035(a)(6); or

20 (6) knowingly submits or encourages or assists another person to
21 submit a permanent absentee voting or [AN] absentee ballot application to an
22 intermediary who could control or delay the submission of the application to the
23 division of elections or who could gather data from the application form as prohibited
24 by AS 15.20.081(a) or 15.20.085(b), and the person has been previously convicted of
25 unlawful interference with voting in the second degree under AS 15.56.035(a)(7).

26 * **Sec. 5.** AS 15.56.035(a) is amended to read:

27 (a) A person commits the crime of unlawful interference with voting in the
28 second degree if the person

29 (1) has an official ballot in possession outside of the voting room
30 unless the person is an election official or other person authorized by law or local
31 ordinance, or by the director or chief municipal elections official in a local election;

1 (2) makes, or knowingly has in possession, a counterfeit of an official
2 election ballot;

3 (3) knowingly solicits or encourages, directly or indirectly, a registered
4 voter who is no longer qualified to vote under AS 15.05.010, to vote in an election;

5 (4) as a registration official

6 (A) knowingly refuses to register a person who is entitled to
7 register under AS 15.07.030; or

8 (B) accepts a fee from an applicant applying for registration;

9 (5) violates AS 15.20.081(a) or 15.20.085(b) by knowingly supplying
10 or encouraging or assisting another person to supply to a voter a permanent absentee
11 voting or [AN] absentee ballot application form with a political party or group
12 affiliation indicated if the voter is not already registered as affiliated with that political
13 party or group;

14 (6) knowingly designs, marks, or encourages or assists another person
15 to design or mark a permanent absentee voting or [AN] absentee ballot application
16 in a manner that suggests choice of one ballot over another as prohibited by
17 AS 15.20.081(a) or 15.20.085(b); or

18 (7) knowingly submits or encourages or assists another person to
19 submit a permanent absentee voting or [AN] absentee ballot application to an
20 intermediary who could control or delay the submission of the application to the
21 division of elections or who could gather data from the application form as prohibited
22 by AS 15.20.081(a) or 15.20.085(b).

23 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 TRANSITIONAL PROVISIONS: REGULATIONS. The director of elections may
26 proceed to adopt or amend regulations as necessary to implement the changes made by this
27 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
28 before the effective date of the law implemented by the regulations.

29 * **Sec. 7.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).

30 * **Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effect January 1, 2011.

Alaska State Legislature



Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

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FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

of Pages (including cover): 1

Phone: 907-465-4931
Fax: 907-465-4316

Re DRAFT CS for HB 115 (26-LS0404\A)

February 18, 2010

HB 115 Version A moved out of the House State Affairs Committee this morning amended.
Please draft a CS with the following amendments:

Amendment #1 (Gruenberg)
Page 5 Line 24 *delete* "2010" and *insert* **2011**

Conceptual Amendment #2 (Seaton)
Remove a name from Permanent Absentee Voter Status if the voter fails to return a voter ballot in a full election cycle. Amendment would not remove the name from the voter rolls, only permanent absentee voter status.

Nancy Manly

From: Fenumiai, Gail M (GOV) [gail.fenumiai@alaska.gov]
Sent: Friday, February 19, 2010 3:32 PM
To: Nancy Manly; Madeline Lefton; Katie Koester; Rep. Bob Buch; Rep. Paul Seaton
Cc: Thompson, Carol A (GOV); Felix, Sarah J (LAW)
Subject: RE: CSHB 115 (STA) Version R

I have a couple of comments regarding the LAA proposed CS.

1. Page 3, line 23 – remove "a local, regional, school board, primary, special or general election" and replace with "state conducted election."
2. I was under the impression that the committee was interested in removing voters from the permanent absentee voter (PAV) status if they failed to vote their by-mail ballot. My interpretation of the proposed amendment is that if a PAV votes in person it would not trigger removal.

Thank you for the opportunity to comment.
Gail

HB 115

*sw Seaton
he requested the CS
be changed to reflect
his amendment.*

From: Nancy Manly [mailto:Nancy_Manly@legis.state
Sent: Friday, February 19, 2010 10:52 AM
To: Lefton, Madeline K (LAA); Koester, Katie (LAA); F
Subject: CSHB 115 (STA) Version R

b (LAA); Seaton, Paul (LAA)

Madeline, Katie and Gail:

I am sending each of you the CS for HB 115 STA Version R plus the fax I sent to legal to craft this particular version. The committee members wanted Gail Fenumiai (Elections) to look at the bill. I also want the bill sponsor (Buch) and conceptual bill amender (Seaton) to review the CS and be satisfied with the wording. Once everybody has reviewed and approved, I will take the bill to the Chief Clerks office to be read across.

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide for
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB115
() Publish Date: _____

Identifier (file name): HB115-OOG-DOE-2-12-10 Dept. Affected: OOG
Title An Act establishing a permanent absentee voting option RDU Elections
for qualified voters Component Elections
Sponsor Representative Buch
Requester House State Affairs Committee Component Number 21

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual			41.0		20.0		20.0	
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	41.0	0.0	20.0	0.0	20.0	0.0

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

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
1002 Federal Receipts							
1003 GF Match							
1004 GF		41.0		20.0		20.0	
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	41.0	0.0	20.0	0.0	20.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This legislation would require programming modifications to the division's existing statewide voter registration system. The division estimates this cost to be \$21.0.

In order to ensure the integrity of the process, the division would send confirmation notices at the beginning of each election year to all voters designated as permanent absentee voters to ensure the address on file is still accurate. The division estimates postage and printing costs of \$20.0. This amount would be a recurring cost during even numbered election years.

Prepared by: Gail Fenumiai, Director Phone 465-4611
Division Division of Elections Date/Time 2/12/2010, 12:17pm
Approved by: Linda Perez, Director Date 2/12/2010
Division of Administrative Services

HB 115

An Act establishing a permanent absentee voting option for qualified voters

HB 115 will streamline the absentee voting process for Alaskans by giving voters the option to register for permanent absentee voting status for state elections. Once a voter is on the permanent absentee voter roll, they won't have to fill out an absentee request form for each election cycle. Instead, an absentee ballot will be automatically sent to them by the Division of Elections.

HB 115 does not change anyone's voting rights. Voters can still request a one-time absentee ballot, just as they can now. Voters can still vote at their regular voting places if they so choose. HB 115 makes voting more convenient for voters. It also streamlines the administrative process for the Division of Elections.

HB 115 does not change any of the security or evaluation procedures that are already in place in Alaska statutes for handling absentee ballots; all of the provisions currently in place for absentee ballots would apply to permanent absentee ballots. HB 115 includes a provision for removal from the permanent absentee roll if the Division of Elections receives notice that mail sent to the voter's address is undeliverable.

HB 115 does not apply to local elections. It only applies only to primary, general and special elections, and any election for which the state has the responsibility for the conduct of the election.

HB 115 has an effective date of January 1, 2010 due to the implementation of a new voter registration system in May of 2010. The new system will be able to handle permanent absentee voting, according to the director of the Division of Elections.

Thank you for your consideration.

Sectional Analysis of HB 115

Section 1

Amends AS 15.07.127 by adding a new subsection (b) that requires the Director of the Division of Elections to make readily identifiable on the Master Register those people who have the status of permanent absentee voter.

Section 2

Amends AS 15.07.130 (e) by adding (B) which states that a voter who applies to the Division of Elections for a permanent absentee voter status qualifies as a voter who "appears to vote" under (b) and (d) of this section.

Section 3

Amends AS 15.20 by adding a new section (15.20.085) that:

- (a) enables Alaskan voters to apply to the Division of Elections for permanent absentee voting status;
- (b) allows a person to provide a voter with a permanent absentee voting application form with a political party or group affiliation only if that voter is already registered with the political party or group indicated. This paragraph also sets forth requirements that only the voter may mark the application form, indicate their choice of primary ballot and submit the application to the Division of Elections on a form prescribed by the Director of the Division of Elections;
- (c) requires the Division of Elections to send an absentee ballot to each voter designated as a permanent absentee voter for each state primary, general and special election and any other election for which the state has the responsibility for conducting the election;
- (d) requires the Director of the Division of Elections to make change of address forms available for permanent absentee voters;
- (e) allows the Director of the Division of Elections to not send an absentee ballot if the Division has received notice that mail sent to an address is undeliverable;

(f) allows a permanent absent voter to cast the ballot under AS 15.20.081(d), which lists persons who are authorized to witness the casting of a ballot, and AS 15.20.081(e), which lists the dates by which the ballot must be cast and the means by which it must be returned to the Division of Elections;

(g) requires that ballots voted under this section be reviewed under the procedures that are established for the review of absentee ballots in AS 15.20.201 and AS 15.20.203;

(h) establishes that nothing in this section prohibits a person from voting early, or in person at a precinct, or in person before an absentee voting official, or by electronic submission as provided by AS 15.15.195, AS 15.15.198, AS 15.20.061, AS 15.20.064 and AS 15.20.066..

Section 4

Amends AS 15.56.030(a) by making the provisions that govern the unlawful interference with voting in the first degree apply to permanent absentee voting.

Section 5

Amends AS 15.56.035(a) by making the provisions that govern the unlawful interference with voting in the second degree apply to permanent absentee voting.

Section 6

Authorizes the Director of the Division of Elections to adopt regulations to implement the changes made in this act.

Section 7

Provides for an immediate effective date for section 6, which will allow the Division of Elections to adopt regulations to implement the changes made in this act.

Section 8

Provides for a January 1, 2010 effective date for all other provisions of this act.



American Postal Workers Union, AFL-CIO

Midnight Sun Area Local 2756, PO Box 190485. Anchorage, Alaska 99519-0485

February 10, 2009

Representative Bob Buch
Alaska State Legislature
State Capitol, Room 430
Juneau, Alaska 99801-1182

Dear Bob,

The American Postal Workers Union supports HB 115; we see this bill as a way to simplify the voter process and we believe that a greater return in votes cast would result.

Currently Alaskans can apply for an absentee ballot which is valid for one year. HB 115 would allow voters to receive an absentee ballot in perpetuity or until the voter fails to vote in one election cycle, at which point the voter would revert back to the original voter roll.

Permanent absentee vote by mail increases voter turn out and results in more citizens having a stake in their government, provides greater procedural integrity, favors neither of the major political parties, saves taxpayer money, and enhances the democratic process.

Receiving a ballot in the mail two weeks before an election reminds voters an election is imminent. Vote by mail allows voters to study and research candidates and issues and vote at their convenience instead of within the voting booth.

In Alaska weather conditions may cause voters to miss an election, with vote by mail voters will still be able to cast their votes.

With the transient nature of the state, permanent absentee vote by mail would be beneficial. Alaska has fishermen, miners, slope workers, shift workers and construction workers that would have a better opportunity to cast votes as a result of HB 115. HB 115 would also be of benefit to the disabled, seniors and working families who face challenges in casting their vote at the polls.

A University of Oregon study shows that demographically young people aged 26-38 voted 44% more often, homemakers vote 51% more often, disabled and unable to work vote 48% more often, and across all demographics voters vote 29% more often.

In 2004, 40% of New Mexico voters used vote by mail, in 2006, nearly 90% of Washington State voters used vote by mail. Oregon passed vote by mail in 1998 with 69% for the initiative and by 2003 had an approval rate of 81%.

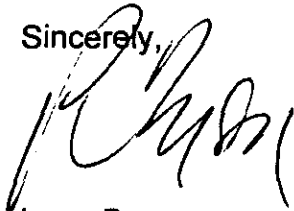
Voting by mail provides a paper trail for each vote cast unlike electronic voting machines which are susceptible to computer hackers and have no such safeguards. Vote by mail provides for accurate cleansing of registration rolls. When the ballot is returned because the voter has moved, their registration can be updated and a new ballot can be mailed to the new address.

County clerks in Oregon report that vote by mail elections cost about 30% less than traditional polling place elections

The sanctity of the ballot is paramount to the process. The United States Postal Service has been delivering vital documents for over two hundred years. The US Postal Service workforce is background checked; drug screened, and held to the US government code of conduct and ethics laws. Additionally the US Postal Service has internal enforcement agencies that work closely with the Federal Bureau of Investigations to protect the public from mail fraud. The US Postal Service is currently the only delivery service to handle absentee ballots and would like to continue as such.

For the above reasons the American Postal Workers Union supports HB 115.

Sincerely,



Larry Benson
President