

**SB**

**186**

<TARGET><BILL>SB 186</BILL><SUBJECT>SB  
186</SUBJECT><COMM>SSTA30</COMM></TARGET>

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 2/16/18

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 3/28/18

**State Affairs Committee** considered SENATE BILL NO. 186

SB 186-VOTER REGISTRATION & PFD APP REGISTRATION

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

and recommends:

- [ ] be replaced with CS SCS/CS- Forthcoming ) [ ] Same Title [ ] New Title
- [ ] adopt previous CS \_\_\_\_\_ ( \_\_\_\_\_ ) [ ] Same Title [ ] New Title
- [ ] attached amendment(s)
- [ ] adopt \_\_\_\_\_ Letter of Intent
- [ ] further referral to \_\_\_\_\_ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
Fiscal Info Forthcoming				

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
REV			✓	1
GOV			✓	2

[ ] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Wilson			✓	
	Giessel			✓	
	Egan			✓	
	Coghill	✓			
CHAIR:	MEYER	✓			

# LEGAL SERVICES

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## MEMORANDUM

March 28, 2018

**SUBJECT:** Bill as amended by Conceptual Amendment "3/26/2018"  
(CSSB 186(STA); Work Order No. 30-GS2097\J)

**TO:** Senator Kevin Meyer  
Chair of the Senate State Affairs Committee  
Attn: Christine Marasigan

**FROM:** Alpheus Bullard *LAB*  
Legislative Counsel

This memorandum accompanies a committee substitute for SB 186 as passed by your committee yesterday. I have one comment.

The Senate State Affairs Committee adopted an amendment labeled "03/26/2018." A portion of the amendment would change sec. 6 of the bill to require that the Department of Revenue prescribe and furnish an application form for claiming a permanent fund dividend that includes the ability for an applicant, or a person authorized to act on behalf of the applicant, to provide certain required registration information "under the procedures established by the director of the division of elections (director) under AS 15.07.070(k).

It is not clear what the amendment is intended to accomplish. AS 15.07.070(k) requires the director to process an applicant's registration information and notify an applicant of the applicant's "voter registration." Accordingly, any procedures adopted by the director under AS 15.07.070(k) will relate to notifying permanent fund dividend applicants of their voter registration status. A procedure adopted under AS 15.07.070(k) will not relate to information provided by an applicant.

The amendment also changed sec. 4 (amending AS 15.07.070(k)). Before the amendment, this section of the bill required the director to notify "each applicant who requested [to be registered as a voter] of the applicant's registration status." As amended by amendment "03/26/2018," sec. 4 requires the director to notify "each applicant who requested voter registration." While it is no longer clear what the director is notifying an applicant of, the provision could be interpreted to require the director to notify an applicant of the applicant's voter registration status. Removal of that phrase, however, creates an ambiguity and an incomplete directive.

Senator Kevin Meyer

March 28, 2018

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Since this bill has passed out of your committee, you may wish to share this memorandum with the next committee of referral, so that it may consider clarifying these issues.

If I may be of further assistance, please advise.

TLAB:dls

18-175.dls

Attachment

30-GS2097D  
Bullard  
3/23/18

**CS FOR SENATE BILL NO. 186(STA)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**THIRTIETH LEGISLATURE - SECOND SESSION**

**BY THE SENATE STATE AFFAIRS COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to voter registration; and providing for an effective date."**

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

3 **\* Section 1.** AS 15.07.050(a) is amended to read:

4 (a) Registration may be made

5 (1) in person before a registration official or through a voter  
6 registration agency;

7 (2) by another individual on behalf of the voter if the voter has  
8 executed a written general power of attorney or a written special power of attorney  
9 authorizing that other individual to register the voter;

10 (3) by mail;

11 (4) by facsimile transmission, scanning, or another method of  
12 electronic transmission that the director approves; or

13 (5) by requesting to be registered as a voter on [COMPLETING] a  
14 permanent fund dividend application form under AS 43.23.015.

15 **\* Sec. 2.** AS 15.07.060(e) is amended to read:

1 (e) For an applicant requesting initial registration by mail, by facsimile or  
 2 other electronic transmission approved by the director under AS 15.07.050, or by  
 3 requesting registration on [COMPLETING] a permanent fund dividend application  
 4 form and including the information required under (a)(1) - (4) and (7) - (9) of this  
 5 section, the director shall verify the information provided in compliance with (a)(2)  
 6 and (3) of this section through state agency records described in AS 15.07.055(e). If  
 7 the applicant cannot comply with the requirement of (a)(2) of this section because the  
 8 applicant has not been issued any of the listed numbers, the applicant may instead  
 9 submit a copy of one of the following forms of identification: a driver's license, state  
 10 identification card, current and valid photo identification, birth certificate, passport, or  
 11 hunting or fishing license.

12 \* Sec. 3. AS 15.07.070(i) is amended to read:

13 (i) The division shall register voters under (j) - (m) of this section who  
 14 request to be registered on a permanent fund dividend application form  
 15 submitted under AS 43.23.015 to the Department of Revenue. The director shall  
 16 treat an eligible permanent fund dividend applicant as a new or updated  
 17 registered voter, unless the permanent fund dividend applicant who requests to  
 18 be registered does not provide the information required under AS 15.07.060(a)(1)  
 19 - (4) and (7) - (9) [SUBMIT AN APPLICATION TO RECEIVE A PERMANENT  
 20 FUND DIVIDEND IN ACCORDANCE WITH (j) - (m) OF THIS SECTION].

21 \* Sec. 4. AS 15.07.070(k) is amended to read:

22 (k) Upon receipt of the registration information, the director shall, as soon as  
 23 practicable and in accordance with a schedule established by the director by rule,  
 24 process the registration information received and notify, by United States mail and  
 25 any other means authorized by the director, each applicant who requested  
 26 registration of the applicant's registration status [NOT ALREADY REGISTERED  
 27 TO VOTE] at the address provided in the applicant's application

28 [(1) OF THE PROCESSES TO

29 (A) DECLINE TO BE REGISTERED AS A VOTER;

30 (B) MAINTAIN AN EXISTING VOTER REGISTRATION

31 OR BE NEWLY REGISTERED AT A VALID PLACE OF RESIDENCE

1 NOT PROVIDED IN THE APPLICANT'S APPLICATION; AND

2 (C) ADOPT A POLITICAL PARTY AFFILIATION; AND

3 (2) THAT FAILURE TO RESPOND TO THE NOTIFICATION  
4 SHALL CONSTITUTE THE APPLICANT'S CONSENT TO CANCEL ANY  
5 REGISTRATION TO VOTE IN ANOTHER JURISDICTION].

6 \* **Sec. 5.** AS 15.07.070(l) is amended to read:

7 (l) If an applicant **requests** [DOES NOT DECLINE] to be registered as a  
8 voter, **the** [WITHIN 30 CALENDAR DAYS AFTER THE DIRECTOR ISSUES THE  
9 NOTIFICATION, THE APPLICATION UNDER AS 43.23.015 WILL  
10 CONSTITUTE A COMPLETED REGISTRATION FORM. THE] name of the  
11 applicant shall be placed on the master register if the director determines that the  
12 person is qualified to vote under AS 15.05.010, and the director shall forward to the  
13 applicant a registration card. If registration is denied, the applicant shall immediately  
14 be informed in writing that registration was denied and the reason for denial.

15 \* **Sec. 6.** AS 43.23.015(b) is amended to read:

16 (b) The department shall prescribe and furnish an application form for  
17 claiming a permanent fund dividend. The application must include

18 (1) notice of the penalties provided for under AS 43.23.035;

19 (2) a statement of eligibility and a certification of residency;

20 (3) the means for an applicant eligible to vote under AS 15.05, or a  
21 person authorized to act on behalf of the applicant, to **request that the applicant be**  
22 **registered as a voter, to** furnish information required by AS 15.07.060(a)(1) - (4) and  
23 (7) - (9), and **to attest** [AN ATTESTATION] that **the** [SUCH] information is true.

24 \* **Sec. 7.** AS 43.23.016 is amended to read:

25 **Sec. 43.23.016. Voter registration.** The commissioner shall establish by rule a  
26 schedule by which the commissioner [WILL PROVIDE AND] shall provide, as soon  
27 as [IS] practicable, the director of elections with

28 (1) electronic records from the permanent fund dividend applications  
29 **with** [OF] the information required **under** [BY] AS 15.07.060(a)(1) - (4) and (7) - (9)  
30 [,] and the attestation that **the** [SUCH] information is true [,] for each permanent fund  
31 dividend applicant who **requested to be registered to vote and is**

1 (A) [IS] a citizen of the United States; and  
 2 (B) [IS] at least 18 years of age or will be within 90 days of the  
 3 date of the application; and

4 (2) the mailing addresses for all permanent fund dividend applicants.

5 \* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to  
 6 read:

7 **APPLICABILITY: PERMANENT FUND DIVIDEND APPLICATIONS.** The  
 8 changes made by secs. 1 - 7 of this Act apply to permanent fund dividend applications filed  
 9 on or after January 1, 2019.

10 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
 11 read:

12 **TRANSITION: REGULATIONS.** The Department of Revenue and the division of  
 13 elections may adopt regulations necessary to implement the changes made by this Act. The  
 14 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
 15 effective date of the law implemented by the regulation.

16 \* **Sec. 10.** Sections 1 - 7 of this Act take effect January 1, 2019.

17 \* **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect immediately under  
 18 AS 01.10.070(c).

# LEGAL SERVICES

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## MEMORANDUM

March 21, 2018

**SUBJECT:** Constitutional issues  
(SCS CSSSHB 44(STA)); Work Order No. 30-LS0208\N)

**TO:** Senator Kevin Meyer  
Attn: Christine Marasigan

**FROM:** Daniel C. Wayne   
Legislative Counsel

The draft bill described above is attached. Because it would require a title change in the second house, if the bill passes the Senate will need to adopt a title change resolution. Please let me know if you would like one drafted.

Please read the draft bill carefully. It is similar but not identical to initiative 17AKGA (the initiative), also known as the "Government Accountability Act." Both the bill and the initiative raise constitutional issues.

### Effect of bill on Initiative Election

If a court determines the bill is "substantially the same" as the initiative, the bill's enactment would void the initiative and displace it from the ballot, under art. XI, sec. 4, Constitution of the State of Alaska, which reads:

**Initiative Election.** An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title and proposition summarizing the proposed law, and shall place them on the ballot for the first statewide election held more than one hundred twenty days after adjournment of the legislative session following the filing. If, before the election, substantially the same measure has been enacted, the petition is void.

Under AS 15.45.210, the lieutenant governor, with the concurrence of the attorney general, is responsible for determining whether an act of the legislature is substantially the same as a proposed initiative, for purposes of applying art. XI, sec. 4, Constitution of the State of Alaska. AS 15.45.210 reads:

**Sec. 15.45.210. Determination of void petition.** If the lieutenant governor, with the formal concurrence of the attorney general, determines that an act of the legislature that is substantially the same as the proposed law was enacted after the petition had been filed, and before the date of the

election, the petition is void and the lieutenant governor shall so notify the committee.<sup>1</sup>

The general test for similarity between a measure enacted by the legislature and an initiative is set out by the Alaska Supreme Court in 1975, in *Warren v. Boucher*:

It is clear that the legislative act need not conform to the initiative in all respects, and that the framers intended that the legislature should have some discretion in deciding how far the legislative act should differ from the provisions of the initiative. The question, of course, is how great is the permitted variance before the legislative act becomes no longer substantially the same.

Upon reflection we have concluded that the legislature's discretion in this matter is reasonably broad. If in the main the legislative act achieves the same general purpose as the initiative, if the legislative act accomplishes that purpose by means or systems which are fairly comparable, then substantial similarity exists.<sup>2</sup>

In *Warren*, the Court compared the provisions of a legislative act with the provisions of an initiative, and observed that although there were many differences between the two, "it is clear that they both cover the same general subject matter. Both are aimed at the control of election campaign contributions and expenditures."<sup>3</sup> The Court commented on some of the differences between the act and initiative as follows:

Both measures control the total amount of expenditures by candidates as to primary and general elections. The specific amounts limited in each measure vary. As to the candidates for governor and lieutenant governor the amounts work out nearly the same. As to candidates for the House the initiative limits expenditures to \$6,000, while the act limits them to about \$7,000. The initiative limits Senate campaign expenditures to \$8,000, while the formula used under the act results in a limit of about \$14,000.

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<sup>1</sup> AS 15.45.240 reads:

**Sec. 15.45.240. Judicial review.** Any person aggrieved by a determination made by the lieutenant governor under AS 15.45.010 - 15.45.220 may bring an action in the superior court to have the determination reviewed within 30 days of the date on which notice of the determination was given.

<sup>2</sup> 543 P.2d 731, 736-39 (Alaska 1975).

<sup>3</sup> *Id.* at 737.

In short, the statute is not a hollow gesture toward the regulation of election campaigns.<sup>4</sup>

Ultimately, the Court determined that the legislative act met the requirements of art. XI, sec. 4, Constitution of the State of Alaska, to void the initiative and displace it from the ballot because

[v]iewing the two measures as a whole we find that they accomplish the same general goals. They adopt similar, although not identical, functional techniques to accomplish those goals. The variances in detail between the measures are no more than the legislature might have accomplished through reasonable amendment had the initiative become law. Nothing is present here to suggest that the act was a subterfuge to frustrate the ability of the public to obtain consideration and enactment of a comprehensive system to regulate election campaign contributions and expenditures.<sup>5</sup>

In *State v. Trust the People*, the Alaska Supreme Court explained further how the general test adopted in *Warren* applies in a case where the scope of an initiative's subject matter is narrow compared to the scope of the initiative's subject matter in *Warren*:

*Warren* developed a three-part test to determine whether a proposed initiative and legislation are substantially the same: A court must first determine the scope of the subject matter, and afford the legislature greater or lesser latitude depending on whether the subject matter is broad or narrow; next, it must consider whether the general purpose of the legislation is the same as the general purpose of the initiative; and finally it must consider whether the means by which that purpose is effectuated are the same in both the legislation and the initiative.<sup>6</sup>

Most of the differences between the attached draft bill and the initiative can be attributed to drafting style, but a few are substantive. For example, instead of using "de minimus" to describe food and beverages that a lobbyist can give a legislator or legislative employee, the bill establishes a \$15.00 limit on the value of that gift; and, as further explained below, the bill narrows applicability the initiative's prohibition on campaign contributions and expenditures by foreign-influenced corporations. However, the substantive differences between the bill and the initiative are few, and they amount to different ways of addressing identical issues. Therefore, although I cannot predict with certainty the outcome of potential litigation, if a court were to apply the three-part test developed in *Warren* and refined in *State v. Trust the People* to the attached draft bill and the initiative 17AKGA,

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<sup>4</sup> *Id.* at 739 (internal footnote omitted).

<sup>5</sup> *Id.* at 739.

<sup>6</sup> 113 P.3d 613, 621 (Alaska 2005).

the court would probably find that the bill passes that test. If so, the bill would displace the initiative from the election ballot.

The bill raises other constitutional issues.

#### **Salary and expenses of legislators**

Article II, sec. 7, Constitution of the State of Alaska provides:

**Salary and Expenses.** Legislators shall receive annual salaries. They may receive a per diem allowance for expenses while in session and are entitled to travel expenses going to and from sessions. Presiding officers may receive additional compensation.

This provision has not yet been interpreted by the Alaska Supreme Court. A plain reading of this section suggests that legislators (1) are constitutionally entitled to a salary; (2) "may receive a per diem allowance," but do not have a constitutional right to receive one; and, (3) are constitutionally entitled to receive "travel expenses going to and from sessions." While the constitution requires that legislators be provided a salary and travel expenses, it appears that per diem is optional; it may or may not be provided by the legislature. Without a constitutional mandate requiring that per diem be provided, a court may find that the legislature may adopt a statute that prohibits payment of per diem after 121 days. However, if the legislature were to later adopt a uniform rule or a legislative policy setting per diem that conflicts with the statute's prohibition on legislative per diem after 121 days of a regular session, the uniform rule or legislative policy may prevail over the statute if challenged.<sup>7</sup> Even when a statute imposes a procedural requirement on the legislature, the court has found the issue to be nonjusticiable. *Abood*, 743 P.2d 333, holding that the Open Meetings Act (AS 44.62.310), then applicable to the legislature, only established a rule of procedure that is not a subject of judicial inquiry unless the procedural violation also infringes on the rights of a third person, ignores constitutional restraints, or violates fundamental rights.

#### **Federal preemption**

Sections 1 and 2 of the bill (and section 9 of the initiative) prohibit "foreign-influenced corporations" from making, or promising to make, certain contributions and expenditures in state election campaigns. This may be preempted by federal law. (The draft bill at least partially addresses this issue, as further explained below).

The Federal Election Campaign Act (FECA) prohibits any foreign national from contributing, donating, or spending funds in connection with any federal, state, or local election in the United States, either directly or indirectly.<sup>8</sup> Because 52 U.S.C. sec. 30121

<sup>7</sup> *Abood v. League of Women Voters*, 743 P.2d 333 (Alaska 1987); *Malone v. Meekins*, 650 P.2d 351 (Alaska 1982).

<sup>8</sup> See 52 U.S.C. sec. 30121, 22 U.S.C. § 611(b), and 11 C.F.R. 110.4.

already clearly prohibits foreign nationals from making campaign contributions, expenditures, and independent expenditures in federal, state, and local elections, a state effort to legislate in this area may face a preemption challenge.

The Supremacy Clause, Art. VI, cl. 2 of the Constitution of the United States, provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Alaska Supreme Court has noted that "[u]nder the Supremacy Clause of the federal constitution, state laws that interfere with federal laws are invalid."<sup>9</sup> The Court has summarized federal preemption law as follows:

There is a presumption against federal preemption of state law, and preemption doctrine "enjoin[s] seeking out conflicts between state and federal regulation where none clearly exists." Additionally, "[w]here co-ordinate state and federal efforts exist within a complementary administrative framework, and in the pursuit of common purposes," . . . "the case for federal pre-emption becomes a less persuasive one." But where state law comes into conflict with federal law, the Supremacy Clause of the United States Constitution dictates that state law must always yield.

There are three major types of federal preemption of state law: "express," "field," and "conflict" preemption. Express preemption occurs when Congress explicitly declares an intent to preempt state law in a particular area. . . .

Field preemption is the term used when the federal law governing a particular area is so comprehensive and so complete that Congress is said to have completely occupied a field, leaving no room for state law. We "will not infer an intent to occupy the field where Congress has left some room for state involvement." . . .

Conflict preemption occurs when a state law and a federal law are in conflict, either because compliance with both state and federal law is impossible or because the state law "stands as an obstacle to accomplishment and execution of the full purposes and objectives of

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<sup>9</sup> *Allen v. State*, 203 P.3d 1155, 1161, n. 12 (Alaska 2009), quoting *State v. Dupier*, 118 P.3d 1039, 1049 (Alaska 2005).

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apply

Congress." . . .<sup>10</sup>

The state clearly does not have authority to regulate contributions and expenditures in campaigns for federal office; that has been expressly preempted by federal law.<sup>11</sup> Whether the state may regulate contributions and expenditures from foreign nationals in campaigns for state office is less clear. I am not aware of any federal statute or regulation which expressly preempts state regulation of foreign contributions and expenditures in campaigns for state office.

However, field preemption may come into play. To the extent a court found that the federal law governing contributions and expenditures by foreign nationals is so comprehensive and complete as to "occupy the field," it could invalidate state law attempting to cover the same ground. To the extent that a state and federal law conflict with each other, conflict preemption is also a possibility.

The draft bill addresses the preemption issue by adding the prohibition on contributions and expenditures by foreign-influenced corporations to AS 15.13.068, a current statute that prohibits foreign nationals from making contributions and expenditures in state election campaigns, and makes the bill's prohibitions on foreign-influenced corporations subject to AS 15.13.068(b) -- a provision that, as amended, by the bill, would require application of the new prohibition to remain within parameters established by federal law.

#### **Freedom of speech and association**

The First Amendment protects freedom of speech and freedom of association. Contributions to political campaigns and independent expenditures made on the behalf of a candidate are protected speech under the First Amendment.<sup>12</sup> This speech is a fundamental right. In deciding whether this provision violates a person's rights under the federal constitution's First and Fourteenth Amendments and the state constitution's art. I, secs. 5 and 6, a court will (1) weigh the character and magnitude of the burden that the state's rule imposes on the person's rights against the interests that are contended by the state to justify that burden, and (2) consider the extent to which the state's concerns make the burden necessary.

In this instance, the relevant legal analysis is whether the initiative's campaign contribution

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<sup>10</sup> *Allen v. State*, 203 P.3d 1155, 1160 - 1161 (Alaska 2009) (citations and footnotes omitted).

<sup>11</sup> 52 USC 30143 (specifying that the provisions of the federal election campaigns act "supersede and preempt any provision of state law with respect to election to federal office."); 11 C.F.R. 108.7(b)(3) (federal law "supersedes state law concerning the . . . [l]imitation on contributions and expenditures regarding Federal candidates and political committees.").

<sup>12</sup> See *Randall v. Sorrell*, 126 S. Ct. 2479 (2006); *Buckley v. Valeo*, 424 U.S. 1 (1976).

and expenditure prohibition "burden[s] substantially more speech [or association] than is necessary to further the government's legitimate interests."<sup>13</sup> Without regard to the possible preemption issues prohibiting candidate contributions from a corporation controlled by a foreign national, or imposing some restrictions on contributions from corporations described as "foreign-influenced corporations" under the initiative, prohibiting a foreign national from contributing to or spending money on a state election campaign is likely constitutional,<sup>14</sup> but the bill's secs. 1 and 2 (and sec. 9 of the initiative) both go further than this, in a way that a court may find is not sufficiently narrowly tailored to the state's interest in protecting its processes of self government, because the prohibition is on *all* expenditures with respect to a candidate in an election and *all* contributions to groups by entities covered by the initiative's expansive definition of "foreign-influenced corporation."

### **Equal protection**

Because the requirements of sections 1 and 2 of the bill (and section 9 of the initiative) apply to a corporation with a certain percentage of its ownership interest held by a foreign national or nationals, or a corporation that permits a foreign national to participate in the process of making decisions, and not to other corporations, these requirements may be vulnerable to an equal protection challenge.

Alaska evaluates equal protection claims using a sliding scale.<sup>15</sup> There are several steps

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<sup>13</sup> *State v. Alaska Civil Liberties Union*, 978 P.2d 597, 619 (Alaska 1999), quoting *California Prolife Council v. Scully*, 989 F. Supp. 1282, 1296 (E. D. Cal. 1998), quoting *Ward v. Rock Against Racism*, 491 U. S. 781, 799 (1989).

<sup>14</sup> The government may exclude foreign citizens from activities "intimately related to the process of democratic self-government." *Bernal v. Fainter*, 467 U.S. 216, 220 (1984); see also *Gregory v. Ashcroft*, 501 U.S. 452, 462 (1991). In the context of elections and campaign finance, the United States District Court for the District of Columbia stated:

It is fundamental to the definition of our national political community that foreign citizens do not have a constitutional right to participate in, and thus may be excluded from, activities of democratic self-government. It follows, therefore, that the United States has a compelling interest for purposes of First Amendment analysis in limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S. political process.

*Bluman v. F.E.C.*, 800 F. Supp P.2d 281, 288 (D.D.C. 2011) (holding that the government may bar foreign citizens (at least those who are not lawful permanent residents) from participating in campaign processes to influence how voters would cast their ballots in elections for public office) (*affirmed by Bluman v. F.E.C.*, 565 U.S. 1104 (2012)).

<sup>15</sup> *Matanuska-Susitna Borough School v. State*, 931 P.2d 391, 396 (Alaska 1997).

involved. First, the court determines the importance of the interest impaired by the challenged statute. Then the court looks at the purposes served by the statute. Finally, the court looks at how well the statutory means fits the purpose. "The common question in addressing equal protection cases is whether two groups of people who are treated differently are similarly situated and thus entitled to equal treatment."<sup>16</sup> Because campaign contributions and expenditures are a form of political speech subject to protection under the First Amendment, a court will apply "strict scrutiny." Under a strict scrutiny standard, a law must be narrowly tailored to serve a compelling governmental interest.

Like the initiative, the bill's prohibition on certain campaign contributions and expenditures is applicable to a corporation with as little as a five percent foreign ownership interest or, even if there is no foreign ownership interest, to a corporation which employs a foreign national who participates in making decisions relating to campaign contributions and expenditures.<sup>17</sup> Given the multinational and diverse nature of many corporations, it is possible that this prohibition would apply to a large number of corporations (including domestic corporations), doing business in the state. If the prohibition is litigated, a court may find that qualifying a corporation as "foreign-influenced" because a foreign national controls as little as five percent of it, or participates even minimally in the corporation's decision-making relating to contributions and expenditures in some manner, implicates at least some corporations whose campaign contributions and expenditures are not significantly influenced by a foreign national. Although the prohibition against certain contributions and expenditures from foreign-influenced corporations may serve a compelling state interest, a court may find it is an unconstitutional violation of certain corporations' right to equal protection because it is not narrowly tailored to protect that state interest.

If you have questions, please do not hesitate to contact me.

DCW:mlp  
18-176.mlp

Attachment

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<sup>16</sup> *Anderson v. State*, 78 P.3d 710, 718 (Alaska 2003).

<sup>17</sup> See the initiative's sec. 9(b)(9)(C), reflected in the addition of subparagraph 15.13.068(c)(5)(C) in section 1 of this draft bill.

**CSSB 186 Voter Registration; PFD Application Registration  
Senate Rules by Request of the Governor**

CS for SB 186 Version D

This new CS integrates Senator Coghill's opt-in amendment. During the previous committee hearing on this bill, the Department of Law's Assistant Attorney General Elizabeth "Liz" Bakalar had an amendment but since it came after Senator Coghill's amendment it needed to be rewritten.

Amendment from the Division of Elections

This is a technical amendment. While Senator Coghill's changes to the bill should alleviate the need to do mass mailings of cards, the fact remains that the Division of Election still need to respond to the people who opt-in.

Fiscal Impact:

0

QUESTIONS:

- Regarding the Division of Elections amendment:  
Under the procedures that are outlined in AS 15.07.070(k) which are in section 4 of this CS, this means you could respond in other ways besides mail to the people who opt-in, correct?
- This new amendment simply removed the language the referred to how you would communicate with the people who were automatically registered and with these changes you would just be responding to the people who have checked the box and identified themselves as people who want to be registered to vote, correct?

## **SB 186 Voter Registration & PFD Application Registration Rules by Request of the Governor**

### AMENDMENTS TO SB 186

The committee has two amendments, one from the Division of Elections and the second from Senator Coghill.

#### **DOE Amendment**

This is a clean up amendment to make the 2016 initiative that was passed a little more manageable. One of the cost drivers to the DOE is the postcard that they must send to voters who are automatically registered when they file for their PFD. The division can explain their amendment but in essence it allows them a little more flexibility than what the current initiative allows.

#### Potential Issues:

This is truly a clean up, however, this may have some issues in overlapping with Senator Coghill's amendment. *I have a solution. If committee wants to adopt amendment 2.*

#### **Senator Coghill's Amendment**

This is a substantial change to the bill before you. It amends the bill so that a PFD applicant must OPT IN to become a registered voter (the current bill has an OPT OUT). This is important because there will be some who will argue that this goes against the initiative that was passed that set up the automatic PFD application/voter registration.

#### Potential Issues:

There will be those that argue that by adopting this amendment, it effectively undermines the intent of the initiative—to automatically register voters when they sign up for the PFD. Senator Coghill has a memo from Legislative Legal that says, "There exists a possibility that requiring an applicant to opt-in could be interpreted by a court as so significant a change to the initiated law, that it functions as a repeal of 15PFVR." However, it also says, "...the Alaska Supreme Court observed that the legislature enjoys broad authority to amend an initiative"

One could also argue that this process is in line with other state applications. For example, the DMV application process that allows voter registration opt-in.

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Office of the Lieutenant Governor

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March 1, 2018

The Honorable Kevin Meyer, Chair  
Senate State Affairs Committee  
Alaska State Legislature  
State Capitol, Room 103  
Juneau, AK 99801

Dear Senator Meyer:

At the February 27, 2018, Senate State Affairs committee hearing on Senate Bill 352, there was a question from the committee regarding the number of statewide and district voter lists that the Division of Elections provides per year. Attached is a spreadsheet with the number of lists sold by region and the various types of lists that would also be impacted by Senate Bill 192.

If you have further questions or need additional information, please let me know.

Sincerely,

A handwritten signature in blue ink that appears to read "Josie Bahnke".

Josie Bahnke  
Director

Cc: Senate State Affairs Committee Members  
Senator Anna MacKinnon

DHS

Division  
Homeland

Security.



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**STATE OF ALASKA**  
**Division of Elections**  
**Office of the Lieutenant Governor**

**MEMORANDUM**

**Date:** February 28, 2018  
**To:** Senator Meyer, Chair  
Senate State Affairs Committee  
**From:** Josie Bahnke, Director *Josie Bahnke*  
**Subject:** Hearing Request for SB 186

Please accept this request to schedule SB 186 – An act relating to voter registration for consideration by the Senate State Affairs Committee.

The intent of this legislation is to make the PFD Automatic Voter Registration process truly automated, more streamlined and cost-efficient by allowing applicants the opportunity to “opt-out” of voter registration at the time they apply. This would allow the Division of Elections to more effectively manage this new program, would eliminate the cost of sending out an expensive mailing, and would register voters immediately, eliminating the 30-day opt-out period required under current law.

In 2016, the voters passed Ballot Measure #1 which stipulated that information an applicant provides on his or her permanent fund dividend (PFD) will be used to register to vote or update the applicants existing voter registration unless the applicant “opts-out” of voter registration. The intent of Ballot Measure #1 was to automatically register voters, or update existing voter registration data, with information provided on the PFD application.

The “opt-out” provision in Ballot Measure #1 required the Division of Elections to send a notice to the PFD applicants, giving them an opportunity to “opt-out”. If the applicant didn’t “opt-out” within 30 days of receiving the notice, the PFD application information would be used to register or update the existing registration record.

The administration is 100% supportive of the intent of Ballot Measure #1 and allowing voters to use information on their PFD application to register or update their existing voter registration. Through the passage of Ballot Measure #1, the voters effectively stated they wanted automatic voter registration through the PFD application process and minor adjustments made with this legislation does just that.

If you have any questions regarding this hearing request, please feel free to contact me at 465-4611.

# Did Russia compromise Alaska election websites or systems? NBC News report says it did

By Andrew Kitchenman, APRN & KTOO - Juneau - February 27, 2018



Boxes holding primary ballots sit on a table at the Alaska Division of Elections office in August 2016. NBC News reported Tuesday that Alaska was one of seven states whose websites or election systems were compromised in 2016 by Russian-backed operatives. (By Andrew Kitchenman/KTOO)

Alaska was one of seven states that had websites or voter registration systems compromised by Russian-backed hackers before the 2016 election, according to a report by NBC News.

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Alaska Division of Elections Director Josie Bahnke said the state today asked the U.S. Department of Homeland Security for any information related to the news report.

The state's election division had announced in September that federal officials informed the state that operatives accessed a publicly available website, but did not compromise the election system.

"It was a public information website," Bahnke said Tuesday. "It was not our voter registration database, or ballot-tabulation system, or anything that would have an effect on the election, so those efforts were unsuccessful, to tap into the website. And we'll just continue working with DHS and provide information to Alaskan voters as that information becomes available."

Anchorage Democratic Sen. Bill Wielechowski said voters have a right to know exactly what occurred.

"This is very alarming, obviously," he said. "We want to make sure our elections have integrity. We want to make sure our elections process is secure. We want to make sure our websites can't be hacked, that our databases with Alaskans' private information is not being accessed by Russian covert operatives."

The NBC report said some of the breaches were more serious than others, from entry into state websites to access of voter registration databases. The other states were Arizona, California, Florida, Illinois, Texas and Wisconsin.

**Andrew Kitchenman, APRN & KTOO - Juneau**

## **SB 186 Voter Registration & PFD Application Registration Rules by Request of the Governor**

### What this bill does:

This bill would amend AS 15.07.060 to establish the voter registration requirements that an applicant must provide in their PFD application to register to vote.

It would allow the Division of Elections to use PFD application information and for PFD to supply DOE with information.

Establishes that the PFD will only give data for applicants that did not decline to register to vote.

Essentially this makes anyone who applies for a PFD that is eligible to vote a registered voter unless they opt out by not providing required information for voter registration.

### Potential Issues:

Some members of your committee do not like this bill and are preparing amendments. As a courtesy to them, you can hold and allow them to do so.

There has been some question regard the training of election workers and handling of the voter registration list (also the cost, anyone can get a copy right now for \$20). How can Alaskans feel confident now that PFD and DOE information is going to be shared?

This is going to add a lot of people to the voter registration lists, basically anyone who applies for a PFD, is over 18 and doesn't opt out will be come a registered voter. Some people really like this idea, but it has larger implications. People who are registered to vote via PFD and going to be reminded every time they apply that they vote the people who may or may not change the PFD. This can be both good and bad.

### Legislative History

In 2016 an initiative, ballot measure 15PFVR was passed by the voters of Alaska, creating a process for Alaskans to register to vote using their Permanent Fund Dividend application. A copy of the initiative is in your bill folder.

The companion bill HB 352 was referred to HSTA and HFIN. It has yet to receive it's first hearing.

This bill (SB 186) has a further referral to SFIN.

Fiscal Impact:

Fiscal Note 1: Department of Revenue, PFD Division is zero. However, there is a FY2018 cost: \$29.7, in the analysis, these costs could be covered by a grant that has a funding cap of \$35,000 however it is not "officially been secured."

Fiscal Note 2: Office of the Governor, Division of Elections is zero. However, in the analysis there is a note that when the initiative was circulated that there were probably going to be costs—has this changed?

QUESTIONS:

- I see that this allows people who apply for a PFD to be registered to vote but how about the other way? What happens for people who do not apply for the PFD but want to register to vote. How do you verify those people's identity? Would the people who are registered to vote and get the PFD be held to higher accountability than those who are registered to vote but do NOT apply for the PFD?

✓ I see that this is an opt out, could this work as an opt in?

○ How many people who apply for the PFD, excluding anyone under the age of 18, are not qualified to vote?

○ I am concerned about records sharing. What kinds of security measures would there be surrounding these lists?

- Is the information only shared one way? Between the PFD and the DOE? Will it ever be shared the other way. Let's say PFD for some reason or another wants to see if someone who is being investigated for fraud, could they then look at the DOE's data to see whether they have been voting? Could we attach penalties for NOT voting? Say a fee out of the PFD if you do not vote?

- Question for Sara Race: In the analysis on fiscal note 1, there is language that a grant has not “officially been secured,” where is Alaska in this process? Any closer? Do you believe we will be able to obtain the maximum amount of \$35,000?
- Question for Director Josie Bankhe: This committee has been discussing Address Confidentiality Programs—I believe you heard about it a bit. This is a program adopted in 36 other states that allows victims of domestic violence or harassment to keep their addresses confidential. If the legislature adopts such a program, does the Division of Elections have the capability to keep addresses confidential?
- Question for Director Josie Bankhe: What assurances can you give Alaskans that people’s data and information will remain secure? What measures are in place by the Division of Elections to assure confidence in the voting system?
  - Does sharing between the PFD and the DOE have the potential to expose Alaskan’s data or the State of Alaskans systems to risk?
- Question for Director Josie Banke: Approximately how many newly registered voters does the state have each year? How often are the rolls purged? What is the process of purging the voter registration list? Do you check against the Dept. of Corrections to check on felon’s voter registration. Felon’s PFD’s go back to the general fund, will that in turn get reported to you?
- Question for Director Josie Banke: I noticed on fiscal note 2 that when the initiative was circulated there was a statement of cost--\$360,000 recurring cost for temporary workers to process opt out notices and \$60,000 in annual costs to mail notices to voters, and then \$300,000 to process those who are registered but have a different mailing address. With this bill are you essentially saying that all of those costs will be eliminated? How have things changed since this initiative passed?

SB 186

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February 15, 2018

The Honorable Pete Kelly  
President of the Senate  
Alaska State Legislature  
Alaska Capitol, Room 111  
Juneau, AK 99801

Dear President Kelly:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to voter registration and Permanent Fund Dividend applications.

This bill would make clarifying amendments to the voter registration and Permanent Fund Dividend application statutes amended in 2016 by ballot measure 15PFVR, which created a process for Alaskans to register to vote using their Permanent Fund Dividend application. The bill would clarify that the Director of the Division of Elections must treat eligible Permanent Fund Dividend applicants as a new or updated voter registrations, unless an applicant declines to provide the statutory required information for voter registration.

The bill would also specify that the Director will process the registration information received and notify the applicant of his or her registration status. Finally, the bill would make harmonizing amendments to AS 43.23.016 governing record sharing procedures from the Commissioner of the Department of Revenue to the Director of the Division of Elections. If passed, this bill would save an estimated \$200,000 annually in mailing costs and efficiencies such as fully automating the voter registration process and reducing paper transactions.

I urge your prompt and favorable action on this measure.

Sincerely,

Handwritten signature of Bill Walker in cursive.  
Bill Walker  
Governor

Enclosure

### SB 186 Sectional Analysis

Section 1: Establishes the voter registration requirements that an applicant must provide in their PFD application to register to vote.

*What if you do not apply for PFD?*

Section 2: Establishes that the DOE will use the application information provided on the PFD application to register eligible applicants to vote or update their voter registration if they did not decline voter registration when completing their PFD application.

Section 3: Establishes that the DOE will process eligible voter registration applications received from the PFD and send voters notification of their registration status (voter registration card). This section also removes the requirement to send a paper opt-out notice to voters who are targeted as new voter registrations or updated registrations.

Section 4: Removes the requirement for the applicant to respond to the opt-out notice within 30-days. ✓

Section 5: Establishing that PFD will only submit data for applicants that did not decline to register to vote.

Section 6: Establishes that changes made in this law will be effective for PFD applications starting on January 1, 2019.

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March 12, 2018

The Honorable Kevin Meyer, Chair  
Senate State Affairs Committee  
Alaska State Legislature  
State Capitol, Room 103  
Juneau, AK 99801

Dear Senator Meyer:

At the March 8, 2018, Senate State Affairs committee hearing on Senate Bill 186, there were several questions from the committee regarding the division's current management and administrative practices. I am providing some information and clarification to address all questions.

**Opt-in vs. Opt-out** – Could the opt-out provision in the bill be changed to an opt-in and still be considered a constitutionally valid amendment to an enacted initiative, as opposed to an unconstitutional repeal of an initiative under Article IX, section 6 of the Alaska Constitution? The short answer is no. While the constitution allows the legislature to make amendments, the amendments cannot undermine the intent of the initiative to the point of it effectuating a repeal. In this case, the intent of the initiative was for PFD applicants to be automatically registered to vote with an opt-out provision. Changing this to an opt-in would undermine the intent of the initiative as voter registration wouldn't be automatic.

**MyAlaska** –The Division of Elections (DOE) is in the process of reevaluating the costs that would be incurred in moving a portion of its online voter registration application behind the myAlaska portal. All portals carry a cost, and the state's myAlaska Portal is no different. MyAlaska has a maintenance fee that is distributed to the departments based on the number of users for the applications behind the portal. Furthermore, the DOE would be required to staff support for users accessing its application through the My Alaska portal. Finally there is the development cost associated with making the DOE's application compatible with the identity management engine that powers the myAlaska portal. The DOE supports the idea of being part of the "one stop" for Alaskan citizens, and should costs be so low as to not be a disruption to the division's budget, the division will undertake a project to join.

**PFD Applicants and Registered Voters** – How many PFD applicants are of voting age and how many people that apply for a PFD are already registered to vote. In 2017, the Permanent Fund Division received 672,243 total applications, and 490,840 of those were from adults (18 years or older). Currently, there are 531,335 registered voters in Alaska. Since PFD automatic voter registration implementation, the Division of Elections

has not received all PFD applicants for an entire filing period (January 1-March31). Therefore, in review of 241,590 PFD adult applicant records received for January and February of 2018 against the voter registration database, approximately 212,616 applicants correlated with a current voter registration record, approximately 24,000 were not matched against a current voter registration record and would be new registrants and under 5,000 could not be completely correlated with a voter registration record and will need to be manually reviewed for a potential correlation.

**Election Policy Work Group Roster** – Senator Giessel requested a list of members of the Election Policy Work Group. A roster is attached.

**Center for Election Innovation and Research (CEIR)** – Additional information about Founder David Becker and how CEIR is funded was requested. CEIR has two primary funders, both non-partisan institutional foundations –The Democracy Fund and The Hewlett Foundation. Other than contracts CEIR has with a few states (Alaska, Nevada, and Connecticut) those sources are their sole sources of funding currently. A copy of David Becker’s biography is attached. For more information about CEIR: [www.electioninnovation.org](http://www.electioninnovation.org).

**Election Security** –During the hearing, there was a lot of discussion with regard to election security. For clarification, there are many systems involved in the operation of an election in Alaska. Each system has multiple layers of security and is audited by both Division of Election’s staff and independent monitors. Vote tabulation is tied to a paper ballot, giving the tabulation process a very narrow cyber footprint. The few internet-facing systems that the division operates also employ layered defenses and are actively monitored. This monitoring includes Elections staff, coordination with the State Office of Information Technology staff, and is based upon collaboration with many other agencies including US DHS, FBI INFRAGUARD, MS-ISAC, and other non-governmental cyber entities.

If you have further questions or need additional information, please let me know.

Sincerely,



Josie Bahnke  
Director

Cc: Senate State Affairs Committee Members

## Election Policy Work Group Roster

Name

Agency

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Lt. Governor Byron Mallott	Office of the Lt. Governor
Craig Campbell	Former Lt. Governor
Fran Ulmer	Former Lt. Governor
Mead Treadwell	Former Lt. Governor
Liz Medicine Crow	First Alaskans Institute
David Becker	Center for Election Innovation & Research
Bruce Botelho	Self
Vicki Otte	Get out the Native Vote
John Shively	Self
Joyce Anderson	League of Women Voters
Johni Blankenship, Borough Clerk	Kenai Peninsula Borough
Barbara Jones, Municipal Clerk	Municipality of Anchorage
Lori Strickler, City Clerk	City of Bethel
Nanci Ashford-Bingham, Borough Clerk	Fairbanks North Star Borough
Cindy Allred	ANCSA Regional Association
Joelle Hall	AFL-CIO
Nicole Borromeo	Alaska Federation of Natives
Roy Mitchell	DCRA Language Preservation Council
Marna Sanford	Tanana Chiefs Conference
John Lindback	Electronic Registration Information Center
Laurie Sica, CBJ Clerk	City & Borough of Juneau
Kacie Paxton, Borough Clerk	Ketchikan Gateway Borough
Rep. Kreiss-Tomkins	Chair, House State Affairs (D)
Natalie Landreth	US Civil Rights Commission
Senator Gary Stevens	State Senator *

**BIOGRAPHY FOR DAVID BECKER  
EXECUTIVE DIRECTOR AND CO-FOUNDER  
CENTER FOR ELECTION INNOVATION & RESEARCH**

David Becker is the Executive Director and Co-Founder of the Center for Election Innovation & Research, leading this cutting-edge non-profit's work to improve election administration through research, data, and technology. David created CEIR to be the first effort of its kind, with a proven track record of working with election officials and experts from around the country and across the aisle. Through its efforts, CEIR seeks to reverse the historical decline in voter turnout, and give election officials the tools they need to ensure that all eligible voters can vote conveniently in a system with maximum integrity.

Prior to founding CEIR, David was Director of the elections program at The Pew Charitable Trusts, driving reforms in election administration, including using technology to provide voters with information they need to cast a ballot; assessing election performance through better data; and upgrading voter registration systems. As the lead for Pew's analysis and advocacy on elections issues, David spearheaded development of the innovative Electronic Registration Information Center, or ERIC, which to date has helped a bipartisan group of nearly two dozen states correct almost 4 million out-of-date voter records, and led to these states registering almost a million new eligible voters. David led campaigns in dozens of states, red and blue and everything in between, and directed Pew's partnerships with state government agencies, and with private sector partners like Google, IBM, Facebook, and others.

Before joining Pew, David served for seven years as a senior trial attorney in the Voting Section of the Department of Justice's Civil Rights Division, where he led numerous investigations into violations of federal voting laws regarding redistricting, minority voting rights, voter intimidation, and vote dilution. During his time at the Justice Department, David worked in dozens of states enforcing federal election laws and observing elections in thousands of precincts, and served as lead trial counsel in many cases, including *Georgia v. Ashcroft*.

David's appearances in the media include *The New York Times*, *The Washington Post*, MSNBC, and NPR, and he has been published several times, including by the Stanford Social Innovation Review, the University of California, Berkeley, and The Hill. David received both his undergraduate and law degrees from the University of California, Berkeley.

# Improving Alaskan Elections: 2018 and Beyond

## Looking at the Big Picture

*Prepared for*

Alaska's Election Policy Work Group

*Prepared by*

The Center for Election Innovation & Research  
David Becker, *Executive Director*

### Introduction

In 2015, Lt. Governor Mallott convened the Election Policy Work Group (EPWG) to evaluate Alaska's elections. His goal was to maximize effectiveness, cost efficiency, and responsiveness to the needs of Alaskan voters. Later, the Division of Elections (DOE) published its report "2017 Fiscal & Policy Challenges," which outlined various issues facing the DOE and Alaska's elections, and directed the EPWG to advise regarding solutions to those issues.

In its effort to address the issues outlined in the DOE's report, the EPWG held four meetings in 2017: two in person (in May and November) and two via teleconference (in June and July). The DOE engaged The Center for Election Innovation & Research – a non-profit organization working to improve efficiency in elections, led by David Becker – to facilitate these meetings. The meetings brought together election officials, experts, and other stakeholders to help identify guiding principles, key areas to address, and, ultimately, conclusions regarding how Alaska should confront various issues facing the administration of elections. This report serves as both a descriptive and aspirational document detailing the EPWG's conclusions and urging the EPWG to maintain its momentum throughout the 2018 election cycle.

### Guiding Principles

At the beginning of its first meeting, the EPWG agreed upon some principles to guide its work and recommendations. These principles include:

- Maximized Accessibility: elections should be accessible to all Alaskans regardless of their circumstances. If it doesn't work for rural Alaska, it doesn't work at all.
- Coordination & Buy-in: the DOE, local governments, tribes, and other stakeholders need to agree on changes to Alaska's elections. No one should be left out of the consensus-oriented decision-making process.

- Voter Satisfaction & Confidence: participating in an election should be a satisfying experience for voters. Their satisfaction with and confidence in the process is key.
- Security & Integrity: Alaska's elections and election systems must be designed with security and integrity in mind. Election officials and voters alike must trust in the systems that are used.
- Voter Outreach: voters need to know how to interact with Alaska's elections. Outreach must be tailored to get them the information they need, effectively and efficiently.
- Cost Effectiveness: costs must be contained in order to abide by state and local budgetary constraints.
- Longevity in the Solution: any new system or solution adopted must endure the test of time.

### Key Areas to Address

The EPWG's latest meeting, held in mid-November, represented a significant step forward as the group began to narrow in on the most important issues facing Alaska's elections. Those issues, which contain several important sub-issues, include addressing: (1) modernization of Alaska's elections, (2) Permanent Fund Dividend (PFD) automatic voter registration, and (3) voter trust in elections.

#### Modernization of Alaska's Elections

In recent years, Lt. Governor Mallot has taken steps to modernize Alaska's elections. An important part of that modernization effort has focused on the state's voting systems. The complications arising from Alaska's aging voting systems are at the forefront of the EPWG's concerns. Alaska is a paper ballot state that uses optical scan voting machines, which are supplemented by direct-recording electronic voting machines (DREs) in order to meet federal accessibility requirements under the Help America Vote Act (HAVA). Under state law, all DREs must produce a voter-verifiable paper record. Alaska also has an online ballot delivery service that is open to all voters, and through that service voters may receive ballots via the internet. Voters who receive a ballot via the internet may return those ballots by mail or fax. In addition to Election Day voting at the precinct, Alaska offers voters the chance to vote early, in-person absentee, and absentee by mail or fax.

The technologies that form the backbone of Alaska's voting systems, particularly the voting machines offered by the DOE to the localities, are seriously outdated, creating problems for election administrators and voters alike. Alaska's current optical scan voting machines were purchased in 1998 and given a twenty-year life expectancy. Though most are still operational (some did fail mechanically during the 2016 election cycle), the machines are expensive and difficult to maintain because key components, such as memory cards, are no longer manufactured. Additionally, the method of reporting vote totals relies on outdated infrastructure (such as analog phone lines) that may not exist in certain areas but for the purpose of reporting vote totals.

The issue of aging and outdated technology is one facing many states, and some states have found ways to implement modern, cost-effective, and efficient systems, while simultaneously offering voters more options of where, when, and how to cast a ballot. One such state is Colorado, where the state moved from traditional voting options (like those Alaska uses) to a more modern hybrid system that employs vote centers and mail ballots. Under Colorado's system, all voters receive a ballot by mail. Vote centers operate much like the traditional early, absentee in-person, and Election Day voting options. Voters may visit a vote center, receive their proper ballot, and cast their vote, in the weeks leading up to and including Election Day. Voters also may turn in their voted mail ballots at vote centers or designated secure drop boxes. Alternatively, they may return their mail ballots by mail. Colorado's voting systems stood in stark contrast to Alaska's aging systems and showed the EPWG both how outdated Alaska's current systems are as well as perhaps how best to approach developing modernized voting systems for Alaska. Such a system can be considered an "alternative ballot delivery" system, where voters receive their ballots by mail, and can choose to return them at a vote center, by mail, or at a drop box, whichever is most convenient for them. And if a voter fails to receive a ballot, or loses it, they can obtain a new one, and cast it, at any vote center before or on Election Day.

In the search for ways to improve upon Alaska's voting systems, the EPWG sent representatives on a fact-finding trip to Colorado. The report following the trip<sup>1</sup> detailed how Colorado's new systems (adopted after 2013) work, including some of the benefits Denver County and the state of Colorado have experienced since switching to the new systems, including cost savings, increased voter satisfaction, and decreased labor requirements and training. As a result, the EPWG determined that an alternative ballot delivery system could deliver better results for Alaskan voters at a reduced cost.

#### PFD Automatic Voter Registration

\* Improving the management and processing of PFD automatic voter registration is another key priority. Approved as a ballot measure in the November 2016 election, PFD automatic voter registration automatically registers eligible individuals to vote when they submit a PFD application, unless the individual "opts-out" of voter registration. The DOE receives PFD application information from the PFD Division (PFDD). If the information can be used to update or create a new voter record, the DOE flags the record and the applicant is then mailed notification of the voter record change, which includes an opt-out notice that the applicant may use to decline the change.

The law creating the new program went into effect on March 1, 2017, and the PFD application period ended on March 31, 2017. Despite the brief window, approximately 158,000 Alaskans applied—roughly 76,000 of whom received a mailer informing them that their voter records were changed. Applicants who listed an undeliverable address were still registered and many were sent a mailer, however, applicants who were ineligible to register were not sent a mailer. Because of the way some applicants provided information on the PFD application (e.g., incorrectly spelling a street name), the new voter records were not always easy to add to the DOE's database. Around

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<sup>1</sup> Thompson, CA. EPWG Fact-Finding Denver Colorado. September 7, 2017.

27,300 records required manual processing—representing roughly 17% of all PFD application records. During a full PFD application period, the DOE would likely receive nearly 500,000 records. Based on the 17% automatic processing failure rate for this year's limited sample, approximately 85,000 records would require manual processing following a full PFD application period. Such extensive manual processing would be labor intensive and quite costly.

Though the significant failure rate for the automatic processing of PFD application data will require a coordinated effort between the DOE and the PFDD to implement technical fixes, there are still other cost savings that can be obtained. This year, PFD automatic voter registration will be fully implemented. Next year, the DOE aims to make the process fully automated and paperless, similar to how DMV voter registration works. Streamlining PFD automatic voter registration in this way is projected to save around \$200,000. *a savings but not much*

The DOE is also pursuing legislative fixes to further clarify and streamline the DOE's role in administering PFD automatic voter registration. One key legislative change the DOE is pursuing relates to the opt-out procedure for PFD automatic voter registration. Currently, the DOE must mail opt-out notices after receiving applicant data from the PFDD. However, the opt-out process could be made much more cost-efficient by instead allowing PFD applicants to opt out when they fill out their application. Such an opt-out process would not be unprecedented—voter registration at DMV has included an opt-out option since 1994. When an applicant applies for a driver's license, they are given the option to update their voter registration with the same information used for their driver's license. The PFD voter registration process could be similar to the DMV voter registration process by updating the law to allow opt-out during the application process and eliminating the current opt-out notice, which actually requires waiting 30 days before records can be updated or new voters can be registered. It is worth noting, however, that such a legislative fix likely would not occur in 2018. *for 2019 effective date*

*This is the bill SB 186*

### Voter Trust in Elections

In the wake of the 2016 elections, the issue of maintaining and promoting faith in elections and election outcomes has become increasingly important. There is no evidence to suggest tampering with the actual vote totals in any state (including Alaska), but the threat of foreign interference has raised doubts in the minds of many voters. With that in mind, the EPWG recognized the importance of promoting voter trust in the integrity of Alaska's elections while also recognizing that elections are only meaningful if they are also accessible. Therefore, the DOE should continue its work to secure its systems, and promote that work to Alaskan citizens, while also ensuring that any new system is fully secure and resistant to tampering.

## Conclusions

### 1. Alaska's Aging Voting Systems Must Be Replaced Soon

- i. Alaska's voting systems are out-of-date and unnecessarily complicating elections.
- ii. The state's nearly 20-year-old voting machines must be replaced.
- iii. The process of procuring new voting machines and developing new voting systems takes time.
- iv. Localities need reliable information about what their options are, and they need that information as soon as possible.
- v. The fact-finding trip to Colorado provided a viable option for Alaska's new voting system, an alternative ballot delivery system that could be tailored to Alaska's unique voting challenges.
- vi. Alaska's voting systems should be updated in time for the 2020 elections.

### 2. A Unified Voter Experience for Alaskans is Desirable

- i. Our goal should be an experience that provides all Alaskan voters with the same, approachable options for voting no matter where they cast their ballots.
- ii. Regardless of the technology used by DOE, there should be consistency in how voters perceive the process.
- iii. Accessibility, compliance, and security are key considerations to keep in mind when developing the voter experience.
- iv. Alaskans must be fully informed about how the process works, to inspire satisfaction and confidence.

### 3. If It Doesn't Work for Rural Alaska, It Doesn't Work At All

- i. Any changes to Alaska's voting systems will only be effective if all Alaskan stakeholders are on board, with full accessibility for all Alaskans.
- ii. An entirely vote-by-mail system (like Oregon or Washington employs) may be unacceptable due to the challenges rural communities would experience both receiving and returning ballots. A robust in-person voting option (alongside vote-by-mail) is likely necessary to provide rural communities with adequate access.
- iii. Language assistance must continue to be provided in order to comply with Section 203 of the Voting Rights Act and to ensure that voting is accessible for all Alaskans.
- iv. Further research must be conducted to gauge the viability of an alternative ballot delivery system for Alaska, including rural areas.

### 4. PFD Automatic Registration Must Be Optimized

- i. The current PFD automatic voter registration process is hampered with inefficiencies that result in a high rate of records that the DOE must manually update.
- ii. The DOE should continue to seek a legislative change to the PFD application in order to allow applicants to opt out of automatic registration on the PFD application.

- iii. PFD automatic voter registration should be automated and paperless (like DMV voter registration) by 2020.

5. Actions to Be Taken in 2018

- i. Partner with UAA's Institute of Social and Economic Research to conduct a voting survey to help determine the viability of potential replacement voting systems.
- ii. Provide a demonstration of election equipment that could be used to support a hybrid vote-by-mail/in-person voting system.
- iii. Continue to support efforts to improve PFD automatic voter registration by seeking legislative change aimed at making the process more streamlined and cost-efficient.
- iv. After the EPWG issues its formal recommendations, perform a full cost analysis of the recommended voting system. The DOE will perform this cost analysis.
- v. Identify the necessary legislative changes to Alaska Statutes Title 15 in order to implement the EPWG's recommended voting system. Proposed legislation will then be drafted and sponsorship will be solicited, as needed.
- vi. Above all, maintain momentum throughout the 2018 election cycle. If momentum slows, this report should serve as a reminder of the EPWG's key conclusions in order to refocus the effort to improve Alaska's elections. A change in an election system takes a lot of discussion up front and a lot of time to execute. This is about making government work, and voting is a fundamental right. Cost effectiveness and other related concerns are critical, but well-run elections are of paramount importance.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
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## MEMORANDUM

March 9, 2018

**SUBJECT:** Repeal of an initiated law Amendment 30-GS2097\A.1 to SB 186

**TO:** Senator John Coghill  
Attn: Jordan Shilling

**FROM:** Alpheus Bullard *AB*  
Legislative Counsel

This memorandum accompanies the amendment described above. I have one comment.

This amendment changes the voter registration procedure on a permanent fund dividend application from an "opt-out" to an "opt-in" procedure. The ability of a Permanent Fund Dividend (PFD) applicant to register on the PFD application itself, and the requirement that an applicant "opt-out" in order not to be registered, were enacted by the people of Alaska through their initiative power when they approved Ballot Measure No. 1, "An Act relating to the permanent fund dividend application and the registration of voters; and providing for an effective date" (15PFVR) at the November 2016 General Election.

Under the Alaska Constitution, art. XI, sec. 6, an initiated law may be amended at any time, but may not be repealed within two years of its effective date. In this case, 15PFVR became effective March 1, 2017.<sup>1</sup> Accordingly, the initiative may not be repealed before March 1, 2019. Without a special effective date, any bill passed by the 30<sup>th</sup> Alaska Legislature will take effect before that date. The pertinent question is whether this amendment so changes the initiated law as to amount to a "repeal."

Under 15PFVR, a state resident who is eligible to vote, but who is not registered to vote, is registered to vote when the resident completes a permanent fund dividend application unless the individual chooses to opt-out. This structure is not fundamentally changed by SB 186 which simplifies the details of the opt-out process. Under SB 186, a person who is not registered to vote will, if the person is qualified and does not opt-out, still be registered to vote when they filed a permanent fund dividend application. Under your amendment, a person may continue to register to vote on the PFD application itself, but must choose to opt-in. There exists a possibility that requiring an applicant to opt-in could

---

<sup>1</sup> The ballot measure election result was certified by the Division of Elections on December 1, 2016, and became effective March 1, 2017 (art., XI, sec. 6 of the Constitution of the State of Alaska provides that an initiative becomes effective 90 days after certification).

be interpreted by a court as so significant a change to the initiated law, that it functions as a repeal of 15PFVR.

### **Constitutionality of Amending an Initiated Law**

Two Alaska court decisions are implicated.

In early 1974, two related initiative petitions were filed with the lieutenant governor. One dealt with conflict of interest, and the other election campaign disclosure. Both petitions were certified as having sufficient signatures and were scheduled for inclusion on a statewide election ballot. The 1974 Legislature considered both matters. The legislature did not take any action on the conflict of interest petition, but did enact legislation (ch. 76, SLA 1974) on campaign disclosures.

The lieutenant governor concluded that the campaign disclosure enactment was substantially the same as the campaign disclosure petition and voided the initiative. That decision was challenged. The challenger, Cliff Warren, an initiative sponsor, contended that the legislature had short-circuited the initiative process by passing a law determined to be substantially the same as the proposed initiative. In its decision upholding the lieutenant governor's conclusion, the Alaska Supreme Court observed that the legislature enjoys broad authority to amend an initiative:

The final constitutional provision states in pertinent part:

An initiated law . . . is not subject to veto, and may not be repealed by the legislature within two years of its effective date. It may be amended at any time . . . .

The constitution thus vests broad authority in the legislature to vary the terms of an initiated law, after its adoption, by the process of amendment. This power amounts to a check or balance against the initiative process. No doubt the legislature was given this power to assure that initiatives which were ill-advised, which might seriously cripple or frustrate the sound workings of government, or which might be impracticable, could be altered or corrected rapidly by the legislature. It was obviously intended by the framers that the initiative process should not be permitted to disrupt vital government functions or to impose intolerable burdens upon established administrative systems. To this end the legislature was given the ability to substitute its judgment for that of the proponents of an initiative.

*Warren v. Boucher*, 543 P.2d 731, 737 (Alaska 1975).

But the legislature's authority to amend is not without limits. At the August 1974 primary election, the voters approved the second initiative petition, the conflict of interest proposal, and it was certified and became law on December 11, 1974. The 1975 Legislature amended the law to change deadlines and to exclude certain former officials, who under the initiative were required to file disclosures, from having to file. Ch. 2, SLA 1975. The law was

amended again that session by adding a further delay to the filing deadline. Ch. 25, SLA 1975. Mr. Warren challenged the amendments, contending that the changes were beyond the authority of the legislature to approve and amounted to a "repeal" of the initiated law.

The court rejected his contentions in its decision in *Warren v. Thomas*, 568 P.2d 400 (Alaska 1977):

The central issue in the case at bar is whether the legislature has exceeded the broad power by passing an amendment which so vitiates the initiative as to "constitute its repeal." [*Warren v. Boucher*, 543 P.2d 731,] at 737. Warren argues that the changes are so drastic that they make a mockery of the law, that the trial court erred in concluding the legislation was merely "housekeeping," and that the amendments . . . amount to a repeal of the law. We disagree. "[A]n amendment of an act operates as a repeal of its provisions to the extent that they are materially changed by, and rendered repugnant to, the amendatory act." *Meyers v. Board of Supervisors of Los Angeles County*, . . . 243 P.2d 38, 42 (Cal. 1952); see also *W.R. Grasl Company v. Alaska Workmen's Comp. Board*, 517 P.2d 999 (Alaska 1974)

....

[T]here remains the question whether the amendments so emasculate the law that it is effectively repealed. We conclude that they do not. There are considerable language changes, but these clarify and render the law more precise. The fines for violations of the law have been reduced but the penalties are still significant . . . . Finally, the amended law still imposes substantial disclosure requirements on public officials and effectuates the intent of the electorate that those in a position of public trust be held to a high standard of financial disclosure.

...

For the purposes of this appeal it is unnecessary for us to decide at what point an amendment might be so drastic as to constitute a repeal of an initiated law in violation of the Alaska Constitution. In this case the amendments only reduced the penalties for violation of the law and clarified some of the language. We are of the opinion that such an amendment did not constitute a repeal of an initiated law.

*Warren v. Thomas*, 568 P.2d 400, 402 - 404.

This pair of cases has not been the court's last word. In *Yute Air Alaska, Inc. v. McAlpine*, 698 P.2d 1173 (Alaska 1985), the court decided an appeal by setting out the full text of the trial court opinion, "which explains the questions presented and, in our view, properly resolves them." *Id.* at 1175. The trial court opinion, which the Supreme Court acknowledged, declared that "[t]he two *Warren* cases establish the proposition that the

Senator John Coghill

March 9, 2018

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provisions of section 6 of article XI on amendment of adopted initiatives and on voiding pending initiatives vest the legislature with broad powers to protect the state against the untoward effects of initiatives." *Id.* at 1179.

If you have questions, or if I can be of further assistance, please do not hesitate to contact me.

TLAB:mlp  
18-149.mlp

Attachment

AMENDMENT

OFFERED IN THE SENATE  
TO: SB 186

BY SENATOR COGHILL

1 Page 1, following line 2:

2 Insert a new bill section to read:

3 **\*\* Section 1.** AS 15.07.050(a) is amended to read:

4 (a) Registration may be made

5 (1) in person before a registration official or through a voter  
6 registration agency;

7 (2) by another individual on behalf of the voter if the voter has  
8 executed a written general power of attorney or a written special power of attorney  
9 authorizing that other individual to register the voter;

10 (3) by mail;

11 (4) by facsimile transmission, scanning, or another method of  
12 electronic transmission that the director approves; or

13 (5) by requesting to be registered as a voter on [COMPLETING] a *opt in*  
14 permanent fund dividend application form under AS 43.23.015."

15

16 Page 1, line 3:

17 Delete "**Section 1**"

18 Insert "**Sec. 2**"

19

20 Renumber the following bill sections accordingly.

21

22 Page 1, line 6:

23 Delete "completing"

1 Insert "requesting registration on [COMPLETING]" ✓

2 Delete "with"

3 Insert "form and including"

4

5 Page 1, line 7:

6 Delete "included"

7

8 Page 2, line 1:

9 Delete "submit a"

10 Insert "request to be registered on a"

11 Following "application":

12 Insert "form submitted"

13

14 Page 2, line 4:

15 Delete "declines to"

16 Insert "who requests to be registered does not"

17

18 Page 2, line 5:

19 Delete "[AN"

20 Insert "[SUBMIT AN"

21

22 Page 2, line 11, following "notify":

23 Insert ";

24

25 Page 2, line 12, following "applicant":

26 Insert "who requested registration of the applicant's registration status"

27

28 Page 2, lines 13 - 14:

29 Delete "of the applicant's registration status"

30

31 Page 2, lines 25 - 26:

1 Delete "[IF AN APPLICANT DOES NOT DECLINE TO BE REGISTERED AS A  
2 VOTER WITHIN"

3 Insert "If an applicant requests [DOES NOT DECLINE] to be registered as a voter,  
4 the [WITHIN"

5  
6 Page 2, line 28:

7 Delete "FORM.] The"

8 Insert "[FORM. THE]"

9  
10 Page 3, following line 1:

11 Insert a new bill section to read:

12 "\* **Sec. 6.** AS 43.23.015(b) is amended to read:

*attestation*

13 (b) The department shall prescribe and furnish an application form for  
14 claiming a permanent fund dividend. The application must include

15 (1) notice of the penalties provided for under AS 43.23.035;

16 (2) a statement of eligibility and a certification of residency;

17 (3) the means for an applicant eligible to vote under AS 15.05, or a  
18 person authorized to act on behalf of the applicant, to request that the applicant be ✓

19 registered as a voter, to furnish information required by AS 15.07.060(a)(1) - (4) and  
20 (7) - (9), and to attest [AN ATTESTATION] that the [SUCH] information is true."

21  
22 Renumber the following bill sections accordingly.

23  
24 Page 3, lines 3 - 5:

25 Delete "Except for a permanent fund dividend application where the applicant  
26 declines to provide the information required under AS 15.07.060(a)(1) - (4) and (7) - (9),  
27 the [THE] "

28 Insert "The"

29  
30 Page 3, line 11, following "who":

31 Insert "requested to be registered to vote and" ✓

1

2 Page 3, line 19:

3 Delete "secs. 1 - 5"

4 Insert "secs. 1 - 7"

5

6 Page 3, line 27:

7 Delete "Sections 1 - 5"

8 Insert "Sections 1 - 7"

9

10 Page 3, line 28:

11 Delete "sec. 8"

12 Insert "sec. 10"

**DRAFT**  
**AMENDMENT**

OFFERED IN THE SENATE

TO: SB 186

1 Page 2, line 2, following "treat":

2 Delete "an eligible"

3 Insert "a"

5 Page 2, line 3, following "applicant":

6 Insert "under AS 43.23.016"

8 Page 2, line 9:

9 Delete "Upon"

10 Insert "The director shall establish procedures to allow a permanent fund dividend  
11 applicant under AS 43.23.015 to <sup>a registered voter</sup> decline voter registration under AS 43.23.016 when  
12 applying for a permanent fund dividend under AS 43.23.015. The procedures may include  
13 a form prescribed by the director. For a permanent fund dividend applicant that does not  
14 decline voter registration through the permanent fund dividend application, upon [UPON]"

*deals with the opt out*

16 Page 2, lines 12 - 13:

17 Delete "[NOT ALREADY REGISTERED TO VOTE]"

18 Insert "not already registered to vote"

20 Page 3, line 5, following "(9)":

21 Insert "under the procedures developed by the director of the division of elections  
22 under AS 15.07.070(k)" ✓

Division of Elections  
2017 Fiscal & Policy Challenges

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# Overview

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Over the next five (5) years, the Division of Elections will face several fiscal challenges in the administration of elections in Alaska. In an effort to facilitate and advance policy discussions about the future of election administration, the division recommended an expansion and reconvening of the Elections Policy Work Group established by Lieutenant Governor Mallott. Working with the division, this group would help create dialogue and recommendations on policy related issues surrounding the administration of elections and could also help identify potential cost savings measures.

✓ | Following the 2010 General Election, a review was conducted that included an analysis of election law and procedures, and several recommendations were made to improve the efficiency and administration of elections. The focus of the 2010 review was specifically related to issues, processes, and concerns surrounding the historic write-in campaign for the United States Senate and did not specifically address long-range fiscal challenges related to elections administration in Alaska.

While numerous recommendations and improvements were made following the 2010 review, the division must now focus on challenges in the administration of elections and maintaining the public's trust and confidence during the state's fiscal crisis. Specifically, the division must implement additional state and federal mandates relating to voter registration and language assistance; address challenges relating to the recruitment and training of election workers; and work to replace an aging ballot tabulation system, with an estimated replacement cost over \$6 million. ?!

Working together, the division and the bi-partisan work group will address numerous topics, including:

- Technology
  - Aging voting equipment
  - Online Ballot Delivery System
  - Third-party ballot marking devices
  - Redistricting
- Administration of Elections
  - Election worker recruitment, pay and training
  - Felon voters
  - Language assistance
  - Absentee voting
  - Ongoing implementation of PFD Automatic Registration
- Potential Costs Savings Measures
  - Primary election administration
  - Distribution of Official Election Pamphlet
  - Establishment of permanent absentee voters
  - By Mail elections
  - PFD Automatic Voter Registration— "opt out" during PFD application process

With the large number of paper applications received each election cycle, it takes a tremendous amount of staff resources to enter the information into VREMS. First the applicant's voter registration record must be updated and then the ballot application added to their record.

If the requirement to apply for absentee ballots each year is maintained in Alaska statute, the division needs to implement a more efficient method for receiving and processing absentee ballot applications – such as an online application similar to the online voter registration.

### In-Person Absentee Voting Locations

In an effort to improve ballot accessibility for voters in rural Alaska, the division has added over 100 new absentee voting locations throughout rural Alaska since 2013. Each location requires the division to hire and train an absentee voting official. In addition, these new locations required the division to purchase additional voting supplies and ballots.

Under AS 15.20.045, absentee voting locations are open 15 days prior to an election. While the division initially intended to have the municipal or tribal officials serve as the absentee voting official during normal business hours, in many communities the division continues to have a difficult time recruiting these officials.

Many of these locations voted very few voters, if any. In addition to the cost associated with operating absentee voting locations, there are security concerns with distributing ballots and election materials. Many of the locations did not complete their ballot accountability report and/or properly complete voting materials.

In an effort to monitor the effectiveness of voting locations, while at the same time taking into consideration ballot security concerns and fiscal impact, the division may need to fully review each location and the number of voters using the absentee voting services provided to recommend if any site be eliminated. In addition, in order to ensure proper procedures and ballot security measures are followed, the division will aim to establish a comprehensive training program for absentee voting officials.

### Ongoing Implementation of PFD Automatic Voter Registration

In the 2016 General election, the people enacted Ballot Measure #1, 15PFVR, which allows for automatic voter registration through the PFD application process. The division anticipates yearly ongoing costs associated with implementing this new statute. The division will incur initial costs of the system configuration changes to VREMS and the initial "opt out" mailing and voter ID card mailing. At this time, the division does not know what the full fiscal impacts of compliance will be.

The division anticipates a large volume of registration changes and new registration each year with 15PFVR, especially as voters move around within state. For instance, in 2016, the division processed over 171,800 registration changes and 31,400 new registrations. It is unknown what the quantity will be until the first PFD-to-voter record match is completed.

Each year, there will be costs associated with mailing the "opt out" notices to the affected voters. There will also be costs associated with hiring additional temporary workers to process updates/new registrations that are unable to be added to VREMS automatically (i.e., a voter's residence address doesn't match records in VREMS address library) and to process returned notices and respond to questions. Depending on when the PFD provides applicant information to the division, the number of dedicated staff could be quite high if it is near a registration deadline for an election.

# Potential Cost Savings Measures

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- Primary election administration and separate ballots
- Distribution of Official Election Pamphlet
- Establishment of permanent absentee voters
- By Mail elections
- 15PFVR – “opt out” during PFD application process

## Alaska’s Primary Election

Currently, Alaska produces three Primary election ballots: two separate candidate ballots and one ballot measures only ballot (if there are measures appearing on the Primary election ballot). Each voter may select only ONE ballot.

Under existing political party by-laws for all parties except Republican, any voter may vote the ballot containing the candidates from the Alaska Democratic Party, Alaska Libertarian Party, and the Alaskan Independence Party. To vote the ballot with the Republican candidates, a voter must be registered Republican, Undeclared or Non-partisan.

If ballot measures are scheduled to appear on the Primary election ballot, both candidate ballots mentioned above contain both the candidate races and the ballot measures. In addition, under AS 15.25.060, a separate Primary ballot is printed that contains only the ballot measures and any registered voter may choose this ballot.

The different ballots during a Primary election can cause voter and poll worker confusion. Although workers are trained to issue only one ballot per voter, they sometimes issue voters one of each different type. The 2016 Primary election litigation in House District 40 centered on this very issue.

In light of the state’s fiscal crisis, another topic to consider is who should be paying for a private/closed Primary. Alaska’s constitution outlines the requirement for a General election, but the requirement for a Primary election is only outlined in statute, and has evolved and changed numerous times over the State’s history. Should the legislature change the structure of the Primary election?

## Distribution of the Official Election Pamphlet

Alaska Statute 15.58.010 requires at least one official election pamphlet to be distributed to each household identified from the official registration list. In addition to the pamphlet for the General election, if there are measures on the Primary ballot, a ballot measures only pamphlet is printed and distributed.

Each election cycle, the cost of printing and distributing a hard-copy pamphlet continues to increase. For 2016, the division spent approximately \$350,323 to produce, print, and distribute the pamphlet. The cost to produce the 2014 pamphlet was approximately \$348,945.

With these increasing costs and developing technology, should the legislature consider doing away with the hard-copy, printed version of the pamphlet and replacing the pamphlet with an electronic version that can be posted online?

## Establishing Permanent Absentee Voting

In 2016, the division processed 45,753 absentee ballot applications. As more and more Alaskans are choosing to vote absentee, allowing a voter to use a single application to request absentee ballots for all future elections will reduce the amount of resources it takes to process applications. Since 2007, some form of permanent absentee voting has been introduced during each legislative session.

Based on the most recent legislation (HB 1), a voter may apply to be a permanent absentee voter. The division would automatically send such voters the ballot for any state conducted election the voter is eligible to vote. The voter would remain a permanent absentee voter unless the voter does not vote in this manner for four years or if any mail addressed to the voter comes back as undeliverable, consistent with the division's list maintenance statutes. Voters may ask to be removed as a permanent absentee voter at any time.

## By Mail Voting

The precinct-based ballot tabulation system used in Alaska is nearing its end-of-life and will eventually need to be replaced. This provides a good opportunity for the state to consider alternative voting methods for state and federal elections.

In 2016, 32% of Alaskan voters used an alternative method of voting (by mail, electronic, or in person) and the division anticipates this trend to continue. Starting in 2018, the Municipality of Anchorage plans to conduct their municipal elections entirely by mail, and has already secured a new ballot counting system and signature verification system specific to vote by mail. With the largest municipality in Alaska going to vote by mail, approximately 40% of the registered voters in Alaska will be included in vote by mail elections.

Currently, three states (Oregon, Washington and Colorado) use vote by mail exclusively for all elections. Another 22 states allow certain, but not all, elections to be conducted entirely by mail, including Alaska. In Alaska, the division conducts some of the Rural Educational Attendance Area (REAA) elections by mail as well as special elections such as incorporation and liquor option elections.

Although the division has not conducted a full cost analysis, the division anticipates that conducting elections by mail would result in a cost savings. For instance, mailing a ballot package to every registered voter is less expensive than paying for election workers, election worker training, and

*So why don't we go to a mail ballot for small communities?  
Why not all?*

polling place rental. Vote-by-mail would also eliminate the type of human error inherent in polling place voting and could mean increased voter convenience. The division would save money on the cost of ballot tabulation equipment, maintenance, and shipping. The division also anticipates a potential cost savings related to polling place supplies and equipment such as various election forms, miscellaneous polling place supplies (pens, posters, handbooks, flyers, etc.), voting booths, tables, chairs, and accessibility tools, although unique considerations of mail service in rural Alaska would need to be carefully considered.

### PFD Automatic Voter Registration "Opt-Out" Process *SB 184*

Under 15PFVR (discussed above), the division must send a notice to those voters whose address on their permanent fund dividend application is different than their voter record address, or to applicants who are not currently registered to vote, to notify them that the information on their PFD application will be used to update their voter registration or register them unless they "opt-out" within 30 days.

It would save costs if the "opt-out" provision was included in the application process, rather than waiting until after the application is submitted. The division recommends PFD applicants be given the opportunity to "opt-out" of using their PFD information for voter registration when they are completing the application. A simple check-box incorporated into the application could be used, and if selected, the PFD data transferred to the division would not include those records where the applicant selected to "opt-out" of voter registration.

Allowing for "opt-out" during the application process would save costs in mailing a notice to each applicant as well as in staff time processing the notices. Although it is unknown how many PFD applicants are not registered or who have a different address on their PFD application than what is on their voter records, the division anticipates it will have to send out a large volume of notices in the first several years of implementation.



# Decide Alaska's Future.

# VOTE ✓

- The Division of Elections (DOE) is administering the voter approved Ballot Measure 1- PFD Automatic Voter Registration (15PFVR). The law includes goals to help register Alaskan voters, enhance accuracy of voter rolls, and save the state money. The DOE is seeking legislative fixes to clarify and streamline the DOE's role in administering the law. The proposed amendments would allow for "opt-out" of voter registration during the PFD application process, while retaining the law's intent.
- Under the current law for PFD Automatic Voter Registration (AVR), the DOE must mail an opt-out notice to: (1) PFD applicants who are not currently registered to vote; and (2) voters whose residence address on their PFD application is different than their voter record address. The law became effective March 1, 2017, and the DOE targeted PFD applications received in March 2017. The notification informs these applicants that the information on their PFD application will be used to update their voter registration or register them unless they "opt-out" within 30 days. Of the data received from PFD, about 48% of PFD applicants were sent an opt-out notice.
- The State could save money if the opt-out process was included with the actual PFD application process – just like voter registration at DMV has been since 1994. When Alaskan's apply for a new or updated driver's license, the voter has the option to register to vote or update their voter registration. This has worked well at the DMV since 1994 and is a cost-efficient method for updating voter records for DOE through the DMV registration process. Our PFD voter registration process could be similar to the DMV voter registration process by updating the law to allow opt-out during the application process and eliminating the "opt-out" notice.

The DOE is preparing for full implementation during the PFD application cycle in 2018 and anticipates receiving a large quantity of data from PFD in early April. Upon receipt, the DOE will prepare this data to send the 30 day "opt-out" notice as currently required by law. After the 30-day period, the DOE will begin processing registrations to meet the statutory deadlines related to the Primary Election.

**Since 2015 and prior to voter approval of PFD Automatic Voter Registration, the DOE has made several technological advancements to improve access, efficiency, and accuracy of voter registration rolls:**

- The DOE has fully implemented an online voter registration (OLVR) process making registering to vote or updating an existing voter registration easy and efficient. When the 15PFVR petition was being circulated, OLVR was not yet available. Since being implemented, 45,000+ voters have used the OLVR system to either register or update their existing voter registration.

- The DOE has fully automated the process of receiving voter registration information electronically from DMV when Alaskans update their driver's license. When 15PFVR was being circulated, the DMV registration process was not automated, and registrations were sent to DOE on paper applications. Since implementation, 56,000+ voters have either registered or updated their existing voter registration through DMV electronic process.

- In May 2016, enactment of SB 9 allowed the DOE to join the Electronic Registration Information Center (ERIC). ERIC is a bipartisan, independent non-profit owned, managed and funded by participating states. Founded in 2012 by 7 states, ERIC now has 20 member states including Washington D.C. ERIC's mission is to help state election officials improve the accuracy of their voter rolls, register more eligible citizens, reduce costs, and improve efficiencies in the voting process. Using sophisticated and secure data matching technology processes, ERIC analyzes state voter registration records to determine voters who've moved within a state and not updated their voter registration, voters who've moved from one ERIC member state to another, voters who have died, duplicate voter records and records that need to be updated. In 2017, ERIC identified approximately 95,000 Alaskan records that need to be updated. Following a mailer to these individuals, the result will be more accurate voter rolls and for those who moved, ensuring voter participation. Through Alaska's membership with ERIC, the DOE contacted approximately 90,000 eligible but unregistered voters before the 2016 General Election.

**ASK: Support legislation that would make changes to the PFD Automatic Voter Registration law by allowing Alaskans to "opt-out" of voter registration or changes to their voter information during the PFD application process. This legislation would save an estimated \$200,000 annually in mailing costs and provide for a mechanism by which voter registration transactions performed by DOE are fully automated and reduce paper transactions.**

**DRAFT**  
**AMENDMENT** #1

OFFERED IN THE SENATE  
TO: CSSB 186(STA)

- 1 Page 2, line 16, following "treat":
- 2 Delete "**an eligible**"
- 3 Insert "**a**"
- 4
- 5 Page 2, line 26:
- 6 Delete "**registration of the applicant's registration status**"
- 7 Insert "**voter registration**"
- 8
- 9 Page 3, line 23, following "(9)":
- 10 Insert "**under the procedures established by the director of the division of elections**
- 11 **under AS 15.07.070(k)**"

DRAFT  
AMENDMENT

*Amendment # 1*

OFFERED IN THE SENATE  
TO: SB 186

1 Page 2, line 2, following "treat":

2 Delete "**an eligible**"

3 Insert "**a**"

4

5 Page 2, line 3, following "**applicant**":

6 Insert "**under AS 43.23.016**"

7

8 Page 2, line 9:

9 Delete "Upon"

10 Insert "**The director shall establish procedures to allow a permanent fund dividend**

11 **applicant under AS 43.23.015 to <sup>register</sup> decline voter registration under AS 43.23.016 when**

12 **applying for a permanent fund dividend under AS 43.23.015. The procedures may include**

13 **a form prescribed by the director. For a permanent fund dividend applicant that does not**

14 **decline voter registration through the permanent fund dividend application, upon [UPON]"**

15 *registered to vote*

16 Page 2, lines 12 - 13:

17 Delete "[NOT ALREADY REGISTERED TO VOTE]"

18 Insert "not already registered to vote"

19

20 Page 3, line 5, following "**(9)**":

21 Insert "**under the procedures developed by the director of the division of elections**

22 **under AS 15.07.070(k)**"

EMAIL RECEIVED BY SENATE STATE AFFAIRS  
TESTIMONY AGAINST SB 186

-----Original Message-----

From: Mike Coons [<mailto:mcoons@mtaonline.net>]

Sent: Thursday, March 8, 2018 2:18 PM

To: Sen. Kevin Meyer <[Sen.Kevin.Meyer@akleg.gov](mailto:Sen.Kevin.Meyer@akleg.gov)>

Cc: Sen. David Wilson <[Sen.David.Wilson@akleg.gov](mailto:Sen.David.Wilson@akleg.gov)>; Sen. Mike Shower <[sen.mike.shower@akleg.gov](mailto:sen.mike.shower@akleg.gov)>; Sen. Shelley Hughes <[sen.shelley.hughes@akleg.gov](mailto:sen.shelley.hughes@akleg.gov)>

Subject: Revise Opposition to SB 186

My name is Mike Coons from Palmer and I am speaking for myself.

I have read the bill carefully and several things stand out to me. First off is the registering to vote by applying for the PFD. A problem we have now with the PFD application is that a criminal with warrants can receive the PFD, so that said, a criminal who happens to be a convicted felon then can register to vote when by law he/she can't vote.

The other concern is this opens the way for illegal aliens. Going to DMV to get a Drivers License is at least one opportunity to find any fraudulent form of ID, i.e. birth certificate or false out of State ID.

This bill allows one form of ID, so a fraudulent ID may well be easier to pass through in applying for the PFD and thus getting the ability to take part in one of our most sacred rights, the right to vote.

There is voter fraud throughout the US. Why in the world would we want to make it even easier here in Alaska? Just because liberal States, like Oregon register to vote and vote by mail, why would we want to copy what they are doing? We do have voter fraud in the State, Senator Lisa Murkowski's election as an "independent" raised that question, but sadly our Lt Governor refused to investigate. This bill opens the door for even more likelihood of voter fraud.

It has come to my attention that Lexis Nexis has a program to stop fraudulent PFD applications. An Article dated Dec 2, 2017 "PFD fraud detection program falls short of promised savings" states: "New data published Monday by the Permanent Fund Division show that Lexis Nexis' software stopped 224 ineligible dividend payments in 2016.... The state is trying to collect another \$435,000 in dividends from the preceding six years that the software identified as ineligible, including 111 from 2015."

So that means that this program alone stopped around 570 fraudulent applications. If this bill was in effect now, but no safeguard like Lexis Nexis, that means 570 people illegally voted! In several races that means someone wins because of fraud!

What is the means today of stopping fraudulent voter registration via the Alaska.gov website, where one can register to vote on line in either the PFD home page or the Register to Vote Web page. Since that can be done now through those websites, why do we want to add another avenue and layer?

We have a dismal voter turnout as it stands. So, even if this passes and more people choose to register through the PFD, does that mean they will vote or will all it do is show X number of registered voters and an even worse percentage turnout to vote?

Do not pass out of committee. Do not pass if on the floor.

<b>Petition ID:</b>	<b>15PFVR</b>
<b>Petition Status:</b>	Petition Properly Filed
<b>Petition Application Title:</b>	An Act relating to the permanent fund dividend application and the registration of voters; and providing for an effective date.
<b>Primary Sponsors:</b>	Aurora Lehr, Kimberly Reitmeier and Timothy Kacillas
<b>Contact Sponsor:</b>	John-Henry Heckendorn – Ship Creek Group LLC Address: 501 W 5th Ave, Anchorage, AK 99501 E- Mail:j.heckendorn@shipcreekgroup.com Phone: 978-807-8576
<b>Petition Application Filed:</b>	June 11, 2015
<b>Sponsors Proposed Bill Language:</b>	"An Act relating to the permanent fund dividend application and the registration of voters; and providing for an effective date."
<b>Petition Application Review Deadline:</b>	August 10, 2015
<b>Petition Application Signature Verification:</b>	<u>Application Certified – August 6, 2015</u> <u>AG's File Number:AGO No. JU2015200441</u> <u>Application Certification Letter</u> <u>Signature Verification Memo</u> <u>Statement of Costs</u>
<b>Petition Booklets Issued:</b>	August 24, 2015
<b>Petition Booklet Filing Deadline:</b>	August 22, 2016
<b>Petition Filed with Elections:</b>	January 14, 2016
<b>Petition Notice of Proper or Improper Filing:</b>	<u>Letter To Primary Sponsor</u> <u>Final Petition Summary Report</u>
<b>Proposed Ballot Summary and Title from Attorney General Opinion:</b>	<u>Proposed Ballot Summary and Title</u>
<b>Ballot Title and Language:</b>	<u>Ballot Title and Language</u>
<b>2016 General Election Ballot Measure #1 (15PFVR) Legislative Affairs Agency Summary Statement in Support Statement in Opposition</b>	<u>Ballot Language</u> <u>LAA Summary</u> <u>Support</u> <u>Opposition</u>
The initiative appeared on the November 8, 2016 general election ballot and was approved by a vote of:	YES – 197,702 NO – 108,467

RECEIVED  
JUN 11 2015  
ABSENTEE

AN INITIATIVE TO  
ALLOW QUALIFIED INDIVIDUALS TO REGISTER TO VOTE  
WHEN SUBMITTING A PERMANENT FUND DIVIDEND APPLICATION

A Bill By Initiative  
For An Act Entitled

"An Act relating to the permanent fund dividend application and the registration of voters; and providing for an effective date."

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

\*Section 1. The uncodified law of the State of Alaska is amended by adding a section to read:

FINDINGS AND INTENT. (a) The People of the State of Alaska find:

- (1) the cornerstone of American democracy is the right to vote;
- (2) the state should not introduce needless bureaucratic requirements that make it more difficult for qualified citizens to exercise their right to vote;
- (3) the State of Alaska currently requires individuals who wish to receive a permanent fund dividend to submit an annual application to the State;
- (4) PFD applicants who also wish to register to vote, or to update their voter registration, must submit information to the State a second time, using a different form;
- (5) the State can relieve qualified voters who apply for a PFD from the burden of having to complete additional paperwork; and
- (6) the State can use PFD-application data to ensure voter-registration data are current.

\*Section 2. AS 15.07.050(a) is amended to read:

- (a) Registration may be made
  - (1) in person before a registration official or through a voter registration agency;
  - (2) by another individual on behalf of the voter if the voter has executed a written general power of attorney or a written special power of attorney authorizing that other individual to register the voter;
  - (3) by mail; [OR]
  - (4) by facsimile transmission, scanning, or another method of electronic transmission that the director approves; or
  - (5) by completing a permanent fund dividend application under AS 43.23.015.

\*Sec. 3. AS 15.07.060(e) is amended to read:

(e) For an applicant requesting initial registration by mail, [OR] by facsimile or other electronic transmission approved by the director under AS 15.07.050, or completing a permanent fund dividend application, the director shall verify the information provided in compliance with (a)(2) and (3) of this section through state agency records described in AS 15.07.055(e). If the applicant cannot comply with the requirement of (a)(2) of this section because the applicant has not been issued any of the listed numbers, the applicant may instead submit a copy of one of the following forms of identification: a driver's license, state identification card, current and valid photo identification, birth certificate, passport, or hunting or fishing license.

\* Sec. 4. AS 15.07.070(f) is amended to read:

(f) Incomplete or inaccurate registration forms may not be accepted. A person who submitted an incomplete or inaccurate registration form may register by reexecuting and resubmitting a registration form in person, by mail, or by facsimile or other electronic transmission approved by the director under AS 15.07.050. The requirements of (c) or (d) of this section apply to a registration form resubmitted under this subsection. Notwithstanding the foregoing, an application made under AS 43.23.015 that contains the information required by AS 15.07.060(a)(1)-(4) and (7)-(9), and an attestation that such information is true, shall not be deemed an incomplete registration form, and shall be accepted in accordance with AS 15.07.070(i).

\* Sec. 5. AS 15.07.070 is amended by adding a new subsection to read:

(i) The division shall register voters who submit an application to receive a permanent fund dividend in accordance with this subsection.

(1) The division shall cooperate with the Department of Revenue under AS 43.23.016 to ensure that the permanent fund dividend application form furnished by the Department of Revenue under AS 43.23.015 allows an applicant, a person who is designated in a power of attorney to act on behalf of an applicant, or a person acting on behalf of a physically disabled applicant to submit voter registration information required under AS 15.07.060(a)(1)-(4) and (7)-(9), and an attestation that such information is true. The director may require proof of identification of the applicant, if not already in the Department of Revenue's possession, as required by regulations adopted by the director under AS 44.62 (Administrative Procedure Act).

(2) Upon receipt of the registration information, the director shall, as soon as practicable and in accordance with a schedule established by the director by rule, notify by U.S. mail, and any other means authorized by the director, each applicant not already registered to vote at the address provided in the applicant's application

(A) of the processes to

- (i) decline to be registered as a voter,
- (ii) maintain an existing voter registration, or be newly registered, at a valid place of residence not the provided in the applicant's application, and
- (iii) adopt a political party affiliation;

and

- (B) that failure to respond to the notification shall constitute the applicant's consent to cancel any registration to vote in another jurisdiction.

(3) If an applicant does not decline to be registered as a voter within 30 calendar days after the director issues the notification, the application under AS 43.23.015 will constitute a completed registration form. The name of the applicant shall be placed on the master register if the director determines that the person is qualified to vote under AS 15.05.010, and the director shall forward to the applicant a registration card. If registration is denied, the applicant shall immediately be informed in writing that registration was denied and the reason for denial.

(4) Any person who is not eligible to vote and who becomes registered under this provision through human or mechanical error shall not be found on that basis to have had the intent to unlawfully register to vote.

\*Sec. 6. AS 43.23.015(b) is amended to read:

(b) The department shall prescribe and furnish an application form for claiming a permanent fund dividend. The application must include

- (1) notice of the penalties provided for under AS 43.23.035;
- (2) [AND CONTAIN] a statement of eligibility and a certification of residency;
- (3) the means for an applicant eligible to vote under AS 15.05, or a person authorized to act on behalf of the applicant, to furnish information required by AS 15.07.060(a)(1)-(4) and (7)-(9), and an attestation that such information is true.

\*Sec. 7. AS 43.23.016 is repealed and reenacted to read:

**Sec. 43.23.016. Voter registration.** The commissioner shall establish by rule a schedule by which the commissioner will provide, and shall provide as soon as is practicable the director of elections with

(a) electronic records from the permanent fund dividend applications of the information required by AS 15.07.060(a)(1)-(4) and (7)-(9), and the attestation that such information is true, for each permanent fund dividend applicant who

- (1) is a citizen of the United States, and
- (2) is at least 18 years of age or will be within 90 days of the date of the application, and

(b) the mailing addresses for all permanent fund dividend applicants.

\* Sec. 8. AS 43.23.017(a) is amended to read:

(a) Except as provided in (c) of this section, information [INFORMATION] on each permanent fund dividend application, except the applicant's name, is confidential. The department may only release information that is confidential under this section

- (1) to a local, state, or federal government agency;
- (2) in compliance with a court order;
- (3) to the individual who or agency that files an application on behalf of another;
- (4) to a banking institution to verify the direct deposit of a permanent fund dividend or correct an error in that deposit;
- (5) as directed to do so by the applicant; [AND]
- (6) to a contractor who has a contract with a person entitled to obtain the information under (1) - (5) of this section to receive, store, or manage the information on that person's behalf; a contractor receiving data under this paragraph may only use the data as directed by and for the purposes of the person entitled to obtain the information[.];
- (7) to the division of elections, as required by AS 43.23.016.

\*Sec. 9. AS 43.23.017 is amended by adding a new subsection to read:

(c) Information submitted on a permanent fund dividend application that is used for the purpose of registering an applicant to vote under AS 43.23.016 shall be kept confidential by the division of elections as provided in AS 15.07.195.

\*Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to read:

It is the intention of the people of Alaska that, if any provision of this Act shall be held to be invalid by a court of competent jurisdiction, the remainder shall not be affected and shall be given effect to the fullest extent possible.

\*Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to read:

This Act shall take effect 90 days after enactment.



Alaska Association of Municipal Clerks  
217 Second Street, Ste. 200  
Juneau, Alaska 99801  
Shellie Saner, MMC, President  
[ssaner@soldotna.org](mailto:ssaner@soldotna.org)

February 28, 2018

Honorable Senate President Kelly  
State Capitol  
Juneau, AK 99801-1182

Re: Support for HB 352, An Act relating to voter registration

Dear Speaker Edgmon,

The Alaska Association of Municipal Clerks serves to provide resources for municipal clerks to provide the highest quality of service and support to citizens and elected officials, with a focus on ensuring fair and efficient electoral processes with a direct link between residents and their government.

Approved in 2016 and effective March 1, 2017, ballot measure 15PFVR created a process for Alaskans to register to vote using their Permanent Fund Dividend application. Under the current law for PFD Automatic Voter Registration (AVR), the DOE must mail an opt-out notice to: (1) PFD applicants who are not currently registered to vote; and (2) voters whose residence address on their PFD application is different than their voter record address. The State could save money if the opt-out process was included with the PFD application process – just like voter registration at DMV has been since 1994.

HB 352 would make clarifying amendments to the voter registration and Permanent Fund Dividend application statutes. The bill would allow for “opt-out” of voter registration during the PFD application process, while retaining the law’s intent. The bill specifies that the Division of Elections will process the registration information received and notify the applicant of his or her registration status. The bill also streamlines the sharing of records and information between the Department of Revenue and the Division of Elections. This legislation would save an estimated \$200,000 annually in mailing costs and provide for a mechanism by which voter registration transactions performed by DOE are fully automated and reduce paper transactions.

The AAMC Board of Directors urges passage of HB 352.

Sincerely, and on behalf of the AAMC Board of Directors,

Shellie Saner, MMC  
AAMC President

HB 352 is  
SB 186  
companion

# Fiscal Note

State of Alaska  
2018 Legislative Session

Bill Version:	SB 186
Fiscal Note Number:	1
(S) Publish Date:	2/16/2018

Identifier: 20182000971-DOR-PFD-2-12-2018  
 Title: VOTER REGISTRATION & PFD APP  
 REGISTRATION  
 Sponsor: RLS BY REQUEST OF THE GOVERNOR  
 Requester: Governor

Department: Department of Revenue  
 Appropriation: Taxation and Treasury  
 Allocation: Permanent Fund Dividend Division  
 OMB Component Number: 981

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
<b>OPERATING EXPENDITURES</b>	<b>FY 2019</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2018) cost:** 29.7 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2019) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes  
 If yes, by what date are the regulations to be adopted, amended or repealed? Jan 1 2019

**Why this fiscal note differs from previous version/comments:**

Prepared By:	Sara Race	Phone:	(907)957-2881
Division:	Permanent Fund Dividend	Date:	02/12/2018 10:00 AM
Approved By:	Mike Barnhill	Date:	02/12/18
Agency:	OOC		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2018 LEGISLATIVE SESSION

## Analysis

The legislation clarifies the information required on a permanent fund dividend application necessary to automatically register an individual to vote or update their voter information. The legislation further provides Alaskans an opportunity to decline the automatic process at the time of filing. In order to register "eligible" permanent fund dividend applicants, the division would be required to complete eligibility determinations. Once a determination was made, the PFD Division would forward the required data elements, such as name, date of birth, etc., to the Division of Elections. At that point, Elections would complete the initial registration or update the individual's information.

Implementing an "opt-out" option on the permanent fund dividend application will require programming in the online application, paper application imaging software, and the division's database. Some of the associated tasks include adding the actual question to the online application, programming data entry and display screens, testing, and deploying. The changes will take approximately 247 programming hours. Using an average rate of \$120 per hour, the costs associated will be roughly \$29,700.00.

The legislation allows Alaskans an opportunity to make a decision as to whether or not they would like to be registered to vote at the time of filing their PFD application, rather than receiving a mailer subsequently. Presenting the option upfront should reduce costs associated with Election's printing and postage.

The Center for Modern and Secure Elections has offered a grant to help implement the automatic voter registration process. Although the grant has not officially been secured the funding cap was offered at \$35,000.00, which would fully cover the programming costs outlined above. Funding will have to be made available in FY18 for an "opt-out" option to be implemented in January 2019. In late July, the division places a "code freeze", which puts a stop to any major changes to the PFD Application. The code freeze does not result in additional costs—it just means that the deadline for coding changes to the Division's application is June 30 for changes that impact the following calendar year. Therefore, placing the expenses in FY19 does not seem appropriate. If grant funds are unsuccessful, the division will cover the associated costs within existing appropriations.

# Fiscal Note

State of Alaska  
2018 Legislative Session

Bill Version:	SB 186
Fiscal Note Number:	2
(S) Publish Date:	2/16/2018

Identifier: OOG-DOE-2-12-18  
 Title: VOTER REGISTRATION & PFD APP  
 REGISTRATION  
 Sponsor: RLS BY REQUEST OF THE GOVERNOR  
 Requester: Office of the Governor

Department: Office of the Governor  
 Appropriation: Elections  
 Allocation: Elections  
 OMB Component Number: 21

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates					
	Appropriation Requested	Governor's FY2019 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

**Change in Revenues**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2018) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2019) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
 If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version/comments:**

Not applicable, initial version

Prepared By:	Josephine Bahnke, Director	Phone:	(907)465-2644
Division:	Division of Elections	Date:	02/08/2018 10:57 AM
Approved By:	Shawn Henderson, Administrative Director	Date:	02/15/2018
Agency:	Division of Administrative Services, Office of the Governor		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2018 LEGISLATIVE SESSION

## Analysis

This change has no impact on the financial costs associated with the division's conduct of state and federal elections. No additional staff will be required to implement the proposed law.

This bill would change the method that a person may choose to opt-out of voter registration when applying for their Permanent Fund Dividend. Applicants will have the opportunity to decline to register to vote or to update their registration at the time of completing their PFD application. This change will provide a mechanism for the Division of Elections to automate the process, eliminate the opt-out notice to reduce paper transactions and save costs in mailing the opt-out notice to eligible applicants.

\* As a note, even though Ballot Measure #1 passed, the Division of Elections did not receive an appropriation to implement PFD Automatic Voter Registration. When the initiative was circulated, the cost statement indicated that a recurring cost of \$360,000 would be needed to hire temporary workers to process "opt-out" notices (\$60,000) and annual costs associated with mailing notices to voters who are eligible but not registered, and those who are registered but have a different mailing address (\$300,000). 1