

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5854 HOUSE JUDICIARY

258

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HOUSE COMMITTEE REPORT

(7)

Date Referred: April 5, 1989

FURTHER REFERRALS:

Date of Committee Action: _____

The JUDICIARY Committee considered:

CSSB 43(SA)

CS FOR SENATE BILL NO. 43 (State Affairs)

[CONDUCT & ADMINISTRATION OF ELECTIONS]

"An Act relating to conduct and administration of elections by the director of elections."

RECOMMENDATIONS:

- be replaced with HCS CS SB 43 (Jud) the same title
- have attached amendmen:(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

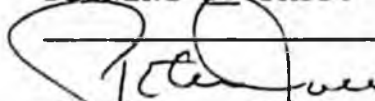
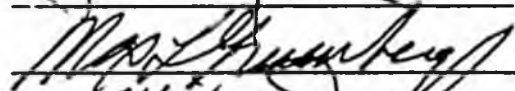
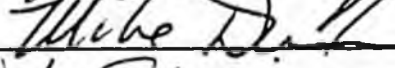
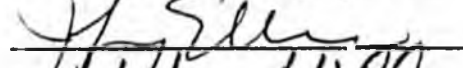
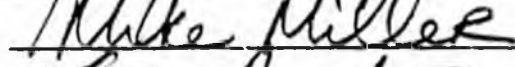
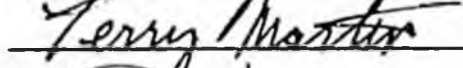
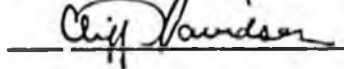
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(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) 3/15/89 Div. of Elections
- zero fn/analysis _____

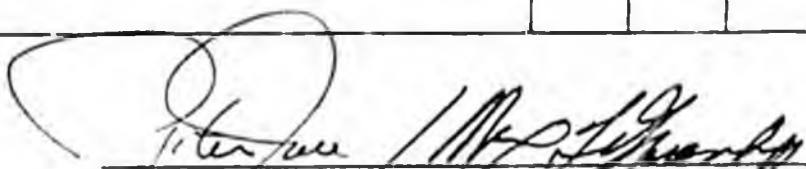
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Chairman's Signature

Item 3

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS,
CHAIR

ETHICS COMMITTEE,
CHAIR



ANCHORAGE
P.O. BOX 104836
ANCHORAGE, AK 99510
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STATE CAPITOL
JUNEAU, AK 99811
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Senator Pat Pourchot

MEMORANDUM

DATE: March 17, 1989

TO: All Senate Members

FROM: Senator Pat Pourchot *Pat*

SUBJECT: CSSB 43 (Jud) - "An Act relating to conduct and administration of elections by the director of elections."

§ 43 makes a number of technical amendments to current statutes in an attempt to cleanup existing ambiguities and simplify certain procedures. None of the provisions are considered controversial or have raised specific objections.

Sections 6, 13 and 23 through 26 would result in a savings of approximately \$14,000. Cost saving provisions relate to (1) the elimination of the requirement for a separate judicial card, and (2) the elimination of the "+" sign on punch card ballots.

More importantly, there is an undetermined amount of cost savings that would accrue to the extent that the proposed amendments address ambiguities or problems in existing law that result in litigation, election recounts, or the need for a new election. As an example, the Division of Elections estimates the cost of the upcoming District 13 election at \$60-\$65,000.

A summary and sectional analysis of the bill is attached for your review.

Sen. Pat Pourchot
March 14, 1989

SUMMARY

CS SB 43 (SA)

"An Act relating to conduct and administration of elections by the director of elections."

Section 1. Existing statutes require each applicant who registers to vote to provide information on the length of residency in the state and the election district. However, the official absentee voter registration application and absentee ballot application provided by the federal government for overseas and military voters does not specifically request this information. If the required information is not included on the federal form the Division must contact the applicant and request the person to reapply in accordance with existing law.

Section 1 amends the statutes so that the term of residence in Alaska and in the election district need only be provided if requested.

Section 2. Current statute requires that registration forms received through the mail must be postmarked 30 days before the next election. Because mail often lacks a postmark or the postmark is unreadable, the amendment would delete the reference to the postmark and require that the completed voter registration form be received by the director of elections 30 days prior to the next election.

Section 3. Amends statutes relating to incomplete or inaccurate registration forms to conform to language in Section 2.

Section 4. Current law states that a voter who has changed one's name but wishes to vote under the new name must reregister 30 days prior to the next election.

Questions concerning this section of the statute were raised in the 1986 Fischer/Uehling recount. The Supreme Court ordered the ballots counted of those voters who voted under their new name but had not updated their registration records as required by law.

In order to clarify this statute, the proposed amendment allows a voter to vote under one's previous name OR to vote a questioned ballot if the voter wishes to use his/her new name.

Section 5. This new subsection directs the director of elections, whenever possible, to send written notice of any change in a precinct boundary or polling place to each affected registered voter to mitigate any inconvenience caused a voter because of a change in polling place.

Sections 6, and 23 through 26. These sections remove the requirement that judicial retention candidates be printed on a separate nonpartisan judicial ballot.

In territorial days when elections involved closed partisan races, it was necessary to print the judicial retention candidates on separate nonpartisan ballot cards. Because we now include candidates of all parties on the same card - the card is essentially nonpartisan. The Court System has no problem with the proposed amendment.

Based on a review of the 1986 general election, 14 districts would have required the printing of only 2 ballot cards if the judicial candidates had been printed on the same card as other candidates. This would have resulted in a savings of nearly \$15,000 in ballot printing costs.

Section 7. Current law requires that an election official record the date and time an absentee ballot is provided and received. This amendment eliminates the unnecessary requirement to record the time - which serves no useful purpose.

Section 8. This amendment would extend the application period for absentee ballots by requiring that applications be received not later than 4 days prior to the election, rather than post-marked 10 day prior to the elections. (See explanation in Section 2.)

Sections 9 through 12. Statutes governing "absentee voting by mail" require the counting of absentee ballots mailed from within the U.S. if received by the 10th day after the election. If mailed outside the U.S. or from a military APO/FPO address they must be counted if received by the 15th day after the election.

However, under the statutes governing "procedures for recount" absentee ballots received 15 days following an election but before the completion of the recount must be counted - no provision is made for the counting of absentee ballots that are mailed from within the U.S. but are received between the 10th and 15th day following an election.

The proposed amendments would remove this conflict by allowing, in a recount, the counting of absentee ballots received after the statutory deadline but before the completion of the recount.

Section 13. This amendment is "housekeeping" in nature. The section proposes the deletion of references to language "designated by a plus sign" when describing the square box in which the voter punches the ballot. The plus sign serves no purpose. Statutory citations regarding handmarked ballots contain no such descriptive language and no other sections of the election law contain any reference to this "plus sign."

The amendment would eliminate the necessity for printing two versions of the same ballot where there is both punch card voting and handmark voting in the same district and will result in a savings of approximately \$2,000 in ballot printing costs.

Section 14. These amendments would (1) place in statute current requirements for stating residency address and length of residency on declaration of candidacy forms; (2) delete the requirement that candidate not have "filed" a previous declaration (what is intended is that the candidate not have another declaration "on file"); and (3) allow declaration of candidacy forms and conflict of interest forms to be filed on same date (rather than simultaneously) because they are filed at separate locations.

Section 15. Current statutes set the deadline for withdrawal of a candidate's name from the ballot or the replacement of a name on the ballot 40 days prior to the election.

This severely constricts to three weeks the time in which to prepare, print and distribute ballots across the state. In cases where a lawsuit is filed contesting a candidate's eligibility the time frame can be further reduced.

The amendment proposes to change the deadline from 40 to 48 days. This would significantly improve the Division of Elections' ability to meet their statutory deadlines which are dependent on completion of ballot printing.

Section 16. The first amendment would change the period in which a candidate's place on the ballot may be filled by party petition from 45 days to 50 days if the vacancy occurs after June 1 of election year. This is to allow parties a few days leeway to select replacement candidates. The second is an amendment to conform to language in Section 15.

Sections 17 through 19 and Section 22. Amends statutes to conform to language in Section 15.

Section 20. The current filing deadline for the general election for third party candidates is June 1. A recent Superior Court decision has held this deadline unconstitutional. This amendment would change the filing deadline from June 1 to August 1.

Section 21. This amendment would place in statute the current requirement for stating residency address and length of residency on nominating petition and would delete the provision that requires candidate to state that he/she has not filed another nominating petition (see explanation in Section 14).

Item 4



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
State Capitol Room 11
Juneau, Alaska 99811
(907) 465-4979 / 4979
FAX (907) 465-2652

During Interim:
3111 C Street, Suite 510
Anchorage, Alaska 99503
(907) 561-7617

165 E. Parks Highway
Legislative Information Office
Wasilla, Alaska 99687
(907) 376-MIKE

M E M O R A N D U M

TO: Representative H.A. "Red" Boucher, Chairman
House State Affairs Committee

FROM: *Mike Szymanski*
Senator Mike Szymanski

DATE: March 31, 1989

SUBJ: Committee Substitute for Senate Bill 43, "An Act
Relating to Conduct and Administration of
Elections..."

I would like to request your support and that of the House State Affairs Committee members on introducing the attached amendment to the CS for Senate Bill 43 while the bill is in your committee.

The amendment has a great deal of support from the Division of Elections and their feeling is it would have tremendous benefit to the people of the State of Alaska. Similar legislation was sponsored by House Speaker Sam Cotton several years ago, but was ultimately vetoed by the Governor. The current Administration apparently supports this amendment.

- cc: Rep. Eileen MacLean
- Rep. Dave Donley
- Rep. Curt Menard
- Rep. Ann Spohnholz
- Rep. Alyce Hanlely
- Rep. Jim Zawacki

Lt. Governor McAlpine
Sandi Stout, Division of Elections

Senate District E

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 43 (State Affairs)

Page 1, after line 8:

Insert new bill sections to read:

** Section 1. AS 15.05.010 is amended to read:

Sec. 15.05.010. VOTER QUALIFICATION. A person may vote at any election who

(1) is a citizen of the United States;

(2) is 18 years of age or older;

(3) [(REPEALED.);

(4)] has been a resident of the state and of the election district in which the person seeks to vote for at least 30 days just before the election; and

(4) [(5) (REPEALED.);

(6)] has registered [BEFORE THE ELECTION AS REQUIRED] under AS 15.07 and is not registered to vote in another jurisdiction.

* Sec. 2. AS 15.07.030(a) is amended to read:

(a) A person who has the qualifications of a voter under AS 15.-05.010(1) - (3) [AS SET OUT IN AS 15.05.010(1) - (4),] or who will have the qualifications at the succeeding primary or general election [,] is entitled to be registered as a voter in the precinct in which the person resides.

* Sec. 3. AS 15.07.040 is amended to read:

Sec. 15.07.040. TIME FOR REGISTRATION. A person who is qualified as a voter under AS 15.05.010(1) - (3) [AS 15.05.010(1) - (4)] is entitled to register at any time throughout the year except that a person under 18 years of age may register at any time within 90 days immediately preceding the person's 18th birthday."

Page 1, line 9:

Delete "Section 1."

Insert "Sec. 4."

Renumber the following bill sections accordingly.

Page 2, after line 7:

Insert a new bill section to read:

"* Sec. 6. AS 15.07.070(d) is amended to read:

(d) Qualified voters may register in person before a registration official at any time throughout the year [, EXCEPT THAT A PERSON REGISTERING WITHIN 30 DAYS PRECEDING AN ELECTION MAY NOT VOTE AT THAT ELECTION]. Upon receipt and approval of the registration forms the director or the election supervisor shall forward to the voter an acknowledgment in the form of a registration card and the voter's name shall immediately be placed on the master register located in the office of the director and on the list register located in the office of the election supervisor. Names of persons registering 30 or more days before an election shall be placed on the official registration list for that election."

Renumber the following bill sections accordingly.

Page 2, line 14:

Delete "(a)"

Page 2, line 15:

Before "(a)"

Insert "Sec. 15.07.090. REREGISTRATION AND AMENDMENT AND TRANSFER OF REGISTRATION."

Page 2, after line 19:

Insert new bill material to read:

"(b) A voter shall reregister if the voter's registration is cancelled for failure to vote in prior elections under [AS PROVIDED IN] AS 15.07.130. [THE REREGISTRATION MAY NOT BE MADE LATER THAN 30 DAYS PRECEDING AN ELECTION.]

(c) The director shall transfer the registration of a voter from one precinct to another within an election district when requested by the voter. [THE REQUEST SHALL BE MADE 30 OR MORE DAYS BEFORE THE ELECTION DAY.] The director shall transfer the registration of a voter from one election district to another when requested by the voter. The voter must reside in the new election district for at least 30 days in order to vote.

(d) A person who claims to be a registered voter and is eligible to vote under AS 15.05.010, but for whom no evidence of registration in the precinct can be found, shall be registered [GRANTED THE RIGHT!

to vote. If the registration occurs after the 30th day before the election, the voter shall be treated as [IN THE SAME MANNER AS THAT OF] a questioned voter and the ballot shall be treated as [IN THE SAME MANNER. THE BALLOT SHALL BE CONSIDERED TO BE] a "questioned ballot" and shall be so designated. The director [OR THE DIRECTOR'S REPRESENTATIVE] shall determine whether the voter is registered in the election district before counting the ballot. A voter who has failed to obtain a transfer as provided in (c) of this section shall vote a "questioned ballot" in the precinct in which the voter resides.

* Sec. 9. AS 15.07.160(a) is amended to read:

(a) Except as provided in AS 15.07.135, a registration official may not refuse to register a person who is qualified to vote under AS 15.05.010(1) - (3) [PROVISIONS OF AS 15.05.010(1) - (4)]."

Renumber the following bill sections accordingly.

Page 3, after line 8:

Insert new bill sections to read:

** Sec. 12. AS 15.15.198(b) is amended to read:

(b) A person whose registration has been cancelled under AS 15.-07.130(b) and who votes a questioned ballot shall have the ballot counted if the person is qualified to vote under AS 15.05.010 and registers to vote

[(1) THE PERSON WAS REGISTERED TO VOTE FOR EITHER OF THE TWO MOST RECENT GENERAL ELECTIONS;

(2) THE PERSON SIGNS UNDER OATH A STATEMENT TO THAT EFFECT;

AND

(3) THE EARLIER REGISTRATION IS VERIFIED BY THE DIRECTOR].

* Sec. 13. AS 15.20.015 is amended to read:

Sec. 15.20.015. MOVING FROM ELECTION DISTRICT JUST BEFORE ELECTION. A person who meets all voter qualifications except under AS 15.05.010(3) [THAT LISTED IN AS 15.05.010(4)] is qualified to vote by absentee ballot in the election district in which the person formerly resided if the person lived in that election district for at least 30 days immediately before changing residence."

Renumber the following bill sections accordingly.

Page 12, after line 9:

Insert a new bill section to read:

"* Sec. 34. AS 29.26.050(a) is amended to read:

(a) A person may vote in a municipal election only if the person

(1) is a United States citizen who is qualified to vote in state elections;

(2) has been a resident of the municipality for 30 days immediately preceding the election;

(3) is registered to vote in state elections or registers to vote on the day of the election; and

(4) is not disqualified under art V of the state constitution."

GUIDE TO MAJOR PROVISIONS

CSSB 43 (State Affairs)

Prepared by
Division of Elections
March 15, 1989

Provisions

Sec. 4 Voters Who Change Names Just Before an Election:
Fischer vs. Div. of Elections. Under current law
people who change their names must update
registration 30 days before an election to vote
under new name. Supreme Court overturned it.
Amendment allows them to vote a questioned ballot
conforming to the court's ruling.

COURT RULING - VOTERS WHO CHANGE THEIR NAMES

Provision

Sec. 5 Requires that notice be sent to voters when polling place or precinct boundary is changed.

General Comments

Example: 1986 - 65 Polling Places Changed involving 44,000 voters. Notices would cost \$14.102 for forms and postage.

(Cost offset by other provisions of bill which would reduce ballot preparation costs.

NOTICE OF POLLING PLACE/PRECINCT BOUNDARY CHANGES

Provisions

Sec. 2 Stipulates that effective date of registrations
& 3 sent in by mail is date of receipt rather than
 postmark. Official registers would include only
 registrations received 30 days before election.

Advantages

- A. 30% of mail has no readable postmark.
- B. Receipt date is always clear so creation of precinct registers has specific cut-off and can be generated for distribution on time.
- C. Eliminates cumbersome and costly administrative burden of having to retain and/or microfilm envelope with form.

EFFECTIVE DATE OF REGISTRATION - RECEIVED DATE

Provisions

Sect. 15-19 Conforming amendments to change candidate withdrawal deadlines:

From: 40 Days Prior to Election
To: 48 Days Prior to Election

Allows for replacement of party candidates by party petition if withdrawal is 50 days prior to election.

Advantage

- A. 40 day withdrawal only allows 10 days for all printing of Official Election Pamphlets which must be in the mail 30 days prior to election.
- B. Under current law, only 3 weeks allowed for all ballot proofing, printing, collating, and distribution of ballots to sites.

WITHDRAWAL DEADLINES

Provision

Sec. 20 Filing Deadline for Independent Candidates: Aug. 1
Sigler vs. State of Alaska. Superior court ruled
June 1 filing deadline for independents appearing
on general election ballot was unconstitutional.
Undue burden for candidates not appearing on a
ballot til November.

State now has NO deadline set in law.

Plaintiffs contended that independents were an
alternative when party candidates' campaigns
failed to represent or meet the concerns of
certain constituencies. Favored a filing deadline
AFTER primary. Court leaned that way but did not
specify a ruling to that affect.

Compromise

August 1 is a compromise which postpones deadline til major
campaigns are clearly under way, but prevents losing primary
candidates from then filing petitions for general elections.

COURT RULING - FILING DEADLINE FOR INDEPENDENT CANDIDATES

Provision

Sect. 6, 23
24, 25 & 26 Allows judicial candidates to appear on same ballot as other candidates as space allows rather than requiring them to be on a separate card.

Usually 1/3 to 1/2 of the districts have sufficient room for judges.

Sect. 13 Eliminates reference to a "+" sign in the box to the right of a candidate's name on punch card ballots.

This reference requires printing two versions of the same district's ballots in districts where some precincts are computer counted and some are hand counted.

Advantage

Division could reduce ballot printing costs by about \$10,000 to \$15,000 per election year.

NOTE: This savings offsets costs in sending out notices of polling place or precinct boundary changes. (See Section 5.)

COST REDUCTIONS - BALLOT PRINTING

Provisions

- Sect. 1. Amends provision making length of residency in Alaska and in Election District a mandatory requirement for registration, unless asked.

Rationale

- A. Federal Postcard Applications (FPCA) must be accepted as registration and absentee ballot application under Federal Law. Form does not require statement as to length of residency. 75% of all FPCA's must be rejected under current law because information is not included. (Approx. 3,000 of 4,000 FPCA's received in 1988.

Follow up correspondence to request the information could disenfranchise otherwise qualified voters, as 30 day cut off for registration draws near.

- B. 30 day cut off for registration is criteria for voter eligibility in any specific election. At the time of registration, a voter's residency of 1 day or 40 years is irrelevant as long as he/she is registered by the 30 day cut off prior to election.

NOTE: Amendment supported by Henry Valentino, Executive Director, Voting Assistance Office, Dept. of Defense.

LENGTH OF RESIDENCY REQUIRED FOR REGISTRATION

Provisions

Sect. 7 Personal Representative Voting: Streamlines recordkeeping by eliminating the requirement that the actual time of day be recorded for returned personal representative ballots.

Since all polls and absentee sites close at 8:00 PM on election day, any ballot received prior to closing is timely.

Sect. 8 Deadline for Absentee By Mail Applications:
Changes current law:

From: Postmark 10 days prior to election.
To: Received 4th day prior to election.

Would allow processing and final mailing on Saturday before Election Day of any received by 4th day prior regardless of when they were sent.

Sect. 9, 10 Late Absentee Ballots Included in Recounts:
11 & 12 Deadlines for Receipt of Ballots:

Domestic Ballots: 10 Days After Election
Foreign/APO/FPO: 15 Days After Election

Current law allows ballots received after 15th day to be included in recounts.

Leaves window for ballots received between 10th and 15th day. Amendment corrects deficiency.

ABSENTEE VOTING



Provisions

Sect. 14

Length of Residency: Adds length of residency in state and in district as required information on candidacy filing forms.

Current law says "candidate will meet residency requirement", but does not specify WHEN.

Will help Division verify eligibility of the candidate.

Oath Regarding Filing More than One Office or By 2 Different Means for the Same Office: As worded the current oath precludes withdrawal of one declaration of candidacy or nominating petition to refile for the same seat.

Court has consistently upheld ballot access for candidates who have filed, withdrawn and refiled for the same seat.

Simultaneous Filing of APOC Conflict of Interest Forms: Technical amendment to replace the word "simultaneous" since APOC forms and Declarations/Petitions go to separate agencies.

Amendment refers to filing the separate forms on the "same date".

Sect. 21

Conforming amendments to law on Nominating Petitions.

CANDIDACY FILINGS

A M E N D M E N T #1

OFFERED IN THE HOUSE

BY HANLEY

TO: CSSB 43(State Affairs)

Page 2, after line 19:

Insert a new bill section to read:

"* Sec. 5. AS 15.07.100 is amended by adding a new subsection to read:

(e) An amendment to the registration of a registration official shall be made by a different registration official or by mail under AS 15.07.050."

Renumber the following bill sections accordingly.

A M E N D M E N T # 2

OFFERED IN THE HOUSE

BY HANLEY

TO: CSSB 43(State Affairs)

Page 1, after line 8:

Insert a new bill section to read:

"* Section 1. AS 15.07.050 is amended to read:

Sec. 15.07.050. REGISTRATION IN PERSON OR BY MAIL. Registration and a change in registration may be made in person before a registration official or by mail under AS 15.07.070(b)."

Page 1, line 9:

Delete "Section 1"

Insert "Sec. 2"

Renumber the following bill sections accordingly.

Page 2, after line 19:

Insert a new bill section to read:

"* Sec. 6. AS 15.07.090 is amended by adding a new subsection to read:

(e) A reregistration, amendment, or transfer of voter registration shall be made under AS 15.07.070."

Renumber the following bill sections accordingly.

FINKELSTEIN DAVID S

YOUR NAME (if registered to vote under that name)

3725 MT VIEW DR

CITY **ANCH** STATE **AK** ZIP **99508**

MAILING ADDRESS **SAME**

PCA OFFICE USE ONLY

VOTE NUMBER **1967123**

New Registration Change of Address

Change of Affiliation Change of Name

SOCIAL SECURITY NUMBER **526138461**

DATE OF BIRTH **MO 1 DAY 10 YEAR 56**

PLACE OF BIRTH **Phoenix AZ**

DATE OF NATURALIZATION **MO DAY YEAR**

HOW LONG HAVE YOU LIVED IN ALASKA? **8** YEARS MONTHS

HOW LONG HAVE YOU LIVED IN THIS ELECTION DISTRICT? (At Current Address)

YEARS MONTHS DAYS **1**

SEX **M** MALE FEMALE

OPTIONAL

Do you need special assistance in voting? **JUN 21 1987**

Handicap **Yes**

Bilingual Services

Party Affiliation (Check one)

Democrat _____

Liberarian _____

Republican _____

Non-Partisan _____

Other (Specify) _____

OATH I swear that the foregoing facts are true I also swear that I am a citizen of the United States I will be 18 years of age or older within 90 days of registration I further swear that I have not been convicted of a felony involving moral turpitude, or having been so convicted, have been unconditionally discharged from incarceration, probation and/or parole I am not registered to vote in any other state, or having been so registered, have taken necessary steps to cancel that registration I understand that making a false statement on this registration is a criminal offense

SIGNATURE OF VOTER **David Finkelshtein**

TWO WITNESSES OVER 18 YEARS OF AGE A QUALIFIED OFFICIAL MUST SIGN

WITNESS

OFFICIAL **David Finkelshtein**

WITNESS

DATE **6/1/87**

OFFICIAL TITLE **Registrar**

LOCATION

VOTER # 1267123

VOTER'S NAME David S. Finkelstein SSN OR ID _____

NEW RESIDENCE ADDRESS 1611 Atkinson Dr.
Quincy

NEW MAILING ADDRESS ~~SAA~~

2 days

DATE 6-30-87

INITIALS DF

Amendments #3, #4, #5 and #6 - Gruenberg

Representative Gruenberg raised a question in the previous hearing regarding AS 15.25.030 (b) which currently requires a party candidate to file a declaration of candidacy and conflict of interest statement simultaneously.

The Senate SA CS would require the documents to be filed on the same date due to a conflict in location. A document is considered filed when it is received. The candidate cannot be certified until both forms are received.

However, it is impossible for a person living in a remote area to ensure that the forms are "filed" on the same day because of the idiosyncrasies of postal delivery and the inability to verify date of mailing as one-third of all first class mail lacks a readable postmark.

As I understand it, in *Silides v. Thomas* the court held that given the lack of clarity inherent in this section and the impossibility of compliance for a person living outside Anchorage (or Juneau, as it now has an APOC office), substantial compliance with the filing requirements of this section would suffice if the filings were received near the June deadline.

The administrative practice of the Division of Elections has been to accept conflict of interest statements from candidates and then forward the statements to APOC. Likewise, APOC will accept declaration of candidacy forms from candidates and forward them on to the Division of Elections. Additionally, APOC has adopted regulations to permit the Division of Elections to accept conflict of interest statements on behalf of APOC. (APOC also exempts incumbents from having to file their conflict of interest statement.)

Amendment #3 amends statutes relating to declaration of candidacy to provide that the conflict of interest statement be filed with the Director of Elections.

Amendment #4 places in statute the APOC regulation exempting incumbents from having to refile their conflict of interest statement - if it is current.

Amendment #5 contains conforming language language for third party candidates.

Amendment #6 is a conforming amendment to APOC statutes.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 43 (State Affairs)

Page 7, line 20:

Delete "on the same date"

Insert "simultaneoulsy"



Page 7, line 20, after "file":

Insert "wi'h the director"

Page 7, after line 22:

Insert a new bill section to read:

"* Sec. 15. AS 15.25.030 is amended by adding a new subsection
to read:

(c) An incumbent public official who has a current
statement of income sources and business interests on file
with the Alaska Public Offices Commission is not required to
file a statement of income sources and business interests
with the declaration of candidacy under (b) of this
section."

Renumber the following bill sections accordingly.



Page 11, after line 7:

Insert a new bill section to read:

"* Sec. 23. AS 15.25.180 is amended by adding new subsections to read:

(b) A person filing a nominating petition under this section shall also file a statement of income sources and business interests that complies with the requirements of AS 39.50 within 30 days of filing the petition.

(c) An incumbent public official who has a current statement of income sources and business interests on file with the Alaska Public Offices Commission is not required to file a statement of income sources and business interests under (b) of this section."

Renumber the following bill sections accordingly.

(6)

* Sec. 30. AS 39.50.020 is amended to read:

Sec. 39.50.020. REPORT OF FINANCIAL AND BUSINESS INTERESTS. (a) A judicial officer, commissioner, chairman or member of a state commission or board specified in AS 39.50.200(b), a person hired or appointed as head or deputy head of, or director of a division within, a department in the executive branch, a person appointed as assistant to the governor, and a municipal officer, shall file a statement giving income sources and business interests, under oath and on penalty of perjury, within 30 days after taking office as a public official. Candidates for state elective office shall file such a statement with the director of elections at the time of filing a declaration of candidacy or within 30 days of the filing of any nominating petition, or within 30 days of becoming a candidate by any other means. Candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that a previously accepted filing fee be voided and the candidate's name removed from the filing records. A statement shall also be filed by public officials no later than April 15 or 15 days after the person files a federal income tax return in each following year, whichever comes first. Persons who, on or after December 11, 1974, were members of boards or commissions not named in AS 39.50.200(b) are not required to file financial statements.

(b) The governor, lieutenant governor, members of the

legislature, [AND CANDIDATES FOR THESE OFFICES,] judicial officers, each commissioner, head or deputy head of, or director of a division within, a department in the executive branch, assistant to the governor or chairman or member of a commission or board required to report under this chapter, shall file the statement with the Alaska Public Offices Commission. Candidates for the office of governor, lieutenant governor, and the legislature shall file the statement under AS 15.-25.030 or 15.25.180. Municipal officers, and candidates for elective municipal office, shall file with the municipal clerk or other municipal official designated to receive their filing for office. All statements required to be filed under this chapter are public records."

Amendment #7 - Pourchot

As a result of changing the filing deadline from June 1 to August 1 for third party candidates, it is necessary to amend AS 15.58.030 (Material to be filed by candidate) to provide that a candidate who files by nominating petition or other means after July 15 has 10 days from the date of filing to file their photograph and statement advocating their candidacy.

A M E N D M E N T

by Brunberg

(8)

OFFERED IN THE HOUSE

TO: CSSB 43 (State Affairs)

Page 12, after line 9:

Insert a new bill section to read:

"* Sec. 27. AS 24.05.085 is amended to read:

Sec. 24.05.085. RESIGNATION. A member resigns by submitting a resignation in writing to the presiding officer of the house to which the member was elected or appointed, with information copies to the governor, the director of elections, and the executive director of the Legislative Affairs Agency for appropriate administrative action. The resignation is effective on the date specified in the resignation or, if no date is specified, 10 days after the date of mailing the resignation [, WHICHEVER IS LATER]. The resignation may be withdrawn, in the same manner as it was submitted, at any time before it becomes effective [DURING THIS PERIOD]."

Senator Pat Pourchot
April 21, 1989

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 43 (State Affairs)

Page 7, line 11:

AS 15.25.030(a) is amended to read:

"(14) that the person is not a candidate for any other office to be voted on at the primary or general election, and that the candidate is not a candidate for this office under any other declaration of candidacy or nominating petition [AND THAT THE CANDIDATE HAS NOT FILED ANOTHER NOMINATING PETITION OR DECLARATION OF CANDIDACY FOR THE OFFICE FOR WHICH THIS DECLARATION IS FILED]."

Page 11, line 4:

AS 15.25.180 is amended to read:

"(14) [15] that the candidate is not a candidate for any other office to be voted on at the primary or general election, and that the candidate is not a candidate for this office under any other declaration of candidacy or nominating petition [AND THAT THE CANDIDATE HAS NOT FILED ANOTHER NOMINATING PETITION OR DECLARATION OF CANDIDACY FOR THE OFFICE FOR WHICH THIS PETITION IS FILED]."

Senator Pat Pourchot
April 24, 1989

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 43 (State Affairs)

Page 12, after line 9:

Insert new bill section to read:

"*Sec. 29. AS 15.58.030(b) is amended to read:

(b) No later than July 15 of a year in which a state general election will be held, an individual who becomes a candidate for the office of United States senator, United States representative, governor, lieutenant governor, state senator, or state representative under AS 15.25.030 may file with the lieutenant governor a photograph and a statement advocating the candidacy. An individual who becomes a candidate for the office of United States senator, United States representative, governor, lieutenant governor, state senator, or state representative under AS 15.25.180 by filing a nominating petition or by any other means may file with the lieutenant governor a photograph and a statement advocating the candidacy by July 15 or within 10 days of becoming a candidate, whichever is later.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 43 (State Affairs)

Page 3, after line 23:

Insert new bill section to read:

** Section 9. AS 15.20.081(d) is amended to read:

(d) Upon receipt of an absentee ballot by mail, the voter, in the presence of a notary public, commissioned officer of the armed forces including the National Guard, district judge or magistrate, United States postal official, registration official, or other person qualified to administer oaths, may proceed to mark the ballot in secret, to place the ballot in the small envelope, to place the small envelope in the larger envelope, and to sign the voter's certificate on the back of the larger envelope in the presence of an official listed in this subsection who shall sign as attesting official and shall date the signature. If none of the officials listed in this subsection is reasonably accessible, an absentee voter shall sign the voter's certificate in the presence of [HAVE THE BALLOT WITNESSED BY] two persons over the age of 18 years, who shall sign as witnesses and attest to the date on which the voter signed the certificate in their presence, and, in addition, the voter shall provide the certification prescribed in AS 09.63.020."

Renumber the following bill sections accordingly.

A M E N D M E N T

To: CSSB 43 (State Affairs)

Offered by Rep. Martin

On Page 7, line 23, add a new subsection to read:

(c) The information provided in compliance with the requirements of AS 15.25.030 on a declaration of candidacy which has been filed with the director may not be amended, altered or otherwise withdrawn for the purpose of refiling another declaration of candidacy or nominating petition by the candidate within 5 days immediately preceding the filing deadline established in AS 15.25.040.

PROBLEM: -

Under current Declaration of Candidacy statutes [AS 15.25.030 (a)] the oath, if taken literally, would mean that no candidate would ever be able to withdraw his/her declaration to resubmit a new one, or to make any change in his/her candidacy declaration.

AS amended by the Senate State Affairs Committee the Declaration of Candidacy statutes state that a person cannot have a declaration of candidacy on file for two different offices at the same time. However, there is nothing in statute that prevents one from having a nominating petition and a declaration of candidacy on file at the same time for the same office. Thus, one could lose the primary but still be a candidate on the general election.

The attached amendment provides that a person can only have one current filing document on record at any given time.

Oath for Candidates

Page 7 Line 11

AS 15.25.030 (a)

(14) ^{be} that the person is not a candidate for any other office to be voted on at the primary or general election, and that the candidate is not a candidate for this office under any other declaration of candidacy or nominating petition [AND THAT THE CANDIDATE HAS NOT FILED ANOTHER NOMINATING PETITION OR DECLARATION OF CANDIDACY FOR THE OFFICE FOR WHICH THIS DECLARATION IS FILED].

Page 11 Line 4 (Conforming For Independent Candidates)

AS 15.25.180

(14) [15] that the candidate is not a candidate for any other office to be voted on at the primary or general election, and that the candidate is not a candidate for this office under any other declaration of candidacy or nominating petition [AND THAT THE CANDIDATE HAS NOT FILED ANOTEHR NOMINATING PETITION OR DECLARATION OF CANDIDACY FOR THE OFFICE FOR WHICH THIS PETITION IS FILED].

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS,
CHAIR

ETHICS COMMITTEE,
CHAIR



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Senator Pat Pourchot

MEMORANDUM

DATE: April 5, 1989

TO: House Judiciary Committee
Representative Peter Goll, Co-Chair
Representative Max Gruenberg, Co-Chair
Representative Mike Davis, Vice-Chair
Representative Cliff Davidson
Representative Johnny Ellis
Representative Terry Martin
Representative Mike Miller

FROM: Senator Pat Pourchot *Pat*

RE: CS SB 43 (State Affairs) - "An Act relating to conduct and administration of elections by the director of elections."

CS SB 43 (SA) makes a number of technical changes to the statutes in an attempt to cleanup existing ambiguities and simplify certain procedures. The Division of Elections supports CS SB 43 (SA) and has stated that passage will aid the Division in effectively and efficiently performing its mandated responsibilities.

As currently written CS SB 43 (SA) would:

- 1) Amend the statutes relating to "required registration information" so that the term of residence in Alaska and in the election district need only be provided if requested. (Section 1)
- 2) Require that the completed voter registration form be received (rather than postmarked) by the director at least 30 days before the next election. (Section 2; conforming amendment in Section 3)
- 3) Allow voters who change their name just prior to an election to vote under their old name or vote a questioned ballot under the new name. (Section 4)
- 4) Provide for written notice of a change in a precinct boundary or polling place to be sent to affected voters prior to the election. (Section 5)

- 5) Remove the requirement that judicial retention candidates be printed on a separate nonpartisan judicial ballot. (Sections 6, and 23 through 26)
- 6) Eliminate the unnecessary requirement to record the time an absentee ballot is provided and received - recording of date is sufficient. (Section 7)
- 7) Extend the application period for absentee ballots by requiring that applications be received not later than 4 days prior to the election (rather than postmarked 10 days prior to election). (Section 8)
- 8) Remove conflict in existing statutes governing counting of absentee ballots. AS 15.20.081 (e) and (h) are in conflict with the section governing the procedure for recounts (AS 15.20.480). The amendments remove the conflict in accordance with provisions established under AS 15.20.480. (Sections 9 through 12)
- 9) Delete unnecessary requirement for "+" signs on computer type ballots. (Section 13)
- 10) Place in statute current requirements for stating residency address and length of residency on declaration of candidacy forms. (Section 14)
- 11) Delete provision that requires candidate to state that he/she has not filed another declaration of candidacy for the office for which this declaration is filed. (Section 14)

Taken literally, the current oath means that no candidate can withdraw his/her declaration, resubmit a new one, or make any changes in his/her candidacy declaration.
- 12) Amend statute to allow declaration of candidacy forms and conflict of interest forms to be filed on same date (rather than simultaneously) because they are filed at separate locations. (Section 14)
- 13) Change deadline for removal of a name from the primary ballot from 40 days to 48 days. (Section 15; Sections 16 through 19 and Section 22 contain conforming amendments.)
- 14) Change period in which a candidate's place on the ballot may be filled by party petition from 45 days to 50 days if vacancy occurs after June 1 of election year. (Section 16)
- 15) Change filing deadline for third party candidates from June 1 to August 1 for the general election - Superior Court has held June 1 deadline to be unconstitutional. (Section 20)

- 16) Place in statute current requirement for stating residency address and length of residency on nominating petition and delete provision that requires candidate to state that he/she has not filed another nominating petition to conform to language in Section 14. (Section 21)

Bill/Resolution History

BILL: SB 43

NAME: CSSB 43(SA)

TITLE: "An Act relating to conduct and administration of elections by the director of elections."

PRIME SPONSOR: POURCHOT

CURRENT STATUS: (H) JUD

STATUS DATE: 04/05/89

| | Jrn-Date | Jrn-Page | | Action |
|----|----------|----------|-----|--|
| 1 | 12/30/88 | | (S) | PREFILE RELEASED |
| 2 | 01/09/89 | 21 | (S) | READ THE FIRST TIME - REFERRAL(S) |
| 3 | 01/09/89 | 21 | (S) | STATE AFFAIRS, THEN JUDICIARY |
| 4 | 02/07/89 | 340 | (S) | STA RPT CS 3DP 1NR NEW TITLE |
| 5 | 02/07/89 | 340 | (S) | ZERO FISCAL NOTE PUBLISHED |
| 6 | 03/15/89 | 791 | (S) | ZERO FISCAL NOTE TO CS PUBLISHED |
| 7 | 03/15/89 | 791 | (S) | JUD RPT 4NR (STA)CS |
| 8 | 03/15/89 | 791 | (S) | PREVIOUS ZERO FISCAL NOTE TO CS |
| 9 | 03/17/89 | 831 | (S) | RULES TO CALENDAR |
| 10 | 03/17/89 | 837 | (S) | READ THE SECOND TIME |
| 11 | 03/17/89 | 837 | (S) | STA CS ADOPTED UNAN CONSENT |
| 12 | 03/17/89 | 838 | (S) | ADVANCED TO THIRD READING UNAN CONSENT |
| 13 | 03/17/89 | 838 | (S) | READ THE THIRD TIME CSSB 43(SA) |
| 14 | 03/17/89 | 838 | (S) | PASSED Y17 N- X2 A1 |
| 15 | 03/17/89 | 842 | (S) | TRANSMITTED TO (H) |
| 16 | 03/20/89 | 677 | (H) | READ THE FIRST TIME - REFERRAL(S) |
| 17 | 03/20/89 | 677 | (H) | STATE AFFAIRS, JUDICIARY |
| 18 | 04/05/89 | 866 | (H) | STA RPT 4DP 2NR |
| 1 | 04/05/89 | 866 | (H) | PREV SEN ZERO FN/ANALYSIS (ELECT)3/15/89 |
| 2 | 04/05/89 | 866 | (H) | REFERRED TO JUDICIARY |

CS SB 43 (SA)

"An Act relating to conduct and administration of elections by the director of elections."

The amendments contained in CS SB 43 (SA) will affect the following:

1) VOTER REGISTRATION:

Section 1 (required registration information)
Section 2 (procedures for registration)
Section 3 (" " ")
Section 4 (procedures for reregistration and amendment and transfer of registration)

2) PRECINCT BOUNDARIES AND POLLING PLACES

Section 5 (precinct boundaries and polling places modified by director)

3) PREPARATION OF BALLOTS AS IT RELATES TO JUDICIAL RETENTION CANDIDATES

Section 6 (preparation of official ballots)
Section 23 (placing name of supreme court justice on ballot)
Section 24 (placing name of judge on the court of appeals on ballot)
Section 25 (placing name of superior court judge on ballot)
Section 26 (placing name of district judge on ballot)

4) ABSENTEE VOTING

Section 7 (absentee voting by personal representative)
Section 8 (absentee voting by mail)
Section 9 (" " ")
Section 10 (" " ")
Section 11 (procedure for state review)
Section 12 (procedure for recount)

5) PUNCH-CARD BALLOTS

Section 13 (rules for counting punch-card ballots)

6) INFORMATION REQUIRED ON DECLARATION OF CANDIDACY FORMS AND NOMINATING PETITIONS

Section 14 (declaration of candidacy)
Section 21 (requirements for petition)

7) REPLACEMENT OF CANDIDATES

Section 15 (removal of name from primary ballot)

Section 16 (nomination by party petition where
incumbent dies or is disqualified or
incapacitated)

Section 17 (" " " " ")

Section 18 (filling vacancies by party petition)

Section 19 (requirements for party petition)

Section 22 (withdrawal of candidate's name)

8) FILING DEADLINE FOR THIRD PARTY CANDIDATES

Section 20 (date of filing petition)

Sen. Pat Pourchot
April 5, 1989

SUMMARY

CS SB 43 (SA)

"An Act relating to conduct and administration of elections by the director of elections."

Section 1. Existing statutes require each applicant who registers to vote to provide information on the length of residency in the state and the election district. However, the official absentee voter registration application and absentee ballot application provided by the federal government for overseas and military voters does not specifically request this information. If the required information is not included on the federal form the Division must contact the applicant and request the person to reapply in accordance with existing law.

Section 1 amends the statutes so that the term of residence in Alaska and in the election district need only be provided if requested.

Section 2. Current statute requires that registration forms received through the mail must be postmarked 30 days before the next election. Because mail often lacks a postmark or the postmark is unreadable, the amendment would delete the reference to the postmark and require that the completed voter registration form be received by the director of elections 30 days prior to the next election.

The amendment would have no effect on persons living within Alaska since the 30 day cutoff for registration is the controlling element with regard to their eligibility to vote in a specific election. The Division would still retain the option of requesting the information in cases where it was deemed necessary to establish voter eligibility - whether for overseas or instate voters.

Section 3. Amends statutes relating to incomplete or inaccurate registration forms to conform to language in Section 2.

Section 4. Current law states that a voter who has changed one's name but wishes to vote under the new name must reregister 30 days prior to the next election.

Questions concerning this section of the statute were raised in the 1986 Fischer/Uehling recount. The Supreme Court ordered the ballots counted of those voters who voted under their new name but had not updated their registration records as required by law.

In order to clarify this statute, the proposed amendment allows a voter to vote under one's previous name OR to vote a questioned ballot if the voter wishes to use his/her new name.

Statutory citations regarding handmarked ballots contain no such descriptive language and no other sections of the election law contain any reference to this "plus sign."

The amendment would eliminate the necessity for printing two versions of the same ballot where there is both punch card voting and handmark voting in the same district and will result in a savings of approximately \$2,000 in ballot printing costs.

Section 14. These amendments would (1) place in statute current requirements for stating residency address and length of residency on declaration of candidacy forms; (2) delete the requirement that candidate not have "filed" a previous declaration (what is intended is that the candidate not have another declaration "on file"); and (3) allow declaration of candidacy forms and conflict of interest forms to be filed on same date (rather than simultaneously) because they are filed at separate locations.

Section 15. Current statutes set the deadline for withdrawal of a candidate's name from the ballot or the replacement of a name on the ballot 40 days prior to the election.

This severely constricts to three weeks the time in which to prepare, print and distribute ballots across the state. In cases where a lawsuit is filed contesting a candidate's eligibility the time frame can be further reduced.

The amendment proposes to change the deadline from 40 to 48 days. This would significantly improve the Division of Elections' ability to meet their statutory deadlines which are dependent on completion of ballot printing.

Section 16. The first amendment would change the period in which a candidate's place on the ballot may be filled by party petition from 45 days to 50 days if the vacancy occurs after June 1 of election year. This is to allow parties a few days leeway to select replacement candidates. The second is an amendment to conform to language in Section 15.

Sections 17 through 19 and Section 22. Amends statutes to conform to language in Section 15.

Section 20. The current filing deadline for the general election for third party candidates is June 1. A recent Superior Court decision has held this deadline unconstitutional. This amendment would change the filing deadline from June 1 to August 1.

Section 21. This amendment would place in statute the current requirement for stating residency address and length of residency on nominating petition and would delete the provision that requires candidate to state that he/she has not filed another nominating petition (see explanation in Section 14).

Section 5. This new subsection directs the director of elections, whenever possible, to send written notice of any change in a precinct boundary or polling place to each affected registered voter to mitigate any inconvenience caused a voter because of a change in polling place.

Sections 6, and 23 through 26. These sections remove the requirement that judicial retention candidates be printed on a separate nonpartisan judicial ballot.

In territorial days when elections involved closed partisan races, it was necessary to print the judicial retention candidates on separate nonpartisan ballot cards. Because we now include candidates of all parties on the same card - the card is essentially nonpartisan. The Court System has no problem with the proposed amendment.

Based on a review of the 1986 general election, 14 districts would have required the printing of only 2 ballot cards if the judicial candidates had been printed on the same card as other candidates. This would have resulted in a savings of nearly \$15,000 in ballot printing costs.

Section 7. Current law requires that an election official record the date and time an absentee ballot is provided and received. This amendment eliminates the unnecessary requirement to record the time - which serves no useful purpose.

Section 8. This amendment would extend the application period for absentee ballots by requiring that applications be received not later than 4 days prior to the election, rather than post-marked 10 day prior to the elections. (See explanation in Section 2.)

Sections 9 through 12. Statutes governing "absentee voting by mail" require the counting of absentee ballots mailed from within the U.S. if received by the 10th day after the election. If mailed outside the U.S. or from a military APO/FPO address they must be counted if received by the 15th day after the election.

However, under the statutes governing "procedures for recount" absentee ballots received 15 days following an election but before the completion of the recount must be counted - no provision is made for the counting of absentee ballots that are mailed from within the U.S. but are received between the 10th and 15th day following an election.

The proposed amendments would remove this conflict by allowing, in a recount, the counting of absentee ballots received after the statutory deadline but before the completion of the recount.

Section 13. This amendment is "housekeeping" in nature. The section proposes the deletion of references to language "designated by a plus sign" when describing the square box in which the voter punches the ballot. The plus sign serves no purpose.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

February 9, 1989

SUBJECT: The conduct and administration of elections
by the director of elections
[CSSB 42 (State Affairs)]

TO: Senator Pat Pourchot

FROM: Richard A. Bradley *RB*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill amends AS 15.07.060(a) (required voter registration information). It moves from paragraph (a)(4) (required information) to paragraph (a)(2) (optional information, "if requested") the requirement that information be provided on the term of residence in the state and in the district. For most voting registration purposes, the length of residence, either in the state or in the district, is irrelevant. See, in this connection, the amendments to secs. 2 - 3 of the bill.

Section 2 of the bill amends AS 15.07.070(c) (procedure for registration). The amendment requires that a voter registering by mail make certain that the registration forms be received (and not postmarked) 30 days before the election. The experience of the division of elections is that 30 percent of registrations received by mail are not postmarked and thus it is impossible in those cases to determine whether the registration is proper.

Section 3 amends AS 15.07.070(f). The section deals with incomplete registrations and achieves the same goal as sec. 2 of the bill.

Section 4 of the bill amends AS 15.07.090(a) to alter the procedure under which a voter whose name is changed (by court order or by marriage) may vote. Existing law requires that the voter notify the division of election 30 days before the election or vote under the old name. Under the amendment, the voter may vote a questioned ballot.

Section 5 of the bill amends AS 15.10.020 by adding a new subsection (b). The section provides that "whenever possible," the director shall send written notice of a change in a precinct boundary or polling place to affected voters.

Section 6 of the bill amends AS 15.15.030(10). The goal of the amendment was to eliminate the requirement that judicial retention election ballots be printed on a separate ballot. In that connection note that art. IV, sec. 6 of the Alaska Constitution requires that the retention ballot be "nonpartisan"; presumably this means that judges may not appear on the ballot used for the election of the political officers of the state.

Note in this connection the conforming amendments later in the bill at secs. 23 - 26 of the bill.

Section 7 of the bill amends AS 15.20.071(d). The law relates to absentee voting by personal representative. It amends out the existing requirement that the election official record the "time" that the absentee ballot is provided and returned; it continues the requirement that the date be recorded when the ballot is provided and adds the requirement that the date when the ballot is returned be recorded.

Section 8 of the bill amends AS 15.20.081(b). It substitutes a requirement that an absentee ballot application be "received by the division not less than four days before the election" in place of the former "postmarked not less than ten days before the election".

Section 9 amends AS 15.20.081(e). The existing provisions of AS 15.20.081(e) establish the policy that an absentee ballot from within the United States not be counted unless it is received by the election supervisor by the close of business on the tenth day after the election. As amended,

the bill establishes the policy that if received after the tenth day but before the completion of a recount, the ballot would be counted. See also the amendment to AS 15.20.480.

Section 10 amends AS 15.20.081(h). The existing provisions of AS 15.20.081(h) establish the policy that an absentee ballot from outside the United States or from a military APO or FPO address not be counted unless it is received by the election supervisor by the close of business on the 15th day after the election. As amended, the bill establishes the policy that if received after the 15th day but before the completion of a recount, the ballot would be counted. See also the amendment to AS 15.20.480.

Section 11 of the bill amends AS 15.20.220(b). The amendment conforms the section to changes made to AS 15.20.081(e) and (h) several years ago regarding the times within which absentee ballots must be received after an election.

Section 12 of the bill amends AS 15.20.480. The section is, I believe, a section that was omitted from an earlier revision of the election recount procedure dates. With the amendment of this section, the general law on the counting of absentee ballots received after an election is now controlled by AS 15.20.081(e) and (h) unless there is a recount. In that case, AS 15.20.480 controls.

Section 13 of the bill amends AS 15.20.730(b). The elimination of the references to "plus signs" is designed to remedy a confusion: The existing law talks about "punches" and "plus signs" and the question has been which controlled.

Section 14 of the bill amends AS 15.25.030. The first amendment, to AS 15.25.030(a)(8) clarifies the intent of the paragraph. Under present law, the candidate is not required to state the length of residency in the state and in the district, but rather only that the candidate "will meet" the residency requirements. This test fails to comply with the requirements of the Alaska Constitution (art. II, sec. 2) that the candidate qualify "immediately preceding his filing for office." The provision as amended points up the qualifications required.

The second amendment, to AS 15.25.030(14), deletes the requirement that the candidate not have "filed" a declaration previously; what is intended is that the candidate not have

another declaration "on file" and, as amended, the section achieves this goal.

The third amendment, to AS 15.25.030(b), conforms the language of the section to the practical reality that a candidate cannot do two separate things "simultaneously."

Section 15 of the bill amends AS 15.25.055. It requires a candidate in the primary election to give notice of a withdrawal from the primary election 48 days before the election. The earlier notice is for the better management of the primary election and the preparation of the ballots.

Section 16 of the bill amends AS 15.25.056(a) (filling vacancy for primary after death, etc., of unopposed incumbent primary candidate). The amendment conforms the section to changes made earlier in section 15 of the bill; unlike the other sections that establish the 48 day threshold, however, this gives the political party two extra days to qualify.

Section 17 of the bill amends AS 15.25.056(c) (filling vacancy for primary after death, etc. of unopposed incumbent primary candidate). The amendment conforms this section to the changes made earlier in bill section 15.

Section 18 of the bill amends AS 15.25.110 (filling a vacancy after party nomination). The amendment conforms this section to the changes made earlier in bill section 15.

Section 19 of the bill amends AS 15.25.120 (filling a vacancy after the primary nomination). The amendment conforms this section to the changes made earlier in bill section 15.

Section 20 of the bill amends AS 15.25.150. Section 20 delays until August 1 the date for filing nominating petitions by "no-party" candidates responsive to the decision of the Superior Court in Anchorage in the Sigler case.

Section 21 of the bill amends AS 15.25.180. The section amends the requirements of "no-party" petitions consistently with the first two amendments to section 14, above.

Section 22 of the bill amends AS 15.25.200 (withdrawal of candidate's name on general election ballot). The amendment conforms this section to the changes made earlier in bill section 15.

Senator Pat Pourchot
Page 5
February 9, 1989

Section 23 of the bill amends AS 15.35.050. It eliminates the requirement that the retention election for supreme court justices be on a judicial ballot; as suggested earlier, there is still a requirement that the ballot be nonpartisan.

Section 24 of the bill amends AS 15.35.059. It eliminates the requirement that the retention election for court of appeals judges be on a judicial ballot; as suggested earlier, there is still a requirement that the ballot be nonpartisan.

Section 25 of the bill amends AS 15.35.090. It eliminates the requirement that the retention election for superior court judges be on a judicial ballot; as suggested earlier, there is still a requirement that the ballot be nonpartisan.

Section 26 of the bill amends AS 15.35.130. It eliminates the requirement that the retention election for district court judges be on a judicial ballot; as suggested earlier, there is still a requirement that the ballot be nonpartisan.

If I may be of further assistance, please advise.

RAB:gc
WKG7/004

FISCAL NOTE

REQUEST:

Revision Date: 2/7/89
 Title: An Act relating to the administration of elections by the director.
 Sponsor: Pourchot
 Requestor: Pourchot

Agency Affected: Office of the Governor
 BRU: Elections
 Components: I - Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 | FY 94 |
|------------------------|------------|------------|-------------|------------|-------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0-* | -0- | -0-* | -0- |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|-----|-----|------|-----|------|-----|
| REVENUE | -0- | -0- | -0-* | -0- | -0-* | -0- |
|---------|-----|-----|------|-----|------|-----|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|------------|------------|-------------|------------|-------------|------------|
| GENERAL FUND | -0- | -0- | -0-* | -0- | -0-* | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | -0- | -0- | -0-* | -0- | -0-* | -0- |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Linda Edgeworth
 Division: Division of Elections

Phone: 465-4611
 Date: 2/9/89

Approved by Commissioner: *Linda Edgeworth*
 Agency: Division of Elections

Date: 2/9/89

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION OF FISCAL NOTE

CSSB 43 (SA) AM

Division of Elections

The Division of Elections anticipates that this bill would generate a cost savings in one area while and causing an expenditure in another area resulting in a general offset with no increase in funding required.

- A. Costs would be incurred in the notification of voters of polling place or precinct boundary changes. These costs would cover the printing of a computer self-mailer and 1st class postage.

Based on the prior bid awards for printing of similar forms, printing would come to \$0.069 per unit and postage is figured at \$.25 per item.

In 1986, for example 65 polling places were changed impacting 44,070 voters.

At approximately \$.32 per item the cost of mailing these notices would have been \$14,102.

- B. The cost saving provisions relate to the elimination of the requirement for a separate judicial card, and elimination of the "+" sign on punch card ballots. The savings estimated would be about \$115.00 per thousand ballot cards. With that in mind, a review of the cost savings for the 1984 and 1986 elections, for example, would have been:

| | |
|------|--------|
| 1984 | (14.8) |
| 1986 | (18.1) |

COMMENTS IN SUPPORT OF
CSSB 43 (SA) AM

Prepared by
The Division of Elections
February 9, 1989

TITLE: "An act relating to conduct and administration of elections by the director of elections; and providing for an effective date.

SPONSOR: The Honorable Pat Pourchot
Alaska State Senator

Senate Bill 43 is primarily a housekeeping bill which outlines technical amendments to the Alaska Election Code to clarify procedures related to the administration of elections. The Division of Elections has reviewed Senate Bill 43 and supports its provisions.

Section 1:

This section clarifies the statutory provisions about the "length of Alaska and district residency" information which is provided by voters at the time they register to vote. Its provisions authorize the Division to continue to request information about length of residence, but does not make failure to provide the information automatic grounds for rejecting the application for registration.

A voter may register to vote at any time. The criteria for voting in a specific election is that they must be properly registered 30 days prior to the election. The 30 day cut off for registration is the controlling element with regard to a voter's eligibility to vote in a specific election.

As a practical matter, under the Uniformed and Overseas Citizens Absentee Voting Act, the federal government prescribes an official post card form which contains both absentee voter registration application and an absentee ballot application. The form used by overseas and military voters does not specifically request length of residency.

Nearly 4,000 Federal Post Card Applications were received this year, and approximately 75% had to be rejected simply because the voter did not include his or her length of residency. Each of these voters had to be written a letter requesting them to complete new forms which included the length of residency information. As we get closer to an election a large group of voters may be disenfranchised

under the current law because there is insufficient time for mail turnaround.

Sections 2 and 3:

These sections are conforming amendments related to the acceptance of registration forms which are submitted by mail. The current statutes provide that the effective date of a registration application sent by mail is the date of the postmark. Experience shows that nearly 30 percent of mail received by the Division has no readable postmark. The amendment provides that the person's registration takes effect on the date the application is received by the Division of Elections. This measure will also allow for an absolute 30 day cutoff for preparation of the precinct registers.

Additionally, voters frequently return by mail registrations and updates in an envelope. Requirement that the postmark date be the date of registration for by mail registrants adds a cumbersome and costly administrative burden to the division because it requires retention of envelopes with the applications, and/or microfilming of both sides of each application form to maintain a permanent record of the postmark, if one is affixed.

Section 4:

The provisions of this section eliminates the current requirement that voters who change their names may vote under their previous name, but must update their registration record 30 days prior to the election in which they seek to vote, in order to vote under their new names. The Supreme Court, in Fischer vs. Division of Elections directed the Director to count the ballots of voters who voted under their new names, but had not updated their registration as required by statute. The amendment conforms to the courts ruling on this issue.

Section 5:

This section provides that voters impacted by polling place or precinct boundary changes be sent notification of the changes prior to the elections whenever possible. This notification should be beneficial in ensuring that voters know where to vote on election day.

Sections 6, 23, 23, 25 and 26:

These sections relate to the current requirement that judicial retention candidates be placed on a separate ballot. Often there is adequate space on other ballot cards

to include the judicial candidates for a specific district. While several districts consistently require printing of a third card during a general election, we anticipate that in any given elections year, 1/3 to 1/2 of the districts in the state could be accommodated with just 2 ballot cards if the requirement for a separate card for judicial candidates were eliminated. Potentially, this amendment could save \$10,000 to \$15,000 in ballot printing costs for general elections.

Section 7:

This section simply eliminates the requirement that a record be kept of the actual time an absentee by personal representative ballot is returned to the election official. The date on which the ballot is returned is sufficient to ensure that the ballot is returned on time, and the requirement that the actual time be recorded is left over from the statutes which at one time required that the personal representative ballot be returned within a specific time period from the date it was issued.

Section 8:

The amendment to this section removes the requirement that applications for absentee ballots be postmarked 10 days prior to the election, but, rather sets a deadline for receipt of the application. This clarification serves to clearly state for the voter, an absolute deadline rather than a flexible one subject to circumstances of mail delivery. It also brings closure to the final mailing of absentee ballots for the Division.

Sections 9, 10, 11 and 12:

These provisions clarify the deadlines for receipt of absentee ballots for inclusion in the count of absentee ballots prior to certification of the election, and clearly provides for the counting of timely voted ballots received after the prescribed deadlines in recounts. The deadline for receipt of absentee ballots mailed from within the United States is 10 days after election day, while overseas ballots, and ballots mailed from APO or FPO addresses may be received up to 15 days after the election. When the statutory deadlines were amended in 1986 as part of House Bill 284, a technical omission to the provision for counting late ballots in recounts only addressed ballots received after the 15 day deadline and left a technical window for ballots received between the 10th and 15th day. This bill corrects this deficiency.

It should be noted that concern has been expressed on a number of occasions that including late ballots in recounts

opens a potential for fraudulent use of the absentee program because almost 1/3 of mailed ballots have been found to have no readable postmark. With more and more voters using the by mail voting program, and greater access to absentee voter lists that indicate whether or not the voter has returned a voted ballot, there is concern that greater opportunity exists to "work" the absentee lists to solicit voters who did not return their ballots to cast them after election day, where races are very close, potentially impacting the outcome of the recount.

Section 13:

This bill deletes reference to a "+" sign which appears in the punch boxes in computer type ballots. The "+" sign serves no real purpose, but does require us to print two versions of the same ballot in districts where some precincts vote punch cards and some precincts vote hand marked ballots.

Sections 14 and 21:

The amendments in this section relate to candidates and their filings of Declarations of Candidacy or Nomination Petitions.

Length of residency is of specific importance in relation to candidacy filings and candidate eligibility to run for office. Therefore, information about length of residency should be made part of the filing requirement.

With regard to the technical amendment to Section (b), the conflict of interest documents are accepted with the Declaration of Candidacy by the Director of Elections, however, they are really supposed to be filed directly with APOC. The word "simultaneously" is not appropriate when the documents are actually filed at two separate locations.

Additionally, a new section would have to be added to address your concerns about candidates who withdraw their filings to refile for another seat, withdraw their declarations to file nominating petitions for the general election, or who amend their registrations and declarations of candidacy at the last moment before the filing deadline. Perhaps the simplest way to address these concerns is to provide specifically for the amendment of filings and stipulate a deadline for such amendments.

The second difficulty with the current statutes is in subsection 14 of AS 15.25.030 which requires that the candidate, under oath, state in substance that "he is not a candidate for any other office to be voted on at the primary or general election, and that he has not filed another declaration of candidacy or

nominating petition for the office for which this declaration is filed." As indicated above, perhaps the second part of the statement should be deleted from the statutes. As you know, it is not uncommon for a candidate to file for office quite early. If the oath is to be taken literally, it would mean that no candidate would ever be able withdraw his or her declaration to resubmit a new one, or to make any change his or her candidacy declaration. This may not be practical.

Sections 15, 16, 17, 18, and 19:

These sections suggest conforming amendments to the deadline for withdrawal of a candidate's name from the ballot, or replacement of a name on the ballot prior to an election. The amendments change the deadline from 40 days to 48 days prior to the election. The Division supports this change. The 40 day deadline severely constricts the actual time frame in which ballots must be typeset, proofread, printed and distributed. For example, for general elections, the existing deadline allows only 10 days for preparing camera ready samples of each finalized ballot for inclusion in the Official Election Pamphlet which, by statute must be mailed to voters 30 days prior to the election.

In addition, by mail absentee voters should be mailed their ballots at least three full weeks before election day, and absentee in person voting starts 15 days before each election. That means that even in primary elections, allowing adequate shipping time for rural absentee sites, and adequate preparation for mass mailing of by mail ballots, the Division has at best, three weeks in which to finalize, typeset, proofread, print, receive and sort, and finally distribute and ship ballots across the State. This tight three week period can be further dwindled in situations where lawsuits are filed contesting a candidate's eligibility which is a common occurrence in major election years.

Section 16 provides a 2 day window for the replacement of a candidate by party petition if the candidate withdraws, dies or becomes incapacitated 50 days prior to the primary elections.

Section 20:

This amendment responds to the Superior Court's decision in Sigler et al. vs. State of Alaska in which the June 1 filing deadline for no-party and independent candidates was found to be unconstitutional. While the State has appealed the

ruling to the Supreme Court, no opinion has been rendered. Therefore, there is no enforceable deadline provided for in law at this time. The amendment seeks to remedy this critical deficiency by setting the filing deadline for these candidates at August 1.

February 9, 1989
Date

Sandra J. Stout
Sandra J. Stout
Director

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

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March 2, 1989

Honorable Pat Pourchot, Chair
Senate State Affairs Committee
P.O. Box V
Juneau, AK 99811

Re: SB 43; Party affiliation ap-
pearing on official election
ballot

Dear Senator Pourchot:

Sometime ago I appeared before your committee to testify regarding SB 43, relating to elections procedures. Senator Faiks requested our opinion concerning the legality of a proposed provision that would limit the types of words that could be used to describe a candidate's political affiliation on the official general or primary election ballot. It was suggested that a statute could be enacted prohibiting the words "Democrat" and "Republican" from use on the ballot to describe the party affiliation of a candidate unless the candidate was either seeking the nomination or was nominated by the Democratic or Republican parties of the state.

Based on our research, the provision under consideration by Senator Faiks and your committee would not be lightly regarded by our courts and the state would have to bear a very heavy burden of proving some compelling interest in maintaining the prohibition. While there is no controlling authority on point in Alaska, two prominent cases decided outside the state would probably provide very persuasive authority here.

In Bachrach v. Secretary of the Commonwealth, 415 N.E.2d 832 (Mass. 1981), the Supreme Judicial Court of Massachusetts struck down a statute that prohibited the use of the word "independent" on the ballot to describe the political affiliation of a candidate. The court reasoned that ballot descriptions of political affiliation are a form of protected free speech. If the election code allows candidates to state political affiliation on the ballot, any attempt to regulate the content of that speech becomes repugnant to constitutional principles of freedom of expression and associational rights. 415 N.E.2d at 835.

In another case with facts closer to the proposal under consideration by the committee, the Fifth Circuit Court of Appeals struck down a Mississippi statute that prohibited a politi-

Honorable Pat Pourchot, Chair
Senate State Affairs Committee
Re: SB 43; Party affiliation

March 2, 1989
Page #2

cal party from using any name or part of a name which had been previously registered by another political party. Riddell v. National Democratic Party, 508 F.2d 770 (5th Cir. 1975). In Mississippi, members of the previously registered "Democratic Party of the State of Mississippi" did political battle over the leadership of the party. The "regulars" and "loyalists" split into factions with the "loyalists" forming the Freedom Democratic Party. The federal court determined that the offshoot party needed reference to "Democratic" as a designation to effectively compete with the other organization. The statute was struck down using strict scrutiny. The court concluded that the state failed to show a compelling interest.

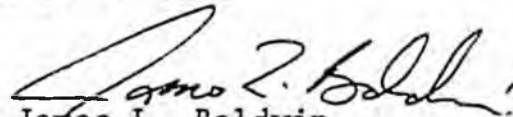
Another case bearing on this issue, although not involving ballot language, is Cohen v. California, 403 U.S. 15 (1971). In Cohen, the U.S. Supreme Court reversed a criminal conviction of a person who described the military draft using a scatological term. The court refused to "indulge the facile assumption that one can forbid particular words without also running a substantial risk of suppressing ideas in the process." 403 U.S. at 26. The Court was suspicious that "governments might soon seize upon the censorship of particular words as a convenient guise for banning the expression of unpopular views." Id.

In summary, there are well-recognized legal grounds for successfully attacking a limitation of the use of certain words to describe political affiliation on an official election ballot. We hope this memorandum will serve the purposes of the committee.

Sincerely yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By:



James L. Baldwin

Assistant Attorney General

JLB/pjg

cc: Hon. Jan Faiks
Hon. Rick Uehling
Alaska State Senate
Senate State Affairs Committee
Sandra Stout, Director
Division of Elections
Arthur H. Peterson
Assistant Attorney General
Department of Law

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 3, 1989

SUBJECT: Election issues
TO: Senator Pat Pourchot
FROM: Richard A. Bradley
Legislative Counsel

Jeannie has asked that I comment briefly on two issues.

The first is the use of party names: May the legislature prohibit a candidate or party from using a word in a nominating petition that is also used in the name of an existing political party in the state?

I am aware of the use of the phrase "Moderate Republican" by Ray Metcalfe and, I believe, of the phrase "Bull Moose Republican" by Tuckerman Babcock. Each was a candidate for the legislature.

I believe that the legislature may enact a law that would prohibit a candidate from using unmodified names when the individual is not a candidate of the party. Thus only those who go through the primary could be prohibited from using the phrase "Republican" or "Democratic."

But there may be more difficulty with predicting that the court will prevent candidates from calling themselves "Moderate Republicans" or "Social Democrats." There is an American political party known as, I believe, the Democratic Socialists of America, lead by Michael Harrington; they are too well established to be prevented from the use of the word "Democratic".

Everything that is affected with First Amendment rights is closely scrutinized by the courts and I believe that the answer might well be that the voters can tell real Democrats from hyphenated Democrats.

Senator Pat Pourchot
Page 2
February 3, 1989

But it is a close question and you should note that it has been the law of the state for a number of years that a "limited political party" [AS 15.30.025(b)] may not "assume a name which is so similar to an existing political party as to confuse or mislead the voters at an election." While restrictions on First Amendment freedoms are closely scrutinized, the legislature acts in the public interest when it requires parties to identify themselves fairly and without confusing or misleading the voters.

The second question that you asked that I comment on would be the choice of August 1 for the deadline for "no-party" candidates to file their nominating petitions.

The question arises under the Sigler opinion of the Superior Court, at Anchorage, Case No. 3AN-88-8695-CI. The case arose out of the efforts of Libertarians to qualify for the ballot later than other candidates.

The Superior Court decision ordered the Division of Elections to admit the candidates to the ballot; the decision was issued in early September. While I understand that Tuckerman Babcock did not intervene in this litigation, he benefited from it and used the order of the court for his entry on the ballot.

I understand that the decision has been appealed and thus, the comments may need review on the decision by the Supreme Court.

But the Superior Court stated that the basis for third parties was the failure of the main-line parties to represent all interests. The court noted that this perceived disenchantment arises after the nomination of the main-line candidates. Its authority for this decision is Anderson v. Celebrezze, 460 U.S. 780 (1983), a case involving third party candidates for president. While the court thought the case was on point, it seems to me that the analogies between state legislative races and the presidential races offers little value. And it noted that the Anderson case required third party candidates to qualify earlier than main-line candidates.

Alaska does not require its third-party candidates to qualify earlier but at the same time as main-line candidates.

Senator Pat Pourchot
Page 3
February 3, 1989

The court also cited an Eighth Circuit case, McLain v. Meier, 637 F.2d 1159 (8th Cir., 1980). That case stated that since the third party candidates arise as a reaction to main-line candidates, it was unreasonable to require them to qualify before the primary results were available.

The trial court noted that a more recent case, Rainbow Coalition v. Oklahoma State Election Board, 844 F.2d 740 (10th Cir., 1988) was contra, but it declined to follow the more recent case.

I note that if the trial court decision is followed, an August 1 deadline for third party candidates is too early since it does occur before the primary election.

But I suggest that it is undesirable to rely too heavily on the trial court decision in preparing legislation. I would await the decision by the Supreme Court.

If I may be of further assistance, please advise.

RAB:lmb
L6/161

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

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January 30, 1989

Hon. Pat Pourchot
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Re: SB 43 -- conduct and administration of elections

Dear Senator Pourchot:

At your request, I have reviewed SB 43, relating to the conduct and administration of elections by the director of elections. Generally, the amendments proposed by this bill are beneficial and would greatly assist the division of elections (division) in the performance of its duties. However, the amendment to AS 15.25.056(a) set out in sec. 12 of the bill may need further clarification.

Under existing law, if an incumbent fails to remain in the race, a political party may petition to add another candidate. This right to replace a candidate applies only if the termination of candidacy occurs during a specific period of time. The period ends five days before the withdrawal deadline. This bill would lengthen the period to a date "which is more than 54 days" before the primary election. I interpret this to mean midnight of the 55th day before the primary election day. If that is not your intent, let me know and I will draft a conforming amendment.

Section 11 of the bill would change the withdrawal deadline to the 54th day before the primary election day. The amendments set out in secs. 11 and 12 would shorten the gap to 24 hours. I presume the time gap is intended to allow a political party enough time to convince a qualified candidate who has filed for another incompatible office to withdraw and replace the fallen incumbent by petition. I am unable to offer advice whether allowing more time for such a withdrawal is beneficial or harmful to the electoral process. I have observed that it is common for political decisions concerning candidacy to be left until the final minutes before a deadline expires. It seems to me that the wisdom of allowing a longer period is a policy call that is best left to the legislature.

I also suggest that you consider amending AS 15.20.203

Hon. Pat Pourchot
Alaska State Senate
Re: SB 43, conduct/admin. of elections

January 30, 1989
Page #2

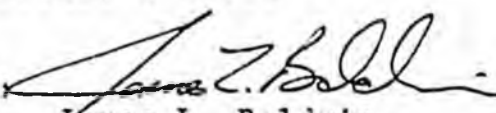
and 15.20.207 to include express authority for a ballot counting procedure that has been used recently for elections where the post-election returns indicate that a recount will be performed by the division. These sections set out the procedures for counting questioned and absentee ballots at the district level. As you know, the candidates in a close race often appear before the district review board and challenge ballots for various reasons. The board then decides whether to count a challenged ballot. Often these challenges encompass legal issues that apply to identifiable pools of ballots. We have advised the director that she may segregate ballot pools relating to a single legal issue through the recount if ballot secrecy can be maintained. However, there is no express authority for this procedure in statute.

Under the procedure used, the ballots will be counted but not commingled with all ballots counted for a race. If the election is contested in court, there is a much higher likelihood that the court will not order a new election if this procedure is used. If the court disagrees with the decision of the director to either count or not count ballots in the pool, the official totals of the candidates can be ordered changed. If the ballots are commingled, then the only remedy left to the court is to use the proportional reduction test to determine if the improperly counted ballots affected the outcome of the election. We believe that the procedure used allows the court to decide the outcome of an election based on the votes cast. I would be pleased to prepare an amendment to this bill to provide express authority for the procedure described above.

I hope that you will find these comments useful.

Sincerely yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
James L. Baldwin
Assistant Attorney General

JLB/pjg

cc: Sandra Stout, Director
Division of Elections
Arthur H. Peterson
Assistant Attorney General
Department of Law
Bob Evans, Legislative Liaison
Office of the Governor

ALASKA ELECTION LAWS

Reprinted From the Alaska Statutes, Title 15

As of January 1, 1987

Division of Elections

● State of Alaska



ALASKA ELECTION LAWS

ALASKA STATUTES

Title 15. Elections

Chapter

Section

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 - 10. Voter qualification
 - 11. Qualifications of overseas voters
 - 12. Voter qualification for presidential election
 - 14. Procedures in presidential elections
 - 16. Obsolete
 - 20. Rules for determining residence of voter
 - 30. Loss and restoration of voting rights
 - 40. Voter disqualification for unsound mind

- 07. Registration of Voters (§§ 15.07.010 -- 15.07.200)
 - 10. Registration of voters
 - 20. [Repealed]
 - 30. Who may register
 - 40. Time for registration
 - 50. Registration in person or by mail
 - 60. Required registration information
 - 65. [Repealed]
 - 70. Procedure for registration
 - 80. [Repealed]
 - 81. Registration officials
 - 90. Reregistration and amendment and transfer of registration
 - 100. Registration officials
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 - 125. Official registration list
 - 130. Elimination of excess names
 - 135. Cancellation of registration of convicted persons
 - 137. Voting information from municipalities
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 - 150. Appeals from denial of registration
 - 160. Unlawful action
 - 170. False statements
 - 180. Fees prohibited
 - 190. Violations
 - 200. Registration supervision

- 10. Election Districts and Officials (§§ 15.10.010 -- 15.10.180)
 - 10. Precinct boundaries initially established
 - 20. Precinct boundaries and polling places modified by director
 - 30. Uniform precinct boundaries required for state and local elections

- 130. Majority decision of election board
- 140. Permitted use of unofficial ballots
- 150. Official opening of polls
- 160. Prohibition of political discussion by election board
- 170. Prohibition of political persuasion near election polls
- 180. Keeping of register
- 190. [Repealed]
- 195. Voters on official registration list
- 198. Voters not on official registration list
- 200. [Repealed]
- 210. [Repealed]
- 213. Questioning a voter's ballot
- 215. Disposition of questioned votes
- 220. Administration of oaths
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- 230. Providing ballot to voter
- 240. Assisting voter by judge
- 250. Disposition of improperly marked ballot
- 260. Placing ballot in ballot box by voter
- 270. Prohibiting the leaving of the polling place with ballot
- 280. Prohibiting the exhibition of marked ballots
- 290. Prohibiting the identification of ballots
- 300. Prohibiting the count of exhibited ballots
- 310. Official closing of polls
- 320. Voters in line when polls close
- 330. Commencement of ballot count
- 340. Report, oath and vacancies of counters
- 350. General procedure for ballot count
- 360. Rules for counting hand-marked ballots
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CORRECTION

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ALASKA ELECTION LAWS

ALASKA STATUTES

Title 15. Elections

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Chapter 05. Qualification of Voters.

Sec. 15.05.010. Voter qualification. A person may vote at any election who (1) is a citizen of the United States; (2) is 18 years of age or older; (3) (repealed); (4) has been a resident of the state and of the election district in which he seeks to vote for at least 30 days just before the election; and (5) (repealed); (6) has registered before the election as required under AS 15.07 and is not registered to vote in another jurisdiction.

(Sec. 1.01 ch 83 SLA 1960; am sec. 1 ch 125 SLA 1962; am sec. 1 ch 80 SLA 1963; am sec. 1 ch 211 SLA 1968; am sec. 1 ch 88 SLA 1969; am sec. 1 ch 15 SLA 1970; am sec. 1 ch 75 SLA 1972; am secs. 1, 38 ch 116 SLA 1972; am secs. 2, 3 ch 197 SLA 1975; am sec. 1 ch 100 SLA 1980)

Sec. 15.05.011. Qualifications of overseas voters.

(a) A person residing outside the United States may register and vote absentee by qualifying under this section. (b) Before registering a person under this section, the director shall determine that the person (1) was domiciled in the state immediately before leaving the United States; (2) meets the qualifications established in AS 15.05.010(1) and (2); (3) has not established a domicile in another state, territory, or possession of the United States since leaving this state; (4) is not registered to vote and has not voted in another state, territory, or possession of the United States since leaving this state; (5) has a valid passport, card of identity and registration, or other identification issued under the authority of the United States Secretary of State, and identification complying with the requirements of this title. (c) Lack of a place of abode in the state or lack of intent to return to the state does not disqualify a person who qualifies under (b) of this section. (d) A person registered under this section may vote in a federal election in this state.

(Sec. 2 ch 100 SLA 1980)

Sec. 15.05.012. Voter qualification for presidential election. A person who is otherwise qualified under AS 15.05.010 but who has not been a resident of the election district in which he seeks to vote for at least 30 days preceding the date of a presidential election is entitled to register and vote for presidential and vice-presidential candidates.

(Sec. 1 ch 69 SLA 1967; am sec. 2 ch 116 SLA 1972)

Sec. 15.05.014. Procedures in presidential elections. In accordance with the Voting Rights Act of 1965 (P.L. 89-110; 79 Stat. 437; 42 U.S.C. 1973 et seq.), as amended, the following procedures apply to elections for the office of President and Vice-President of the United States: (1) registration and absentee voting procedures, except as otherwise provided in this section, shall be identical to the procedures established in this title; (2) registration

of otherwise qualified persons shall be permitted without regard to a durational residency requirement; (3) if any citizen who is otherwise qualified to vote in the state for president and vice-president has begun residence in another state after the 30th day preceding the election and, for that reason, does not satisfy the registration requirements of that state, he shall be allowed to vote for president and vice-president either in person in the precinct in which he resided immediately before his removal, or by absentee ballot as provided in AS 15.20. (Sec. 1 ch 69 SLA 1967; am sec. 3 ch 116 SLA 1972)

Sec. 15.05.016. Fee prohibited. Obsolete.

Sec. 15.05.020. Rules for determining residence of voter. For the purpose of determining residence for voting, the place of residence is governed by the following rules: (1) No person may be considered to have gained a residence solely by reason of his presence nor may he lose it solely by reason of his absence while in the civil or military service of this state or of the United States or of his absence because of marriage to a person engaged in the civil or military service of this state or the United States, while a student at an institution of learning, while in an institution or asylum at public expense, while confined in public prison, while engaged in the navigation of waters of this state, or the United States or of the high seas, while residing upon an Indian or military reservation, or while residing in the Alaska Pioneers' Home. (2) The residence of a person is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return. If a person resides in one place, but does business in another, the former is his place of residence. Temporary construction camps do not constitute a dwelling place. (3) A change of residence is made only by the act of removal joined with the intent to remain in another place. There can only be one residence. (4) A person does not lose his residence if he leaves his home and goes to another country, state or place in this state for temporary purposes only and with the intent of returning. (5) A person does not gain residence in any place to which he comes without the present intention to establish his permanent dwelling at that place. (6) A person loses his residence in this state if he votes in another state's election, either in person or by absentee ballot, and will not be eligible to vote in this state until he again qualifies under AS 15.05.010. (7) Repealed by sec. 38 ch 116 SLA 1972. (8) The term of residence is computed by including the day on which the person's residence begins and excluding the day of election. (9) Repealed by sec. 38 ch 116 SLA 1972. (10) The address of a voter as it appears on his official voter registration card is presumptive evidence of the person's voting residence. If the person has changed his voting residence, this presumption is negated only by the voter executing an affidavit on a form prepared by the director setting out his new voting residence.