

SENATE BILL NO. 116

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR SHOWER

Introduced: 4/24/19

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to elections and voter registration; designating as a class C felony the**
2 **intentional opening or tampering with certain election materials; establishing an election**
3 **offense hotline; and providing for an effective date."**

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

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

6 (a) Registration may be made

7 (1) in person before a registration official or through a voter
8 registration agency;

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

12 (3) by mail;

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

(5) by requesting to be registered as a voter by checking a box that clearly indicates that the applicant is requesting to be registered on [COMPLETING] a permanent fund dividend application form under AS 43.23.015.

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

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

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

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

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

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

1 [(1) OF THE PROCESSES TO

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

3 (B) MAINTAIN AN EXISTING VOTER REGISTRATION
4 OR BE NEWLY REGISTERED AT A VALID PLACE OF RESIDENCE
5 NOT PROVIDED IN THE APPLICANT'S APPLICATION; AND

6 (C) ADOPT A POLITICAL PARTY AFFILIATION; AND

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

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

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

19 * **Sec. 6.** AS 15.15 is amended by adding new sections to read:

20 **Sec. 15.15.055. Ballot security and chain of custody.** (a) The director shall
21 provide by regulation for a system to account for each official ballot, whether used or
22 unused, and paper record of an electronically generated ballot under AS 15.15.032
23 through a redundant, secure, and sealed system that tracks the location and entity that
24 has custody of a ballot or record from the time the ballot is printed or paper record
25 produced, until the applicable election is certified under AS 15.15.450. The division
26 shall continually update the system adopted under this section to ensure that state
27 election practices and procedures are consistent with the best practices and procedures
28 and protect the integrity of state elections held under this title.

29 (b) The system established in (a) of this section must provide that

30 (1) each ballot or record for an election is tracked and accounted for at
31 all times through a chain-of-custody protocol;

1 (2) each ballot or record for an election is returned to a single point of
2 receipt at a designated division location;

3 (3) immediately after the polls close, digital reports from an electronic
4 voting machine are printed in paper form and tracked and accounted for under this
5 section.

6 (c) Before certifying an election under AS 15.15.450, the director shall
7 account for each ballot, whether used or unused, and record of an electronically
8 generated ballot under AS 15.15.032. The state ballot counting review board shall
9 audit and certify the ballot accounting under this subsection in accordance with
10 generally accepted accounting principles.

11 (d) If, under the system established in (a) of this section, a ballot or record is
12 not accounted for, there is a break in the scheduled chain of custody, there is a lapse in
13 the security or function, or the director has reason to anticipate a break in the
14 scheduled chain of custody or lapse in the security or function before an election is
15 certified under AS 15.15.450, the director shall notify the attorney general, the
16 lieutenant governor, each affected candidate, and each affected organized group that
17 sponsors or opposes an initiative, referendum, or recall. The director shall provide an
18 affected candidate or affected organized group a minimum of 24 hours notice to
19 appoint a watcher under AS 15.10.170 and ensure the watcher is present before any
20 further ballots in the election are counted or collected.

21 (e) An election official or watcher who has reasonable cause to believe that a
22 voting machine, election ballot, record, certificate, or package of ballots has been
23 opened or otherwise tampered with, or another irregularity has occurred, shall
24 immediately notify the director and call for an audit of the affected election materials
25 following the closing of the polls. If an election official or watcher at a precinct calls
26 for an audit under this subsection, the director shall require an audit of the affected
27 election materials before the materials are mailed under AS 15.15.370.

28 **Sec. 15.15.057. Election offense hotline.** (a) The director shall establish a toll-
29 free election offense hotline to receive telephone calls reporting election offenses
30 under this chapter. The director shall publicize the availability of the toll-free hotline
31 and encourage the public to provide information to the division related to voter

misconduct or other election offenses under this chapter. The director shall ensure the hotline is continuously staffed during the hours an absentee voting station is open under AS 15.20.045, during the hours an early voting location is open under AS 15.20.064, and for 24 hours after the time the polls open on election day. From 24 hours after the polls open until all election results are certified under AS 15.15.450, the director shall ensure an election official is continuously available to respond to calls made to the hotline.

(b) The director shall have the election offense hotline number printed on a sticker and placed on voting machines, ballot envelopes, and other election materials in a manner the director determines will provide maximum public notice of the election offense hotline established under (a) of this section.

* **Sec. 7.** AS 15.15.060 is amended by adding a new subsection to read:

(e) The director shall provide each election board in the state with notices containing the election offense hotline telephone number. The election board shall post at least two of the notices in each polling place. The election board shall post the notices so that they are conspicuous to voters.

* **Sec. 8.** AS 15.15 is amended by adding a new section to read:

Sec. 15.15.374. Notice of voter disqualification. If a voter's vote for or against a candidate, proposition, or question is not counted because the voter is not qualified under AS 15.05.010(3), the director shall notify the voter of the reason the vote was not counted and action the voter may take to avoid the issue in a future election. The director shall provide the explanation not later than

(1) 10 days after completion of the review of ballots by the state review board for a primary election or for a special election under AS 15.40.140 that is followed by a special runoff election;

(2) 60 days after certification of the results of a general election, special runoff election, or special election other than a special election described in (1) of this subsection.

* **Sec. 9.** AS 15.15.450 is amended by adding a new subsection to read:

(b) The director or lieutenant governor may not certify the results of an election under (a) of this section until each ballot and paper record is accounted for

1 under AS 15.15.055(c).

2 * **Sec. 10.** AS 15.15.470 is amended to read:

3 **Sec. 15.15.470. Preservation and destruction of election ballots, papers,**
 4 **and materials. (a)** The director shall preserve all precinct election certificates, tallies,
 5 and registers for four years after the election.

6 **(b) A ballot or paper record of an electronically generated ballot under**
 7 **AS 15.15.032 may not be destroyed before the result of the election in which the**
 8 **ballot was cast is certified under AS 15.15.450. However, the** [ALL] ballots and
 9 **paper records of electronically generated ballots under AS 15.15.032** [STUBS] for
 10 elections other than national elections may be destroyed 30 days after the certification
 11 of the state ballot counting review unless an application for recount has been filed and
 12 not completed, **the election is being contested under AS 15.20.540,** or [UNLESS]
 13 their destruction is **otherwise** stayed by an order of the court. All ballots for national
 14 elections may be destroyed in accordance with federal law. The director may permit
 15 the inspection of election materials upon call by the Congress, the state legislature, or
 16 a court of competent jurisdiction. **Ballots and paper records of electronically**
 17 **generated ballots under AS 15.15.032 must be destroyed at a single location**
 18 **designated by the division. The director or the director's designee shall witness**
 19 **the destruction. The director shall then certify before a notary public that the**
 20 **ballots and paper records have been destroyed.**

21 * **Sec. 11.** AS 15.20.066(a) is amended to read:

22 (a) The director shall adopt regulations applicable to the delivery of absentee
 23 ballots by electronic transmission in a state election and to the use of electronic
 24 transmission absentee voting in a state election by qualified voters. The regulations
 25 must

26 (1) require the voter to comply with the same time deadlines as for
 27 voting in person on or before the closing hour of the polls;

28 (2) ensure the accuracy and, to the greatest degree possible, the
 29 integrity and secrecy of the ballot process;

30 **(3) prohibit absentee voting by facsimile in a state election.**

31 * **Sec. 12.** AS 15.20.081(a) is amended to read:

(a) A qualified voter may apply in person, by mail, or by facsimile, scanning, or other electronic transmission to the director for an absentee ballot under this section. Another individual may apply for an absentee ballot on behalf of a qualified voter if that individual is designated to act on behalf of the voter in a written general power of attorney or a written special power of attorney that authorizes the other individual to apply for an absentee ballot on behalf of the voter. The application must include the address or, if the application requests delivery of an absentee ballot by electronic transmission, the [TELEPHONE] electronic mail address [TRANSMISSION NUMBER], to which the absentee ballot is to be returned, the applicant's full Alaska residence address, and the applicant's signature. However, a person residing outside the United States and applying to vote absentee in federal elections in accordance with AS 15.05.011 need not include an Alaska residence address in the application. A person may supply to a voter an absentee ballot application form with a political party or group affiliation indicated only if the voter is already registered as affiliated with the political party or group indicated. Only the voter or the individual designated by the voter in a written power of attorney under this subsection may mark the voter's choice of primary ballot on an application. A person supplying an absentee ballot application form may not design or mark the application in a manner that suggests choice of one ballot over another, except that ballot choices may be listed on an application as authorized by the division. The application must be made on a form prescribed or approved by the director. The voter or registration official shall submit the application directly to the division of elections. For purposes of this subsection, "directly to the division of elections" means that an application may not be submitted to any intermediary that could control or delay the submission of the application to the division or gather data on the applicant from the application form. However, nothing in this subsection is intended to prohibit a voter from giving a completed absentee ballot application to a friend, relative, or associate for transfer to the United States Postal Service or a private commercial delivery service for delivery to the division.

* **Sec. 13.** AS 15.56.060(a) is amended to read:

(a) A person commits the crime of unlawful interference with an election if

1 the person

2 (1) induces or attempts to induce an election official to fail in the
3 official's duty by force, threat, intimidation, or offers of reward;

4 (2) intentionally changes, attempts to change, or causes to be changed
5 an official election document including ballots, tallies, and returns;

6 (3) intentionally delays, attempts to delay, or causes to be delayed the
7 sending of the certificate, register, ballots, or other materials whether original or
8 duplicate, required to be sent by AS 15.15.370;

9 **(4) intentionally opens or tampers with a sealed election ballot,**
10 **certificate, or package of ballots without express authorization from the director;**

11 or

12 **(5)** [(4)] is contracted or employed by the state to print or reproduce in
13 any manner an official ballot, and the person knowingly

14 (A) personally appropriates, or gives or delivers to, or permits
15 to be taken by anyone other than a person authorized by the director, official
16 ballots; or

17 (B) prints or reproduces or has printed or reproduced official
18 ballots in a form or with a content other than that prescribed by law or as
19 directed by the director.

20 * **Sec. 14.** AS 43.23.015(b) is amended to read:

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

23 (1) notice of the penalties provided for under AS 43.23.270;

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

25 (3) the means for an applicant eligible to vote under AS 15.05, or a
26 person authorized to act on behalf of the applicant, to **request that the applicant be**
27 **registered as a voter, to** furnish information required by AS 15.07.060(a)(1) - (4) and
28 (7) - (9), and **to attest** [AN ATTESTATION] that **the** [SUCH] information is true.

29 * **Sec. 15.** AS 43.23.101 is amended to read:

30 **Sec. 43.23.101. Voter registration.** The commissioner shall establish by rule a
31 schedule by which the commissioner [WILL PROVIDE, AND] shall provide as soon

1 as [IS] practicable the director of elections with

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

6 (A) [IS] a citizen of the United States; and

7 (B) [IS] at least 18 years of age or will be within 90 days of the
 8 date of the application; and

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

10 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
 11 read:

12 APPLICABILITY: PERMANENT FUND DIVIDEND APPLICATIONS. The
 13 changes made by secs. 1 - 5 and 14 and 15 of this Act apply to permanent fund dividend
 14 applications filed on or after January 1, 2020.

15 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
 16 read:

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

21 * **Sec. 18.** Section 17 of this Act takes effect immediately under AS 01.10.070(c).

22 * **Sec. 19.** Except as provided in sec. 18 of this Act, this Act takes effect January 1, 2020.