LAWS OF ALASKA

2003

Source
CSHB 266(FIN)

Chapter No.
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AN ACT

Relating to questioned ballots and questioned voters, voter registration, training of election officials, preparation of election materials, provision of election materials, forms, and supplies for polling places, voter identification, absentee voting, and counting ballots; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

Relating to questioned ballots and questioned voters, voter registration, training of election officials, preparation of election materials, provision of election materials, forms, and supplies for polling places, voter identification, absentee voting, and counting ballots; and providing for an effective date.

*** Section 1.** AS 15.07.055 is amended by adding a new subsection to read:

(e) The director shall enter into an agreement with the Department of Administration and the Department of Revenue to match identifying information provided by a voter who initially registers by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050 with existing identification records

(1) maintained by the administrative component of the Department of Administration that administers motor vehicle and driver's license laws and by the administrative component of the Department of Revenue that administers the

permanent fund dividend laws; and

(2) bearing the same identifying number, name, and date of birth provided on the registration.

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

(a) Each applicant who requests registration or reregistration shall supply the following information:

(1) name and sex;

(2) **if issued, the applicant's State of Alaska driver's license number or State of Alaska identification card number, or the last four digits of the applicant's social security number;**

(3) date of birth;

(4) address and other necessary information establishing residence, including the term of residence in the state and in the district, if requested;

(5) [(3)] whether the applicant has previously been registered to vote in another jurisdiction, and, if so, the jurisdiction and the address of the previous registration;

(6) [(4)] a declaration that the registrant will be 18 years of age or older within 90 days of the date of registration;

(7) [(5)] a declaration that the registrant is a citizen of the United States;

(8) [(6)] date of application;

(9) [(7)] signature or mark;

(10) [(8)] any former name under which the applicant was registered to vote in the state;

(11) [(9)] an attestation that the information provided by the applicant in **(1) - (10)** [(1) - (8)] of this subsection is true; and

(12) [(10)] a certification that the applicant understands that a false statement on the application may make the applicant subject to prosecution for a misdemeanor under this title or AS 11.

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

(b) If the applicant has been previously registered to vote in another

jurisdiction, the [APPLICANT SHALL SURRENDER TO THE REGISTRATION OFFICIAL ANY VOTER REGISTRATION OR IDENTIFICATION CARD OR CREDENTIALS FROM THAT JURISDICTION THE APPLICANT MAY POSSESS. THE] director shall notify the chief elections officer in that jurisdiction that the applicant has registered to vote in Alaska **and** [,] request **that** that jurisdiction [TO] cancel the applicant's voter registration there [, AND RETURN THE APPLICANT'S VOTER REGISTRATION OR IDENTIFICATION CARD OR CREDENTIALS, IF ANY, TO THAT JURISDICTION].

*** Sec. 4.** AS 15.07.060(c) is amended to read:

(c) **Each applicant who requests** [IF APPLICATION FOR] registration [IS MADE] in person before a registration official [, THE APPLICANT] shall exhibit one form of identification to the official, including [BUT NOT LIMITED TO] a driver's license, **state identification card, current and valid photo identification,** birth certificate, passport, **or** hunting or fishing license. A registration official who knows the identity of the applicant may waive the identification requirement.

*** Sec. 5.** AS 15.07.060 is amended by adding new subsections to read:

(e) For an applicant requesting initial registration by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050, 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.

(f) If an applicant who requests registration cannot comply with the requirement of (a)(2) of this section because the applicant has not been issued any of the listed numbers, the division shall assign the applicant a unique identifying number.

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

(b) To register by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050, the director, the area election

supervisor, or a voter registration agency shall furnish, at no cost to the voter, forms prepared by the director on which the registration information required under AS 15.07.060 shall be inserted by the voter, or by a person on behalf of the voter if the voter is physically incapacitated. The director may require proof of identification of the applicant as required by regulations adopted by the director under AS 44.62 (Administrative Procedure Act). Upon receipt and approval of the completed 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 DISTRICT REGISTER LOCATED IN THE OFFICE OF THE ELECTION SUPERVISOR]. If the registration is denied, the voter shall immediately be informed in writing that registration was denied and the reason for denial. **When identifying information has been provided by the voter as required by this chapter, the election supervisor shall forward to the voter a registration card.**

*** Sec. 7.** AS 15.07.070(d) is amended to read:

(d) Qualified voters may register in person before a registration official or through a voter registration agency at any time throughout the year, except that a person registering within 30 days preceding an election **is not eligible to** [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 DISTRICT 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.

*** Sec. 8.** AS 15.07.070(h) is amended to read:

(h) The director shall design the form of the voter's certificate appearing on the envelope that is used for voting **an absentee in-person or** [A] questioned ballot so that all information required for registration by AS 15.07.060(a) may be obtained from a voter who votes **an absentee in-person or** [A] questioned ballot. If the voter voting

an absentee in-person or [A] questioned ballot has completed all information on the voter registration portion of the **absentee in-person or** questioned ballot voter's certificate, the director shall place the name of the voter on the official registration list.

*** Sec. 9.** AS 15.10.107 is amended to read:

Sec. 15.10.107. Staff training. The director shall, before each primary election in even-numbered years, provide for a comprehensive training program for election officials, both the full-time members of the staff of the division of elections and those who are appointed as members of election boards under AS 15.10.120 - 15.10.140 and other temporary election employees. The director shall [ANNUALLY] prepare and, not later than **March 1** [JANUARY 10], file with the lieutenant governor a plan that describes the comprehensive training program for election officials to be provided to those officials during that calendar year.

*** Sec. 10.** AS 15.15.040 is amended by adding a new subsection to read:

(c) The director shall provide materials, forms, and supplies for each polling place, including information regarding the date of the election and hours the polling place will be open, instructions on how to cast a questioned ballot, instructions for first-time voters who initially registered by mail, general information on voting rights, prohibitions on acts of fraud and misrepresentation, and whom to contact to report violations.

*** Sec. 11.** AS 15.15.198(a) is amended to read:

(a) If a voter's name does not appear on the official registration list in the precinct in which the voter seeks to vote, the election official shall affirmatively advise the voter that the voter may cast a questioned ballot, and the voter shall be allowed to vote a questioned ballot. **At the time the voter casts a questioned ballot, the voter shall be given written information stating that the voter will be able to ascertain whether the ballot was counted and, if not counted, the reason the ballot was not counted.**

*** Sec. 12.** AS 15.15.225(a) is amended to read:

(a) Before being allowed to vote, each voter shall exhibit to an election official one form of identification, including

(1) an official voter registration card, driver's license, **state**

identification card, current and valid photo identification, birth certificate, passport, **or** hunting or fishing license**; or**

(2) an original or a copy of a current utility bill, bank statement, paycheck, government check, or other government document; an item exhibited under this paragraph must show the name and current address of the voter [, OR OTHER FORM OF IDENTIFICATION AS PRESCRIBED BY REGULATION].

*** Sec. 13.** AS 15.15.225(b) is amended to read:

(b) An election official may waive the identification requirement if the election official knows the identity of the voter. **The identification requirement may not be waived for voters who are first-time voters who initially registered by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050, and did not provide identification as required in AS 15.07.060.**

*** Sec. 14.** AS 15.15.360(a) is amended to read:

(a) The election board shall count ballots [IN HAND-COUNT PRECINCTS] according to the following rules:

(1) A voter may mark a ballot only by filling in, making "X" marks, diagonal, horizontal, or vertical marks, solid marks, stars, circles, asterisks, checks, or plus signs that are clearly spaced in the oval opposite the name of the candidate, proposition, or question that the voter desires to designate.

(2) A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.

(3) If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked.

(4) If a voter marks more names than there are persons to be elected to the office, the votes for candidates for that office may not be counted.

(5) The mark specified in (1) of this subsection shall be counted only if it is substantially inside the oval provided, or touching the oval so as to indicate clearly that the voter intended the particular oval to be designated.

(6) Improper marks on the ballot may not be counted and do not invalidate marks for candidates properly made.

(7) An erasure or correction invalidates only that section of the ballot

in which it appears.

(8) A vote marked for the candidate for President or Vice-President of the United States is considered and counted as a vote for the election of the presidential electors.

(9) Write-in votes are not invalidated by writing in the name of a candidate whose name is printed on the ballot unless the election board determines, on the basis of other evidence, that the ballot was so marked for the purpose of identifying the ballot.

(10) In order to vote for a write-in candidate, the voter must write in the candidate's name in the space provided and fill in the oval opposite the candidate's name in accordance with (1) of this subsection.

(11) A vote for a write-in candidate, other than a write-in vote for governor and lieutenant governor, shall be counted if the oval is filled in for that candidate and if the name, as it appears on the write-in declaration of candidacy, of the candidate or the last name of the candidate is written in the space provided.

(12) If the write-in vote is for governor and lieutenant governor, the vote shall be counted if the oval is filled in and the names, as they appear on the write-in declaration of candidacy, of the candidates for governor and lieutenant governor or the last names of the candidates for governor and lieutenant governor, or the name, as it appears on the write-in declaration of candidacy, of the candidate for governor or the last name of the candidate for governor is written in the space provided.

*** Sec. 15.** AS 15.20.081(f) is amended to read:

(f) The director **shall** [MAY] require a voter casting an absentee ballot by mail to provide proof of identification or other information to aid in the establishment of the voter's identity as prescribed by regulations adopted under **AS 44.62 (** [THE] Administrative Procedure Act**). If the voter is a first-time voter who initially registered by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050 and has not met the identification requirements set out in AS 15.07.060, the voter must provide one of the following forms of proof of identification:**

(1) a copy of a driver's license, state identification card, current

and valid photo identification, birth certificate, passport, or hunting or fishing license; or

(2) a copy of a current utility bill, bank statement, paycheck, government check, or other government document; an item provided under this paragraph must show the name and current address of the voter [(AS 44.62)].

*** Sec. 16.** AS 15.20.081 is amended by adding a new subsection to read:

(i) An absentee ballot application submitted by an absent uniformed services voter or by an absent overseas voter qualifying under AS 15.05.011 is valid through the next two regularly scheduled general elections for federal office after the date the application is submitted. In this subsection, "absent uniformed services voter" has the meaning given in 42 U.S.C. 1973ff-6.

*** Sec. 17.** AS 15.20.082(a) is amended to read:

(a) The director shall prepare special absentee ballots under this section for use in a state primary election, a state general election, and a state special election when the voter notifies the director in writing that the voter expects to be living, working, or traveling outside the United States **at the time of the election, or in a remote area of the state where distance, terrain, or other natural conditions deny the voter reasonable access to a polling place** at the time of the election. The director shall prepare the ballot so that it may be sent to the absentee voter 60 days before the date of the election. The director shall list on the ballot the different races to be voted on at the particular election on a statewide basis**,** and, if the director prepares the ballot without the names of candidates printed on the ballot, the director shall provide the voter with information described in (c) of this section.

*** Sec. 18.** AS 15.20.203(b) is amended to read:

(b) An absentee ballot may not be counted if

(1) the voter has failed to properly execute the certificate;

(2) an official or the witnesses authorized by law to attest the voter's certificate fail to execute the certificate, except that an absentee ballot cast in person and accepted by an absentee voting official or election supervisor may be counted despite failure of the absentee voting official or election supervisor to properly sign and date the voter's certificate as attesting official as required under AS 15.20.061(c);

(3) the ballot is not attested on or before the date of the election;

(4) the ballot, if postmarked, is not postmarked on or before the date of the election; [OR]

(5) after the day of election, the ballot was delivered by a means other than mail**; or**

(6) the voter voted

(A) in person and is a

(i) first-time voter who initially registered by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050, has not provided the identification required by AS 15.15.225(a), was not eligible for waiver of the identification requirement under AS 15.15.225(b), and has not provided the identifiers required in AS 15.07.060(a)(2) and (3) that can be verified through state agency records described in AS 15.07.055(e); or

(ii) voter other than one described in (i) of this subparagraph, did not provide identification described in AS 15.15.225(a), was not personally known by the election official, and has not provided the identifiers required in AS 15.07.060(a)(2) and (3); or

(B) by mail or electronic transmission, is a first-time voter who initially registered by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050 to vote, has not met the identification requirements set out in AS 15.07.060, and does not submit with the ballot a copy of a

(i) driver's license, state identification card, current and valid photo identification, birth certificate, passport, or hunting or fishing license; or

(ii) current utility bill, bank statement, paycheck, government check, or other government document; an item described in this sub-subparagraph must show the name and

current address of the voter.

*** Sec. 19.** AS 15.20.203 is amended by adding a new subsection to read:

(j) The director shall make available through a free access system to each absentee voter a system to check to see whether the voter's ballot was counted and, if not counted, the reason why the ballot was not counted. The director shall make this information available through the free access system not less than 10 days after certification of the results of a primary election and not less than 30 days after certification of the results of a general or special election.

*** Sec. 20.** AS 15.20.207(b) is amended to read:

(b) A questioned ballot may not be counted if the voter

(1) has failed to properly execute the certificate**;**

(2) is a first-time voter who initially registered by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050, has not provided the identification required by AS 15.15.225(a), was not eligible for waiver of the identification requirement under AS 15.15.225(b), and has not provided the identifiers required in AS 15.07.060(a)(2) and (3) that can be verified through state agency records described in AS 15.07.055(e); or

(3) is a voter other than one described in (2) of this subsection, did not provide identification described in AS 15.15.225(a), was not personally known by the election official, and has not provided the identifiers required in AS 15.07.060(a)(2) and (3).

*** Sec. 21.** AS 15.20.207 is amended by adding a new subsection to read:

(k) The director shall make available through a free access system to each voter voting a questioned ballot a system to check to see whether the voter's ballot was counted and, if not counted, the reason why the ballot was not counted. The director shall make this information available through the free access system not less than 10 days after certification of the results of a primary election and not less than 30 days after the certification of the results of a general or special election.

*** Sec. 22.** AS 15.20.211 is amended by adding a new subsection to read:

(f) The director shall make available through a free access system to each

voter whose ballot was subject to partial counting under this section a system to check to see whether the voter's ballot was partially counted and, if not counted, the reason why the ballot was not counted. The director shall make this information available through the free access system not less than 10 days after certification of the results of a primary election and not less than 30 days after the certification of the results of a general or special election.

*** Sec. 23.** AS 15.20.480 is amended to read:

Sec. 15.20.480. Procedure for recount. In conducting the recount, the director shall review all ballots, whether the ballots were counted at the precinct or by computer or by the district absentee counting board or the questioned ballot counting board, to determine which ballots, or part of ballots, were properly marked and which ballots are to be counted in the recount, and shall check the accuracy of the original count, the precinct certificate, and the review. The director shall count absentee ballots received before the completion of the recount. For administrative purposes, the director may join and include two or more applications in a single review and count of votes. The rules in AS 15.15.360 governing the counting of ballots [IN HAND-COUNT PRECINCTS] shall be followed in the recount when a ballot is challenged on the basis of a question regarding the voter's intent to vote for the candidate, proposition, or question. The ballots and other election material must remain in the custody of the director during the recount, and the highest degree of care shall be exercised to protect the ballots against alteration or mutilation. The recount shall be completed within 10 days. The director may employ additional personnel necessary to assist in the recount.

*** Sec. 24.** AS 15.15.360(c) is repealed.

*** Sec. 25.** This Act takes effect immediately under AS 01.10.070(c).