

Michelle Webb

From: Brooks Chandler [BChandler@bcf.us.com]
Sent: Thursday, July 04, 2013 4:44 PM
To: Michelle Webb
Cc: Mark Earnest; Jila Stuart
Subject: RE: Proposed Ordinance - Runoff Election

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Agenda Business

Greetings:

I have reviewed the proposed ordinance but am not able to fully understand the intent/goal. It is appropriate to revise this section of Borough code now that the system for electing Assembly and School Board members has changed from a "designated seat" to an "at large" system.

Here is the "default" Title 29 rule under an at large system (AS 29.26.060):

(b) Unless otherwise provided by ordinance, if candidates for the governing body or school board run at large, a runoff election for a seat shall be held if no candidate receives a number of votes greater than 40 percent of the total votes cast for all candidates divided by the number of seats to be filled.

Under AS 29.26.060(c) a runoff under this system is limited to two candidates.

Here is how this works in practice:

Assume 5 candidates for 2 vacancies- Voters are instructed to "Vote for no more than 2 candidates"

Assume 50 voters follow these instructions exactly resulting in 100 total votes

Minimum number of votes required to "win" is 20 ($100 \times .4 / 2 = 20$). This is consistent with a designated seat system since 40% of 50 voters = 20 voters.

If one of the 5 candidates (everyone's favorite) gets 50 votes and the other 4 split 50 votes- as follows 18, 15, 10, 7 None of these 4 have received the 20 votes required to be elected and there is a runoff for the second seat between the candidates that received 18 and 15 votes.

The Borough is entitled to deviate from this default system with our own ordinance.

Under the draft ordinance there is an issue regarding whether “votes cast” means 100 votes (since if each voter gets 2 votes there are 100 votes cast) or 50 votes (total votes cast divided by number of seats to be filled) so this needs to be clarified.

I believe the result under the above scenario using the draft ordinance is that 4 of the candidates would be in the runoff even the candidate that only 7 folks wanted to be on the Assembly. This results in the possibility of multiple runoffs since even a 3 candidate runoff has a possibility of no candidate receiving 40% in the runoff. I would think the Borough would want to avoid 3 elections if possible.

The other possibility the draft ordinance may be intended to address is when two candidates sign up, and there are only two vacancies to be filled. There are no write in votes and for whatever reason many voters refuse to vote for candidate 2 resulting in that candidate not making the 20 vote (assuming that is how the “votes cast” phrase is interpreted) minimum. In this situation under the draft ordinance candidate 2 is appointed for 1 year. That seems an unlikely scenario but there is nothing wrong with providing a mechanism in code to address the possibility.

But before proceeding to suggest an alternate version we need some guidance as to whether a runoff with more than 2 candidates is desired. There are some policy arguments that would favor that system (for example it is possible voters wanting to ensure the most popular candidate wins may have intentionally not voted for the person they perceived to be the biggest “threat” to that candidate even though in reality that candidate was their second choice) but these need to be balanced with the multiple runoff possibility mentioned above.

Let me know if we need to discuss this more before proceeding.

Brooks Chandler
Boyd, Chandler & Falconer LLP

From: Michelle Webb [<mailto:mwebb@haines.ak.us>]
Sent: Tuesday, July 02, 2013 8:51 PM
To: Brooks Chandler
Cc: Mark Earnest; Jila Stuart
Subject: Proposed Ordinance - Runoff Election

Good evening,

I have attached a scanned draft of a proposed change to Haines Borough Code which would alter the way that runoff elections are preformed. Jila Stuart, Acting Manager, has authorized a legal review of this proposed change before it is submitted to the assembly for consideration.

Thank you.

Michelle L. Webb

Deputy Clerk

Haines Borough

P.O. Box 1209

Haines, AK 99827

P: (907) 766-2231 ext. 36

F: (907) 766-2716

This e-mail and responses to this email are subject to provisions of the Alaska Statutes and may be made available to the public upon request.