

# ALASKA STATE LEGISLATURE



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## Sectional Analysis

### CS for Senate Bill 39 (JUD) Version 32-LS0204\D

**Section 1:** This section deletes the requirement that a person must be registered to vote before the election in order to cast a ballot. Deleting this requirement is necessary to allow for registration within 30 days of an election, an option that is currently only available for Presidential elections in Alaska.

**Section 2:** This section requires a person registering to vote to sign an acknowledgement that if they were previously registered in another jurisdiction, the director of elections will notify the jurisdiction that the person has registered to vote in Alaska and request cancellation of the person's registration in that jurisdiction. This section also allows a registrant to submit an electronic image of their signature (i.e. a photograph of their signature) for purposes of voter registration, using procedures set out by the Division of Elections. This section also defines procedures for individuals registering to vote within 30 days of an election, requiring that they sign an affidavit attesting to residency requirements for voting and provide identification establishing residency.

**Section 3:** This section provides that a registration applicant can designate a language preference for ballot and election materials among the written languages required for election materials under federal law. Once a person designates a language preference, the Division of Elections will continue to provide the person with materials in that language until the person's registration is inactivated or canceled, or language coverage expires under federal law.

**Section 4:** This section provides that anyone registering within 30 days of an election may only vote an absentee in-person, special needs, or questioned ballot, not a regular ballot.

**Section 5:** This section provides that the certificate used for voting an absentee in-person, special needs, or questioned ballot must provide an option for a voter to indicate a political party preference.

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**Section 6:** This section provides that anyone re-registering within 30 days of an election because their registration has previously been canceled may only vote an absentee in-person, special needs, or questioned ballot, not a regular ballot.

**Section 7:** This section provides that if a person makes a request to transfer their registration from one precinct to another within 30 days of an election, the person may only vote an absentee in-person, special needs, or questioned ballot, not a regular ballot.

**Section 8:** This section provides that a person who claims to be a registered voter, but for whom no evidence of registration in a precinct can be found, may only vote an absentee in-person, special needs, or questioned ballot, not a regular ballot.

**Section 9:** This section re-names absentee voting stations" as early voting stations."

**Section 10:** This section mandates that the Division of Elections adopt regulations for regular review and updates of the master voter registration file, including review for data breaches, ineligible and deceased voters, and individuals registered in other states. The regulations must specify records and databases for review, including Postal Service records, information from other states' election departments, state motor vehicle records, and tax records.

**Section 11:** This section requires the Director of Elections to provide a process for voters to voluntarily cancel their voter registration, either in-person or electronically, and to prominently display instructions for the voluntary cancellation process at each polling place.

**Section 12:** This section permits candidates to appoint one or more watchers per precinct and counting center in a primary election. With authorization from the Director of Elections, an organization sponsoring or opposing a ballot proposition or recall may also have one or more watchers at the polls and counting centers.

**Section 13:** This section re-organizes the provisions governing watchers, with only one substantive change. The only substantive change is that if an election board exercises its discretion to request

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written proof of appointment from a watcher, the proof must be signed by the chair of the applicable party, district committee, or organization, or by the candidate.

**Section 14:** This section requires official ballots to include a watermark, seal, or other identifier, according to regulation issued by the Director of Elections.

**Section 15:** This section requires the Director of Elections to issue regulations regarding ballot security and chain of custody to account for the location and custody of all ballots, certificates, and envelopes from the time of printing until 22 months after the applicable election is certified. The Director shall also develop by regulation a process for voiding unused, spoiled, and unopened ballots following an election. The Director must also establish a toll-free election offense hotline for reporting of election offenses and publicize the availability of this hotline.

**Section 16:** This section requires the Division of Elections to provide language assistance at polling places for languages required by federal law. The availability of language assistance shall be publicized at appropriate polling places.

**Section 17:** This section moves the declaration for questioned ballots to a new subsection contained in

**Section 18:** This section revises the declaration for questioned ballots to allow for such ballots to be used for registration within 30 days of an election.

**Section 19:** This section clarifies that a voter casting a questioned ballot must complete the declaration required by Section 18.

**Section 20:** This section requires the Director of Elections to conduct a risk-limiting audit of results for each state election prior to certification. The Director shall adopt regulations for implementing and administering risk-limiting audits, in consultation with experts.

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**Section 21:** This section requires the Director of Elections to make instructions regarding the online system for tracking absentee ballots available to absentee voters.

**Section 22:** This section requires the return envelope for an absentee ballot to be postage-paid. This section also removes the witness requirement for absentee ballots, as this bill separately requires signature verification for mail ballots.

**Section 23:** This section re-names "absentee voting stations" as "early voting stations" and requires designated early voting stations to remain in effect until the location is no longer available for use as an early voting station or the Director of Elections makes a public written determination that the location is no longer appropriate for use as an early voting station.

**Section 24:** This section re-names "absentee voting stations" as "early voting stations."

**Section 25:** This section requires the Director of Elections to appoint at least one registration official to serve in each early voting station during early voting hours and allows appointed election officials to also serve as registration officials.

**Section 26:** This section re-names "absentee voting stations" as "early voting stations."

**Section 27:** This section re-names "absentee voting stations" as "early voting stations."

**Section 28:** This section requires that election officials verify that when a voter appears for early voting, the voter's residence address, as it appears on the registration list for the election where the voter appears, is current.

**Section 29:** This section provides that if a voter's eligibility cannot be immediately verified by an election official, the voter shall cast an absentee in-person. The voter's eligibility to vote can be determined when the absentee ballot is evaluated for counting.

**Section 30:** This section provides that an absentee ballot application may be provided by mail only when an eligible voter requests an application. Such applications must be sent to a voter only by U.S. mail and only by the Division of Elections, an officially registered candidate, a recognized political party, or a

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group sponsoring a ballot measure, and may not be pre-filled for the voter. An application must prominently identify its sender and display "Application only/Not a ballot" on the exterior of the envelope.

**Section 31:** This section re-names "absentee voting stations" as early voting stations."

**Section 32:** This section provides that an absentee ballot application must permit a person to declare a political party affiliation. In addition, an absentee ballot application submitted electronically shall also allow a person to register to vote.

**Section 33:** This section removes the requirement that absentee ballots be witnessed or attested to before an official, as this bill separately requires signature verification for mail ballots.

**Section 34:** This section permits a ballot received after election day to be accepted if a U.S. Postal Service tracking barcode information verifies that the ballot was mailed on or before election day, notwithstanding the absence of a postmark or a postmark after election day.

**Section 35:** This section provides that an absentee ballot application must include an option for a voter to receive absentee ballots for all regularly scheduled elections. The voter will not be required to re-apply for an absentee ballot unless the voter has not voted an absentee ballot for four years or an absentee ballot is returned as undeliverable. This section also provides that if a voter requests to receive a mail ballot in a language other than English required by federal law, the Director of Elections shall provide the ballot and election materials in the language requested.

**Section 36:** This section allows absentee ballot certificates and envelopes to be reviewed beginning 10 days before election day, as opposed to 7 days before election day under current law. This section also clarifies that an absentee ballot may not be counted until the accompanying voter certificate has been reviewed.

**Section 37:** This section permits absentee ballots that have been reviewed to be counted beginning 7 days prior to election day, as opposed to on election day. The first count of absentee ballots must be reported to the district counting board not later than 8:00 pm on election day.

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**Section 38:** This section requires that absentee ballot envelopes be examined to ensure the signature on the certificate is consistent with the signature in the voter's registration record.

**Section 39:** This section provides that, in addition to reasons provided under existing law, an absentee ballot may be rejected if the voter (a) has failed to properly sign, (b) has failed to sign on or before the date of the election, (c) the ballot is delivered by mail after election day and is not postmarked on or before election day or does not have a U.S. Postal Service tracking barcode that verifies mailing on or before election day, or (d) the signature on the certificate is not consistent with the signature in the voter's registration record. This section also removes the basis for rejecting an absentee ballot due to lack of a witness or attesting official signature.

**Section 40:** This section provides guidelines for signature verification on absentee ballot envelope certificates. Such signature matching shall include signature comparison software, according to regulations adopted by the Director of Elections, as well as training of election officials on signature matching.

**Section 41:** This section provides that absentee ballots that have been properly cured should be counted.

**Section 42:** This section requires the Director of Elections to establish an online ballot tracking system, through which a voter may track the sending, delivery, and receipt of the voter's ballot, determine if the ballot has been reviewed and counted, and receive instructions for curing the ballot. This section also establishes cure procedures where a voter whose ballot is rejected due to a defect with the certificate envelope must be notified of the defect and provided an opportunity to cure the ballot defect by providing identification and a signature within 14 days of the election.

**Section 43:** This section permits the Director of Elections to conduct all-mail elections for elections other than a general, statewide, or federal election in certain smaller communities, or in areas affected by a disaster during a disaster declaration.

**Section 44:** This section requires the Division of Elections to conduct a forensic examination of each precinct tabulator before and after each election, and to develop and apply strict chain-of-custody

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protocols for precinct tabulators and storage devices. Precinct tabulators may not be connected to the Internet or a cellular network from 24 hours prior to polls opening until 14 days after the polls close.

**Section 45:** This section provides that the Director of Elections may only approve a voting machine or vote tally system with open-source software technology.

**Section 46:** This section provides that an absentee ballot return envelope with postage paid is not considered a thing of value under the prohibition for providing compensation for voting.

**Section 47:** This section provides that a person commits voter misconduct in the first degree if the person votes or attempts to vote in the name of another person who is cognitively unable to express that person's vote.

**Section 48:** This section provides that a person commits the crime of unlawful interference with an election if the person (1) intentionally and opens or tampers with an sealed or signed absentee ballot or package of ballots without express authorization from the Director of Elections, or (2) intentionally breaches, hacks, or tampers with election machinery.

**Section 49:** This section provides that a person commits the crime of election fraud if the person violates AS 15.56.060 and the violation changes the outcome of the election.

**Section 50:** This section provides that an election official commits the crime of election official misconduct in the first degree if they knowingly disclose election results or any confidential election data before closing of polls to a person who is not an election official.

**Section 51:** This section specifies that the definition of "election" includes any election conducted by the Division of Elections, not just state elections.

**Section 52:** This section requires the Director of Elections to create a cybersecurity program to defend voter registration records against cyber-attacks and data breaches, detect and recover from cyber-attacks, and provide for cybersecurity training for election officials.

**Section 53:** This section sets minimum compensation for election officials.

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**Section 54:** This section re-names "absentee voting stations" as "early voting stations."

**Section 55:** This section provides that a person who has lived within a municipality for at least 30 days but has not registered 30 days before a municipal election, may only vote an absentee, special needs, or questioned ballot in the municipal election, not a regular ballot. However, a municipality may set different rules for elections held only in specific local election districts or service areas.

**Section 56:** This section repeals provisions requiring notice of rejected absentee ballots to be provided to voters within 10 days of certification of a primary election and 30 days of certification of a general election. This section also repeals a provision requiring that registration for municipal elections be made 30 days prior to an election.

**Section 57:** This section provides that the provisions of the bill on election crimes, specifically Sections 46-50, apply to offenses committed on or after the effective date of the bill.

**Section 58:** This section permits the Department of Revenue and the Division of Elections to adopt regulations necessary to implement the changes in the bill. The regulations take effect under the Administrative Procedures Act, but not before the effective date of the law implemented by the regulation.

**Section 59:** This section specifies that Section 45 takes effect January 1, 2028.

**Section 60:** This section specifies that Section 58 takes effect immediately.

**Section 61:** This section specifies that the remaining provisions of the bill take effect January 1, 2023.