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CS SB 39 Jud \E– Election, Voting, Ballots
Sectional Analysis

"An Act relating to elections; relating to voters; relating to the crimes of unlawful interference with voting, unlawful interference with an election , election fraud, and election official misconduct; and providing for an effective date."

Section 1 – Removes language from AS 15.05.010 requiring a qualified voter to register before an election as stipulated under AS 15.07. Removing this requirement is necessary to allow voters to register to vote within 30 days of an election.

Section 2 – Amends AS 15.07.060 (a) to allow a person registering or re-registering as a voter to apply using an electronic image of the applicant's signature submitted in the format and according to the process specified by the Division of Elections in regulation. This section requires a person registering to vote to sign an acknowledgment that if they were previously registered in another jurisdiction, the Director of the Division of Election 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 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.

Judiciary CS - Adds on Line 24; after this title or *for perjury under.* Clarifies what crime under AS 11 it is. On line 26 after penalty of perjury, adds; *and witnessed by an election official, stating.*

This section is about making a false statement, while registering up to the same day of voting. Requires a physical or electronic copy of sufficient proof that the voter has been a resident of the district for at least 30 days and requires notification that they have been registered in another district and stipulates notification to the chief election officer for that district of the change.

Section 3 – Amends 15.07.060 to add a new subsection to allow those who register to vote in Alaska to designate a language preference for a 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 – Amends 15.07.070 (d) to stipulate a qualified voter registering on the day of or within 30 days of an election may vote only an absentee in-person, special needs, or questioned ballot. Qualified voters that register to vote within 30 days of an election shall not vote on a regular ballot.

Section 5 – Amends AS 15.07.070 (h) requiring the Division of Elections to design the voter's certificate appearing on the envelope that is used for voting an absentee in-person, special needs, or questioned ballot to give voters a choice to register as nonpartisan, as undeclared, or as affiliated with a political party or a political group.

Judiciary CS - Deleted, "a voter's choice to register as a non-partisan, as undeclared, or as affiliated with a political party or political group."

Section 6 – Amends AS 15.07.090 (b) to stipulate a person who has re-registered under this subsection may vote only an absentee in-person, special needs, or questioned ballot until the next election that occurs at least 30 days after the date of re-registration.

Section 7 – Amends AS 15.07.090 (c) to require a person who has moved to a new precinct to vote only an absentee in-person, special, needs, or questioned ballot.

Section 8 – Amends AS 15.07.090 (d) stipulating a person for whom no evidence of registration in the precinct can be found may only vote an absentee in-person, special needs, or questioned ballot.*

*Suggest amending to only a questioned ballot.

Section 9 - AS 15.07.128 Inserts a new section outlining a voter fraud mitigation policy. "Using reasonable and affordable tools and technology to mitigate the potential for voter fraud."   Includes expanded tools for crosschecking voter data bases.

Section 10 – Modifies existing statute to require the director to examine the master register and update it.

Judiciary CS - Language added to include contacting those that do not live in the state.

Section 11 – Amends AS 15.07.130 (e) to rename "absentee voting stations" as "early voting stations."

Judiciary CS - Includes outlining the best practice for maintaining current voter rolls, and expanding the data bases the director shall draft regulations to consider. Permissive as to the data bases that they may use but suggests what they should consider.

Section 12 – Amends 15.07.130 by adding new subsections that outline best practices for maintaining current voter rolls and expanding the data bases via regulation by the division.

Judiciary CS - Makes additional data base suggestions in (b) stipulates a best practice voter registration system.

Section 13 - Amends AS 15.07.133 to add a new subsection requiring the Division of Elections to provide a process for voters to voluntarily cancel their voter registration. Cancelation can be done either in person or electronically. Further, the Division of Elections must prominently display in each polling place detailed instructions on how to cancel voter registration.

Section 14 –Amends AS 15.10.170(a) to add a new section allowing properly appointed watchers that are citizens of the United States to be present in a position inside the place of voting or counting that affords a full view of all activities of the election officials taken from the time the polls are opened until the ballots are finally counted and the results certified by the election board or the data processing review board. The election board or the data processing review board may require each watcher to present written proof showing an appointment by the respective precinct party committee, party district committee, organization or organized group, or candidate the watcher represents.

Judiciary CS - For any election, renames ballot proposition in place of an initiative or referendum. It also restores language previously removed about a poll watcher being a US citizen, positions where polls may be watched, and stipulates who may sign the proof that they are a valid poll watcher.

Section 15 – 15.15.030 adds a new paragraph that requires all official ballots contain a watermark, seal, or other security identifier.

Judiciary CS - Adds an election official's signature as an identifier. This allows for unanticipated situations to be signed off by an election official. Bans counting a document that does not have an identifier. Stipulates ballots may not be counted if there is no watermark or other identifier and allows an election officials signature to be a sufficient identifier.

Section 16 - Amends AS 15.15.055 to add new sections requiring the Director of the Division of Elections to issue regulations for a system for ballot security and chain of custody for all ballots, certificates, and envelopes from the time of printing until 22 months after the applicable election is certified. The ballot security system must include an envelope-based barcode, or other mechanisms sufficient to account for a ballot when the ballot is outside the division's custody. The Division of Election shall continually update the system adopted under this section to ensure that state election practices and procedures are consistent with best practices and procedures to protect the integrity of state elections. Additionally, the Division of Election shall adopt regulations to develop a process to void all unused ballots, spoiled ballots, and unopened packs of ballots.

Sec. 15.15.057 requires the Division of Election to establish a toll-free election offense hotline to receive reports of election offenses. The section requires the Division of Elections to encourage the public to provide information related to voter misconduct or other election offenses.

Judiciary CS - Stipulates ballot chain of custody document must accompany a ballot or group of ballots in the division's possession, including signature protocols.

Section 17 – Amends AS 15.15.060 to add a new subsection requiring the Division of Elections to provide language assistance at polling places for languages required by federal law. At each polling place, an election supervisor shall post information requiring the availability of language assistance in English and all other languages for which language assistance is required by federal law.

Judiciary CS - Stipulates the director shall provide each election board with notices containing the election office hotline. Drops the old version language requiring "stickers."

Section 18 – Amends the title of AS 15.15.210 to include questioned ballot procedures.

Section 19 – Amends AS 15.15.210 to add a new subsection requiring each person voting a questioned ballot to complete a declaration attesting that the person is a qualified voter and has not voted in the same election. For state and local elections, the voter must identify the voter's place of residence for the 30 days immediately preceding the election.

Section 20 – Amends AS 15.15.215 (a) to clarify that a voter casting a questioned ballot must complete the declaration required by Section 18.

Section 21 – Amends AS 15.15.455 to add a new section requiring the Division of Elections to conduct a risk-limiting audit of election results for each state election prior to certification. The Division of Elections must adopt regulations to implement and administer the risk-limiting audits, including a procedure for selecting which election results to audit. As part of adopting the regulation, the Division of Elections shall consult recognized statistical experts, equipment vendors, and municipal clerks. The Division must also consider best practices for conducting risk-limiting election audits.

Section 22 – Amends AS 15.20.020 to require the Division of Elections to make instructions regarding the online system for tracking absentee ballots available to absentee voters.

Section 23 – Amends AS 15.20.030 to require 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.

Judiciary CS - Adds that an envelope may not identify a voter's party affiliation.

Section 24 – Amends AS 15.20.045 (b) to rename "absentee voting stations" as "early voting stations." AS 15.20.045 (b) is further amended to stipulate that a location designated as an early voting station will remain an early voting station for subsequent elections unless the location is no longer available for use, or the Director of the Division of Elections determines that the location is no longer appropriate. The section requires the Director to make a determination that a location is no longer appropriate for use as an early voting station available to the public in writing.

Section 25 – Amends AS 15.20.045 (c) to rename "absentee voting stations" as "early voting stations."

Section 26 – Amends AS 15.20.045 to add a new subsection requiring the Division of Elections to appoint at least one registration official to serve in each early voting station during early voting hours and allow appointed election officials to also serve as registration officials.

Section 27 – Amends AS 15.20.050 to rename "absentee voting stations" as "early voting stations."

Section 28 – Amends AS 15.20.061 (a) to rename "absentee voting stations" as "early voting stations."

Section 29 – Amends AS 15.20.064 (b) to require 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 30 – New section:

Judiciary CS -Adds a new section that amends AS 15.20.064 to add a new subsection stipulating that if a voter's eligibility cannot be immediately verified by an election official, the voter shall cast an absentee ballot in the manner provided in AS 15.20.061. The voter's eligibility to vote will be determined when the absentee ballot is evaluated for counting.*

 *Suggested amendment: Must cast a questioned ballot

Section 31 – Amends AS 15.20.068 to add a new section stipulating that an absentee ballot application may be provided by mail only when an eligible voter requests an application. 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 group sponsoring a ballot measure. Applications may not be pre-filled out for the voter. Additionally, absentee ballot applications must prominently display who sent the application and prominently display "Application only/Not a ballot" on the exterior address side of the envelope.

Judiciary CS - An application may not be distributed if a part of the application is filled out for the voter.

Section 32 – Amends AS 15.20.072 (b) to rename "absentee voting stations" as "early voting stations."

Section 33 – Amends AS 15.20.081 (b) to require absentee ballot applications to permit the person to declare a political affiliation if any.

Section 34 – Amends AS 15.20.081 (d) to eliminate the witness requirement for absentee ballots.

Section 35 – Amends AS 15.20.081 (e) to allow a ballot received after election day to be accepted if it includes a U.S. Postal Service tracking barcode that verifies that the ballot was mailed on or before election day, notwithstanding the absence of a postmark or a postmark after election day

Section 36 – Amends AS 15.20.081 to add a new subsection (m) that requires an absentee ballot application to include an option for a voter to choose to receive absentee ballots by mail for future regularly scheduled state elections. The new subsection stipulates that the director of the Division of Elections may require a voter to reapply to receive an absentee ballot by mail if the voter has not voted an absentee ballot for a period of four years or the voter's previous absentee ballot was returned as undeliverable. Additionally, subsection (n) stipulates that if a voter, at least 45 days before an election, requests to receive a mail ballot in a language other than English required by federal law, the Division of Elections shall provide the ballot and election materials in the language requested.

Judiciary CS - Amended this section to drop "regularly scheduled" elections and allowed absentee voting for a four-year period. The bill was also amended in Judiciary to require the division to stop sending absentee if the voter votes in person. The amendment also requires the division notify the voter if they should reapply.

Section 37 – Amends AS 15.20.201 (a) to allow absentee ballot certificates and envelopes to be reviewed beginning 10 days before election day, as opposed to seven 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.

Judiciary CS - Amended this section to drop early counting of absentee ballots, citing security concerns with the early counting data.

Section 38 – Amends AS 15.20.203 (a) to require 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 – Amends AS 15.20.203 (b) to stipulate that, in addition to reasons provided under existing law, an absentee ballot may be rejected if the voter has failed to properly sign the certificate or 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. An absentee ballot may also be rejected if 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 a lack of a witness or the attesting official's signature.

It should be noted that the Senate Judiciary Committee approved no second signature policy, because signature verification technology will replace the second signature. The existing stipulation about the second signature is any (unidentified) person over 18 years of age.*

*Recommended amendment; Strike hunting and fishing licenses as a sufficient form of ID. A clerk at the store does not verify anything when a person buys a hunt-fish license.

Section 40 – Amends AS 15.20.203 to add a new subsection that provides guidelines for the district absentee counting board to conduct signature verification on absentee ballot envelope certificates. The Division of Elections is required to develop regulations for the use of signature comparison software. The Division of Elections is required to provide training in signature comparison and the use of signature comparison software to election officials who compare signatures under this section.

Section 41 – Amends AS 15.20.220 (b) to require absentee ballots are counted when properly cured under AS 15.20.222.

Section 42 – Amends AS 15.20.221 to add a new section requiring the Division 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. The ballot tracking system must also detail if the ballot has been reviewed and counted. Additionally, the online system must indicate to a voter the process by which the voter may cure the lack of signature or verify the voter's identity. The online system must also indicate the process to cure a ballot if the signature on the voter's ballot was missing or was determined to not match the signature in the voter's registration record under AS 15.20.203 (K).

Sec. 15.20.222 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 after election day.

Judiciary CS - Amended this section to give the Division the ability to procure a private contractor for this tracking system. It also amended this section to say that the division may not charge for the system and utilizes a mobile tracking device.

Section 43 – AS 15.20.540. Judiciary CS amends grounds for election contest section to include unannounced changes of a voting location without sufficient notice as a valid reason to bring a suit. Requires that the location change was sufficient to change the results of the election.

Section 44 - Amends AS 15.20.800 (a) to allow the Division of Elections to conduct all-mail elections for elections in certain smaller communities in Alaska, or in areas affected by a disaster while a disaster declaration is in effect. The section stipulates a disaster can include an outbreak of disease or a credible threat of an imminent outbreak of disease, an enemy or terrorist attack, or a credible threat of an imminent enemy or terrorist attack. An all-mail election may also be held if it is conducted at a time other than when the general, party primary, or municipal election is held.

Judiciary CS - Amended the bill to drop second class cities and boroughs from mail out voting. The reasoning was they would have the resources to manage an election. Smaller unorganized communities sometimes cannot staff their elections, thus the "unreasonable" language. It is not intended to be widespread in its use. Repealed the other than general election language in the previous version. *

*Amendment suggestion; Note technical issue in (3) refers to a party primary.

Section 45 – Amends AS 15.20.900 to add new subsections that require 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 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.

Judiciary CS - Allows the Legislative Council appointed subject matter expert full access to all election data, machines, and systems.

Section 46 – Amends AS 15.20.910 to require the Director of the Division of Elections to only approve a voting machine or vote tally system if the machine or system has open-source software technology. Open-source software technology means the complete source code for the software is available to the public, under the terms of a license, to use, modify, or distribute freely without payment of royalties or other consideration

Judiciary CS - Makes conforming changes to specify machines must conform with Election Assistance Commission's voluntary voting system guidelines.

Section 47 – AS 15.20.910 New subsection in Judiciary CS, brings statute current with new Election Assistance Commission and stipulates use of their voluntary voting system guidelines for open source and commercial off the shelf hardware.

Section 48 - Amends AS 15.56.030 (d) to exclude the postage-paid return envelopes required by the bill from being considered an "other valuable thing" under AS 15.56.030 (a). *

*Amendment suggestion: Should also be amended to include free mobile phone application.

Section 49 – AS 15.56.035(a) New section amends unlawful interference with voting in the second degree offense (misdemeanor), to include being paid for ballot harvesting.

Section 50 – AS 15.56.035 New section defines what an "other valuable thing" is in relation to collecting ballots.

Section 51 - Amends AS 15.56.060(a) to provide that a person commits the crime of unlawful interference with an election if the person intentionally opens or tampers with a signed absentee ballot certificate, sealed absentee ballot envelope, or package of ballots without express authorization from the Director of the Division of Elections. A person also commits the crime of unlawful interference with an election if a person intentionally breaches, hacks, alters, or tampers with election machinery, including a tabulator, a program, a system, a server, or software used to verify identity, count, tabulate, manage or control an election function.

Section 52 – Amends AS 15.56.065 to add a new section that 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 an election. Election fraud is a class B felony.

Section 53 – Amends AS 15.56.070 (a) to provide 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 the polls close on election day.

Section 54 – Amends AS 15.56.199 (1) to specify that the definition of "election" includes any election conducted by the Division of Election, not just state elections.

Section 55 – Amends AS 15.80.006 to add a new section requiring the Division 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 cybersecurity training for election officials.

Judiciary CS - Added new (b) requiring the division to develop a list of breached voters and exercise caution (under their discretion) –

Section 56 – Added new section AS 15.80.009 to increase the minimum compensation for all election workers to at least $15.00 an hour.

Section 57 – AS 24.20.060 New section that expands Legislative Council power contract with technical subject matter experts to do full forensic audits. Currently there is no authority to conduct such audits by the legislature.

Section 58 - Amends AS 29.20.380 (c) to authorize a municipal clerk to act as an absentee voting official for an early voting station under AS 15.20.045 (b).

Section 59 – Amends AS 29.26.050 to add a new subsection providing 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 60 – 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 61 – Amends the uncodified law of the State of Alaska by adding a new applicability section to offenses committed on or after effective date.

Section 62 – Amends the uncodified law of the State of Alaska to add a new section that permits the Alaska Department of Revenue and the Alaska Division of Elections to adopt transition regulations necessary to implement the changes in the Act. The regulations take effect under the Administrative Procedures Act, but not before the effective date of the law implemented by the regulation.

Section 63 – Specifies that Section 46 and 47 (open-source voting technology) takes effect on January 1, 2024.

Section 64 – Specifies that Section 62 takes effect immediately. (transition regulations section)

Section 65 – Specifies that with the exception of sections 63 and 64 the remaining provision of the Act takes effect on January 1, 2023.