

SESSION OF 2017

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2158**

As Agreed to April 4, 2017

Brief*

HB 2158 would make changes and additions to elections and campaign finance law.

Advance Voting Ballot Deadlines

The bill would revise deadlines regarding advance voting ballots and amend law regarding notice of polling places, as follows:

- Add a requirement that all advance voting ballots received at any polling place in the county not later than the hour for closing of the polls on any election date for all elections specified in KSA 25-1122(f) [all primary, general, and question submitted elections, special elections of officers, and presidential preference primaries] be delivered by the county election officer to the appropriate special election board. Current law requires only those advance ballots received in the county election office to be treated in this manner;
- Add requirements for the receipt by mail of advance ballots, as follows:
 - Deliver to a special election board or the county board of canvassers, in a manner as

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

consistent as possible with canvassing of other advance ballots, those received after the closing of the polls on the date of any election specified in KSA 25-1122(f), and which are postmarked before the close of the polls on the election date;

- Establish the deadline for receipt by mail of advance ballots by the county election officer as the last mail delivery by the U.S. Postal Service (USPS) on the third day following the election date, unless additional time is permitted by the Secretary of State; and
- Require the Secretary of State to adopt rules and regulations to implement these provisions;
- Authorize a special election board to meet as provided by rules and regulations to be adopted by the Secretary of State, in addition to meeting as provided in current law (Section 2), and make technical and conforming changes (Sections 3 through 5). This would include requiring that procedures for canvassing and challenging advance ballots received by mail after polls close be set forth in rules and regulations adopted by the Secretary of State; and
- Revise the deadlines for transmittal by mail of applications for advance ballots as follows:
 - For all elections occurring on the date of a primary or general election, from the last business day of the week preceding the election to the Tuesday of the week preceding the election; and
 - For question submitted elections not held on the date of a primary or general election, from the last business day of the week preceding the election to the Tuesday of the week

preceding the election (the same requirement as for those occurring on primary or general election dates), except if such an election is held on a day other than a Tuesday. In these instances, the change would be from not more than three business days before the election to one week before the election.

Notices Regarding Polling Place Changes

The bill would prohibit a county election officer from changing a polling place prior to an election without providing mailed notice at least 30 days prior to the election. A waiver from this requirement would be authorized if the county election officer declares an emergency.

The bill would further state failure to receive notice of a change in the voting place shall not give rise to a cause of action challenging the election results. The bill would require the Secretary of State issue a press release and post a notice on the Secretary of State's website notifying the public whenever the online voter registration website is unavailable for a period of 24 hours or more.

Streamlining of Filing Requirements for Last-minute Campaign Contribution Reports

The bill would eliminate the requirement that pre-primary and pre-general election last-minute contribution reports filed by treasurers for candidates for state office be filed in the office of the county election officer. Enactment of this legislation would leave only a requirement that these reports be filed in the Office of the Secretary of State.

E-mail Addresses: Optional for Reports to Secretary of State

The bill would amend Campaign Finance Act reporting requirements for contact purposes. The bill would make optional the submission of e-mail addresses as follows:

- For every treasurer for a candidate (and chairperson for a candidate committee, if one is appointed) for state office, to the Secretary of State;
- For every treasurer for a candidate (and chairperson for a candidate committee, if one is appointed) for local office, to the relevant county election officer;
- For every chairperson and treasurer of a party or political committee which anticipates receiving contributions or making expenditures for a candidate for state office, to the Secretary of State; and
- For every chairperson and treasurer of a party or political committee which anticipates receiving contributions or making expenditures for a candidate for local office, to the relevant county election officer.

The bill would require the e-mail addresses be submitted not later than ten days after the appointment of the relevant officer, if the e-mail address is submitted.

Write-in Candidates: Option to Have Name Removed from General Election Ballot

The bill would allow a write-in winning candidate of a primary election for national, state, county, township, or municipal office to notify the appropriate election entity in

writing within ten days following the canvass the person does not want his or her name on the official general ballot. The bill would require the write-in candidate's name appear on the general election ballot if the notification is not received in the ten-day period.

The bill would require the above-mentioned notification be delivered to the Secretary of State for national or state office and to the county election office for all other offices.

Conference Committee Action

The Conference Committee agreed to the Senate amendments to the bill. As amended by the Senate, the bill also contained the contents of SB 78, as amended by the House Committee on Elections, relating to notification of polling place changes, in addition to changes in advance voting ballot deadlines in the bill, as introduced.

The Conference Committee also added the provisions of the following bills:

- SB 56, as recommended by the Senate Committee on Ethics, Elections and Local Government, concerning streamlining of filing requirements for last-minute campaign contribution reports;
- SB 57, as amended by the Senate Committee of the Whole, regarding optional e-mail addresses in reports to the Secretary of State; and
- HB 2013, as amended by the House Committee on Elections, regarding the potential for removal of write-in candidates' names from the general election ballot.

Background

HB 2158—Advance Ballot Deadlines and Polling Place Change Notices

As it left the Senate Committee on Ethics, Elections and Local Government, HB 2158 contained only the provisions regarding advance ballot deadlines. The Senate Committee of the Whole added the contents of SB 78, as amended by the House Committee on Elections, regarding notice of polling place changes.

HB 2158—Advance Ballot Deadlines

HB 2158 was introduced by Representative Miller. In the House Committee on Elections hearing, proponents included Representative Miller, representatives of the League of Women Voters of Kansas and the Office of the Secretary of State, and the Douglas County Clerk. Conferees stated the bill, as introduced, was identical to 2017 SB 8, which was assigned to a subcommittee of the Senate Committee on Ethics, Elections and Local Government and for which a subcommittee report has been issued.

Proponents also noted, in 2011-2012, the USPS began reducing the number of mail processing centers and making other service reductions, resulting in mail being routed to larger regional centers. According to the testimony, a number of Kansas processing centers were closed and this has affected several Kansas areas. For example, the processing of Topeka-area mail was moved from north Topeka to Kansas City, Missouri. Conferees indicated mail processing changes in other Kansas areas include the following:

- The cities of Hays, Salina, Dodge City, and Hutchinson – moved to Wichita;
- Liberal – moved to Abilene, Texas; and

- Colby – moved to North Platte, Nebraska.

Proponents noted moves such as these result in mail delays, which have affected whether advance ballots are being counted. According to the testimony, 94 ballots postmarked by November 8, 2016, in Shawnee County were not counted for the general election.

Also, according to the testimony, seven other states have enacted laws that provide for advance ballots postmarked on or before election day to be counted after election day.

The Douglas County Clerk encouraged the House Committee to consider the following additional changes:

- Change the deadline to apply for a mail ballot (currently, KSA 2016 Supp. 25-1122 establishes the Friday before an election as the application deadline, which the USPS has indicated is an unserviceable deadline); and
- Amend KSA 2016 Supp. 25-2908(f) to allow mail ballots to be returned to the polling place on election day. The statute currently requires the polling place clerk or judge to void a mail ballot returned to a polling place and the voter be issued a provisional ballot, which increases the number of provisional ballots processed and causes voter confusion.

No neutral or opponent testimony was provided.

The House Committee amended the bill to do the following:

- Change the deadline for receipt by the county election office of mailed advance ballots, from the last USPS mail delivery on the *fourth* day following the date of the election, to the last USPS mail

delivery on the *third* day following the date of the election; and

- Clarify the indication by the USPS that an advance ballot was mailed on or before the date of the election could include a USPS indication other than the traditional postmark. [*Note:* The Conference Committee retained these amendments.]

The House Committee of the Whole amended the bill by adding the requirement that all advance voting ballots received at the polling place not later than the hour for closing of the polls on any election date for all specified elections be delivered by the county election officer to the appropriate special election board. [*Note:* The Conference Committee retained this amendment.]

In the Senate Committee on Ethics, Elections and Local Government hearing, proponents included Representative Miller; the Director of Elections, Office of the Secretary of State; and a representative of the League of Women Voters of Kansas. Representative Miller requested an amendment that would make the bill similar to Sub. for SB 8, as amended by the Senate Committee of the Whole, by adding the revisions regarding deadlines for application of advance ballots by mail, and that would add a clarification amendment. He discussed two other clarification amendments in his testimony.

The Senate Committee amended the bill to adopt the amendments requested by Representative Miller, specifically addressing the following:

- Add the revisions regarding deadlines for application of advance ballots by mail, as contained in Sub. for SB 8, as amended by the Senate Committee of the Whole; and
- Add the following clarification amendments:

- Specify that the “polling place,” from which advance ballots received would be delivered to the appropriate special election board, would be “any such polling place within the county”;
- Clarify the deadline for receipt of advance ballots by mail included those postmarked or otherwise indicated by the USPS to have been mailed by “the close of the polls” on election day; and
- Eliminate a reference to the presidential preference primary since the statute allowing for such was repealed in 2015. [Note: The Conference Committee retained these amendments.]

As stated previously, the Senate Committee of the Whole amended the bill to add the provisions of SB 78, as amended by the House Committee on Elections, relating to notice regarding polling place changes. [Note: The Conference Committee retained this amendment.]

According to the fiscal note prepared by the Division of the Budget on HB 2158, as introduced, the Secretary of State indicates enactment of the bill would have no fiscal effect on the agency but could have a fiscal effect on Kansas counties that need to create a special election board. According to the agency, the Secretary of State and most county election offices would prefer that a special election board be appointed to handle ballots appropriately, since county boards of canvassers are not trained to handle actual ballots. However, the Kansas Association of Counties (KAC) stated enactment of the original bill would have no fiscal effect on Kansas counties. No revised fiscal note was available at the time of the Senate Committee action.

SB 78—Notice of Polling Place Changes

SB 78 was introduced by the Senate Committee on Ethics, Elections and Local Government at the request of Senator Faust-Goudeau. In the Senate Committee hearing, Senator Faust-Goudeau, along with former Representative Mah; the Director of Elections, Office of the Secretary of State; and a representative of the American Civil Liberties Union of Kansas testified in favor of the bill. Proponents indicated there have been complaints and confusion regarding the changing of polling places, hence providing an obstacle to voter participation. The Director of Elections also noted his opinion that failure to receive such a notice should not give rise to challenging election results. No neutral or opponent testimony was provided.

In the House Committee on Elections hearing, proponents included Senator Faust-Goudeau; former Representative Mah; the Director of Elections, Office of the Secretary of State; and a representative of the League of Women Voters of Kansas. No neutral or opponent testimony was provided.

The House Committee amended the bill to state failure to receive notice of a change in the voting place would not give rise to a cause of action challenging the election results and to require the Secretary of State to notify the public in the ways specified above if the online voter registration website is unavailable for 24 hours or more. [*Note: The Conference Committee retained this amendment.*]

According to the fiscal note prepared by the Division of the Budget on SB 78, as introduced, the League of Kansas Municipalities indicates enactment of the bill would have no fiscal effect on cities. KAC indicates enactment of the bill could increase county expenditures, as they relate to the cost of printing and mailing notices, by an inestimable amount. No fiscal note on the amended bill was available at the time the Senate Committee of the Whole took action on HB 2158.

SB 56—Streamlining of Filing Requirements for Last-Minute Campaign Contribution Reports

The bill was requested by the Kansas Governmental Ethics Commission (KGEC). The KGEC Executive Director was the sole proponent at the hearing before the Senate Committee on Ethics, Elections and Local Government, stating KGEC staff believes this dual reporting requirement remained as an oversight after 2011 Senate Sub. for HB 2080 was enacted. That bill eliminated the dual filing for receipts and expenditure reports from candidates for statewide office. No other testimony was provided.

“State office” is defined as “state officers elected on a statewide basis, members of the house of representatives and state senators, members of the state board of education, district judges, district magistrate judges and district attorneys.”

According to the fiscal note prepared by the Division of the Budget, enactment of SB 56 would have no fiscal effect.

SB 57—E-mail Addresses in Reports to the Secretary of State

SB 57 was requested by the Kansas Governmental Ethics Commission (KGEC). Testifying in favor of the bill were representatives of the KGEC and the League of Women Voters. The KGEC representative gave the reasoning behind the bill: having access to e-mail addresses for candidate treasurers and party and political committee officers would assist the KGEC staff in contacting these individuals if questions arise on campaign reports or other campaign finance issues.

No opponent or neutral testimony was provided.

The Senate Committee of the Whole amended the bill to make submission of e-mail addresses optional. [*Note:* The Conference Committee retained this amendment.]

According to the fiscal note prepared by the Division of the Budget on SB 57, as introduced, enactment of the bill would have no fiscal effect.

HB 2013—Write-in Candidates: Option to Have Name Removed from General Election Ballot

HB 2013 was introduced by Representative Esau. In the House Committee on Local Government hearing, the Harvey County Clerk and Election Officer, who reported about a write-in candidate who was surprised when notified he had won the election, as he did not know he had been a write-in candidate, provided proponent testimony. No other testimony was received; however, at the request of a legislator, Shawnee, Johnson, and Reno counties reported general historical information regarding write-in candidates winning elections.

The House Committee amended the bill to require county election officers to print the names of all write-in winners of primary elections on the general election ballot, unless any such candidate had requested his or her name be removed. [*Note:* The Conference Committee would retain this amendment.] As introduced, the bill would have mandated all write-in candidates' names be removed unless they notified the county election officer they wanted their names to remain.

According to the fiscal note prepared by the Division of the Budget on HB 2013 as introduced, the Office of the Secretary of State indicated enactment of the bill would have no fiscal effect.

Elections; advance ballots; polling place change notifications; write-in candidates; campaign contribution and other reports; e-mail addresses

ccrb_hb2158_01_0000.odt