

SESSION OF 2017

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SUBSTITUTE FOR SENATE BILL NO. 8**

As Recommended by House Committee on
Elections

Brief*

House Sub. for Sub. for SB 8 would address a number of elections-related issues, including advance voting ballot deadlines, election instead of appointment of certain counties' election commissioners, salaries of these election commissioners, and campaign finance reporting requirements.

Deadlines and Related Changes for Advance Ballots

The bill would revise deadlines regarding advance voting ballots and make related changes, as follows:

- Revise the *deadlines for transmittal by mail* of applications for advance ballots, as follows (***Section 1***):
 - 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

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

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;

- 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 (***Section 2***);
- Add requirements for the *receipt by mail* of advance ballots, as follows (***Section 2***):
 - Deliver to a special election board or the county board of canvassers, in a manner as nearly 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 that are postmarked or are otherwise indicated by the U.S. Postal Service (USPS) to have been mailed 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 USPS on the third day following the election date;
 - Require the Secretary of State to adopt rules and regulations to implement these provisions; and

- Require 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
- Make technical and conforming changes (**Sections 3 through 6**).

Johnson, Sedgwick, Shawnee and Wyandotte (and possibly other) County Election Commissioners: from Appointment to Election (Section 7); and Repeal of Salary Statute (Section 15)

Effective beginning with the 2020 general election, the bill would require counties with a population of more than 130,000 have an election to select their election commissioner. Current law requires these counties have an election commissioner, but the person must be appointed by the Secretary of State.

Before entering office, the elected election commissioner would be required to file a surety bond of at least \$10,000 with the county treasurer. Under the bill, the term of office would be four years, and a procedure for filling vacancies would be established as follows:

- The replacement would be appointed in the manner provided by law for filling vacancies in the office of member of the House of Representatives;
- For vacancies occurring on or after May 1 of the second year of the term, the appointed person would serve for the remainder of the unexpired term; and
- For vacancies occurring before May 1 of the second year, the appointed person would serve until a qualified successor is elected to serve the remainder of the unexpired term.

The bill would make technical and conforming changes concerning the change from appointment to election of these county officials (**Sections 8-11**).

The bill would also repeal KSA 19-3419a, which set the minimum salary of these election commissioners at \$10,000.

Changes to Campaign Finance Act Reporting Requirements (Sections 12-14)

Email addresses: Required. The bill would amend reporting requirements for contact purposes, by requiring email addresses be submitted 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 that 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 that anticipates receiving contributions or making expenditures for a candidate for local office, to the relevant county election officer.

The bill would require the email addresses be submitted not later than ten days after the appointment of the relevant officer.

Filing Destination Adjustment. 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.

Background

As it left the Senate, Sub. for SB 8 contained only the provisions related to deadlines for advance voting ballots. The House Committee on Elections amended the underlying bill by clarifying the polling places that may receive advance ballots in person are those within the relevant county and by making technical changes. The Committee also amended the bill by adding the following:

- The change from appointment to election of election commissioners for counties with a population of more than 130,000, and repeal of the statute that set a minimum salary for these officials;
- The contents of SB 56, as recommended by the Senate Committee on Ethics, Elections and Local Government, regarding the filing destination of pre-primary and pre-general election last-minute reports; and
- The contents of SB 57, regarding provision of email addresses, as recommended by the Senate Committee on Ethics, Elections and Local Government (*i.e.*, leaving the mandate intact for provision of email addresses).

The Committee placed the amended contents into a substitute bill.

SB 8

The bill was introduced by Senator Hensley, who testified in favor of the bill at the hearing before the Senate Committee on Ethics, Elections and Local Government. The Douglas County Clerk also testified in favor of the bill. Neutral testimony was received from the Office of Secretary of State Elections Director. No other testimony was received.

Conferees 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.

Conferees stated 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 Committee to consider the following additional changes as well:

- Changing 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
- Amending 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.

The bill was assigned to a subcommittee, which issued the following recommendations:

- The advance ballot be received by bringing it into a polling place or county election office and be secured. Security requirements would be handled by the Office of the Secretary of State *via* rules and regulations; and
- A mail-in advance ballot be counted if postmarked on or before the close of the polls on election day and received by the third day following the election date.

The full Committee made the following changes to the bill and recommended it as a substitute bill:

- Added a requirement that advance ballots received at the polling place at or before the hour of the closing of the polls be delivered to the appropriate special election board;
- Changed the postmark deadline for receipt of mailed advance ballots from on or before the

election date to before the close of the polls on the election date;

- Changed the deadline for receipt by mail of advance ballots by the county election office from the fourth to the third day following the election date; and
- Added the revisions to the deadlines for transmittal by mail of advance ballot applications.

The Senate Committee of the Whole amended the bill to clarify any USPS mark could be used to indicate a ballot had been mailed by the required date and time.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Secretary of State indicated 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 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 stated enactment of the bill would have no fiscal effect on Kansas counties. A revised fiscal note was not available on the substitute bill, as amended, by the House Committee.

SB 56

The bill was requested by the Kansas Governmental Ethics Commission (KGECE). The KGECE Executive Director was the sole proponent at the hearing before the Senate Committee on Ethics, Elections and Local Government, stating KGECE 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 the bill would have no fiscal effect.

SB 57

The bill was requested by the KGECE. Testifying in favor of the bill were representatives of the KGECE and the League of Women Voters. The KGECE representative gave the reasoning behind the bill: having access to email addresses for candidate treasurers and party and political committee officers would assist the KGECE staff in contacting these individuals if questions arise on campaign reports or other campaign finance issues.

No opposing or neutral testimony was received.

The Senate Committee of the Whole amended the bill to make submission of email addresses optional. However, the House Committee amended this portion of the bill’s contents by reverting back to the Senate Committee version, *i.e.*, making mandatory the provision of email addresses.

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