

Substitute for SENATE BILL No. 130

AN ACT concerning municipal elections and election related matters; relating to advance ballots; amending K.S.A. 72-1073, 72-1088, 72-1133, 72-1138 and 80-202 and K.S.A. 2018 Supp. 25-1124, 25-21a03 and 25-2701 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2018 Supp. 25-1124 is hereby amended to read as follows: 25-1124. (a) Upon receipt of the advance voting ballot, the voter shall cast such voter's vote as follows: The voter shall make a cross or check mark in the square or parentheses opposite the name of each candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. If the advance voting ballot was transmitted by mail, the voter personally shall place the ballot in the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall complete the form on the ballot envelope and shall sign the same. Except as provided by K.S.A. 25-2908, and amendments thereto, the ballot envelope shall be mailed or otherwise transmitted to the county election officer. If the advance voting ballot was transmitted to the voter in person in the office of the county election officer or at a satellite advance voting site, the voter may deposit such ballot into a locked ballot box without an envelope.

(b) *The county election officer shall attempt to contact each person who submits an advance voting ballot where there is no signature or where the signature does not match with the signature on file and allow such voter the opportunity to correct the deficiency before the commencement of the final county canvass.*

(c) Any voter who has an illness or physical disability or who is not proficient in reading the English language and is unable to apply for or mark or transmit an advance voting ballot, or any voter who has a disability preventing the voter from signing an application or the form on the ballot envelope, may request assistance by a person who has signed a statement required by subsection ~~(d)~~ (e) in applying for or marking an advance voting ballot, or in signing an application or the form on the ballot envelope if the voter has a disability preventing the voter from signing.

~~(e)~~(d) Any voted ballot may be transmitted to the county election officer by the voter or by another person designated in writing by the voter, except if the voter has a disability preventing the voter from writing and signing a statement, the written and signed statement required by subsection ~~(d)~~ (e) shall be sufficient. Any such voted ballot shall be transmitted to the county election officer before the close of the polls on election day.

~~(d)~~(e) The county election officer shall allow a person to assist a voter who has an illness or physical disability or who is not proficient in reading the English language in applying for or marking an application or advance voting ballot, or to sign for a voter who has a disability preventing the voter from signing an application or advance voting ballot form, provided a written statement is signed by the person who renders assistance to the voter who has an illness or physical disability or who is not proficient in reading the English language and such statement is submitted to the county election officer with the application or ballot. The statement shall be on a form prescribed by the secretary of state and shall contain a statement from the person providing assistance that the person has not exercised undue influence on the voting decision of the voter who has an illness or physical disability or who is not proficient in reading the English language and that the person providing assistance has completed the application, marked the ballot, or signed the application or ballot form as instructed by the voter.

~~(e)~~(f) Any person assisting a voter who has an illness or physical disability or who is not proficient in reading the English language in applying for or marking an advance voting ballot, or in signing an application or advance voting ballot form for a voter who has a disability preventing the voter from signing the application or advance voting ballot form, who knowingly fails to sign and submit the statement required by this section or who exercises undue influence on the voting decision of such voter shall be guilty of a severity level 9, nonperson felony.

Sec. 2. K.S.A. 2018 Supp. 25-2701 is hereby amended to read as follows: 25-2701. (a) (1) The county election officer shall determine the area to be served by each voting place at every election and shall provide notice of such voting places as required by law. *At the discretion of the county election officer, all voters within a county may be allowed to vote at any polling location on election day, provided all rules and regulations are followed as established by the secretary of state for such purpose.*

(2) Any precinct having less than 20 registered voters shall be included with an adjacent precinct or precincts in a single area to be served by a common voting place. The location of voting places shall be designated by the county election officer as provided by K.S.A. 25-2703, and amendments thereto.

(b) For any election to which this section is applicable, wherever a city is located in two counties, the county election officer of the county in which the greater population of the city is located may designate a voting place located in a portion of the city in the other county to serve an area within that portion of the city within the county in which the greater population of the city is located.

(c) At voting places serving two or more precincts, one or more of which have less than 20 registered voters, all ballots which are identical shall be deposited in the same ballot box or boxes and such votes shall be counted and canvassed in a manner as to minimize the possibility of identifying the ballots cast by any voter.

(d) (1) The county election officer may not change a voting place prior to an election without providing mailed notice to the voters affected at least 30 days prior to the election. If an emergency is declared by the county election officer, the mailed notice requirement shall be waived.

(2) Failure to receive notice of a change in the voting place shall not give rise to a cause of action challenging the results of the election.

Sec. 3. K.S.A. 2018 Supp. 25-21a03 is hereby amended to read as follows: 25-21a03. (a) The secretary of state shall develop the style and form of the official primary ballot and the official general election ballot for municipal offices.

(b) The declaration of intent to become a candidate shall be prescribed by the secretary of state. The declarations *for any municipality* shall be filed with the county election officer not later than 12 noon, June 1, prior to the primary election in both even-numbered and odd-numbered years, or if such date falls on a Saturday, Sunday or holiday, then before 12 noon of the next day that is not a Saturday, Sunday or holiday.

~~(c) For municipalities where a primary election is not authorized or otherwise required by law, the declaration of intent to become a candidate shall be filed with the county election officer not later than 12 noon, September 1, prior to the general election in odd-numbered years, or if such date falls on a Saturday, Sunday or holiday, then before 12 noon of the next day that is not a Saturday, Sunday or holiday.~~

~~(d)~~—The secretary of state shall establish primary election procedures for primary elections for municipalities.

~~(e)~~(d) The secretary of state shall establish general election procedures for general elections for municipalities.

~~(f)~~(e) County election officers shall conduct municipal elections in odd-numbered years and elections in even-numbered years if needed.

~~(g)~~(f) The secretary of state shall adopt rules and regulations to

implement this section on or before July 1, 2016.

Sec. 4. K.S.A. 80-202 is hereby amended to read as follows: 80-202. Every person elected to the office of trustee, clerk or treasurer of any township, or road overseer of any road district, shall be an elector of ~~said~~ *the township or road district at the time of his or her such election or appointment*, and shall ~~within twenty (20) days after he shall be notified of his or her election~~ take and subscribe the oath of office prescribed by law, ~~and shall forthwith cause such~~. *The oath to shall be filed in the office of the county clerk of his or her county; and. In case the event any of such officers officer shall become nonresidents a nonresident of their respective townships the township or road districts, their offices district, the office shall at once become vacant.*

Sec. 5. K.S.A. 72-1073 is hereby amended to read as follows: 72-1073. The provisions of law relating to the term of office of members of boards of education, including method and time of qualification and of taking office shall apply to every school district in this state. In the event no candidate is elected to a position on the board of education of a school district in a regular election, or if an elected member moves out of the school district after such member is elected and before such member takes office the *second Monday in January following July 1 the election*, or if such member becomes ineligible to serve for any other reason during that period of time, the holdover member shall continue to sit as a voting member of the board of education of such school district until an eligible successor is appointed by the board of education to fill the position. ~~Such successor shall be appointed not later than November 15 next following the regular election of board members.~~

Sec. 6. K.S.A. 72-1133 is hereby amended to read as follows: 72-1133. (a) At the first meeting of the board of education ~~in July on or after the second Monday in January~~ of each year, *or at a later meeting during that calendar year if so determined by the board at the first meeting*, the board shall elect a president and vice-president, both of whom shall be members of the board. The president and vice-president shall each serve for a term of one ~~(1)~~ year and until ~~his~~ a successor is elected and qualified.

(b) The president shall preside at meetings of the board and perform such other duties as are provided by law.

(c) In the absence or inability to act of the president, the vice-president shall perform the duties of the president. In the absence or inability to act of both the president and vice-president, the remaining members shall select a member to act in the capacity of president.

Sec. 7. K.S.A. 72-1138 is hereby amended to read as follows: 72-1138. (a) The board shall meet at least once each month. ~~During the month of July~~ *On or after the second Monday in January and before February 1 of each year, or at a later date during that calendar year if so determined by the board at the first meeting of the board on or after the second Monday in January of each year*, the board shall adopt a resolution specifying a regular meeting time of the board and the regular hour of commencement of the meeting, as well as the day of the week and the week of the month. Such resolution also shall specify the alternative date and time of any meeting if the regular meeting date occurs on a Sunday or on a legal holiday or on a holiday specified by the board. Such resolution also shall specify the regular meeting place of the board and may specify that any regular meeting may be adjourned to another time and place. If the board cancels a regularly scheduled meeting because of an emergency, within 24 hours of such cancellation, the board shall establish and give notice of the new meeting date and time. Special meetings may be called at any time by the president of the board or by joint action of any three members of the board. Unless waived, written notice, stating the time and place of any special meeting and the purpose for which called, shall be given each member of the board at least two days in advance of the

special meeting and no business other than that stated in the notice shall be transacted at such meeting. A majority of the full membership of the board shall constitute a quorum for the purpose of conducting any business of the school district, and the vote of a majority of the full membership of the board shall be required for the passage of any motion or resolution. Any member who abstains from voting shall be counted as having voted against the motion or resolution. If a member announces a conflict of interest with regard to the issue, the member may leave the meeting until the voting on the issue is concluded, and the member who abstains from voting thereby shall not be counted as having voted.

(b) Except as otherwise provided by law, the board shall have and may exercise the same powers and authorities as were immediately prior to this act conferred uniformly upon boards of education in cities of the first class, and, in addition thereto, the powers and authority expressly conferred by law.

(c) The board shall have authority to prescribe courses of study for each year of the school program and to adopt rules and regulations for teaching in the school district and general government thereof, and to approve and adopt suitable textbooks and study material for use therein subject to the plans, methods, rules and regulations of the state board of education.

(d) The board may provide legal counsel at district expense to any members of the board of education, or school district officers or employees who are sued in situations relating to and arising out of the performance of their office or employment. No teacher or other employment contract shall make reference to or incorporate the provisions of this subsection, nor shall the provisions of this subsection be construed as to be any part of the consideration of employment of any teacher, officer or other employee of the board.

(e) (1) The board may transact all school district business and adopt policies that the board deems appropriate to perform its constitutional duty to maintain, develop and operate local public schools.

(2) The power granted by this subsection shall not be construed to relieve a board from compliance with state law.

The power granted by this subsection shall not be construed to relieve any other unit of government of its duties and responsibilities ~~which that~~ are prescribed by law, nor to create any responsibility on the part of a school district to assume the duties or responsibilities ~~which that~~ are required of another unit of government.

(3) The board shall exercise the power granted by this subsection by resolution of the board of education.

Sec. 8. K.S.A. 72-1088 is hereby amended to read as follows: 72-1088. ~~The issue of the change of method of election or voting plan, or both, in any school district may be made in the manner provided in this act at any time during the period beginning on the first Wednesday in November of each even-numbered year and ending on the first Tuesday in June of each odd-numbered year, if such change is also approved in a manner authorized in this act before the end of such period submitted to voters at any primary election or general election as defined in K.S.A. 25-2502, and amendments thereto, or at a special election called for such purpose. If approved by voters, the new method of election and voting plan in such the school district shall be followed in the election of members next following such the change and shall continue in force until again changed in the manner provided in this act. Change of method of election or voting plan shall not shorten the term of any member serving on the board at the time the change is made, and the county election officer shall not submit to election any plan of change which violates this prohibition.~~

Sec. 9. K.S.A. 72-1073, 72-1088, 72-1133, 72-1138 and 80-202 and K.S.A. 2018 Supp. 25-1124, 25-21a03 and 25-2701 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.