

CORRECTED
SESSION OF 2015

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR
SENATE BILL NO. 171**

As Amended by House Committee on Elections

Brief*

Sub. for SB 171 would move all elections for office holders of local governments currently held in the spring of odd-numbered years to the fall. Elections for cities, consolidated city-county governments, and school districts would move to the fall of even-numbered years, while elections for “special districts” (defined in the bill as the local governments specified below) would move to the fall of odd-numbered years. In general, local government elections would remain nonpartisan, although a city could choose to make its elections partisan. Sections to be added to law, Sections 1 through 11, would be cited as the Help Kansas Vote Act.

Beginning in 2016, the election dates for “municipalities” (defined in the bill as cities, consolidated city-county governments, and school districts) would be in the fall of even-numbered years. The primary election would be held on the first Tuesday in August, and the general election would be held on the Tuesday following the first Monday in November of even-numbered years. Municipalities would retain the authority to have district method elective offices.

Beginning in 2017, election dates for the special districts would be in the fall of odd-numbered years. The primary election would be held on the first Tuesday in August, and the general election would be held on the Tuesday following the first Monday in November. The elections, to be administered

*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>

by the county election officers, would be consolidated into one ballot, which would be prescribed by the Secretary of State through rules and regulations.

The following local units of government are included in the definition of "special districts" (Section 2):

- The Kansas City Board of Public Utilities;
- Community colleges;
- Drainage districts;
- Extension districts formed pursuant to KSA 2-623 *et seq.*;
- Irrigation districts;
- Improvement districts formed pursuant to KSA 19-2753 *et seq.*;
- Water districts formed pursuant to KSA 19-3501 *et seq.* (Water One); and
- Hospital districts formed pursuant to KSA **2014 Supp.** 80-2501 *et seq.*

Not included is any special district where governing body member elections are conducted at a meeting of the special district. (Section 2)

Cities

Provisions specific to cities are described as follows:

- All existing ordinances and charter ordinances, except those relating to the timing of primary and general elections, would remain in effect until amended or repealed by the city (Section 3);

- Numerous statutes would be changed and some new sections added to make city election law uniform so as to not differ by class of city. (Numerous sections contain stricken language for this purpose; additionally, Section 70 would repeal 58 statutes not replaced – all of Chapter 12, Article 10, as well as KSA 19-2762 and 71-1417);
- A city governing body would be authorized to determine whether that city's elections will be non-partisan or partisan (Section 49); and
- A vacancy on the governing body of any city or consolidated city and county would have to be filled by special election when the following conditions exist:
 - The municipality does not have its own procedure for filling vacancies and has not filled any such vacancies within 60 days; and
 - The governing body has not made an appointment to fill the vacancy within 60 days of the vacancy. (Sections 66 – 68)

Provision Specific to School Districts

All unified school districts would be required to make available, upon request of the county election officer, suitable school buildings for polling places. The county election officer would be required to give at least 365 days' notice to the school district superintendent. (Section 8)

Voter Education, Official Municipal Ballot, Declaration of Intent, Ballot Rotation, Ballot Length

Voter Education

The Secretary of State would be required to develop a public information program to inform the public of the changes related to moving elections from spring to fall, including an explanation of which offices' elections are involved. The information program must use advertisements and public service announcements, in addition to posting information on the official websites of the Secretary of State and county election officers. The bill would require the Secretary of State and county election officers to develop dedicated websites to provide voter education and sample ballots. County election officers, in consultation with the Secretary of State, would be required to develop ways to reduce ballot length and expedite the voting process on election days. (Section 9)

Official Ballot, Declaration of Intent, and Primary Election Procedures

The bill would require the Secretary of State to prescribe the official ballot for municipal and special district offices and the declaration of intent to become a candidate. Candidates would be required to file the declarations with the county election officer no later than noon, June 1, in odd-numbered years, with an exception provided if that date falls on a weekend or a holiday. For entities where a primary election is not authorized or otherwise required, the declaration of intent would have to be filed no later than noon on September 1, with a similar exception provided. The Secretary of State also would be required to establish primary and general election procedures for municipalities and special districts, and to adopt rules and regulations to implement this section on or before July 1, 2016. (Section 10)

The Secretary of State would be required to place all municipal primary and general elections at the top of the ballot, as well as (for various elections) arrange names and offices on ballots, develop ballots, and establish ballot styles, all in accordance with rules and regulations adopted by July 1, 2016. (Section 26-31)

Other Changes

The bill would specify expiration dates for the terms of members of governing bodies and other elected officials of all municipalities. Under the bill, those that would expire at any time in 2017 would expire on the second Monday in January of 2018. Those elected to four-year terms that would expire any time in 2017 would expire on the second Monday in January of 2018. (Section 1)

The bill would delete or replace several provisions in existing law to comport with the bill's intent of consolidating all spring elections for officials to the fall. This includes changes in primary and general election filing deadlines and procedures, terms of office, ballot creation and canvassing, periods of time when school and community college districts could change their method of election, and notices of elections.

The bill would increase each voter's time limit in the voting booth from five minutes to ten minutes, when other voters are waiting. (Section 56)

The bill would increase candidate filing fees from \$5 to \$20 and would specify a \$20 filing fee for any municipal office included in the bill. (Sections 1, 2, 20, 24, 41, 62, 65)

The bill would require the county election officer to notify each person on the permanent advance voting list who has failed to vote in four (increased from two) general elections that the person must renew the application for permanent advance voting status or be removed from the permanent

advance voting list; the general elections would include those held in odd-numbered years. (Section 33)

The bill would change the number of 16 or 17-year-olds who would be allowed to serve on each election board, from 1 to 1/3 of those appointed to the election board. It also would require each 16 or 17-year old so appointed to have a letter of recommendation from a school teacher, counselor, or administrator. (Section 55)

More detailed information about changes to law is available on the KLRD website (Policy Areas/State and Local Government/Sub for SB 171: Content Analysis Spreadsheet).

Background

The Constitution and Current Law

Article 4, Section 2 of the *Kansas Constitution* states, “General elections shall be held biennially on the Tuesday succeeding the first Monday in November in even-numbered years. Not less than three county commissioners shall be elected in each organized county in the state, as provided by law.” No further constitutional direction is given regarding specific types of elections or timing.

Kansas statutes require federal, state, and county elections be held in the fall of even-numbered years. Elections for officials of cities, school districts, and all additional political subdivisions holding elections to be voted on by the electorate are held in the spring of odd-numbered years. Special elections may be held at other times.

Recent History of the Issue

Legislation proposing to move spring elections to the fall was introduced in the 2010 Legislative Session. At least ten bills have been introduced on or amended to include the

topic, with seven of those offered in the 2013-2014 biennium. At the end of the 2014 Legislative Session, a study was requested on the topic and assigned to the Special Committee on Ethics, Elections and Local Government. The Special Committee heard directly from three other states' experts on the challenges and benefits of combining elections, either completely or partially, in those states. The Committee also received a presentation from a staff representative of the National Conference of State Legislatures, regarding the history and current practice of election scheduling in the nation, and from Kansas election officials.

The Special Committee also heard from the author of purportedly the only scholarly book published on the subject, *Timing and Turnout: How Off-Cycle Elections Favor Organized Groups*. The author's work concluded off-cycle election timing enhances the effectiveness of organized groups' mobilization efforts.

Following this review and Committee discussion, no recommendations were made. However, the Special Committee Chairperson indicated a bill would be presented and considered during the 2015 Session. SB 171, as introduced, was that bill.

Senate Action on the Bill

The bill was introduced by the Senate Committee on Ethics and Elections.

Proponents who testified to the Senate Committee were city commissioners from Larned and Pratt, a former school board member from Winfield, a Wichita school board member, and a former member of the State Board of Education, each testifying as an individual. The Executive Director of the Kansas Republican Party testified on behalf of the party.

Written testimony in support of the bill was received from a representative of Kansans for Liberty and a past city council candidate.

Testimony in support of the bill focused primarily on increasing voter turnout. Increasing the pool of candidates was another reason mentioned, as was the short time between a fall election and a subsequent spring election, the higher probability of poor spring weather, and the opportunity for school board members to have additional time in office prior to voting on the school district budget.

Neutral testimony on behalf of the Secretary of State was provided by the Assistant State Election Director.

Opponents who testified before the Senate Committee were Senator Francisco; a school board member from Rush County; the superintendent of USD 208 (Trego County); a city commissioner from Wichita; the Douglas County Clerk, as president of the Kansas County Clerks and Election Officials Association; and representatives of the League of Kansas Municipalities (LKM) and the Kansas Association of School Boards (KASB).

Written testimony in opposition to at least one aspect of the bill was received from individuals and organizations in the categories listed below:

- Cities: representatives of the cities of Colby, Edwardsville, Garden City, Hutchinson, Lawrence, Lecompton, Lenexa, Manhattan, Marysville, Neodesha, Ottawa, Overland Park, Paola, Prairie Village, Salina, Shawnee, Topeka, and Wakefield; the president of the Kansas Mayors Association; the chairman of the Johnson and Wyandotte Counties Council of Mayors; individual city council members from Chanute and Maize; and the mayors of Derby and Overbrook;

- Counties: representatives of Coffey and Johnson counties and the Kansas Association of Counties (KAC), the Crawford County Clerk and Election Officer, and the Norton County Clerk and Election Officer;
- School boards: representatives of USD 229 (Blue Valley), USD 233 (Olathe), USD 475 (Geary County), the Shawnee Mission Board of Education, the Board of Wichita Public Schools, Game on for Kansas Schools, Kansas PTA, and the KASB, as well as school board members from USD 108 (Washington County), USD 204 (Bonner Springs), USD 214 (Ulysses), USD 226 (Meade), USD 233 (Olathe), USD 327 (Ellsworth), USD 383 (Manhattan-Ogden), USD 446 (Independence), USD 458 (Basehor-Linwood), and USD 509 (South Haven);
- Community colleges: the Executive Director of the Kansas Association of Community College Trustees; and
- Other organizations: representatives of the Kansas City, Kansas Chamber of Commerce, the Mainstream Coalition and Education Foundation, and Sunflower Community Action.

Three individuals: an attorney for several local governments, a former school board member, and an individual who did not cite a connection to any local government also submitted written testimony.

Reasons most cited by opponents were: a desire to keep local elections non-partisan, a concern the bill erodes home rule, a concern partisan elections would mean military and federal workers could not run for office, a concern combined elections would reduce interest in local issues, and concerns the changes in term dates would adversely impact the local government.

The Senate Committee amended the bill to do the following:

- Move elections for cities, consolidated city-county governments, and school districts from the fall of even-numbered years to the fall of odd-numbered years and return them to being nonpartisan elections;
- Remove the category of “special districts” and include all within the definition of “municipality”;
- Delete the mandate for a school district to provide an in-service (professional development) day on an election day when the county election officer has called for use of a school building as a polling place and increase the minimum notice from 60 days to 90 days;
- Clarify the city manager, as well as any other, a form of government that would be allowed under the bill;
- Change the ballot rotation procedure to delete the randomized alphabetical rotation method and instead reflect current requirements for the municipalities affected;
- Return ballot rotation procedures to those in current law for national and state offices; and
- Increase each voter’s time limit in the voting booth from five minutes to ten minutes, when other voters are waiting.

The substitute bill reflects those amendments.

The Senate Committee of the Whole amended the bill to do the following:

- Add an expiration date for terms of members of governing bodies and other elected officials of all municipalities who have been elected to four-year terms that would expire at any time in 2019;
- Add the requirement that certain tax levy and bond elections be held at the next primary or general election;
- Increase, from 60 to 365, the number of days' required notice when a county election officer needs to use a school building as a polling place;
- Add a date certain for adoption of the rules and regulations that the Secretary of State must adopt regarding the development of the official municipality primary election ballot and prescribing the declaration of intent;
- Amend the number of persons under the age of 18 who may be appointed to each election board; and
- Add the requirement for a special election to fill a vacancy on the governing body of any city or consolidated city and county, under certain circumstances (contents of 2015 SB 10, as amended by the Senate Committee on Ethics and Elections).

House Action on the Bill

Proponents who testified in the House Committee on Elections included Senator Holmes and representatives of Educational Management Consultants, Kansans for Liberty, the Kansas Republican Party, and the Sedgwick County Commission.

Written proponent testimony was received from the Coffey County Commission and current or former members of the Kansas State Board of Education, the Larned City

Council, Wichita USD 259 Board of Education, and Winfield USD 396 Board of Education.

Neutral testimony was provided by a representative of the KAC.

Opponents testifying included representatives of the Kansas Association of City/County Management, Kansas Association of School Boards, Kansas County Clerks and Election Officials Association, LKM, Water One, and the City of Wichita, as well as a Topeka USD 501 former Board of Education member.

Written testimony in opposition was received from county clerks from the following counties: Allen, Cherokee, Coffey, Cowley, Crawford, Derby, Harvey, Hodgeman, Labette, Seward, Smith, and Trego; representatives of the following cities: Chanute, Lawrence, Leawood, Mission Hills, Shawnee, and Topeka; representatives of the following unified school districts: Lawrence USD 497, Shawnee Mission USD 512, Wichita USD 259; and representatives of the Kansas Association of Community College Trustees and the Kansas City, Kansas Chamber of Commerce.

Several proponents and opponents tied their support or opposition to a specific version, or specific provisions, of the bill.

The House Committee on Elections amended the bill to do the following:

- Change the timing of city, consolidated city-county, and school district elections from the fall of odd-numbered years to the fall of even-numbered years;
- Require candidates of municipalities (cities, consolidated city-counties, and school districts) be placed at the top of the fall ballots in even-numbered years;

- Eliminate the Senate Committee of the Whole amendment that would have required certain tax levy and bond elections be held at the next primary or general election;
- Require a city continue to operate under its current form of government until the city's form of government is changed as provided by law;
- Eliminate the change in precinct committee person terms to four years and return these positions to a two-year term; and
- Make numerous technical changes.

A fiscal note was prepared by the Division of the Budget on the bill, as introduced, which would have required all city, county, and school district elections to be held in even-numbered years (with one exception) and to be partisan. The fiscal note on the bill, as introduced, indicated there would be revenue increases or savings as follows:

- Unspecified increased revenues to county general funds due to increased candidate filing fees;
- Savings in ballot production due to the elimination of the rotation of candidates' names on ballots; and
- Savings in preparing ballots for the August primary in each even-numbered year due to the increased term for precinct committee persons (from two to four years).

However, any savings would be offset by an increase in ballot production due to the addition of city and school board elections to the ballot in even-numbered years. The Office of the Secretary of State also indicates SB 171 would increase its expenditures by \$15,000 from the State General Fund in FY 2016 to implement a voter education program. According to the LKM, the bill would increase expenditures for cities

related to informing and educating electors on the changes in the bill; explaining changes in filing locations and deadlines to voters; updating literature; staff time to review and revise existing information packets; staff time devoted to reviewing, revising, repealing and adopting city ordinances and codes; and publication costs. The LKM indicates holding special elections in odd-numbered years also would increase costs. Any fiscal effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.

No fiscal note was available on the substitute bill.