

SENATE BILL No. 126

AN ACT concerning elections; relating to recounts for statewide offices; relating to hours of voting; amending K.S.A. 25-106, 25-409 and 25-3107 and repealing the existing sections.

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

Section 1. K.S.A. 25-3107 is hereby amended to read as follows: 25-3107. (a) At the time of commencement of any canvass by the county board of canvassers the county election officer shall present to the county board of canvassers the preliminary abstracts of election returns, together with the ballots and records returned by the election boards. The county board of canvassers shall inspect and check the records presented by the county election officer and shall hear any questions which the county election officer believes appropriate for determination of the board. The county board of canvassers shall do what is necessary to obtain an accurate and just canvass of the election and shall finalize the preliminary abstract of election returns by making any needed changes, and certifying its authenticity and accuracy. The certification of the county board of canvassers shall be attested by the county election officer. Neither the county board of canvassers nor the county election officer shall open or unseal sacks or envelopes of ballots, except as is required by K.S.A. 25-409, 25-1136 and 25-1337, and amendments thereto, or other specific provision of law or as is authorized to carry out a recount under subsection (b).

(b) If a majority of the members of the county board of canvassers shall determine that there are manifest errors appearing on the face of the poll books of any election board, which might make a difference in the result of any election, or if any candidate shall request the recount of the ballots cast in all or in only specified voting areas for the office for which such person is a candidate, or if any registered elector who cast a ballot in a question submitted election requests a recount in all or only specified voting areas to determine the result of the election, the county board of canvassers shall cause a special election board appointed by the county election officer to meet under the supervision of the county election officer and recount the ballots with respect to any office or question submitted specified by the county board of canvassers or requested by such candidate or elector. If a recount is required in a county that uses optical scanning systems as defined in K.S.A. 25-4601 et seq., and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting such recount. The county election officer shall not be a member of such special election board. Before the special election board meets to recount the ballots upon a properly filed request, the party who makes the request shall file with the county election officer a bond, with security to be approved by the county or district attorney, conditioned to pay all costs incurred by the county in making such recount. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, or if as a result of the recount a question submitted is overturned, no action shall be taken on the person's bond and the county shall bear the costs incurred for the recount. Any recount requested must be requested in writing ~~of~~ *and filed with* the county election officer not later than 12:00 noon on the Monday following the election. The request shall specify which voting areas are to be recounted. The county election officer shall immediately notify any candidate involved in the election for which such recount is requested, or shall notify the county chairperson of each candidates party. Any such recount shall be initiated not later than the following day and shall be completed not later than the Friday of such week at 5:00 p.m. Upon completion of any recount under this subsection, the election board shall package and reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811 and amendments thereto for time actually spent making the recount.

(c) (1) *The provisions of this subsection shall apply to candidates at any election for:*

- (A) *Any state or national office elected on a statewide basis;*
- (B) *the office of president or vice president of the United States;*
- (C) *the office of members of United States house of representatives;*
- (D) *office of members of state senate or house of representative whose district is located in two or more counties; and*

(E) office of members of state board of education.

(2) Any candidate may request a recount in one or more counties. Any such recount must be requested in writing and filed with the secretary of state not later than 12:00 noon on the Monday following the election and shall specify which counties are to be recounted. If a recount is required in a county that uses optical scanning systems as defined in K.S.A. 25-4601, and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting such recount. Except as provided by this subsection and subsection (d), the person requesting the recount shall file with the secretary of state a bond, with security to be approved by the secretary of state, conditioned to pay all costs incurred by the counties and the secretary of state in making such recount. The amount of the bond shall be determined by the secretary of state. A candidate described in paragraphs (D) and (E) of subsection (c)(1) may post a bond as provided by subsection (b) in lieu of the bond required by this subsection. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, no action shall be taken on the candidate's bond and the counties shall bear the costs incurred for the recount.

(3) The secretary of state immediately shall notify each county election officer affected by the recount and any candidate involved in the election for which such recount is requested. If the candidate cannot be reached, then the secretary of state shall notify the state chairperson of such candidate's party. Any such recount shall be conducted under the supervision of the county election officers at the direction of the secretary of state, and shall be initiated not later than the following day and shall be completed not later than the Friday of such week at 5:00 p.m. Each county election officer involved in the recount shall appoint a special election board to recount the ballots. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811 and amendments thereto for time actually spent making the recount. Upon completion of any recount under this subsection, the special election board in each county shall package and reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The county election officer in each county immediately shall certify the results of the recount to the secretary of state.

(d) (1) The provisions of this subsection shall apply to candidates at general elections for:

- (A) Any state or national office elected on a statewide basis;
- (B) the office of president or vice president of the United States;
- (C) the office of members of United States house of representatives;
- (D) office of members of state senate or house of representative; and
- (E) office of members of state board of education.

(2) Whenever the election returns reflect that a candidate for office was defeated by one-half of one percent or less of the total number of votes cast and if such candidate requests a recount in one or more counties of the ballots, the state shall bear the cost of any recount performed using the method by which such ballots were counted originally.

(3) Not later than 60 days following a recount conducted pursuant to this subsection, the board of county commissioners of each county in which the recount occurred shall certify to the secretary of state the amount of all necessary direct expenses incurred by the county. Payment for such expenses shall be made to the county treasurer of the county upon warrants of the director of accounts and reports pursuant to vouchers approved by the secretary of state. Upon receipt of such payment and reimbursements, the county treasurer shall deposit the entire amount thereof in the county election fund, if there is one and if there is not then to the county general fund.

(4) The secretary of state, with the advice of the director of accounts and reports, shall determine the correctness of each amount certified under this section and adjust any discrepancies discovered before approving vouchers for payment to any county.

Sec. 2. K.S.A. 25-106 is hereby amended to read as follows: 25-106.
(a) The provisions of this subsection shall apply to all counties in Kansas located in the central time zone.

At all national, state, county and township primary and general elec-

tions the polls shall open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the county election officer. ~~In the event that different hours are set~~ *If different hours are set, the polls shall be open at least ~~twelve (12)~~ 12 continuous hours commencing not earlier than 6:00 a.m. and ending not later than 8:00 p.m. and ending not earlier than 7:00 p.m. The secretary of state shall adopt rules and regulations specifying the time and manner of setting and announcing any change of hours under authority of this section subsection.*

(b) The provisions of this subsection shall apply to all counties in Kansas located in the mountain time zone.

At all national, state, county and township primary and general elections the polls shall open at 6:00 a.m. and close at 6:00 p.m., unless different hours are set and publicly announced by the county election officer. If different hours are set, the polls shall be open at least 12 continuous hours commencing not earlier than 5:00 a.m. and ending not later than 7:00 p.m. and ending not earlier than 6:00 p.m. The secretary of state shall adopt rules and regulations specifying the time and manner of setting and announcing any change of hours under authority of this subsection.

Sec. 3. K.S.A. 25-409 is hereby amended to read as follows: 25-409.

(a) If any person challenged pursuant to K.S.A. 25-414, and amendments thereto, shall refuse to subscribe the application for registration pursuant to K.S.A. 25-2309, and amendments thereto, the judges shall reject such person's vote.

(b) If a person is challenged pursuant to K.S.A. 25-414, and amendments thereto, such person shall be permitted to subscribe the application for registration and mark a ballot. The ballot shall thereupon be sealed in an envelope. The judges shall write on the envelope the word "provisional" and a statement of the reason for the challenge, and that the ballot contained in the envelope is the same ballot which was challenged pursuant to K.S.A. 25-409 *et seq.* and amendments thereto. Such statement shall be attested by two of the judges. The judges shall attach the application for registration to the envelope containing the provisional ballot. The envelope shall be numbered to correspond to the number of the provisional voter's name in the registration or poll book, and the word "provisional" shall be written following the voter's name in the poll book. Such provisional ballots, together with objected to and void ballots packaged in accordance with K.S.A. 25-3008, and amendments thereto, shall be ~~opened and~~ reviewed by the county board of canvassers *at the time prescribed for canvassing votes*, and such board shall determine the acceptance or rejection of the same. *The county board of canvassers shall open all ballots deemed to be valid and include such ballots in the final canvass of election returns.*

Sec. 4. K.S.A. 25-106, 25-409 and 25-3107 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

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.