

CHAPTER 129

SENATE BILL No. 562
(Amended by Chapter 165)

AN ACT concerning elections; providing a procedure for mobile polling places in nursing homes and certain related facilities; pertaining to mail ballot elections; pertaining to mailing of ballots to inactive voters in local question submitted elections conducted by mail ballot; pertaining to certain primary elections; pertaining to political yard signs; amending K.S.A. 25-433, 25-2021, 25-2108a and 71-1415 and K.S.A. 2007 Supp. 25-2430 and repealing the existing sections.

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

New Section 1. From and after January 1, 2010: (a) Not less than 60 days before any election, the county election officer may contact the administrator or operator at each nursing facility, assisted living facility and hospital based long-term care unit to request that the registered voters in the facility be offered the opportunity to vote in such election according to the procedures outlined in this section. If the administrator or operator of the facility agrees, the county election officer and the administrator or operator shall establish a date, mutually agreed upon, for such voting to take place. The provisions of this section shall not apply to mail ballot elections conducted pursuant to K.S.A. 25-431 et seq., and amendments thereto.

(b) The county election officer shall appoint a special election board of two or more members to administer ballots to registered voters who are residents of any facility designated in subsection (a) and which has agreed to participate. The members of such special election board shall be appointed and trained by the county election officer in the same manner as members of election boards serving in polling places on election day. The members of a special election board shall possess the qualifications of registered voters in Kansas and in the county where they serve and shall subscribe the oath prescribed by law. The members of the board shall not all be affiliated with the same political party, to the extent practicable, and shall not be candidates for any offices, other than the offices of precinct committeemen or precinct committeewomen, to be elected in the election at which they serve.

(c) The special election board shall, to the extent practicable, follow advance voting procedures as provided for in Kansas law. All persons who are registered voters of the county and who are current residents of the facility may request a ballot from the special election board. In the case of a voter who has applied for and received permanent advance voting status pursuant to subsection (g) of K.S.A. 25-1122, and amendments thereto, the special election board may deliver such voter's ballot to the voter instead of mailing the ballot as required by K.S.A. 25-1123, and amendments thereto. Any voter may receive assistance from a member of the special board or from a person of such voter's choice. Any person rendering assistance to a voter shall sign a written statement as provided for in subsection (d) of K.S.A. 25-1124, and amendments thereto, and shall file such statement with the special board or with the county election officer.

(d) The special election board shall ensure that the privacy of each voter is preserved and shall cause each voter's ballot to be sealed in an envelope or deposited in a locked ballot box. In cases where direct recording electronic voting systems are used, the special election board shall ensure that the voting equipment is secured from tampering and unauthorized access. At the conclusion of the voting process at a facility, the ballots, voting records and materials shall be returned to the county election officer. All the members of the special election board shall certify the receipt and return of the ballots, voting equipment, voting records and materials.

(e) The county election officer shall ensure that the ballots received from any such special election board shall be tabulated according to procedures established by law for the tabulation of advance voting ballots and shall ensure that the tabulated returns are included with other official election returns and presented to the county board of canvassers for the canvass as provided by law. Any ballot cast by a voter pursuant to this section may be challenged in the same manner as other ballots are challenged.

(f) The county election officer shall ensure that mobile voting sites

established under this act are clearly posted as such during the hours voting is allowed.

(g) (1) For the purposes of this section, the term:

(A) "Assisted living facility" shall have the meaning ascribed to it in K.S.A. 39-923 and amendments thereto.

(B) "Hospital based long-term care unit" means a unit that provides physician services and continuous nursing supervision for patients who:

(i) Are not in an acute phase of illness; and

(ii) currently require nursing care that is primarily of a convalescent, restorative or long-term nature. Long-term care unit also includes medicare-certified, distinct-part long-term care units.

(C) "Nursing facility" shall have the meaning ascribed to it in K.S.A. 39-923 and amendments thereto.

Sec. 2. From and after January 1, 2010, K.S.A. 2007 Supp. 25-2430 is hereby amended to read as follows: 25-2430. (a) Electioneering is knowingly attempting to persuade or influence eligible voters to vote for or against a particular candidate, party or question submitted. Electioneering includes wearing, exhibiting or distributing labels, signs, posters, stickers or other materials that clearly identify a candidate in the election or clearly indicate support or opposition to a question submitted election within any polling place on election day or advance voting site during the time period allowed by law for casting a ballot by advance voting or within a radius of 250 feet from the entrance thereof. Electioneering shall not include bumper stickers affixed to a motor vehicle that is used to transport voters to a polling place or to an advance voting site for the purpose of voting.

(b) As used in this section, "advance voting site" means the central county election office or satellite advance voting sites designated as such pursuant to subsection (c) of K.S.A. 25-1122, and amendments thereto, *and adult care homes and hospital based care units at the time of an election participating in the voting procedures prescribed in section 1.*

(c) Electioneering is a class C misdemeanor.

Sec. 3. K.S.A. 25-433 is hereby amended to read as follows: 25-433.

(a) The county election officer shall mail all official ballots with a return identification envelope and instructions sufficient to describe the voting process to each elector entitled to vote in the election on one date not sooner than the 20th day before the date of the election and not later than the 10th day before the date of the election. Ballots mailed by the county election officer shall be addressed to the address of each elector appearing in the registration records, and placed in an envelope which is prominently marked "Do Not Forward." *Ballots shall not be mailed to any inactive voter who, based on information provided by the postal service, appears to have moved to a residence address outside the county in which the voter is currently registered and who has been mailed a confirmation notice as described in subparagraph (4) of subsection (e) of K.S.A. 25-2316c, and amendments thereto, or because a "Forwarding Order Expired" or "Moved — No Forwarding Address" notice was received from the post office. Any inactive voter who believes such voter is entitled to vote in the election may request a replacement ballot as provided for in subsection (d) of this section.*

(b) Upon receipt of the ballot the elector shall mark it, sign the return identification envelope supplied with the ballot and comply with the instructions provided with the ballot. The elector may return the marked ballot to the county election officer by United States mail, if it is received by the county election officer by the date of the election, or personally deliver the ballot to the office of the county election officer before noon on the date of the election. The ballot shall be returned in the return identification envelope. The county election officer shall provide for the payment of postage for the return of ballot envelopes.

(c) The return identification envelope shall contain the following form:

I declare under penalty of election perjury, a felony, that I am a resident and a qualified voter for this election as shown on voter registration records and that I have voted the enclosed ballot and am returning it in compliance with Kansas law, and amendments thereto, and have not and will not vote more than one ballot in this election.

I also understand that failure to complete the information below will invalidate my ballot.

Signature

(d) If the ballot is destroyed, spoiled, lost or not received by the elector, the elector may obtain a replacement ballot from the county election officer as provided in this subsection. An elector seeking a replacement ballot shall sign a statement verified on oath or affirmation, on a form prescribed by the secretary of state, that the ballot was destroyed, spoiled, lost or not received. The applicant shall deliver the statement to the county election officer before noon on the date of the election. The applicant may mail the statement to the county election officer, except a county election officer shall not transmit a ballot by mail under this subsection unless the application is received prior to the close of business on the second day prior to the election. When an application is timely received under this subsection, the county election officer shall deliver the ballot to the voter if the voter is present in the office of the county election officer, or promptly transmit the ballot by mail to the voter at the address contained in the application, except when prohibited in this subsection. The county election officer shall keep a record of each replacement ballot provided under this subsection.

(e) A ballot shall be counted only if: (1) It is returned in the return identification envelope; (2) the envelope is signed by the elector to whom the ballot is issued; and (3) the signature has been verified as provided in this subsection. The county election officer shall verify the signature of each elector on the return identification envelope with the signature on the elector's registration records and may commence verification at any time prior to the canvass of the election. If the county election officer determines that an elector to whom a replacement ballot has been issued under subsection (d) has voted more than once, the county election officer shall not count any ballot cast by that elector.

(f) The county election officer shall supervise the procedures for the handling and canvassing of ballots to insure the safety and confidentiality of all ballots properly cast.

(g) The names of voters whose mail ballot envelopes are returned to the county election officer as "undeliverable" shall be subject to removal from the voter registration book and party affiliation list in the manner provided in subsection (d) of K.S.A. 25-2316c, and amendments thereto.

Sec. 4. From and after July 1, 2008, K.S.A. 25-2021 is hereby amended to read as follows: 25-2021. ~~(a) In school districts in which a member district method of election is in effect, if there are more than two (2) qualified candidates for one (1) member position in any member district, the county election officer shall call, and there shall be held, a primary election in each such member district and, if there are more than two (2) qualified candidates for the at large member position, the county election officer shall call, and there shall be held, a primary election in such school district. The names of the two (2) candidates receiving the greatest number of votes for any member position at the primary election shall appear on the ballots in the general election.~~

~~—(b) In school districts having the election at large method, if there are more than two (2) times the number of candidates as there are board members to be elected, the county election officer shall call, and there shall be held, a primary election. The names of twice the number of candidates as there are board members to be elected who received the greatest number of votes at the primary election shall appear on the ballots in the general election.~~

~~—(c) If a member is to be elected to fill an unexpired term the rules in this section shall be modified consistent with the provisions of this subsection. If there are more than two (2) candidates for such unexpired term, the county election officer shall call and there shall be held, a primary election. The names of the two (2) candidates for such unexpired term receiving the greatest number of votes shall appear on the ballots in the general election.~~

~~—(d) No ballot in a primary school election shall have either names or write-in blanks for any board member position unless more than two (2) candidates have filed for such position.~~

(a) A primary election shall be held if needed to reduce the number of candidates for each office in the general election to no more than three candidates. No primary election of school district board members shall be held unless by holding such primary two or more persons will be eliminated as candidates for office. In the event there are not more than three

times the number of candidates as there are board members to be elected, the names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for such office, but the names of such candidates shall be placed on the general school board election ballot.

~~(e)~~ (b) On the ballots in general school elections, blank lines for the name of write-in candidates shall be printed at the end of the list of candidates for each different office equal to the number to be elected thereto. The purpose of such blank lines shall be to permit the voter to insert the name of any person not printed on the ballot for whom such voter desires to vote for such office. No lines for write-in candidates shall appear on primary school election ballots.

Sec. 5. From and after July 1, 2008, K.S.A. 25-2108a is hereby amended to read as follows: 25-2108a. (a) There shall be a primary election of city officers on the Tuesday preceding by five weeks the first Tuesday in April of every year that such city has a city election, except as otherwise provided in subsection (b) of this section.

(b) *A primary election shall be held if needed to reduce the number of candidates for each office in the general election to no more than three candidates.* No primary election of city officers shall be held unless by holding such primary ~~one~~ ~~(1)~~ *two* or more persons will be eliminated as candidates for office. In the event there are not more than ~~two~~ ~~(2)~~ *three* ~~times the number of candidates for any one office as there are officers to be elected,~~ the names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for such office, but the names of such candidates shall be placed on the general city election ballot.

Sec. 6. From and after July 1, 2008, K.S.A. 71-1415 is hereby amended to read as follows: 71-1415. ~~(a) In any college district having a district method and in which there are more than two candidates for a member position, the election officer shall call, and there shall be held, a primary election. The names of the two candidates receiving the greatest number of votes for any member position shall appear on the ballots in the general election.~~

~~(b) In any college district having the election at large method and in which there are more than two times the number of candidates as there are trustees to be elected, the election officer shall call, and there shall be held, a primary election. The names of twice the number of candidates as there are trustees to be elected who receive the greatest number of votes in the primary shall appear on the ballots in the general election.~~

(a) *A primary election shall be held if needed to reduce the number of candidates for each office in the general election to no more than three candidates. No primary election of trustees shall be held unless by holding such primary two or more persons will be eliminated as candidates for office. In the event there are not more than three times the number of candidates as there are trustees to be elected, the names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for such office, but the names of such candidates shall be placed on the general election ballot for the board of trustees.*

~~(e)~~ (b) In the general election, there shall appear on the ballots a line appropriate for write-in candidates. No lines for write-in candidates shall appear on the primary election ballots.

New Sec. 7. (a) On and after the effective date of this act, any provision of a restrictive covenant which prohibits the display of political yard signs, which are less than six square feet, during a period commencing 45 days before an election and ending two days after the election is hereby declared to be against public policy and such provision shall be void and unenforceable.

(b) The provisions of this section shall apply to any restrictive covenant in existence on the effective date of this act.

Sec. 8. From and after January 1, 2010, K.S.A. 2007 Supp. 25-2430 is hereby repealed.

Sec. 9. From and after July 1, 2008, K.S.A. 25-2021, 25-2108a and 71-1415 are hereby repealed.

Sec. 10. K.S.A. 25-433 is hereby repealed.

Sec. 11. This act shall take effect and be in force from and after January 1, 2010, and its publication in the Kansas register.

Approved April 24, 2008.

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