

SESSION OF 2013

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 122**

As Agreed to April 4, 2013

Brief*

SB 122 would modify the definition of the crime of unauthorized voting disclosure while being charged with any election duty. The bill would make it illegal to intentionally disclose or expose the name of any voter who has cast a ballot, whether provisional or regular, except as ordered by a court in an election contest. This would be in addition to the conditions already contained in the statute, each of which also would be modified as follows:

- Disclosing or exposing the contents of a ballot – the bill would modify this condition to specify the ballot could be a regular or provisional ballot and would eliminate from the condition disclosure of the manner in which the ballot has been voted.
- Endeavoring to induce a voter to show how he or she voted – the bill would revise this condition to read “induce or attempt to induce.”

The bill would prohibit disclosing the name of any voter who has cast a ballot from the time the ballot is cast until the final canvass of the election; the bill also would state nothing in the section would prohibit the disclosure of the names of advance voters. Finally, the bill would state nothing in the section would prohibit authorized poll agents from observing elections as allowed under current law.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Conference Committee Action

The second Conference Committee agreed to replace the contents of SB 122, regarding electronic service under the Kansas Administrative Procedure Act, with the contents of SB 177, regarding unauthorized voting disclosure, as passed by the Senate.

Background

The original bill was introduced by the Senate Judiciary Committee at the request of the Kansas Department for Children and Families (DCF). A deputy secretary of DCF testified in support of the bill before the Senate Committee. The director of the Office of Administrative Hearings testified in support of the bill with a proposed amendment. There was no other testimony. The amendment was not adopted by the Senate Committee.

In the House Judiciary Committee, the same conferees testified. The House Committee amended the bill with language modified from the amendment proposed by the director of the Office of Administrative Hearings.

The fiscal note prepared by the Division of the Budget for SB 122, as introduced, states the Department of Administration believes electronic delivery of service of an order or notice could reduce expenses, but the Department is unable to estimate a precise fiscal effect. Any fiscal effect associated with the bill is not reflected in *The FY 2014 Governor's Budget Report*.

Background of SB 177

SB 177 was introduced by the Senate Committee on Ethics, Elections and Local Government at the request of the Secretary of State. In his testimony at the Senate Committee hearing, the Secretary explained judges' decisions regarding the release of provisional voters' names in two different

counties after the November 2012 election were in contradiction with each other, indicating the laws on this issue might need clarification. A federal judge in the Shawnee County case ordered names of provisional voters be released, while a Sedgwick County judge refused to do so. The Secretary further indicated the bill would protect voters from post-election contacts from candidates, disclosure of names in low-population counties could result in identifying how certain provisional voters voted, the bill would protect county election officers from the added work of dealing with records requests at the same time they are preparing for the county canvass, and federal law protects the confidentiality of information on a voter's ballot. No other proponents testified.

No opposing testimony was received at the hearing; however, former Representative Ann Mah provided written testimony after the hearing indicating the bill would cause more provisional ballots to not be counted because individuals voting a provisional ballot due to lack of a photographic identification (as required by enacted 2011 HB 2067) did not understand all photo ID requirements, and policies across the counties regarding the resolution of a photo ID-related provisional ballot are inconsistent. Former Representative Mah described aspects of the Shawnee County case, in which ultimately a federal judge ordered the release of the names of provisional voters in House District 54 by denying the Secretary's request to block that access.

The Senate Committee made amendments to the bill proposed by the Secretary of State adding attempt to induce to the crime, clarifying the section would not prohibit election observation by authorized poll agents, and making other clarifying and organizational changes.

According to the Division of the Budget fiscal note, passage of SB 177, as introduced, would have no fiscal effect on state revenues or expenditures or on county election offices.

Unauthorized voting disclosure; elections; poll agents

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