

SESSION OF 2013

SUPPLEMENTAL NOTE ON SENATE BILL NO. 63

As Amended by House Committee on Elections

Brief*

SB 63, as amended, would create or amend laws related to elections crimes, prosecution of those crimes, and the Campaign Finance Act.

Regarding election crimes and prosecution of those crimes, the bill would do the following:

- Create a separate crime of voting more than once, which is currently incorporated in the crime of voting without being qualified. The new crime would be defined as intentionally voting or attempting to vote more than once in the same jurisdiction, voting in more than one U.S. jurisdiction in an election held on a particular date, or inducing or aiding any person to take the above actions. The crime would be a severity level 9, nonperson felony.
- Create new law that would give the following officials independent authority to prosecute any person for a Kansas election crime: the district attorney or county attorney of the county where such violations occurred, the Kansas Attorney General, and the Kansas Secretary of State. Once one of the listed officers has commenced prosecution of a person for an election crime, the other officers could assist in the prosecution, but could not commence a separate prosecution.

*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>

- Amend the statute prohibiting or requiring certain actions with regard to advance voting to increase the severity level for a violation of its provisions from a class C misdemeanor to a class A misdemeanor;
- Amend the election bribery statute to add an exemption for a business or organization providing a product worth less than \$3.00 to any person who asserts such person has voted, without regard to the voter's vote for or against a candidate or issue;
- Amend the crime of voting without being qualified to remove the provision regarding voting more than once (which would become a separate crime, as described above) and define the crime as voting or attempting to vote in any election district when not a lawfully registered voter in that district, or voting or attempting to vote at any election by a person who is not a U.S. citizen, or who does not otherwise qualify as an elector. The severity level of this crime would be increased from a class A misdemeanor to a severity level 9, nonperson felony;
- Clarify that the crime of false impersonation of a voter can occur by representing oneself as another person whether real or fictitious; and
- Disenfranchise for a period of four years the right to vote of a person convicted of an election crime included in article 24 of chapter 25 of the Kansas Statutes Annotated and amendments thereto. This would include conviction for any of the following crimes: corrupt political advertising, election bribery, bribery to induce signing of nomination papers, election perjury, election forgery, disorderly election conduct, possessing false or forged election supplies, intimidation of voters, voting without being qualified, bribery of an election

official, bribe acceptance by an election official, misconduct of an election officer, election fraud by an election officer, election suppression, voter registration suppression, unauthorized voting disclosure, election tampering, false impersonation as party officer, voting machine fraud, printing and circulating imitation ballots, marking ballots to identify, destruction of election supplies, destruction of election papers, electioneering, false impersonation of a voter, and advance voting suppression.

The bill also would amend the declaration signed by voters in the registration book to replace the phrase “at this election” with “in the election held on this date, in this or any other jurisdiction in the U.S., for any offices or ballot issues.”

Regarding the Campaign Finance Act, the bill would abolish certain political committees on the effective date of the Act. It would apply to political committees established by a member of the legislature, a major purpose of which is to expressly advocate the nomination, election, or defeat of a clearly identified candidate for the legislature, or to make contributions or expenditures for the nomination, election, or defeat of a clearly identified candidate for the legislature.

Background

The bill was introduced by the Committee on Ethics, Elections and Local Government.

In the Senate Judiciary Committee, Secretary of State Kris Kobach testified in support of the bill. A former member of the House of Representatives testified as a neutral conferee. The Johnson County District Attorney testified in opposition to the bill on behalf of the Kansas County and District Attorneys Association. The Edwards County Attorney submitted written testimony opposing the bill.

The Senate Committee amended the bill by adopting technical amendments, changing the culpability requirement for the crime of voting more than once from “knowingly” to “intentionally,” and changing the word “offering” to “attempting” in the definition of voting more than once.

The Senate Committee of the Whole amended the bill by adding the new section prohibiting the Secretary of State from establishing political committees other than those supporting a candidate for Secretary of State.

The House Committee on Elections amended the bill by deleting language that prohibited the Secretary of State from establishing political committees other than those supporting a candidate for Secretary of State, and by reducing the severity level of the following crimes, which had been increased in severity level in the introduced version of the bill:

- Voting more than once, reduced from severity level 7 to severity level 9, nonperson felony;
- Advance voting violations specified in KSA 25-1128, reduced from severity level 9, nonperson felony to Class A misdemeanor;
- Voting without being qualified, reduced from severity level 7 to severity level 9, nonperson felony;
- Election tampering, reduced from severity level 7 to severity level 8, nonperson felony; and
- False impersonation of a voter, reduced from a severity level 8 to severity level 9, nonperson felony.

The House Elections Committee also adopted provisions that would remove the right of any person convicted of an election crime to vote for four years, and amended the Campaign Finance Act to abolish any political

committee established by a member of the Legislature in accordance with KSA 25-4153b, which existed prior to the effective date of the bill.

The fiscal note prepared by the Division of the Budget on the original bill states the Secretary of State indicates any fiscal effect could be absorbed within existing resources. The Kansas Association of Counties and the Office of the Attorney General state they believe the bill would have no fiscal effect. The Kansas Sentencing Commission states the bill would have no effect on prison admission or bed needs.

The fiscal note further indicates the bill has the potential to increase the number of cases related to voting crimes filed in district and appellate courts and could increase the time required by judicial and non-judicial personnel. The bill could also generate additional revenue from docket fees and penalties. However, a precise fiscal effect cannot be determined at this time and would most likely be accommodated within the existing schedule of court cases. Any fiscal effect associated with the bill is not reflected in *The FY 2014 Governor's Budget Report*.