

Revised Report of the
Subcommittee on 2017 SB 8
to the
Senate Committee on Ethics, Elections
and Local Government

CHAIRPERSON: Senator Steve Fitzgerald

OTHER MEMBERS: Senators Dinah Sykes and Oletha Faust-Goudeau

STUDY TOPIC(S):

Examine the contents and additional issues surrounding 2017 SB 8 and make recommendations to the full Committee.

January 2017

Revised

2017 SB 8

Conclusions:

The Subcommittee recommends the following:

- The advance ballot be received by bringing it into a polling place or county election office and be secured. Security requirements would be handled by the Office of the Secretary of State *via* rules and regulations; and
- A mail-in advance ballot be counted if postmarked on or before the close of the polls on election day and received by the third day following the election date.

Proposed Legislation: The Subcommittee recommends the Senate Committee on Ethics, Elections and Local Government amend the bill to require counting of the mail-in advance ballot if the ballot is postmarked on or before the election date and is received by the third day following the election date, and to allow polling places to accept mail ballots.

BACKGROUND

The bill, as introduced, would require all advance voting ballots received by mail by the county election officer after the closing of polls on any election date, and which are postmarked on or before the election date, be delivered by the county election officer to a special election board or the county board of canvassers for canvassing in a manner as nearly consistent with other advance ballots as possible. The bill also would set the deadline for mail receipt of an advance ballot by the county election office as the last U.S. Postal Service (USPS) mail delivery on the fourth day following the election date. The bill would require the Secretary of State to adopt rules and regulations to implement these measures.

The Senate Committee on Ethics, Elections and Local Government held a hearing on the bill on January 24, 2017. Testimony was received from Senator Hensley, the Douglas County Clerk, and the State Elections Director of the Office of the Secretary of State. Conferees noted in 2011-12, the USPS began reducing the number of mail processing centers and making other service

reductions, resulting in mail being routed to larger regional centers. According to the testimony, seven Kansas processing centers were closed and this has affected several Kansas areas; for example, the processing of Topeka-area mail was moved from North Topeka to Kansas City, Missouri. Conferees indicated mail processing changes in other Kansas areas include the following:

- The cities of Hays, Salina, Dodge City, and Hutchinson – moved to Wichita;
- Liberal – moved to Abilene, Texas; and
- Colby – moved to North Platte, Nebraska.

Conferees noted moves such as these result in mail delays, which have affected whether advance ballots are being counted. According to the testimony, 94 ballots postmarked by November 8, 2016, in Shawnee County were not counted for the general election.

Also according to the testimony, seven other states have enacted laws that provide for advance

ballots postmarked on or before election day to be counted after election day.

The Douglas County Clerk encouraged the Committee to consider additional changes as well:

- Changing the deadline to apply for a mail ballot (currently KSA 2016 Supp. 25-1122 establishes the Friday before an election as the application deadline, which the USPS has indicated is an unserviceable deadline);
- Amending KSA 2016 Supp. 25-2908(f) to allow mail ballots to be returned to the polling place on election day. The statute currently requires the polling place clerk or judge void a mail ballot returned to a polling place and the voter be issued a provisional ballot, which increases the number of provisional ballots processed and causes voter confusion.

Committee members discussed alternatives with the conferees. The Chairperson announced establishment of the Subcommittee and set its meeting date as January 31, 2017.

COMMITTEE ACTIVITIES

An amendment was distributed to the Subcommittee. Requested by Senator Hensley, the amendment would do the following:

- Change the deadline for the receipt of advance ballots by mail, from the fourth

(as in the bill, as introduced) to the third day following the date of the election; and

- Add a section to the bill to change the deadline for filing an application for mail transmittal of advance ballots from the last business day of the week preceding each primary, presidential primary, and question submitted election to the Tuesday preceding such elections.

The Subcommittee received further oral testimony from the Douglas County Clerk and the State Election Director, to confirm current practice and clarify aspects of the bill and the proposed amendments offered by Senator Hensley.

After discussion, the Subcommittee members agreed on the following recommendations:

- The advance ballot received by bringing it into a polling place or county election office be accepted and secured. The security requirements would be handled by the Office of the Secretary of State *via* rules and regulations; and
- The mail-in advance ballot be counted if postmarked on or before the close of the polls on election day and if received by the third day following the election date. This would be addressed in an amendment to the bill.