

SESSION OF 2017

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE
BILL NO. 8**

As Amended by Senate Committee of the Whole

Brief*

Sub. for SB 8 would revise deadlines regarding advance voting ballots. The bill would do the following:

- Revise the deadlines for transmittal by mail of applications for advance ballots as follows (Section 1):
- For all elections occurring on the date of a primary or general election, from the last business day of the week preceding the election to the Tuesday of the week preceding the election;
- For question submitted elections not held on the date of a primary or general election, from the last business day of the week preceding the election to the Tuesday of the week preceding the election (the same requirement as for those occurring on primary or general election dates), except if such an election is held on a day other than a Tuesday. In these instances the change would be from not more than three business days before the election to one week before the election;
- For the presidential preference primary, from between January 1 of the primary election year and the last business day of the week preceding the primary election, to between January 1 and the day preceding the primary election by one week;

*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>

- Add a requirement that all advance voting ballots received at the polling place not later than the hour for closing of the polls on any election date for all elections specified in KSA 25-1122(f) [all primary, general, and question submitted elections, special elections of officers, and presidential preference primaries] be delivered by the county election officer to the appropriate special election board. Current law requires only those advance ballots received in the county election office to be treated in this manner (Section 2); and
- Add requirements for the receipt by mail of advance ballots, as follows (Section 2):
- Deliver to a special election board or the county board of canvassers in a manner as nearly consistent as possible with canvassing of other advance ballots, those received after the closing of the polls on the date of any election specified in KSA 25-1122(f), and which are postmarked or are otherwise indicated by the US. Postal Service (USPS) to have been mailed before the close of the polls on the election date;
- Establish the deadline for receipt by mail of advance ballots by the county election officer as the last mail delivery by the USPS on the third day following the election date; and
- Require the Secretary of State to adopt rules and regulations to implement these provisions.

The bill would also make technical and conforming changes (Sections 3 through 5).

Background

The bill was introduced by Senator Hensley, who testified in favor of the bill at the hearing before the Senate Committee on Ethics, Elections and Local Government. The Douglas County Clerk also testified in favor of the bill. Neutral testimony was received from the Office of Secretary of State Elections Director. No other testimony was received.

Conferees noted, in 2011-2012, 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, a number of 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 stated 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); and
- 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 to 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.

The bill was assigned to a subcommittee, which issued the following recommendations:

- 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.
- The full Committee made the following changes to the bill and recommended it as a substitute bill:
- Added a requirement that advance ballots received at the polling place at or before the hour of the closing of the polls be delivered to the appropriate special election board;
- Changed the postmark deadline for receipt of mailed advance ballots from on or before the

election date to before the close of the polls on the election date;

- Changed the deadline for receipt by mail of advance ballots by the county election office from the fourth to the third day following the election date; and
- Added the revisions to the deadlines for transmittal by mail of advance ballot applications.

The Senate Committee of the Whole amended the bill to clarify any USPS mark could be used to indicate a ballot had been mailed by the required date and time.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Secretary of State indicated enactment of the bill would have no fiscal effect on the agency but could have a fiscal effect on Kansas counties that need to create a special election board. According to the agency, the Secretary of State and most county election offices would prefer a special election board be appointed to handle ballots appropriately, since county boards of canvassers are not trained to handle actual ballots. However, the Kansas Association of Counties stated enactment of the bill would have no fiscal effect on Kansas counties. A fiscal note was not available on the substitute bill when the Senate Committee of the Whole amended it.