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MEMORANDUM

To: Chairperson Thompson
Members of the Senate Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: March 20, 2023

Subject: HB 2086 – Amendments concerning the conduct of elections and qualifications of elected officers.

House Bill No. 2086 (HB 2086) would amend various election statutes regarding the powers and duties of officers conducting elections, the publication of notices, the qualifications of elected officers, unlawful acts relating to electronic, electromechanical and optical scanning systems, the canvassing and auditing of ballots, and to resolve statutory conflicts and remove outdated provisions. The following are the broad categories of amendments proposed by HB 2086.

Powers and duties of election officials

New Sections 1 and 2 specifically delegate powers and duties to oversee elections. Section 1 designates the Secretary of State as the chief election officer with the duty to oversee the conduct of statewide elections. Section 2 designates each county election officer as the person to oversee all local elections held in such officer's jurisdiction.

HB 2086 also grants the Secretary the authority to dismiss complaints alleging violations of the Help America Vote Act of 2002 without a hearing when there are no facts asserted to support the alleged violation.

Qualifications of elected officers

HB 2086 makes various amendments to provisions regarding the qualifications of certain elected officers. Such amendments include:

- Requiring a sheriff to be a resident and qualified elector of their county on the day they are sworn in.
- Removing the requirement that election commissioners be residents and qualified electors of their county for two years prior to appointment. The House Committee on Elections added the requirement that within 6 months of taking office the election commissioners must become a qualified elector of the county.

Electronic, electromechanical and optical scanning systems

New Section 4 makes it unlawful to provide or disclose the contents of any hard drive used in any electronic or electromechanical voting system or any optical scanning equipment without the written consent of the Secretary.

HB 2086 also expands the crimes of electronic poll book fraud and optical scanning equipment fraud to include unauthorized access to such equipment or knowingly publishing confidential information regarding such system.

Elections Defined

HB 2086 was amended on the House floor to amend two statutes that currently define “general elections” and “primary elections.” The bill, as amended, would also define “special elections” as any election that is not a general or primary election, including any mail ballot election. The amendment also prohibits special elections within 45 days of any general or primary election, but allows a special election to coincide with and be held on the same day as a general or primary election.

Mailed ballots

HB 2086 adds the conforming requirement that the county election officer verify the signature on a mailed ballot so that the requirement matches current law with respect to advance voting ballots. It also prohibits mailing ballots to voters unless requested by the voter.

Canvassing of ballots

HB 2086 adds a definition of “abstract” to clarify an abstract is a list of vote totals for a particular precinct or district.

The bill clarifies that in canvassing primary ballots, ballots cast by unaffiliated voters will only be counted with respect to nonpartisan offices or issues for which an unaffiliated voter may cast a vote. There is also a new requirement for political parties nominating a primary election candidate to notify the Secretary whether unaffiliated voters are permitted to vote in such party's primary election.

Election Audits

HB 2086 clarifies that ballot images may be used when conducting an election audit. The bill also adds constitutional questions as an election for which an audit can be requested.

Precinct Committeemen and Committeewomen Elections

HB 2086 amends the provisions governing election of precinct committeemen and committeewomen to allow for a state or county political party chairperson to challenge the eligibility of any person elected as precinct committeeman or committeewoman. The House Committee on Elections further amended the statute to require that committeemen and committeewomen provide their contact information, including address, email, if available, and phone number to the county election officer. This information is to be updated if it changes and the county election officer is required to report this information to the Secretary of State.

Publication of notices on the county website

HB 2086 amends various statutes to require that notices of elections be published on the county website in addition to any newspaper publication requirements.

Resolutions of statutory conflicts

HB 2086 amends various statutes to change the references to “nomination and declaration papers” to “nomination petitions and declarations of intention” to conform to the appropriate document names used in the election statutes.

The bill also amends various statutory timelines to conform to established deadlines for advance voting.

Deletion of obsolete provisions

HB 2086 strikes obsolete provisions from various election statutes. The bill also repeals the following obsolete statutes: 25-222, 25-305b, 25-1709, 25-1710, 25-2601, 25-4502, 25-4503, 25-4505, 25-4506, 25-4507, and 2-4508.

If enacted, HB 2086 would become effective on July 1, 2023.