

SESSION OF 2023

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2053**

As Recommended by Senate Committee on
Federal and State Affairs

Brief*

Senate Sub. for HB 2053 would amend election law to provide for a presidential preference primary to be held on March 19, 2024, and would establish voter registration and voting procedures for such election.

2024 Presidential Preference Primary Election (Section 4)

The bill would require, on March 19, 2024, each political party that is a recognized political party participating in primary elections in accordance with current law to hold a presidential preference primary election for the purpose of electing the preferred nominee of the political party for the office of President and Vice President of the United States. [Note: This requirement would not apply to any political party whose candidate for Governor did not poll at least 5 percent of the total vote case for all candidates for Governor in the preceding general election.]

The bill would authorize any political party to submit written notice to the Secretary of State (Secretary) on or before December 1, 2023, that such political party has elected to not participate in the presidential preference primary election.

*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>

Candidate for a Political Party Nomination (Section 5)

The bill would require a candidate for a political party nomination for President of the United States to file the appropriate registration information with the Federal Election Commission (FEC) to become a candidate for President. The bill would also require a candidate for a political party's presidential nomination to file one of the following with the Secretary not later than 12 noon on the date that is 60 days prior to the date of the presidential preference primary:

- A declaration of intent to become a candidate filed by the candidate and accompanied by a fee of \$10,000 (replacing a \$100 fee in current law); or
- A petition in the form prescribed by continuing law, signed by not less than 5,000 registered electors, who are affiliated with the political party of such candidate as shown by the party affiliation list. The Secretary would determine the sufficiency of each petition, and the determination would be final.

The bill would state all fees received by the Secretary pursuant to this section would be remitted to the State Treasurer and deposited in the State Treasury to the credit of the State General Fund (SGF).

Election Procedures

Advance Voting (Sections 1 and 6)

The bill would require advance voting ballot applications to be filed between January 1 of the year in which a presidential preference primary election is held and 30 days prior to the day of such election.

The bill would require advance voting ballots for the presidential preference primary to be delivered to the county board of canvassers by:

- 12 noon on the day preceding the election for advance voting ballots transmitted in person; and
- The close of polls on the date of the election for advance voting ballots transmitted by mail.

An advance voting ballot would not be counted if not received by the county election officer or any polling place after the closing time of the polls on the date of the election.

Voter Registration (Section 2)

The bill would require county election officers to provide for the registration of voters at one or more places on all days except the 30 days preceding the day of any presidential preference primary election. [*Note:* Under continuing law, registration is also closed when main offices of county government are closed and 20 days preceding a primary, general, or other election.]

The bill would also require county election officers to accept and process applications received by voter registration agencies and the Division of Vehicles, Department of Revenue, not later than the 31st day preceding the date of the presidential preference primary election or mailed voter registration applications that are postmarked not later than the 31st day preceding the presidential preference primary election except, if the postmark is illegible or missing, mailed voter registration applications received in the mail not later than the 19th day preceding the day of such election would be accepted and processed.

Audits (Section 3)

The bill would require an audit to be performed manually and review all paper ballots after a presidential preference primary election and prior to the meeting of the county board of canvassers. [*Note:* The audit would be conducted in accordance with continuing law.]

Notice (Section 6)

The bill would require notice of the presidential preference primary election to be published on the Secretary's website and the website of each county election office not less than 31 days prior to the presidential preference primary election. [Note: Continuing law requires the Secretary to publish notice in one newspaper in each county of the state where a newspaper is published.]

After publishing notice, the Secretary would be required to certify the amount of moneys expended on publication and transmit a copy of the certification to the Director of Accounts and Reports. Upon receipt of certification, the Director of Accounts and Reports would transfer an amount of money equal to the certified amounts from the SGF to the Information Services Fee Fund of the Secretary and transmit a notification of the transfer to the Directors of the Budget and Legislative Research.

Board of Canvassers (Sections 7 and 8)

The bill would require the county board of canvassers of each county to meet not later than eight days after a presidential preference primary election is held and canvass the vote of the preference primary. The county board of canvassers would prepare an abstract of the vote in such county and transmit the abstract to the Secretary by use of secure email transmission or other means approved by the Secretary not later than the tenth day after the day of the election.

The bill would require the Secretary to publish in the *Kansas Register* a certified statement of the candidates for President for each party and the number of votes each received on a statewide basis and for each congressional district as determined by the State Board of Canvassers. The Secretary would also be required to publish the report on the Secretary's website.

The bill would require the State Board of Canvassers to meet on or before April 12, 2024, for any presidential preference primary election held in 2024.

***Political Party Rules and National Party Convention
Delegates (Section 9)***

The bill would make a conforming amendment to remove language referring to the selection of delegates for national party conventions.

The bill would require the party rules regarding selection of delegates and alternates to a national party convention be adopted by the committees of the political parties to be published on the Secretary's website.

Technical Amendments

The bill would make technical amendments to ensure consistency in statutory phrasing.

Background

As passed by the House, HB 2053 would have required the Office of the Secretary of State, after consulting with county election officers, to adopt rules and regulations for the use of remote ballot boxes by county election officers for the return of advance voting ballots by January 1, 2024.

The Senate Committee removed the contents of HB 2053, inserted the contents of SB 321 as amended by the Senate Committee, and recommended a substitute bill be passed. [*Note:* The provisions of HB 2053 regarding rules and regulations for remote ballot boxes were not retained in the substitute bill.]

SB 321 (Presidential Preference Primary Election)

SB 321 was introduced by the Committee on Federal and State Affairs.

Senate Committee on Federal and State Affairs

In the Senate Committee hearing, **proponent** testimony was provided by a former Republican National Committeewoman for Kansas and a private citizen, who generally stated a presidential preference primary election would help with low voter participation, providing increased accessibility to all Kansans.

Neutral testimony was provided by Senator Tyson and representatives of the Kansas County Clerks and Election Officials Association and the Secretary of State's Office, who provided information about the process for presidential preference primaries and considerations for potential dates for such a primary.

Opponent testimony was provided by a representative of Loud Light Civic Action and a private citizen who noted concerns about the cost to counties, the exclusion of unaffiliated voters, and confusion for voters that may result from changing only the 2024 primary process.

Written-only opponent testimony was provided by four private citizens.

No other testimony was provided.

The Senate Committee amended the contents of SB 321 to:

- Restore references in Section 6 to “elector” rather than “voter”;

- Restore law permitting unaffiliated electors to declare a party at the polling place and participate in such party's presidential preference primary election in the same day;
- Require a minimum of 5,000, rather than 2,000, signatures of registered voters affiliated with a candidate's party for each petition filed by each prospective candidate;
- Remit candidate filing fees received by the Secretary to the State Treasurer for deposit in the State General Fund;
- Require the following to be published on the Secretary's website:
 - Notice of the official list of candidates and the official date of the presidential preference primary election;
 - A report of the final canvass; and
 - The party rules regarding selection of delegates and alternates to a national party convention adopted by the committees of the political parties;
- Require the Secretary to publish in the *Kansas Register* a certified statement of the candidates for president of each party and the number of votes each received on a statewide basis and for each congressional district;
- Require the following to be published on the websites of county election offices:
 - Notice of the official list of candidates and the official date of the presidential preference primary election; and
 - A copy of the abstract of the vote;

- Require the Secretary to certify the amount of moneys expended on the publication of presidential preference primary election notices and transmit a copy to the Director of Accounts and Reports, who would transfer the certified amount from the State General Fund to the information services fee fund of the Secretary. Notification of transfer would be provided to the Director of Legislative Research and the Director of the Budget;
- Specify that the County Board of Canvassers would meet no later than eight days after a presidential preference primary election is held and remove the requirement that such meeting occur between 8:00 and 10:00 am on the Friday following the election;
- Provide for the transmittal of the abstract of the vote to be made by use of secure email transmission or other means approved by the Secretary rather than by first class mail or messenger;
- Require the State Board of Canvassers to meet on or before April 12, 2024, for any presidential preference primary election held in 2024;
- Remove provisions providing for each political party to select as many delegates and alternates to the national party convention as are allotted to it by the national committee of the party;
- Remove the requirement for delegates and alternates to be selected no later than 60 days following the presidential preference primary;
- Add presidential preference primary elections to the list of races requiring an audit and remove the subsection of statute exempting such races; and

- Provide for law concerning advance voting ballots in a presidential preference primary to conform to current law for other elections and provide deadlines for the receipt of advance voting ballots.

The Senate Committee removed the contents of HB 2053, inserted the amended contents of SB 321 regarding presidential preference primary elections, and recommended a substitute bill be passed.

Fiscal Information

A fiscal note from the Division of the Budget on the bill was not available when the Senate Committee placed the amended contents of SB 321 into Senate Sub. for HB 2053. During the Senate Committee on March 24, 2024, a representative of the Secretary of State's Office stated that each county had been contacted to provide an estimate of costs related to the bill. The representative indicated that about 60 counties had submitted an estimate at the time of the Senate Committee meeting, and the Office created an estimate based on those figures with an adjustment for inflation. The representative indicated to the Senate Committee that the cost to the state could be estimated at \$5.0 million.

Elections; presidential preference primary; election procedures; voter registration; advance voting; election audits; Secretary of State