

SESSION OF 2014

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2141**

As Recommended by Senate Committee on
Ethics and Elections

Brief*

***Conversion of Spring Elections to Fall of Odd-Numbered
Years***

Effective beginning January 1, 2015, Senate Sub. for Senate Sub. for HB 2141 would require fall elections in odd-numbered years for governing body members or other elected officials in most municipalities. Primary elections would be held on the first Tuesday in August and general elections on the first Tuesday following the first Monday in November of odd-numbered years.

Included in the new fall election requirement would be all of the following: County extension councils (Sections 4 and 5 of the bill); the consolidated governments of Wyandotte/Kansas City, Kansas (Section 6) and Greeley County/Tribune (Section 7); all cities (Sections 8, 30-36); the Board of Public Utilities (Section 9); drainage districts (Sections 10-14); school districts (Sections 20-28, 44); irrigation districts (Section 42); and library districts established under KSA 12-1236 *et seq.* (districts organized by one or more cities of the third class and townships or portions of townships) (New Section 1).

Currently, elections for the governing bodies of those entities are in April except for elections for irrigation district boards, which are in March. Primary elections for cities and

*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>

school districts currently precede the April elections by five weeks. The bill would specify primary elections would be held in August for extension district positions.

Attendant Changes

District Method vs. At-Large Elections

Voting Plan C for school districts would be eliminated, leaving two voting plans intact (Section 43). Voting Plan C under current law allows a qualified voter to vote in both the primary and general elections only for the member district candidate in the district in which the voter resides, as well as for the at-large member. Elections in entities currently electing officers by district (as opposed to only at-large) would otherwise remain the same.

When Terms Begin

The bill would move the first general start date for officials of affected municipalities to January 2016 (New Section 1). The bill also would establish a general start date for terms for several entities' offices, as follows:

- Cities – *from* the first regular meeting after the election is certified, *to* the second Monday in January following certification of the election (Section 36);
- Extension districts – upon election (changed *from* the first Tuesday in April *to* the first Tuesday following the first Monday in November) and subsequent qualification (Section 4);
- Drainage districts where the owners of three-fifths of the land are nonresidents – upon election (changed *from* the first Tuesday in April *to* the first

Tuesday following the first Monday in November)
(Section 12); and

- School districts – *from* July 1 following the general school election, *to* the second Monday in January (Section 28).

Filing Deadline and Fees

The bill would make the filing deadline for candidates for all affected municipalities June 1, to align with the new, odd-numbered-years, election dates and as outlined in KSA 25-205 (New Section 1, Sections 5, 11, 21, 26, 32, and 42).

The bill would delete all detailed requirements regarding filing fees for cities. The bill would replace this language with a general requirement that fees (or, in lieu of such fees, the number of voters who must sign a nomination petition) be established by ordinance passed by the city governing body (Section 33).

Filling Vacancies

Under the bill, vacancies in all affected municipalities' elected offices would be filled by the establishment of a joint district convention of both major parties (Democratic and Republican), at which the precinct committeepersons of both parties would vote to select the replacement (Section 40 and New Section 41; referred to in Sections 7, 9, and 27).

Ballot Arrangement and Rotation

The bill would require the arrangement of offices on the general ballot for municipal officers to be established by the Secretary of State after consulting with county election officers (Section 17).

For school board and city elections, the bill would require names appearing on both the primary and general

election ballots to be in alphabetical order according to the candidates' surnames (Sections 23 and 35).

Advance Ballots; Advance Voting List

The bill would specify application deadlines for advance ballots in odd-numbered years that would align with those in even-numbered years. The bill also would add general elections in odd-numbered years to the count of elections, after failure to vote at two consecutive of which a person's name would be removed from the permanent advance voting list. This provision would reduce from three years to two years the amount of time a permanent advance voter could miss voting before having his or her name removed (Section 19).

Publication of Election Notices

The bill would make the publication of notices regarding elections more uniform by adding drainage districts within a city or county, extension districts, school districts, and irrigation districts to the notice requirements in KSA 25-105 and 25-209 (Sections 5, 11, 25, and 42), and by removing a requirement that the county election officer prescribe the time of every publication notice applicable to any primary or general school district election (Section 24).

Form of City Government

The bill would allow any city to adopt its form of government by ordinance and change that form of government after four or more years (New Section 2). The bill would specify a city would retain existing ordinances and charter ordinances related to form of government except those related to the timing of city primary and general elections (New Section 3). The bill would repeal a number of statutes related to city adoption of various forms of government.

Additional Changes

The bill would allow any city to establish a board of public utilities (Section 8). Current law allows only a city with a population of 100,000 or more that owns and operates a municipal waterworks plant and a municipal electric light plant to establish such a board.

The bill would authorize the Secretary of State to adopt rules and regulations to ensure orderly general elections in both even- and odd-numbered years (Section 17).

The bill would make a number of technical changes, including changes to conform additional law to major changes in the bill.

Background

HB 2141, as it left the House, would have repealed obsolete statutes relating to the unification of school districts and made a related technical amendment to another statute. The 2013 Senate Committee on Ethics, Elections and Local Government deleted the original contents of the bill and inserted a significantly modified version of SB 109, which would have required every municipality to file an annual report regarding public funds used to hire or contract for the services of any lobbyist.

The bill was referred to the Committee on Interstate Cooperation in January 2014. In February, it was withdrawn from that committee and re-referred to the Senate Committee on Ethics and Elections. (Note: The issue of reporting on the use of public funds for lobbying was addressed in a modified manner in SB 343 and passed by the Senate in February 2014.) On March 13, the Senate Ethics and Elections Committee deleted the contents of the Senate substitute bill and replaced them with a significantly modified version of SB 211, to move municipal elections from spring to fall.

Background on SB 211

The hearing on SB 211 before the Senate Committee on Ethics and Elections occurred in March 2013. As introduced, that bill would have moved spring elections to the fall of even-numbered years and made all elections partisan. The primary proponent of the bill was Representative Huebert. Other proponents of moving spring elections to the fall included representatives of the Kansas Agribusiness Retailers Association, the Kansas Chamber of Commerce, the Kansas Family Policy Council, the Kansas Grain and Feed Association, the Kansas Republican Party, and the Office of the Secretary of State. Proponents stated enactment of the bill likely would increase voter turnout and reduce election costs. Opponents presenting testimony included representatives of a number of municipalities (including cities, counties, and public school districts) and organizations representing municipalities. Opponents' points included objections to making nonpartisan elections partisan; the benefits of voting by those specifically interested in, for example, a school district issue; times for taking office that coincide with workload demands; and the number and length of ballots that would be required. Neutral testimony was given by the Kansas Association of Broadcasters. Additional written opponent testimony was distributed to the Committee in 2014, from three county clerks, representatives of several cities, and the Kansas Association of Counties. Conferees, both proponent and opponent, had objections to or supported various portions of the bill (such as making all elections partisan or moving elections to the fall of off-numbered years) and suggested amendments.

The Senate Committee on Ethics and Elections amended SB 211 to do the following:

- Retain current law by eliminating the change from nonpartisan to partisan elections for several types of municipalities;

- Have vacancies in all municipality elected offices be filled by precinct committeepersons of the same party to which the individual leaving the office was registered, and to have precinct committeepersons of both parties make the replacement selection when the individual leaving office was not affiliated with either the Democratic or Republican party; and
- Eliminate one election option for school district elections: Voting Plan C under KSA 72-8003, which allows a qualified voter to vote in both the primary and general elections only for the member district candidate in the district in which the voter resides, as well as the at-large member. The stated purpose of eliminating this option was to simplify the ballot.

The Senate Committee then moved the amended version of SB 211 into Senate Sub. for Senate Sub. for HB 2141 and made the following additional amendments:

- Delete the Johnson County Charter Commission, the Johnson County Water District No. 1, and all community colleges from the bill (these entities would remain under current law, *i.e.*, with governing body and other elected officials' elections held in the spring of odd-numbered years.);
- Move fall elections from even-numbered to odd-numbered years for the entities noted in the bill;
- Have vacancies in all municipality elected offices be filled by precinct committeepersons of both parties; and
- Make the bill's provisions effective beginning in 2015.

The Division of the Budget fiscal note for SB 211 as introduced indicated that, according to the Kansas

Association of Counties, passage of the bill could save money in the odd-numbered years “but would cause additional expense in the even-numbered years from increased ballot costs and increased costs associated with the complexities of biennial elections.” The League of Kansas Municipalities was unable to determine the fiscal effect of the bill, if any. No revised fiscal note on the current version of the bill was available at the time of the Senate Committee action.