

Advance Voting and Election Laws, Election Tampering; Temporary Vacancy Appointment Process; HB 2332

HB 2332 creates and amends law concerning addresses maintained for registered voters, solicitation of advance voting ballot applications, alteration of election laws, and the crime of election tampering.

The bill establishes a process for the handling of temporary vacancies created by officers or employees of the State or political subdivisions of the State due to military service.

Addresses Maintained for Registered Voters

The bill requires each county election officer to maintain a residential address and mailing address for each registered voter if the mailing address is different from the residential address.

The bill requires the residential address of a registered voter to correspond to a physical location where the voter resides and not be a post office box or other address that does not correspond to a physical location that can be occupied. If the residential address does not meet these requirements, the voter is not validly registered.

The bill requires this information to be recorded in any electronic database maintained by each county election officer.

Solicitation of Advance Voting Ballot Applications

The bill requires any individual who solicits by mail a registered voter to file an application for an advance voting ballot, and in such mailing includes an application for an advance voting ballot, to include in such mailing:

- The name of the individual or organization causing such solicitation to be mailed;
- The name of the president, chief executive officer, or executive director, if an organization;
- The address of such individual or organization; and
- The statement: “Disclosure: This is not a government mailing. It is from a private individual or organization.”

The bill requires all such information to be included on both the exterior of the mailing and on each page contained within the mailing (except on the application for the advance voting ballot) in a clear and conspicuous label in 14-point or larger font.

The bill requires the advance voting ballot application included in such a mailing to:

- Be the official application for advance voting ballot by mail provided by the Secretary of State;
- Not have any portion of such application form completed prior to mailing; and
- Contain an envelope addressed to the appropriate county election office for the mailing of such application.

The bill prohibits the person mailing the application to the voter from directing the completed application be returned to such person.

The bill provides a violation of such requirements is a class C nonperson misdemeanor.

The bill exempts from such requirements the Secretary of State, any election official, county election offices, and the official protection and advocacy for voting access system for the State as provided in the Help America Vote Act of 2002, or any other entity required by federal law to provide information concerning elections and voting procedures. [Note: The Disability Rights Center of Kansas is the designated protection and advocacy system in Kansas.]

Additionally, the bill prohibits any person not a resident of Kansas or domiciled in Kansas from mailing or causing to be mailed an application for an advance voting ballot. The bill provides individuals may file a complaint with the Attorney General alleging a violation of this provision; such complaint must include the name of the person alleged to have violated this provision. The bill requires the Attorney General to investigate any allegations of violations under this provision and permits an action to be filed against any person found to have violated this provision. The bill provides any person who violates this provision is subject to a civil penalty of \$20, and each mailing of an application for an advance voting ballot constitutes a separate violation.

These provisions of the bill become effective January 1, 2022.

Alteration of Election Laws

The bill creates law to prohibit the Governor, the Executive Branch, and the Judicial Branch from altering election laws.

The bill requires approval from the Legislative Coordinating Council prior to the Secretary of State entering into consent decrees with any court. The bill specifies that it could not be construed to limit or otherwise restrict the judicial power of the state government in the exercise of any of its constitutional powers.

The bill contains a severability clause regarding these provisions.

Election Tampering

The bill expands the crime of election tampering to include:

- Changing or attempting to change, alter, destroy, or conceal any vote cast by paper ballot or computer;
- Changing or attempting to change any vote by manipulating computer hardware or software, election machines, wireless or cellular transmissions, or vote tabulation methods; or
- Knowingly producing false vote totals.

The bill clarifies the crime of election tampering by making or changing any election record does not include making or changing any election record by a person who is lawfully carrying out an election duty.

Temporary Vacancy Appointment Process

If a temporary vacancy is created by officers or employees of the State or political subdivisions of the State due to military service, the bill requires, upon a determination by such officer that such officer's military service requires a temporary appointment for such officer's vacancy, such officer to submit an approved form to be filed:

- With the Secretary of State, if the officer is an elected state official;
- With the county clerk containing the largest portion of the territory of the political subdivision, if the officer is an elected official of a political subdivision; or
- With their human resources department or other official as determined by the officer's employer, if the officer is an employee who is not an elected official.

The bill also requires such officer to submit an approved form with the respective official or department upon such officer's return from military service.

The bill states, if the officer's military service creates a temporary vacancy and the officer has filed the approved form as outlined above:

- Such temporary vacancy must be appointed and temporarily filled by the appointive authority for the partisan elective office, if the officer is an elected official; and
- Such temporary vacancy may be appointed and temporarily filled by the appointive authority for the employee, if the employee is not an elected official.

The bill states individuals appointed by the process outlined above will hold the office or position they are appointed to during the temporary vacancy.

The bill expands the definition of "military service" to add active service in the Air Force, Coast Guard, Kansas Air National Guard, Kansas Army National Guard, Space Force, or any

branch of the U.S. military reserves to active service in the Army, Navy, and Marine Corps, as in current law.