

As Amended by Senate Committee

{As Amended by House Committee of the Whole}

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Session of 2017

HOUSE BILL No. 2158

By Representative Miller

1-25


Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 25-1132 is hereby amended to read as follows: 25-1132.

(a) All advance voting ballots which are received in the office of the county election officer {or the any polling place} within the county not later than the hour for closing of the polls on the date of any election specified in subsection (b) of K.S.A. 25-1122(f), and amendments thereto, shall be delivered by the county election officer to the appropriate special election board provided for in K.S.A. 25-1133, and amendments thereto.

(b) Subject to the deadline for receipt by the office of the county election officer as set forth in this subsection, all advance voting ballots received by mail by the office of the county election officer after the closing of the polls on the date of any election specified in K.S.A. 25-1122(f), and amendments thereto, which are postmarked or are otherwise indicated by the United States postal service to have been mailed on or before the close of the polls on the date of the election, shall be delivered by the county election officer to a special election board or the county board of canvassers, as determined by the secretary of state, for canvassing in a manner consistent, as nearly as may be, with other advance voting ballots. The deadline for the receipt by mail of the advance voting ballots by the office of the county election officer shall be the last delivery of mail by the United States postal service on the fourth third day following the date of the election, unless additional time is permitted by the secretary. The secretary of state shall adopt rules and regulations to implement this subsection.

Sec. 2. K.S.A. 25-1133 is hereby amended to read as follows: 25-1133. (a) The county election officer of every county, which does not use voting machines, optical scanning systems or electronic or electromechanical voting systems, shall establish a special election board.
The special election board shall consist of the election board members in the precinct in which is located the office of the county election officer or the members of such additional election boards of the county as the county election officer may designate. The special election board shall meet at the voting place in the precinct in which is located the office of the county election officer on election day, or as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.

(b) In counties where voting machines, optical scanning systems or electronic or electromechanical voting systems are used, the county election officer shall appoint a special election board consisting of at least three members. Such members shall be registered voters of the county. The special election board shall meet in the office of the county election officer on election day or at such time before election day as the county election officer deems necessary, or as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.

Sec. 3. K.S.A. 25-1134 is hereby amended to read as follows: 25-1134. (a) The county election officer in counties which have a special election board established under K.S.A. 25-1133, and amendments thereto, shall deliver all advance voting ballots to the special election board when the special election board convenes, and thereafter as advance voting ballots are received during election day, until the time for closing of the polls, or as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.

(b) The special election board may conduct the original canvass of advance voting ballots when the board convenes, but shall not complete final tabulation prior to election day.

Sec. 4. K.S.A. 25-1136 is hereby amended to read as follows: 25-1136. (a) The vote of any advance voting voter may be challenged in the same manner as other votes are challenged, as nearly as may be, and the judges of the special election board shall determine the validity of each advance voting ballot. Whenever the judges determine that the form accompanying an advance voting ballot is insufficient, or that the voter is not a registered voter, or the challenge is otherwise sustained, the advance voting ballot envelope shall not be opened. In all such cases, the judges shall endorse on the back of the envelope the word "provisional" and state the reason for sustaining the challenge.

(b) Any advance voting ballot envelope which has not been signed shall not be opened, and no vote on the ballot therein shall be counted. The envelope or ballot shall be challenged in the same manner in which other votes are challenged.

(c) Whenever it shall be made to appear to the judges of a special
election board by sufficient proof that an advance voting voter has died, the envelope containing the advance voting ballot of such the deceased voter shall not be opened. In all such cases, the judges shall endorse on the back of the envelope the word "provisional" and the reason for sustaining the challenge.

(d) If objection is made to an advance voting ballot because of form, condition, or marking thereof, the ballot shall be marked "void" if the judges uphold the objection to the entire ballot, and otherwise shall be marked on the back thereof, "objected to" with a statement of the substance of the objection.

(e) Void, provisional and objected to advance voting ballots shall be transmitted to the county election officer in the same manner as personally cast provisional ballots are transmitted but shall be placed in separate envelopes or sacks, appropriately labeled and sealed. Votes contained in void and provisional advance voting ballots shall not be included in the total of votes certified by the special election board. Void, provisional and objected to advance voting ballots shall be reviewed by the board of county canvassers, and such the board shall finally determine the acceptance or rejection of each void, provisional or objected to ballot.

(f) Procedures for canvassing and challenging advance voting ballots received by mail after the closing of the polls pursuant to K.S.A. 25-1132(b), and amendments thereto, shall be as set forth in rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.

Sec. 5. K.S.A. 2016 Supp. 25-3107 is hereby amended to read as follows: 25-3107. (a) At the time of commencement of any canvass by the county board of canvassers the county election officer shall present to the county board of canvassers the preliminary abstracts of election returns, together with the ballots and records returned by the election boards and, as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto, advance voting ballots received after the closing of the polls pursuant to K.S.A. 25-1132(b), and amendments thereto. The county board of canvassers shall inspect and check the records presented by the county election officer and shall hear any questions which the county election officer believes appropriate for determination of the board. The county board of canvassers shall do what is necessary to obtain an accurate and just canvass of the election and shall finalize the preliminary abstract of election returns by making any needed changes, and certifying its authenticity and accuracy. The certification of the county board of canvassers shall be attested by the county election officer. Neither the county board of canvassers nor the county election officer shall open or unseal sacks or envelopes of ballots, except as is required by K.S.A. 25-409, 25-1136 and 25-1337, and
amendments thereto, or other specific provision of law or as is authorized to carry out a recount under subsection (b), or as authorized under subsection (e).

(b) If a majority of the members of the county board of canvassers shall determine that there are manifest errors appearing on the face of the poll books of any election board, which might make a difference in the result of any election, or if any candidate shall request the recount of the ballots cast in all or in only specified voting areas for the office for which such the person is a candidate, or if any registered elector who cast a ballot in a question submitted election requests a recount in all or only specified voting areas to determine the result of the election, the county board of canvassers shall cause a special election board appointed by the county election officer to meet under the supervision of the county election officer and recount the ballots with respect to any office or question submitted specified by the county board of canvassers or requested by—such the candidate or elector. If a recount is required in a county that uses optical scanning systems as defined in K.S.A. 25-4601 et seq., and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting—such the recount. The county election officer shall not be a member of—such the special election board. Before the special election board meets to recount the ballots upon a properly filed request, the party who makes the request shall file with the county election officer a bond, with security to be approved by the county or district attorney, conditioned to pay all costs incurred by the county in making—such the recount. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, or if as a result of the recount a question submitted is overturned, no action shall be taken on the person's bond and the county shall bear the costs incurred for the recount. Any recount must be initiated not later than the following day and shall be completed not later than 5 p.m. on the fifth day following the filing of the request for a recount, including Saturdays, Sundays and holidays. Upon completion of any recount under this subsection, the election board shall package and reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811, and amendments thereto, for time
actually spent making the recount.

(c)(1) The provisions of this subsection shall apply to candidates at any election for:

(A) Any state or national office elected on a statewide basis;
(B) the office of president or vice president of the United States;
(C) the office of members of United States house of representatives;
(D) office of members of state senate or house of representative whose district is located in two or more counties; and
(E) office of members of state board of education.

(2) Any candidate may request a recount in one or more counties. Any such recount must be requested in writing and filed with the secretary of state not later than 5 p.m. on the second Friday following the election. The request shall specify which counties are to be recounted. If a recount is required in a county that uses optical scanning systems as defined in K.S.A. 25-4601, and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting the recount. Except as provided by this subsection and subsection (d), the person requesting the recount shall file with the secretary of state a bond, with security to be approved by the secretary of state, conditioned to pay all costs incurred by the counties and the secretary of state in making the recount. The amount of the bond shall be determined by the secretary of state. A candidate described in paragraphs (D) and (E) of subsection (c)(1) may post a bond as provided by subsection (b) in lieu of the bond required by this subsection.

In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, no action shall be taken on the candidate's bond and the counties shall bear the costs incurred for the recount.

(3) The secretary of state immediately shall notify each county election officer affected by the recount and any candidate involved in the election for which such the recount is requested. If the candidate cannot be reached, then the secretary of state shall notify the state chairperson of such candidate's party. Any such recount shall be conducted under the supervision of the county election officers at the direction of the secretary of state, and shall be initiated not later than the following day and shall be completed not later than 5 p.m. on the fifth day following the filing of the request for a recount, including Saturdays, Sundays and holidays. Each county election officer involved in the recount shall appoint a special election board to recount the ballots. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811, and amendments thereto, for time actually spent making the recount. Upon completion of any recount under this subsection, the special election board in each
county shall package and reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The county election officer in each county immediately shall certify the results of the recount to the secretary of state.

(d) (1) The provisions of this subsection shall apply to candidates at general elections for:

(A) Any state or national office elected on a statewide basis;
(B) the office of president or vice president of the United States;
(C) the office of members of United States house of representatives;
(D) office of members of state senate or house of representative; and
(E) office of members of state board of education.

(2) Whenever the election returns reflect that a candidate for office was defeated by ½ of 1% or less of the total number of votes cast and if such the candidate requests a recount in one or more counties of the ballots, the state shall bear the cost of any recount performed using the method by which such the ballots were counted originally.

(3) Not later than 60 days following a recount conducted pursuant to this subsection, the board of county commissioners of each county in which the recount occurred shall certify to the secretary of state the amount of all necessary direct expenses incurred by the county. Payment for such expenses shall be made to the county treasurer of the county upon warrants of the director of accounts and reports pursuant to vouchers approved by the secretary of state. Upon receipt of such payment and reimbursements, the county treasurer shall deposit the entire amount thereof in the county election fund, if there is one and if there is not then to the county general fund.

(4) The secretary of state, with the advice of the director of accounts and reports, shall determine the correctness of each amount certified under this section and adjust any discrepancies discovered before approving vouchers for payment to any county.

(e) Procedures for canvassing and challenging advance voting ballots received by mail after the closing of the polls pursuant to K.S.A. 25-1132(b), and amendments thereto, shall be as set forth in rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.

Sec. 6. K.S.A. 2016 Supp. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any registered voter may file with the county election officer where the person is a resident, or where the person is authorized by law to vote as a former precinct resident, an application for an advance voting ballot. The signed application shall be transmitted only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

(b) If the registered voter is applying for an advance voting ballot to
be transmitted in person, the voter shall provide identification pursuant
to K.S.A. 25-2908, and amendments thereto.

(c) If the registered voter is applying for an advance voting ballot to
be transmitted by mail, the voter shall provide with the application for an
advance voting ballot the voter's current and valid Kansas driver's
license number, nondriver's identification card number or a photocopy
of any other identification provided by K.S.A. 25-2908, and amendments
thereto.

(d) A voter may vote a provisional ballot according to K.S.A. 25-
409, and amendments thereto, if:

(1) The voter is unable or refuses to provide current and valid
identification; or

(2) the name and address of the voter provided on the application
for an advance voting ballot do not match the voter's name and address
on the registration book. The voter shall provide a valid form of
identification as defined in K.S.A. 25-2908, and amendments thereto, to
the county election officer in person or provide a copy by mail or
electronic means before the meeting of the county board of canvassers.
At the meeting of the county board of canvassers the county election
officer shall present copies of identification received from provisional
voters and the corresponding provisional ballots. If the county board of
canvassers determines that a voter's identification is valid and the
provisional ballot was properly cast, the ballot shall be counted.

(e) No county election officer shall provide an advance voting ballot
to a person who is requesting an advance voting ballot to be transmitted
by mail unless:

(1) The county election official verifies that the signature of the
person matches that on file in the county voter registration records.
Signature verification may occur by electronic device or by human
inspection. In the event that the signature of a person who is requesting
an advance voting ballot does not match that on file, the county election
officer shall attempt to contact the person and shall offer the person
another opportunity to provide the person's signature for the purposes of
verifying the person's identity. If the county election officer is unable to
reach the person, the county election officer may transmit a provisional
ballot, however, such provisional ballot may not be counted unless a
signature is included therewith that can be verified; and

(2) the person provides such person's full Kansas driver's license
number, Kansas nondriver's identification card number issued by the
division of vehicles, or submits such person's application for an advance
voting ballot and a copy of identification provided by K.S.A. 25-2908,
and amendments thereto, to the county election officer for verification.
If a person applies for an advance voting ballot to be transmitted by mail
but fails to provide identification pursuant to this subsection or the
identification of the person cannot be verified by the county election
officer, the county election officer shall provide information to the
person regarding the voter rights provisions of subsection (d) and shall
provide the person an opportunity to provide identification pursuant to
this subsection. For the purposes of this act, Kansas state offices and
offices of any subdivision of the state will allow any person seeking to
vote by an advance voting ballot the use of a photocopying device to
make one photocopy of an identification document at no cost.

(f) Applications for advance voting ballots to be transmitted to the
voter by mail shall be filed only at the following times:

(1) For the primary election occurring on the first Tuesday in
August in both even-numbered and odd-numbered years, between April
1 of such year and the last business day Tuesday of the week preceding
such primary election.

(2) For the general election occurring on the Tuesday following the
first Monday in November in both even-numbered and odd-numbered
years, between 90 days prior to such election and the last business day
Tuesday of the week preceding such general election.

(3) For question submitted elections occurring on the date of a
primary or general election, the same as is provided for ballots for
election of officers at such election.

(4) For question submitted elections not occurring on the date of a
primary or general election, between the time of the first published
notice thereof and the last business day Tuesday of the week preceding
such question submitted election, except that if the question submitted
election is held on a day other than a Tuesday, the county election officer
shall determine the final date for mailing of advance voting ballots, but
such date shall not be more than three business days one week before such
election.

(5) For any special election of officers, at such time as is specified
by the secretary of state.

(6) For the presidential preference primary, between January 1 of the
year in which such primary is held and the last business day of the week
preceding such primary election.

The county election officer of any county may receive applications
prior to the time specified in this subsection and hold such applications
until the beginning of the prescribed application period. Such
applications shall be treated as filed on that date.

(g) Unless an earlier date is designated by the county election
office, applications for advance voting ballots transmitted to the voter in
person in the office of the county election officer shall be filed on the
Tuesday next preceding the election and on each subsequent business
day until no later than 12 noon on the day preceding such election. If
the county election officer so provides, applications for advance voting
ballots transmitted to the voter in person in the office of the county
election officer also may be filed on the Saturday preceding the election.
Upon receipt of any such properly executed application, the county
election officer shall deliver to the voter such ballots and instructions as
are provided for in this act.

An application for an advance voting ballot filed by a voter who has a
temporary illness or disability or who is not proficient in reading the
English language or by a person rendering assistance to such voter may
be filed during the regular advance ballot application periods until the
close of the polls on election day.

The county election officer may designate places other than the
central county election office as satellite advance voting sites. At any
satellite advance voting site, a registered voter may obtain an application
for advance voting ballots. Ballots and instructions shall be delivered to
the voter in the same manner and subject to the same limitations as
otherwise provided by this subsection.

(h) Any person having a permanent disability or an illness which
has been diagnosed as a permanent illness is hereby authorized to make
an application for permanent advance voting status. Applications for
permanent advance voting status shall be in the form and contain such
information as is required for application for advance voting ballots and
also shall contain information which establishes the voter's right to
permanent advance voting status.

(i) On receipt of any application filed under the provisions of this
section, the county election officer shall prepare and maintain in such
officer's office a list of the names of all persons who have filed such
applications, together with their correct post office address and the
precinct, ward, township or voting area in which the persons claim to be
registered voters or to be authorized by law to vote as former precinct
residents and the present resident address of each applicant. Names and
addresses shall remain so listed until the day of such election. The
county election officer shall maintain a separate listing of the names
and addresses of persons qualifying for permanent advance voting
status. All such lists shall be available for inspection upon request in
compliance with this subsection by any registered voter during regular
business hours. The county election officer upon receipt of the
applications shall enter upon a record kept by such officer the name and
address of each applicant, which record shall conform to the list above
required. Before inspection of any advance voting ballot application list,
the person desiring to make the inspection shall provide to the county
election officer identification in the form of driver's license or other
reliable identification and shall sign a log book or application form
maintained by the officer stating the person's name and address and
showing the date and time of inspection. All records made by the county
election officer shall be subject to public inspection, except that the voter
identification information required by subsections (b) and (c) and the
identifying number on ballots and ballot envelopes and records of such
numbers shall not be made public.

(j) If a person on the permanent advance voting list fails to vote in
four consecutive general elections held on the Tuesday succeeding the
first Monday in November of each even-numbered and odd-numbered
year, the county election officer may mail a notice to such voter. The
notice shall inform the voter that the voter's name will be removed from
the permanent advance voting list unless the voter renews the
application for permanent advance voting status within 30 days after the
notice is mailed. If the voter fails to renew such application, the county
election officer shall remove the voter's name from the permanent
advance voting list. Failure to renew the application for permanent
advance voting status shall not result in removal of the voter's name
from the voter registration list.

(k) The secretary of state may adopt rules and regulations in order
to implement the provisions of this section and to define valid forms of
identification.

Sec. 7. K.S.A. 25-1132, 25-1133, 25-1134 and 25-1136 and K.S.A.
2016 Supp. 25-1122 and 25-3107 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its
publication in the statute book.