

Elections—Eligibility for Candidacy; Vote Audits; Canvass Date; Voting Machines; Signature if Voter Has Disability; HB 2539

HB 2539 amends the qualifications for candidacy for several statewide elected offices, creates law requiring manual audits of elections, amends law related to the timing of the election canvasses and to electronic voting machines, and amends provisions in election law concerning signatures if the voter has a disability that prevents the individual from signing.

Candidacy Qualifications for Certain Statewide Offices

The bill requires every candidate for the office of Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, or State Commissioner of Insurance to be a qualified elector of Kansas by the deadline for filing for such office.

The bill also adds these requirements for certain candidates:

- Age 25 or older when becoming a candidate for the office of Governor and Lieutenant Governor; and
- Licensed to practice law in Kansas to be a candidate for the Office of Attorney General.

These provisions take effect January 1, 2019.

Advance Voting Signatures and Forms

Signature verification. The bill states verification of the voter's signature by the county election official on an application for an advance ballot shall not be required if the voter has a disability preventing the voter from signing.

Assistance with voting. Voters with any disability that prevents them from being able to provide a signature may request assistance in signing an application for or marking an advance ballot, or signing an application or the form on the ballot envelope. The bill also exempts an individual with a disability that prevents the person from writing or signing from providing written permission for another individual to return the person's ballot to the county election officer.

The bill requires the individual providing assistance to submit a written statement, signed by the individual, to the county election officer with the application or ballot. This statement will affirm that the assisting individual has not influenced the voter and the assisting individual has completed the application, ballot, or signed the application or ballot form as the voter instructed.

Failure of the assisting individual to complete or sign these documents as the voter instructed becomes a level 9 nonperson felony.

Advance ballot envelopes. The bill requires the Office of the Secretary of State to prescribe the general format for advance voting ballot envelopes. The bill requires the envelope

to include a signature block for the advance voter; a signature block for the person, if any, assisting the advance voter; and a signature block for a person, if any, who signs the advance voting ballot envelope on behalf of an advance voter, when the advance voter is physically unable to sign the envelope.

The bill requires the advance ballot envelope contain the following statement after the signature block provided for the person who signs the advance ballot envelope on behalf of an advance voter who is physically unable to do so:

My signature constitutes an affidavit that the person for whom I signed the envelope is a person who is physically unable to sign such envelope. By signing this envelope, I swear this information is true and correct, and that signing an advance ballot envelope under false pretenses shall constitute the crime of perjury.

The bill includes signing the above statement under false pretenses in the crime of perjury.

Election Audit Requirements

The bill requires, after any election in which the county board of canvassers certifies the results, the county election officer to conduct a manual audit or tally of each vote cast in 1.0 percent of all precincts, with a minimum of one precinct located within the county. The precinct(s) audited will be selected randomly after the election. The requirement for audit or tally applies regardless of the method of voting used.

The bill specifies these contested races will be audited:

- In presidential election years: one federal race, one state legislative race, and one county race;
- In even-numbered, non-presidential election years: one federal race, one statewide race, one state legislative race, and one county race; and
- In odd-numbered election years: two local races, selected randomly after the election.

The bill requires the audit take place before the county board of canvassers meets to certify the election results. The bill requires the audit be performed manually and review all paper ballots selected for audit in accordance with the provisions of the bill. A sworn election board of bipartisan trained members is required to perform the audit in a public setting. The county election officer will determine the members of the board. The bill states any candidate or entity authorized to appoint a poll agent may appoint a poll agent for the audit.

The bill requires notice of the time and location of the audit be provided on the official county website at least five days before the audit takes place.

The results of the audit will be compared to the unofficial election night returns, and the bill requires a report be submitted to the county election officer and the Office of the Secretary of State before the county board of canvassers meets. In the case of a discrepancy between the audit and the unofficial returns that cannot be resolved, the county election officer or Secretary of State is authorized to require audits of additional precincts.

The Secretary of State is required to adopt rules and regulations governing the conduct and procedure of election audits, including the random selection of precincts and offices involved in audits.

The bill specifies the audit requirements apply to all counties for elections occurring after January 1, 2019.

Timing of Election Canvasses

The bill allows the county election officer to move the canvass for any election held on a Tuesday to any business day not later than 13 days after any election. The bill requires notice of the time and place of the canvass to be published in a newspaper of general circulation in the county prior to the canvass. The bill authorizes the canvass of any election not held on a Tuesday to be held not later than the 13th day following the election. Former law allowed the canvass for elections held on Tuesday to be moved to the second Thursday following the election with prior notice, and required the canvass for any election not held on Tuesday be held no later than the fifth day following the election.

Requirements for Electronic Voting Systems

The bill prohibits any board of county commissioners from purchasing, leasing, or renting any direct recording electronic voting system after the effective date of the bill.

The bill requires any electronic or electromechanical voting system purchased, leased, or rented by a board of county commissioners after the effective date of the bill to:

- Provide a paper record of each vote cast at the time the vote is cast; and
- Have the ability to be tested both before an election and prior to the canvass date. The ability to match the paper record of the machine to the vote total contained in the machine will be included in the testing.

The bill does not amend additional requirements in continuing law for electronic or electromechanical voting systems.