

SESSION OF 2017

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2158**

As Amended by House Committee of the Whole

**Brief\***

HB 2158, as amended, would revise deadlines for acceptance of advance voting ballots. For those received by mail, the bill would require all such advance ballots be delivered by the county election officer to the county board of canvassers or a special election board, in a manner as consistent as possible with other advance ballots, if the following conditions are met:

- The ballots are postmarked or otherwise indicated by the U.S. Postal Service (USPS) to have been mailed on or before the date of the election; and
- The ballots are received by the deadline established in the bill for receipt by the county election office of such mailed ballots: the last USPS mail delivery on the third day following the date of the election, unless additional time is permitted by the Secretary of State.

The bill would also add a requirement that all advance voting ballots received at the polling place not later than the hour for closing of the polls on any election date for all elections specified in KSA 25-1122(f) (all primary, general, and question submitted elections, special elections of officers, and presidential preference primaries) be delivered by the county election officer to the appropriate special election board. Current law requires only those advance ballots received in the county election office to be treated in this manner.

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\*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>

The bill would make conforming changes in relevant statutes and also would require the Secretary of State to adopt rules and regulations to implement the new provisions.

## **Background**

The bill was introduced by Representative Miller. Proponents at the hearing before the House Committee on Elections included Representative Miller, representatives of the League of Women Voters and the Office of the Secretary of State, and the Douglas County Clerk. Conferees stated the bill is identical to 2017 SB 8, which was assigned to a subcommittee of the Senate Committee on Ethics, Elections and Local Government and for which a subcommittee report has been issued.

Conferees also noted, in 2011-2012, the USPS began reducing the number of mail processing centers and making other service reductions, resulting in mail being routed to larger regional centers. According to the testimony, a number of Kansas processing centers were closed and this has affected several Kansas areas; for example, the processing of Topeka-area mail was moved from north Topeka to Kansas City, Missouri. Conferees indicated mail processing changes in other Kansas areas include the following:

- The cities of Hays, Salina, Dodge City, and Hutchinson – moved to Wichita;
- Liberal – moved to Abilene, Texas; and
- Colby – moved to North Platte, Nebraska.

Conferees noted moves such as these result in mail delays, which have affected whether advance ballots are being counted. According to the testimony, 94 ballots postmarked by November 8, 2016, in Shawnee County were not counted for the general election.

Also according to the testimony, seven other states have enacted laws that provide for advance ballots postmarked on or before election day to be counted after election day.

The Douglas County Clerk encouraged the House Committee to consider additional changes as well:

- Changing the deadline to apply for a mail ballot (currently KSA 2016 Supp. 25-1122 establishes the Friday before an election as the application deadline, which the USPS has indicated is an unserviceable deadline);
- Amending KSA 2016 Supp. 25-2908(f) to allow mail ballots to be returned to the polling place on election day. The statute currently requires the polling place clerk or judge to void a mail ballot returned to a polling place and the voter be issued a provisional ballot, which increases the number of provisional ballots processed and causes voter confusion.

The House Committee amended the bill to do the following:

- Change the deadline for receipt by the county election office of mailed advance ballots, from the last USPS mail delivery on the *fourth* day following the date of the election, to the last USPS mail delivery on the *third* day following the date of the election; and
- Clarify the indication by the USPS that an advance ballot was mailed on or before the date of the election could include a USPS indication other than the traditional postmark.

The House Committee of the Whole amended the bill by adding the requirement that all advance voting ballots received at the polling place not later than the hour for closing

of the polls on any election date for all specified elections be delivered by the county election officer to the appropriate special election board.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Secretary of State indicated enactment of the bill would have no fiscal effect on the agency but could have a fiscal effect on Kansas counties that need to create a special election board. According to the agency, the Secretary of State and most county election offices would prefer that a special election board be appointed to handle ballots appropriately, since county boards of canvassers are not trained to handle actual ballots. However, the Kansas Association of Counties stated enactment of the original bill would have no fiscal effect on Kansas counties.