

SESSION OF 2008

CORRECTED

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 562**

As Agreed to April 2, 2008

Brief*

SB 562 addresses the election topics of mobile voting sites, inactive voters in mail ballot elections, local office primary elections, and political yard signs. Details of the bill follow.

Mobile Voting Sites

The bill would establish a process whereby, beginning on January 1, 2010, every nursing facility, assisted living facility, and hospital-based long-term care unit could serve as a voting place for its residents who are registered to vote. Specifically, the bill would:

- Permit the county election officer to contact the administrator or operator of each such facility, at least 60 days before any election other than a mail ballot election, to request that the registered voters in the facility be offered the opportunity to vote there. If the administrator agrees, a mutually agreed upon date for the voting would be established.
- Require the county election officer to appoint a special election board to administer the ballots to the residents of a participating facility. Qualifications for the board, consisting of two or more members, are established in the bill.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/klrd>

- Require the special election board for each participating facility to follow advance voting procedures, to the extent practicable.
- Permit any facility resident who is a registered voter to request a ballot from the special election board. The special election board may deliver an advance ballot to any voter who has received permanent advance voting status, instead of mailing the ballot.
- Permit any voter to receive assistance from a special election board member or from a person of the voter's choice, if the person rendering assistance signs a written statement as required by law.
- Require the special election board to protect the privacy of each voter and seal each ballot in an envelope or deposit it in a locked ballot box. Security measures also would be required when direct recording electronic voting systems are used. Voting materials must be returned to the county election officer at the close of voting at the facility. Tabulation procedures are specified in the bill.
- Require the county election office to post the appropriate notice at each participating facility when it is serving as a mobile voting site.
- Define the terms "nursing facility," "assisted living facility," and "hospital-based long-term care unit."
- Make participating facilities subject to the provisions of the electioneering crime statute, during the time when the facility is serving as a mobile voting site.

Mail Ballots and Inactive Voters

With respect to mail ballot elections, the bill would prohibit a county election officer from mailing ballots to any inactive voter who:

- Appears to have moved to a location outside the county in which the voter currently is registered or for whom mail cannot be forwarded, based on information provided by the postal service; and
- Has been mailed a confirmation notice as required when the postal service provides such information.

A provision exists in the bill for requesting a replacement ballot when the inactive voter believes he or she is entitled to vote in the election. These provisions would become effective upon publication in the *Kansas Register*.

Local Primary Elections

Beginning on July 1, 2008, the bill would revise current requirements regarding when a primary election may be held for school district boards, city officers, and community college district boards. For all three types of entities:

- A primary election would be prohibited:
 - Unless, by holding the primary, two or more persons will be eliminated as candidates for office.
 - If there are not more than three times the number of candidates as there are officers or board members to be elected. If there are not more than three times the number of candidates, the candidates' names would be required to appear on the general election ballot.
- A primary election must be held if needed to reduce the number of candidates for each office in the general election to no more than three candidates.

With respect to school district and community college district boards, the bill would delete the current language requiring the entities to hold primary elections under certain circumstances, which differ depending on whether the district

elects members from member districts or at large. Regarding city officer elections, the bill would revise the number of candidates that must be eliminated and the total number of candidates existing in order to hold a primary election.

Political Yard Signs and Restrictive Covenants

The bill would invalidate any provision of a restrictive covenant prohibiting the display of political yard signs, which are less than six square feet, 45 days before an election or two days after the election. The bill would apply to any restrictive covenant in existence on the day the act becomes effective, which is upon publication in the *Kansas Register*.

Conference Committee Action

The Conference Committee accepted the House amendments to the bill and further amended it to add the contents of the following bills:

- SB 519 as amended by the House Committee on Elections and Governmental Organization.
- HB 2973 as amended by the House Committee on Elections and Governmental Organization.
- SB 136 as recommended by the Senate Committee on Elections and Local Government, but with a change in the effective date to publication in the *Kansas Register*.

Background

Testifying in favor of the original bill were representatives of the Office of the Secretary of State, the Kansas Office of the State Long-Term Care Ombudsman, the Shawnee and Wyandotte county election offices, and the Kansas Health Care Association. A Johnson County Election Office representative

testified in support but offered suggested amendments. A representative of the Kansas Department on Aging suggested amendments as well.

The Senate Committee amended the bill to make it effective on January 1, 2010.

The Senate Committee of the Whole amended the bill to:

- Replace the requirement with permissive language regarding contact of the facilities by the county election officer;
- Exempt swing beds within the affected facilities; and
- Make a technical change.

The House Committee amended the bill to:

- Change the names of facilities that may participate to include adult care homes, and exclude nursing facilities and assisted living facilities;
- Make participating facilities subject to the provisions of the electioneering crime statute, during the time when the facility is serving as a polling place;
- Require posting of appropriate notice at participating facilities;
- Exclude mail ballot elections; and
- Make technical and clarifying changes.

The House Committee of the Whole changed the facility names back to nursing facilities and assisted living facilities (from adult care homes).

According to the fiscal note, passage of SB 562 would have no fiscal effect on the operations of the Secretary of State's Office. However, county election offices would incur additional costs as the result of this bill. The costs would

depend on a number of factors related to population and the number of participating facilities located in the county. The Office of the Secretary of State estimates that, based on a sample survey of county election officers, the cost of this program could be \$88,000 per election if all eligible facilities in the state opt to participate.

With respect to **SB 519**, by law, according to the Secretary of State official who testified, election officers must cancel inactive registrations after the second succeeding federal general election that occurs after mailing the confirmation notice. But these records are carried on the registration list for several years pending their removal. The resultant printing and mailing of ballots to inactive voters is expensive, he said.

The Secretary of State representative and an official from the Wyandotte County Election Office testified in favor of the bill. The Secretary of State official indicated the measure would reduce the costs associated with printing and mailing ballots. He explained that the bill's description of an inactive voter was derived from the National Voter Registration Act (NVRA) provision dealing with the same issue. The impetus behind the NVRA provision, he testified, was to give the voter an opportunity to confirm the address change or to reaffirm the voter's residence if an error had occurred.

The Senate Committee amendment changed the bill's effective date.

The House Committee amended the bill to clarify that inactive voters include those for whom notice was received from the postal service that the forwarding order had expired or that the individual had moved and left no forwarding address.

The fiscal note reiterates the Secretary of State's Office projection that county election officers and the local jurisdictions conducting special mail ballot elections would experience some reduction in expenditures resulting from the bill's passage. However, the amount of reduction cannot be estimated, as it

depends on the size of the jurisdiction and the number of mail ballot elections conducted in each jurisdiction.

With respect to **HB 2973**, a representative of the Office of the Secretary of State and two county election officers testified in favor of the bill, stating the bill would result in cost savings at the local level.

The House Committee amended the bill to require a primary election be held if needed to reduce the number of candidates in the general election to no more than three candidates.

According to the fiscal note, passage of the bill would have no fiscal effect on the state budget but would affect Kansas cities and counties because it would allow them to hold fewer primary elections, thereby reducing election costs.

With respect to **SB 136**, Senator Phillip Journey testified in support of the bill, stating several had complained at the restriction of their First Amendment right with respect to displaying the signs in neighborhoods with these restrictive covenant provisions. No opponents testified.

The fiscal note indicated passage of SB 136 would have no fiscal effect.

voters; elections; long-term care facilities