

SESSION OF 2011

**SUPPLEMENTAL NOTE ON
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2080**

As Recommended by Senate Committee on
Ethics and Elections

Brief*

Senate Sub. for HB 2080 would make various changes to election law. The bill combines provisions from several bills, as noted below.

Campaign contribution limits for State Board of Education (Section 1; SB 17). The bill would increase the campaign contribution limit for State Board of Education candidates from \$500 to \$1,000 for each primary or general election. This limit would apply to these types of contributions:

- The aggregate amount contributed to a candidate, the candidate's candidate committee, and all party committees and political committees dedicated to the candidate's campaign, by any political committee or any person except a party committee, the candidate, or the candidate's spouse.
- The amount contributed by each individual party committee of the same political party other than a national party committee to any candidate for office, for any primary election at which two or more candidates are seeking the party's nomination.

Expansion of voting opportunities for certain voters (Sections 2, 3, and 4; SB 103). The bill would expand voting opportunities for certain absentee federal services voters and military personnel or their family members. The bill would

*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>

allow overseas voters to vote a full ballot at all elections; apply for, receive and return their ballots by electronic means; and vote a write-in ballot, if needed.

Expansion of Federal Service Voters' Ballots

The bill would expand the ballot forms for absentee voters living overseas who are called federal service voters under the federal Uniformed Overseas Citizens Absentee Voting Act (UOCAVA). Current state law excludes overseas absentee ballots from including elections involving local questions, state constitutional amendments, and political party precinct committee positions. The bill would eliminate these exclusions and clarify the ballot. If the bill is enacted, ballots for these voters would include all offices and any proposition or question for which the voter otherwise would be entitled to vote.

E-balloting for Certain Federal Services Voters and Military Personnel

The bill would allow certain federal services voters (*i.e.*, those residing outside the United States or those who are members of the United States armed forces or a spouse or dependent of a member of the armed forces and a qualified elector who cannot vote timely by mail) to apply for registration and an absentee ballot by electronic mail or other electronic method authorized by the Secretary of State. The voter could then return the ballot by electronic means under certain circumstances. The bill would extend confidentiality protections currently in place for ballots submitted by facsimile to ballots submitted via electronic mail.

Additionally, the bill would change the time frame for which an application to vote such an absentee ballot would be valid. Current law deems the application valid through the next two regularly scheduled general elections for national or state office; the bill would eliminate this language and specify the application is valid through the end of the calendar year.

Federal Write-in Absentee Ballot

Finally, the bill would allow overseas voters to vote a Federal Write-in Absentee Ballot (FWAB) under certain circumstances, in conformity with federal law. The voter previously must have submitted a ballot application, which was not received. The FWAB could not be submitted from within the United States.

Filing deadlines (Sections 5 and 6; SB 125 as recommended by the Senate Committee on Ethics and Elections). The bill would change the filing deadline from June 10 to June 1 for candidates for national, state (including governor and lieutenant governor), county, and township offices. The bill also would remove language regarding certain 1998 elections.

Candidate appearance in an ad or public service announcement (Section 7; SB 126 as amended by the Senate Committee on Ethics and Elections). The bill would prohibit a candidate from appearing in a public service announcement (PSA) or advertisement or use of the candidate's name in a PSA or advertisement during the 60 days before any election in which the candidate's name appears on the ballot.

The bill would define "public service announcement or advertisement" to include any message broadcast or distributed by electronic, telephonic, or print media promoting or announcing some issue of public importance, concern, or welfare, paid for with public funds or private funds from the current contractor of the sponsoring government entity. It would exclude news stories and opinion pieces in media not owned or controlled by the candidate, and it would exclude the website of the agency or other entity that administers the program promoted by the PSA. The bill would define "print media" as direct mail literature and advertisement in any periodical; that definition would exclude printed material used regularly throughout the year that is not distributed in an unsolicited direct mail advertising campaign at a cost

exceeding \$2,000 during the 60 days before any election in which the candidate's name appears on the ballot.

Intentional violation would subject a violator to the civil penalties of KSA 2010 Supp. 25-4181.

The section's language would become part of the Campaign Finance Act.

Presidential preference primary (Sections 8, 9, and 10; SB 128). The bill would change the date of the next presidential preference primary in Kansas from 2012 to 2016. It also would change the filing deadline for a candidate who wishes to appear on the ballot of the presidential preference primary, from February 12 to seven weeks before such an election. The bill would allow darkening of an oval, in addition to making a mark in a square, to indicate a vote in a presidential preference primary.

Filling a vacated Senate office (Section 11; SB 129 as recommended by the Senate Committee on Ethics and Elections). The bill would change election requirements for filling a vacated Senate office. If the vacancy occurred before May 1, changed by the bill from October 15, in the second year of the term, a senator would be elected in the next general election. Anyone appointed to the office would serve until that election. The bill would specify that the nomination and election process of the successor senator would be the same as that for a regular Senate term. A person appointed to a Senate office vacated after May 1 in the second year of a term would stay in the office for the remainder of the term.

Disclosure statements in radio and television ads (Section 12; SB 145 as amended by the Senate Committee of the Whole). The bill would add to the Campaign Finance Act requirements for a disclosure statement in any radio or television ad that clearly expresses the nomination, election, or defeat of a clearly identified candidate for state or local office. The statement would have to be spoken, and the bill would specify minimum wording for

the statement. The statement could be made by a candidate, the chairperson or treasurer of a party or political committee, an individual, or another person as a representative of a corporation, group, or entity. It would delete current requirements related to those ads.

Background

HB 2080 as amended by the House Committee of the Whole would have moved spring elections to the fall election cycle for all primary and general local elections: elections for city offices, local school boards, water districts, irrigation districts, and community college boards of trustees. The bill also would have repealed Article 10 (“City Manager Plan”) of Chapter 12 (Cities and Municipalities). The House Committee of the Whole also amended the bill by inserting the language of SB 130 as amended by the Senate Committee on Ethics and Elections, to change filing deadlines in redistricting and in non-redistricting years.

The Senate Committee on Ethics and Elections heard testimony on HB 2080 as amended by the House Committee of the Whole. The Committee recommended a substitute bill that incorporates provisions for seven bills the Committee previously had considered: Senate bills 17, 103, 125, 126, 128, 129, and 145. All but SB 17 have passed the full Senate.

SB 17. Campaign contribution limits for other offices, from the same types of contributions, are these: \$2,000 for statewide office; \$1,000 for state senator; and \$500 for a candidate for the House of Representatives, district judge, district magistrate judge, district attorney, or local office.

Senator Steve Abrams, a former member of the State Board of Education, and the legislative coordinator for the State Board of Education testified in support of the bill. They said that each State Board district is four times the size of a State Senate district, and candidates experience difficulty

raising money for their campaigns. No opponents spoke to the bill.

SB 103 was proposed by the Secretary of State, whose representative stated its purpose was to enhance voting opportunities and to comply with two federal laws governing the voting process for military and overseas voters: the UOCAVA and the Military and Overseas Voter Empowerment (MOVE) Act enacted in 2009. The sections requiring ballot expansion and the possibility of a federal write-in ballot (FWAB) are required by the UOCAVA. The e-balloting and application time frame provisions were specified under MOVE.

SB 125 as recommended by the Senate Committee on Ethics and Elections. The Allen County Clerk and Election Official, representing the Kansas County Clerks and Election Officials Association, and the Crawford County Clerk and Election Official testified in favor of the bill. Election officials from Cowley, Sherman, and Wyandotte counties submitted written testimony supporting the bill. The county election officials stated the change is needed to allow sufficient time to prepare ballots for military and civilian overseas voters and mail them by a federal deadline. No other testimony was presented.

SB 126. Kansas State Treasurer Ron Estes testified in favor of the bill. There was no other testimony.

The Senate Committee on Ethics and Elections amended the definition of “public service announcement or advertisement” to specify that the message would be one paid for with public sector funds or private sector funds from the governmental organization's current contractor and to exclude news stories and editorials in media not controlled by the candidate. It also added “intentionally” in the subsection regarding civil penalties.

KSA 2010 Supp. 25-4181 allows the Governmental Ethics Commission to assess a civil fine of not more than

\$5,000 for a first violation, \$10,000 for a second violation, and \$15,000 for each subsequent violation.

SB 128. A representative of the Secretary of State testified in support of the bill. There was no other testimony.

Since a statute authorizing a presidential preference primary in Kansas was enacted in 1978, such a primary has been held only twice, in 1980 and in 1992.

SB 129. The Deputy Secretary of State for Elections and Legislative Matters testified in support of the bill. He stated the date change would allow for a candidate filing period and a primary election. There was no other testimony.

SB 145. Senator Vicki Schmidt testified in favor of the bill. There was no other testimony.

The Senate Committee of the Whole amended the bill to delete the requirement that a campaign ad on radio or television be followed by “paid for” or “sponsored by” plus the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization or the name of the responsible individual unless that information is otherwise required. The wording of minimum disclosure statements was amended to require the statement say the ad was “approved,” rather than “sponsored,” by the person or organization representative making the statement. The bill also was amended to remove the requirement the statement include the name of the party or political committee if spoken by the chairperson or treasurer of a party or political committee.

If the bill is enacted, violation of the disclosure statement requirements would make the entity guilty of “corrupt political advertising.” Corrupt political advertising of a state or local office is a class C misdemeanor. Civil penalties under the Campaign Finance Act also could apply.

Fiscal Note information:

Provisions included in SB 17, 126, 129, and 145 would have no fiscal effect on state revenues or expenditures.

Provisions from SB 103 would increase costs to administer elections, but the amount is unknown. The fiscal effect depends on the actions of the federal agencies involved, the number of UOCAVA voters, and the programming costs of the current vendor for the voter registration database. Should counties realize increased costs as a result of the bill, the Secretary of State indicates that it may cover these costs using existing funds from the federal Help America Vote Act of 2002.

Provisions from SB 125 would have no effect on the office of the Secretary of State or on county election offices. The fiscal note further says that many candidates file before the deadline.

The Secretary of State estimates a presidential preference primary in 2012 would increase expenditures from the State General Fund by \$1,321,122 to reimburse county election officials for procuring polling places, paying poll worker salaries, printing ballots, and tabulating results. The *FY 2012 Governor's Budget Report* does not include expenditures for the presidential preference primary election. The provisions of SB 128 would eliminate that primary election.