

## **Filling Party Candidacy and Certain City Vacancies; Repealing Presidential Primary Statute; Moving Election Dates; HB 2104**

**HB 2104** makes changes and additions to election law. The bill addresses the reasons for and filling of party candidacy vacancies for any national, state, county, or township office; repeals the presidential primary law and replaces it with a new requirement on political parties; and moves election dates for certain offices and makes related changes.

### **Filling Party Candidacy Vacancies**

The bill deletes language allowing a candidate to withdraw his or her candidacy after the primary election due to being incapable of fulfilling the duties of office, replaces it with the ability to withdraw a nominee's name for medical reasons or because the nominee does not live in Kansas, revises law addressing removal of the name of a nominee who has died, and more clearly states the meaning of the word "shall" in the statutes dealing with the requirement that a party fill a vacancy on the ballot for several offices. The bill makes deadline and other related changes as well.

### ***Reasons Allowed for Vacancies***

The bill replaces the reason of incapability to fulfill office duties by doing the following:

- Deleting law requiring the Secretary of State, for national and state offices, or the county election officer, for county and township offices, to remove from the ballot the name of any nominee who declares he or she is incapable of fulfilling duties of office if elected, and then withdraws; and
- Replacing the deleted portion with language stating a person who has been nominated may be withdrawn from nomination under the following circumstances:
  - The nominee must certify to the Secretary of State a notice he or she is withdrawing because of a severe medical hardship to self or immediate family, with certification of medical hardship signed by a doctor; or
  - The nominee must certify to the Secretary of State a notice he or she does not reside in the state of Kansas.

The bill revises the provision in law addressing removal of the name of a nominee who has died, by doing the following:

- Eliminating the requirement that a request to remove the name from the ballot come from the chairperson of the county party committee before a replacement can be named, instead leaving the fact of the death as the notification;
- Requiring the Secretary of State (for national and state offices) or the county election officer (for county or township offices) notify the chairperson or vice-

chairperson of the appropriate party committee within 48 hours of receiving the notification of death;

- Making the name removal a requirement, instead of an option; and
- Adjusting related deadlines as necessary.

### ***“Shall” Means “Shall”***

The bill requires, with respect to the sections of law addressing filling a party candidacy vacancy in a district office, on the State Board of Education, and in all other congressional district, county, or state offices: (a) the certificate executed under oath by the convention chairperson or vice-chairperson also state the person elected agrees to accept the nomination; and (b) the person elected execute a notarized statement stating he or she agrees to accept the nomination. The bill requires such certification be transmitted within 21 days of receipt of notice the vacancy has occurred or will occur for a district vacancy and within 14 days for other vacancies addressed by the bill.

In all three of these sections, with respect to the use of the word “shall,” the bill states: “[T]he word ‘shall’ imposes a mandatory duty and no court may construe that word in any other way.”

### ***Deadline and Related Changes***

The bill makes the following deadline changes:

- For the office of district attorney, changes the date of filing for candidacy from June 10 to the date specified in KSA 2014 Supp. 25-205(a), which is June 1 with alternate provisions if that date falls on a weekend or holiday; and
- Regarding the deadline by which a district convention must fill a vacancy:
  - For a district office, reduces from 21 to 14 the number of days after receipt of the notice of vacancy to call or convene a convention; and reduces from 14 to 6 the number of days, after adjournment of a convention in which a quorum was not present, by which a new convention must be held; and
  - For the State Board of Education, reduces from 21 to 10 the number of days after receipt of the notice of vacancy to call or convene a convention and from 14 to 3 the number of days, after adjournment of a convention in which a quorum was not present, by which a new convention must be held.

### ***Presidential Preference Primary***

The bill repeals the statute calling for a presidential preference primary election and replaces it with new law requiring each recognized political party to select a presidential

nominee in accordance with party procedures, also required to be developed by the bill, for every presidential election beginning with the 2016 election.

## **Moving Election Dates**

The bill moves all elections for office holders of local governments currently held in the spring of odd-numbered years to the fall of odd-numbered years, with one exception (described below). In general, the elections remain nonpartisan, although a city may choose to make its elections partisan. Sections to be added to the law, are cited as the Help Kansas Vote Act.

Beginning in 2017, the election dates for the specified units of local government will mirror the election dates for the elections held in even-numbered years. That is, the primary election will be held on the first Tuesday in August, and the general election will be held on the Tuesday following the first Monday in November. The elections, to be administered by the county election officers, will be consolidated into one ballot, which will be prescribed by the Secretary of State through rules and regulations. Those entities currently with district method elective offices (*i.e.*, cities and school districts) will retain that authority.

Local units of government affected are included in the definition of municipalities as the following:

- Cities;
- The consolidated city-county governments of Wyandotte County and Kansas City, Kansas, and Greeley County;
- School districts;
- The Kansas City Board of Public Utilities;
- Community colleges;
- Drainage districts;
- Extension districts formed pursuant to KSA 2-623 *et seq.*;
- Irrigation districts;
- Improvement districts formed pursuant to KSA 19-2753 *et seq.*;
- Water districts formed pursuant to KSA 19-3501 *et seq.* (Water One); and
- Hospital districts formed pursuant to KSA 2014 Supp. 80-2501 *et seq.*

Not included is any special district where governing body member elections are conducted at a meeting of the special district.

### ***Provisions Specific to Cities***

The bill makes these changes specific to cities:

- The one exception to elections being in odd-numbered years is the option the bill provides cities to also have elections in even-numbered years, for the purpose of staggering terms or having three-year terms of office;
- All existing ordinances and charter ordinances, except those relating to the timing of primary and general elections, remain in effect until amended or repealed by the city;
- Provisions are added to clarify the forms of government any city could adopt and how frequently a city could change its form of government;
- Numerous statutes are changed and some new sections added to make city election law uniform and not differ by class of city;
- A city governing body is authorized to determine whether that city's elections will be nonpartisan or partisan; and
- A vacancy on the governing body of any city or consolidated city and county must be filled by special election when the following conditions exist:
  - The municipality does not have its own procedure for filling vacancies and has not filled any such vacancies within 60 days; and
  - The governing body has not made an appointment to fill the vacancy within 60 days of the vacancy.

### ***Provision Specific to School Districts***

All unified school districts must make available, upon request of the county election officer, suitable school buildings for polling places. The county election officer must notify the school district superintendent on or before January 1.

### ***Voter Education, Official Municipal Ballot, Declaration of Intent, Ballot Length***

#### ***Voter Education***

The Secretary of State must develop a public information program to inform the public of the changes related to moving elections from spring to fall, including an explanation of which offices' elections are involved. The information program must use advertisements and public service announcements, in addition to posting information on the official websites of the Secretary of State and county election officers. The bill requires the Secretary of State and county election officers to develop dedicated websites to provide voter education and sample ballots.

## *Official Ballot, Declaration of Intent, and Election Procedures*

The bill requires the Secretary of State to prescribe the official ballot style and form for municipal offices and the declaration of intent to become a candidate. Candidates must file the declarations with the county election officer no later than noon, June 1, in even- and odd-numbered years, with an exception provided if that date falls on a weekend or a holiday. For entities where a primary election is not authorized or otherwise required, the declaration of intent must be filed no later than noon on September 1, with a similar exception provided. The Secretary of State also must establish primary and general election procedures for municipalities, and adopt rules and regulations to implement this section on or before July 1, 2016. County election officers, in consultation with the Secretary, must develop ways to reduce ballot length and expedite the voting process.

The county election officers must arrange and print the official primary election ballot for municipal elections in odd-numbered years.

The Secretary of State must establish (for various elections) the arrangement of names and offices on ballots, develop ballots, and establish ballot styles, all in accordance with rules and regulations adopted by July 1, 2016.

### *Other Changes*

The bill specifies expiration dates for the terms of members of governing bodies and other elected officials of all municipalities. Under the bill, those that would have expired at any time in 2017 will expire on the second Monday in January of 2018.

The bill deletes or replaces several provisions in law to comport with the bill's intent of consolidating all spring elections for officials to the fall. This includes changes in primary and general election filing deadlines and procedures, terms of office, ballot creation and canvassing, periods of time when school and community college districts could change their methods of election, and notices of elections.

The bill increases each voter's time limit in the voting booth from five minutes to ten minutes, when other voters are waiting.

The bill increases candidate filing fees from \$5 or \$10 to \$20 and specifies a \$20 filing fee for any municipal office included in the bill.

The bill requires the county election officer to notify each person on the permanent advance voting list who has failed to vote in four (increased from two) general elections that the person must renew the application for permanent advance voting status or be removed from the permanent advance voting list; the general elections include those held in odd-numbered years.

The bill changes the number of 16- or 17-year-olds who are allowed to serve on each election board, from 1 to 1/3 of those appointed to the election board. It also requires each 16- or 17-year-old so appointed to have a letter of recommendation from a school teacher, counselor, or administrator.