

SESSION OF 2015

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 34**

As Recommended by Senate Committee on  
Judiciary

**Brief\***

SB 34 would create or amend laws related to elections crimes, prosecution of those crimes, and election definitions.

Regarding election crimes and prosecution of those crimes, the bill would do the following:

- Create a separate crime of voting more than once, which currently is incorporated in the crime of voting without being qualified. The new crime would be defined as intentionally voting or attempting to vote more than once in the same jurisdiction in an election held on a particular date, voting in more than one U.S. jurisdiction in an election held on a particular date, or inducing or aiding any person to take the above actions. The crime would be a severity level 7, nonperson felony, and the general criminal attempt statute would not apply to the crime;
- Create new law that would give the following officials independent authority to prosecute any person for a Kansas election crime: the district attorney or county attorney of the county where such violations occurred, the Kansas Attorney General, and the Kansas Secretary of State. Once one of the listed officers has commenced prosecution of a person for an election crime, the

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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>

other officers could assist in the prosecution, but could not commence a separate prosecution;

- Amend the statute prohibiting or requiring certain actions with regard to advance voting to increase the severity level for a violation of its provisions from a class C misdemeanor to a severity level 9, nonperson felony;
- Amend the election bribery statute to add an exemption for a business or organization providing a product worth less than \$3.00 to any person who asserts such person has voted, without regard to the voter's vote for or against a candidate or issue;
- Amend the crime of voting without being qualified to remove the provisions regarding voting more than once (which would become a separate crime, as described above) and define the crime as voting or attempting to vote in any election district when not a lawfully registered voter in that district, or voting or attempting to vote at any election by a person who is not a U.S. citizen, or who does not otherwise qualify as an elector. The severity level of this crime would be increased from a class A misdemeanor to a severity level 7, nonperson felony, and the general criminal attempt statute would not apply to the crime;
- Increase the severity level for the crime of election tampering from a severity level 8 to a severity level 7, nonperson felony; and
- Clarify that the crime of false impersonation of a voter can occur by representing oneself as another person whether real or fictitious, and increase the severity level of this crime from a severity level 9 to a severity level 8, nonperson felony.

The bill also would amend the declaration signed by voters in the registration book to replace the phrase "at this

election” with “in the election held on this date, in this or any other jurisdiction in the U.S., for any offices or ballot issues.”

## **Background**

The bill was introduced by the Senate Committee on Judiciary at the request of the Secretary of State.

In the Senate Committee, Secretary of State Kris Kobach testified in support of the bill. Representatives of the American Civil Liberties Union of Kansas and the Kansas County and District Attorneys Association testified in opposition to the bill.

According to the fiscal note prepared by the Division of the Budget, the Secretary of State indicates the bill would create costs of approximately \$15,000 in FY 2016 and \$10,000 in FY 2017 for trial preparations and travel expenses, but these costs could be absorbed within existing resources. No fiscal effect is anticipated for county election offices, but the fiscal effect on district or county attorney offices is difficult to determine.

The Office of the Attorney General indicates the bill may cause more cases to be referred to the agency, requiring more staff time, but any fiscal effect is estimated to be absorbed by existing staff.

The Office of Judicial Administration indicates the bill has the potential to increase the number of appeals related to voting crimes, increasing the time required by judicial and non-judicial personnel. The bill also could generate additional revenue from docket fees. However, a precise fiscal effect cannot be determined at this time.

The Kansas Sentencing Commission indicates the bill would not affect prison admissions or bed space. Any fiscal effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.