

HOUSE BILL No. 2332

AN ACT concerning elections; relating to the conduct of elections; providing for the appointment and duties of certain elected officials; amending K.S.A. 73-213, 73-214, 73-215, 73-218 and 73-219 and K.S.A. 2020 Supp. 25-1122 and 25-2423 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) The governor shall not have any authority to modify election laws or procedures by issuance of an executive order.

(b) Except as provided in subsection (c), neither the executive branch nor the judicial branch of state government shall have any authority to modify the state election laws.

(c) The secretary of state shall not enter into any consent decree or other agreement with any state or federal court regarding the enforcement of any election law or the alteration of any election procedure without specific approval of such consent decree by the legislative coordinating council.

(d) Nothing in this section shall be construed to limit or otherwise restrict the judicial branch of state government in the exercise of any powers granted by article 3 of the constitution of the state of Kansas.

(e) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of the section that can be given effect without the invalid provision or application, and, to this end, the provisions of this section are severable.

New Sec. 2. The county election officer shall record and maintain a residential address and a mailing address for each registered voter if the mailing address is different from the residential address. The residential address of a registered voter shall correspond to a physical location where the registered voter resides and shall not be a post office box or other address that does not correspond to a physical location that can be occupied and, if not, the person shall not be considered a validly registered voter. The county election officer shall record such information in any electronic database.

Sec. 3. K.S.A. 2020 Supp. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any registered voter may file with the county election officer where the person is a resident, or where the person is authorized by law to vote as a former precinct resident, an application for an advance voting ballot. The signed application shall be transmitted only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

(b) If the registered voter is applying for an advance voting ballot to be transmitted in person, the voter shall provide identification pursuant to K.S.A. 25-2908, and amendments thereto.

(c) If the registered voter is applying for an advance voting ballot to be transmitted by mail, the voter shall provide with the application for an advance voting ballot the voter's current and valid Kansas driver's license number, nondriver's identification card number or a photocopy of any other identification provided by K.S.A. 25-2908, and amendments thereto.

(d) A voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto, if:

(1) The voter is unable or refuses to provide current and valid identification; or

(2) the name and address of the voter provided on the application for an advance voting ballot do not match the voter's name and address on the registration book. The voter shall provide a valid form of identification as defined in K.S.A. 25-2908, and amendments thereto, to the county election officer in person or provide a copy by mail or electronic means before the meeting of the county board of canvassers. At the meeting of the county board of canvassers the county election officer shall present copies of identification received from provisional voters and the corresponding provisional ballots. If the county board of canvassers determines that a voter's identification is valid and the provisional ballot was properly cast, the ballot shall be counted.

(e) No county election officer shall provide an advance voting

ballot to a person who is requesting an advance voting ballot to be transmitted by mail unless:

(1) The county election official verifies that the signature of the person matches that on file in the county voter registration records, except that verification of the voter's signature shall not be required if a voter has a disability preventing the voter from signing. Signature verification may occur by electronic device or by human inspection. In the event that the signature of a person who is requesting an advance voting ballot does not match that on file, the county election officer shall attempt to contact the person and shall offer the person another opportunity to provide the person's signature for the purposes of verifying the person's identity. If the county election officer is unable to reach the person, the county election officer may transmit a provisional ballot, however, such provisional ballot may not be counted unless a signature is included therewith that can be verified; and

(2) the person provides such person's full Kansas driver's license number, Kansas nondriver's identification card number issued by the division of vehicles, or submits such person's application for an advance voting ballot and a copy of identification provided by K.S.A. 25-2908, and amendments thereto, to the county election officer for verification. If a person applies for an advance voting ballot to be transmitted by mail but fails to provide identification pursuant to this subsection or the identification of the person cannot be verified by the county election officer, the county election officer shall provide information to the person regarding the voter rights provisions of subsection (d) and shall provide the person an opportunity to provide identification pursuant to this subsection. For the purposes of this act, Kansas state offices and offices of any subdivision of the state will allow any person seeking to vote by an advance voting ballot the use of a photocopying device to make one photocopy of an identification document at no cost.

(f) Applications for advance voting ballots to be transmitted to the voter by mail shall be filed only at the following times:

(1) For the primary election occurring on the first Tuesday in August in both even-numbered and odd-numbered years, between April 1 of such year and the Tuesday of the week preceding such primary election.

(2) For the general election occurring on the Tuesday following the first Monday in November in both even-numbered and odd-numbered years, between 90 days prior to such election and the Tuesday of the week preceding such general election.

(3) For question submitted elections occurring on the date of a primary or general election, the same as is provided for ballots for election of officers at such election.

(4) For question submitted elections not occurring on the date of a primary or general election, between the time of the first published notice thereof and the Tuesday of the week preceding such question submitted election, except that if the question submitted election is held on a day other than a Tuesday, the final date for mailing of advance voting ballots shall be one week before such election.

(5) For any special election of officers, at such time as is specified by the secretary of state.

The county election officer of any county may receive applications prior to the time specified in this subsection and hold such applications until the beginning of the prescribed application period. Such applications shall be treated as filed on that date.

(g) Unless an earlier date is designated by the county election office, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer shall be filed on the Tuesday next preceding the election and on each subsequent business day until no later than 12 noon on the day preceding such election. If the county election officer so provides, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer also may be filed on the Saturday preceding the

election. Upon receipt of any such properly executed application, the county election officer shall deliver to the voter such ballots and instructions as are provided for in this act.

An application for an advance voting ballot filed by a voter who has a temporary illness or disability or who is not proficient in reading the English language or by a person rendering assistance to such voter may be filed during the regular advance ballot application periods until the close of the polls on election day.

The county election officer may designate places other than the central county election office as satellite advance voting sites. At any satellite advance voting site, a registered voter may obtain an application for advance voting ballots. Ballots and instructions shall be delivered to the voter in the same manner and subject to the same limitations as otherwise provided by this subsection.

(h) Any person having a permanent disability or an illness that has been diagnosed as a permanent illness is hereby authorized to make an application for permanent advance voting status. Applications for permanent advance voting status shall be in the form and contain such information as is required for application for advance voting ballots and also shall contain information that establishes the voter's right to permanent advance voting status.

(i) On receipt of any application filed under the provisions of this section, the county election officer shall prepare and maintain in such officer's office a list of the names of all persons who have filed such applications, together with their correct post office address and the precinct, ward, township or voting area in which the persons claim to be registered voters or to be authorized by law to vote as former precinct residents and the present resident address of each applicant. Names and addresses shall remain so listed until the day of such election. The county election officer shall maintain a separate listing of the names and addresses of persons qualifying for permanent advance voting status. All such lists shall be available for inspection upon request in compliance with this subsection by any registered voter during regular business hours. The county election officer upon receipt of the applications shall enter upon a record kept by such officer the name and address of each applicant, which record shall conform to the list above required. Before inspection of any advance voting ballot application list, the person desiring to make the inspection shall provide to the county election officer identification in the form of driver's license or other reliable identification and shall sign a log book or application form maintained by the officer stating the person's name and address and showing the date and time of inspection. All records made by the county election officer shall be subject to public inspection, except that the voter identification information required by subsections (b) and (c) and the identifying number on ballots and ballot envelopes and records of such numbers shall not be made public.

(j) If a person on the permanent advance voting list fails to vote in four consecutive general elections held on the Tuesday succeeding the first Monday in November of each even-numbered and odd-numbered year, the county election officer may mail a notice to such voter. The notice shall inform the voter that the voter's name will be removed from the permanent advance voting list unless the voter renews the application for permanent advance voting status within 30 days after the notice is mailed. If the voter fails to renew such application, the county election officer shall remove the voter's name from the permanent advance voting list. Failure to renew the application for permanent advance voting status shall not result in removal of the voter's name from the voter registration list.

(k) *(1) Any person who solicits by mail a registered voter to file an application for an advance voting ballot and includes an application for an advance voting ballot in such mailing shall include on the exterior of such mailing, and on each page contained therein, except the application, a clear and conspicuous label in 14-point font or larger that includes:*

(A) *The name of the individual or organization that caused such solicitation to be mailed;*

(B) *if an organization, the name of the president, chief executive officer or executive director of such organization;*

(C) *the address of such individual or organization; and*

(D) *the following statement: "Disclosure: This is not a government mailing. It is from a private individual or organization."*

(2) *The application for an advance voting ballot included in such mailing shall be the official application for advance ballot by mail provided by the secretary of state. No portion of such application shall be completed prior to mailing such application to the registered voter.*

(3) *An application for an advance voting ballot shall include an envelope addressed to the appropriate county election office for the mailing of such application. In no case shall the person who mails the application to the voter direct that the completed application be returned to such person.*

(4) *The provisions of this subsection shall not apply to:*

(A) *The secretary of state or any election official or county election office; or*

(B) *the official protection and advocacy for voting access agency for this state as designated pursuant to the federal help America vote act of 2002, public law 107-252, or any other entity required to provide information concerning elections and voting procedures by federal law.*

(5) *A violation of this subsection is a class C nonperson misdemeanor:*

(l) (1) *No person shall mail or cause to be mailed an application for an advance voting ballot, unless such person is a resident of this state or is otherwise domiciled in this state.*

(2) *Any individual may file a complaint in writing with the attorney general alleging a violation of this subsection. Such complaint shall include the name of the person alleged to have violated this subsection and any other information as required by the attorney general. Upon receipt of a complaint, the attorney general shall investigate and may file an action against any person found to have violated this subsection.*

(3) *Any person who violates the provisions of this subsection is subject to a civil penalty of \$20. Each instance in which a person mails an application for an advance voting ballot in violation of this section shall constitute a separate violation.*

(m) *The secretary of state may adopt rules and regulations in order to implement the provisions of this section and to define valid forms of identification.*

Sec. 4. K.S.A. 2020 Supp. 25-2423 is hereby amended to read as follows: 25-2423. (a) Election tampering is:

(1) ~~While being charged with no election duty, Making or changing any election record unless the person is lawfully carrying out an election duty;~~

(2) *changing or attempting to change, alter, destroy or conceal any vote cast by paper ballot, election machine or computer;*

(3) *changing or attempting to change any vote by manipulating computer hardware, computer software, election machine, wireless or cellular transmission or vote tabulation methods; or*

(4) *knowingly producing false vote totals.*

(b) Election tampering is a severity level 7, nonperson felony.

Sec. 5. K.S.A. 73-213 is hereby amended to read as follows: 73-213. For the purposes of this act, ~~the following terms shall have the meanings ascribed to them by this section, unless the context clearly requires otherwise:~~

(a) ~~"Officer" means any officer or employee of the state of Kansas or any political subdivision thereof~~ "Act" means K.S.A. 73-213 through 73-219, and amendments thereto.

(b) *"Appointive authority" means the person, board, commission or other authority vested by law with power to appoint a successor for an officer when a vacancy occurs in the office or position held by such*

officer. If no person, board, commission, or other authority is vested by law with power to appoint a successor for an officer when a vacancy occurs then "appointive authority" means the governor of the state of Kansas.

~~(b)(c) "Military service" means active service in the army, navy, or marine corps, air force, coast guard, space force, Kansas army or air national guard or any branch of the military reserves of the United States or any compulsory service rendered in any capacity to the federal government for the purpose of national defense.~~

~~(e)(d) "Appointive authority" means the person, board, commission, or other authority vested by law with power to appoint a successor for an officer upon the happening of a vacancy in the office or position held by such officer; but if no person, board, commission, or other authority is vested by law with power to appoint a successor for an officer upon the happening of such a vacancy, then "appointive authority" shall mean the governor of the state of Kansas. "Officer" means any officer or employee of the state of Kansas or any political subdivision thereof.~~

~~(d)(e) "Temporary vacancy" means a vacancy in an office or position caused by the absence in military service of the officer elected or appointed thereto. If the officer was originally elected or appointed for a definite term such, "temporary vacancy" shall mean means the period of time beginning with the day such officer shall enter the enters military service and ending either with the day he shall return such officer returns from military service; or with the expiration of the appointed or elected term for which he was elected or appointed, whichever period of time is the shorter. If the officer was originally appointed to his the office or position for an indefinite term or for a term expiring at the pleasure of the appointive authority, such "temporary vacancy" shall mean means the period of time beginning with the day such officer shall enter the enters military service and ending either with the day he such officer shall return from military service, or with the expiration of the appointive power of the original appointive authority, whichever period of time is the shorter.~~

Sec. 6. K.S.A. 73-214 is hereby amended to read as follows: 73-214. The absence of any officer from ~~his~~ an office or position caused by ~~his being in the~~ military service shall not create a forfeiture of; or vacancy in the office or position to which such officer was elected or appointed but shall be construed to ~~merely~~ create a temporary vacancy. Wherever the terms "forfeiture of office" or "vacancy in office" or other words of ~~similar import~~ like effect are used in any law of this state in relation to an officer such as defined in this act, ~~the same such terms or words~~ shall be construed in accordance with the provisions of this section and shall not be construed to apply to any absence of such officer who is absent from ~~his~~ an office or position by reason of ~~his being in the~~ military service.

Sec. 7. K.S.A. 73-215 is hereby amended to read as follows: 73-215. (a) (1) *If an officer's military service creates a temporary vacancy that is determined by such officer to require a temporary appointment, such officer shall submit an approved form to the designated office as set out in paragraph (2).*

(2) (A) If the officer is an elected state official, the form shall be approved by and filed with the secretary of state.

(B) If the officer is an elected official of a political subdivision, the form shall be filed with the county clerk of the county containing the largest portion of the territory of the political subdivision.

(C) If the officer is an employee who is not an elected official, the form shall be approved by and filed with the employee's human resources department or other official as determined by such officer's employer.

(3) The officer shall also submit an approved form to the designated office upon return from military service.

~~(b) In case~~ *If an officer's military service creates a temporary vacancy is or has been created in any office or position by reason of the*

~~absence of the officer in the military service; in an office or position and the form prescribed in (a) has been filed:~~

~~(1) The appointive authority for a partisan elective office shall appoint a person to temporarily fill such office or position using the procedures in K.S.A. 25-3901 et seq., and amendments there to; and~~

~~(2) The appointive authority shall for an elective office that is nonpartisan and for an employee who is not an elected official may appoint some a person to temporarily fill the such office or position to which such officer was elected or appointed.~~

~~(c) All such appointees shall hold the office or position which they are temporarily to fill during the such temporary vacancy caused by the absence of the officer in the military service.~~

Sec. 8. K.S.A. 73-218 is hereby amended to read as follows: 73-218. An officer who shall be *is* absent from his *an* office or position and while in the military service shall not be entitled to any compensation as such officer during such absence; but upon his return. If he return the officer returns before the expiration of the period of the temporary vacancy created by his the officer's absence, he such officer shall be entitled to immediate possession of the such office or position from which he was absent and, upon reassuming the duties of the office, to receive the compensation for the remainder of the term to which the holder thereof is entitled, subject to removal from office according to law.

Sec. 9. K.S.A. 73-219 is hereby amended to read as follows: 73-219. *The provisions of this act are declared to be severable and if any section, subsection, paragraph, be unconstitutional or provision of this act or its application to any person or circumstance is held invalid for any reason, it shall be presumed that this act would have been passed by the legislature without such invalid section, subsection, paragraph, sentence, provision, clause or phrase, and such decision shall not in any way affect the remainder of such invalidity shall not affect the other provisions or applications of this act.*

Sec. 10. K.S.A. 73-213, 73-214, 73-215, 73-218 and 73-219 and K.S.A. 2020 Supp. 25-1122 and 25-2423 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after January 1, 2022, and its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.