

Senate Substitute for HOUSE BILL No. 2183

AN ACT concerning elections; creating the transparency in revenues underwriting elections act; prohibiting the receipt and expenditure of private moneys by election officials; directing the secretary of state to publish certain registered voter totals; relating to advance voting ballots; requiring signed statements for delivery of such ballots on behalf of a voter; limiting the number of such ballots that can be delivered; prohibiting the altering or backdating of the mailing date on such ballots; requiring a matching signature on such ballots; removing the secretary of state's authority to provide additional time for receipt of such ballots; prohibiting candidates for office from engaging in certain conduct related to advance voting ballots; creating the crime of false representation of an election official; expanding the crime of electioneering; penalties for violations; amending K.S.A. 2020 Supp. 25-1124, 25-1128, 25-1132 and 25-2430 and repealing the existing sections; also repealing K.S.A. 25-608.

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

New Section 1. (a) The provisions of this section shall be known and may be cited as the transparency in revenues underwriting elections act.

(b) As used in this section:

(1) "Election official" means any county election officer or the chief state election official, as such terms are defined in K.S.A. 25-2504, and amendments thereto, and any officer or employee of such election official.

(2) "Person" means any individual, corporation, partnership, company, organization, political party, political committee or any other private entity.

(c) No election official shall knowingly accept or expend any moneys, directly or indirectly, from any person, except as provided in any acts of appropriation or as otherwise provided by law, for any expenditures related to conducting, funding or otherwise facilitating the administration of an election pursuant to law.

(d) The provisions of this section shall not apply to:

(1) Any moneys collected by an election official from the payment of fees or assessed costs as required by law; or

(2) any moneys received as campaign contributions for any candidate for the office of county clerk.

(e) A violation of this section is a severity level 9, nonperson felony.

New Sec. 2. (a) No person shall knowingly transmit or deliver an advance voting ballot to the county election officer or polling place on behalf of a voter who is not such person, unless the person submits a written statement accompanying the ballot at the time of ballot delivery to the county election officer or polling place as provided in this section. Any written statement shall be transmitted or signed by both the voter and the person transmitting or delivering such ballot and shall be delivered only by such person. The statement shall be on a form prescribed by the secretary of state and shall contain:

(1) A sworn statement from the person transmitting or delivering such ballot affirming that such person has not:

(A) Exercised undue influence on the voting decision of the voter;

or

(B) transmitted or delivered more than 10 advance voting ballots on behalf of other persons during the election in which the ballot is being cast; and

(2) a sworn statement by the voter affirming that:

(A) The voter has authorized such person to transmit or deliver the voter's ballot to a county election officer or polling place; and

(B) such person has not exercised undue influence on the voting decision of the voter.

(b) No candidate for office shall knowingly transmit or deliver an advance voting ballot to the county election officer or polling place on behalf of a voter who is not such person, except on behalf of an immediate family member of such candidate.

(c) No person shall transmit or deliver more than 10 advance voting ballots on behalf of other voters during an election.

(d) (1) A violation of subsection (a) or (b) is a severity level 9, nonperson felony.

(2) A violation of subsection (c) is a class B misdemeanor.

New Sec. 3. (a) False representation of an election official is knowingly engaging in any of the following conduct by phone, mail, email, website or other online activity or by any other means of communication while not holding a position as an election official:

(1) Representing oneself as an election official;

(2) engaging in conduct that gives the appearance of being an election official; or

(3) engaging in conduct that would cause another person to believe a person engaging in such conduct is an election official.

(b) False representation of an election official is a severity level 7, nonperson felony.

(c) As used in this section, "election official" means the secretary of state, or any employee thereof, any county election commissioner or county clerk, or any employee thereof, or any other person employed by any county election office.

New Sec. 4. (a) Each month, the secretary of state shall publish the following information on the official website of the secretary of state:

(1) The total number of registered voters in each county of this state;

(2) the total number of registered voters in each county who have been identified by the county election office as having mail that is undeliverable and the number of such registered voters as a percentage of all registered voters in the county; and

(3) the total number of registered voters for each political party.

(b) On the 10th day prior to any election, the secretary of state shall publish the total number of registered voters in each voting precinct and include in such publication the total number of such registered voters who affiliated with each political party on the official website of the secretary of state.

Sec. 5. K.S.A. 2020 Supp. 25-1124 is hereby amended to read as follows: 25-1124. (a) Upon receipt of the advance voting ballot, the voter shall cast such voter's vote as follows: The voter shall make a cross or check mark in the square or parentheses opposite the name of each candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. If the advance voting ballot was transmitted by mail, the voter personally shall place the ballot in the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall complete the form on the ballot envelope and shall sign the same. Except as provided by K.S.A. 25-2908, and amendments thereto, the ballot envelope shall be mailed or otherwise transmitted to the county election officer. If the advance voting ballot was transmitted to the voter in person in the office of the county election officer or at a satellite advance voting site, the voter may deposit such ballot into a locked ballot box without an envelope.

(b) The county election officer shall attempt to contact each person who submits an advance voting ballot where there is no signature or where the signature does not match with the signature on file and allow such voter the opportunity to correct the deficiency before the commencement of the final county canvass.

(c) Any voter who has an illness or physical disability or who is not proficient in reading the English language and is unable to apply for or mark or transmit an advance voting ballot, or any voter who has a disability preventing the voter from signing an application or the form on the ballot envelope, may request assistance by a person who has signed a statement required by subsection (e) in applying for or marking an advance voting ballot, or in signing an application or the form on the ballot envelope if the voter has a disability preventing the voter from signing.

(d) Any voted ballot may be transmitted to the county election officer by the voter—~~or~~. *Subject to the provisions of section 2, and amendments thereto, a voted ballot may be transmitted by another*

person designated in writing by the voter *as provided in section 2, and amendments thereto*, except if the voter has a disability preventing the voter from writing and signing a statement, the written and signed statement required by subsection (e) shall be sufficient. Any such voted ballot shall be transmitted to the county election officer before the close of the polls on election day.

(e) The county election officer shall allow a person to assist a voter who has an illness or physical disability or who is not proficient in reading the English language in applying for or marking an application or advance voting ballot, or to sign for a voter who has a disability preventing the voter from signing an application or advance voting ballot form, provided a written statement is signed by the person who renders assistance to the voter who has an illness or physical disability or who is not proficient in reading the English language and such statement is submitted to the county election officer with the application or ballot. The statement shall be on a form prescribed by the secretary of state and shall contain a statement from the person providing assistance that the person has not exercised undue influence on the voting decision of the voter who has an illness or physical disability or who is not proficient in reading the English language and that the person providing assistance has completed the application, marked the ballot, or signed the application or ballot form as instructed by the voter.

(f) Any person assisting a voter who has an illness or physical disability or who is not proficient in reading the English language in applying for or marking an advance voting ballot, or in signing an application or advance voting ballot form for a voter who has a disability preventing the voter from signing the application or advance voting ballot form, who knowingly fails to sign and submit the statement required by this section or who exercises undue influence on the voting decision of such voter shall be guilty of a severity level 9, nonperson felony.

(g) (1) *No person who is a candidate for office shall assist any voter in marking an advance voting ballot or in signing an advance voting ballot form pursuant to this section.*

(2) *It shall not be a violation of this subsection for the secretary of state, any election official or any county election office to assist a voter while engaged in the performance of the duties of such office.*

(3) *A violation of this subsection is a class C misdemeanor.*

(h) *Subject to the provisions of subsection (b), no county election officer shall accept an advance voting ballot transmitted by mail unless the county election officer verifies that the signature of the person on the advance voting ballot envelope matches the signature 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 the ballot or preventing the voter from having a signature consistent with such voter's registration form. Signature verification may occur by electronic device or by human inspection. In the event that the signature of a person on the advance voting ballot envelope does not match the signature on file in the county voter registration records, the ballot shall not be counted.*

Sec. 6. K.S.A. 2020 Supp. 25-1128 is hereby amended to read as follows: 25-1128. (a) No voter shall knowingly mark or transmit to the county election officer more than one advance voting ballot, or set of one of each kind of ballot, if the voter is entitled to vote more than one such ballot at a particular election.

(b) Except as provided in K.S.A. 25-1124, and amendments thereto, no person shall knowingly interfere with or delay the transmission of any advance voting ballot application from a voter to the county election officer, nor shall any person mail, fax or otherwise cause the application to be sent to a place other than the county election office. Any person or group engaged in the distribution of advance voting ballot applications shall mail, fax or otherwise deliver any application signed by a voter to the county election office within two

days after such application is signed by the applicant.

(c) Except as otherwise provided by law, no person other than the voter, shall knowingly mark, sign or transmit to the county election officer any advance voting ballot or advance voting ballot envelope.

(d) Except as otherwise provided by law, no person shall knowingly sign an application for an advance voting ballot for another person. This provision shall not apply if a voter has a disability preventing the voter from signing an application or if an immediate family member signs an application on behalf of another immediate family member with proper authorization being given.

(e) No person, unless authorized by K.S.A. 25-1122 or 25-1124, and amendments thereto, shall knowingly intercept, interfere with, or delay the transmission of advance voting ballots from the county election officer to the voter.

(f) No person shall knowingly and falsely affirm, declare or subscribe to any material fact in an affirmation form for an advance voting ballot or set of advance voting ballots.

(g) A voter may return such voter's advance voting ballot to the county election officer by personal delivery or by mail. ~~Upon written designation by the voter~~ *Subject to the provisions of section 2, and amendments thereto,* a person other than the voter may return the advance voting ballot by personal delivery or mail *if authorized by the voter in writing as provided in section 2, and amendments thereto,* except that a written designation shall not be required from a voter who has a disability preventing the voter from writing or signing a written designation. Any such person designated by the voter shall sign a statement ~~that such person has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter in accordance with section 2, and amendments thereto.~~

(h) *Except as otherwise provided by federal law, no person shall knowingly backdate or otherwise alter a postmark or other official indication of the date of mailing of an advance voting ballot returned to the county election officer by mail for the purpose of indicating a date of mailing other than the actual date of mailing by the voter or the voter's designee.*

(i) Violation of any provision of this section is a severity level 9, nonperson felony.

Sec. 7. K.S.A. 2020 Supp. 25-1132 is hereby amended to read as follows: 25-1132. (a) All advance voting ballots ~~which~~ *that* are received in the office of the county election officer or any polling place within the county not later than the hour for closing of the polls on the date of any election specified in K.S.A. 25-1122(f), and amendments thereto, shall be delivered by the county election officer to the appropriate special election board provided for in K.S.A. 25-1133, and amendments thereto.

(b) Subject to the deadline for receipt by the office of the county election officer as set forth in this subsection, all advance voting ballots received by mail by the office of the county election officer after the closing of the polls on the date of any election specified in K.S.A. 25-1122(f), and amendments thereto, and which are postmarked or are otherwise indicated by the United States postal service to have been mailed on or before the close of the polls on the date of the election, shall be delivered by the county election officer to a special election board or the county board of canvassers, as determined by the secretary of state, for canvassing in a manner consistent, as nearly as may be, with other advance voting ballots. The deadline for the receipt by mail of the advance voting ballots by the office of the county election officer shall be the last delivery of mail by the United States postal service on the third day following the date of the election, ~~unless additional time is permitted by the secretary.~~ The secretary of state shall adopt rules and regulations to implement this subsection.

Sec. 8. K.S.A. 2020 Supp. 25-2430 is hereby amended to read as follows: 25-2430. (a) (1) Electioneering is:

(A) Knowingly attempting to persuade or influence eligible voters

to vote for or against a particular candidate, party or question submitted. ~~Electioneering includes, including~~ wearing, exhibiting or distributing labels, signs, posters, stickers or other materials that clearly identify a candidate in the election or clearly indicate support or opposition to a question submitted election within any polling place on election day or advance voting site during the time period allowed by law for casting a ballot by advance voting or within a radius of 250 feet from the entrance thereof; or

(B) if committed by a candidate:

(i) Touching or handling any voter's ballot during the voting process;

(ii) distributing ballots or counting ballots;

(iii) hindering or obstructing any voter from voting or from entering and leaving the polling place; or

(iv) hindering or obstructing any election board worker from performing election duties.

(2) Electioneering shall not include bumper stickers affixed to a motor vehicle that is used to transport voters to a polling place or to an advance voting site for the purpose of voting.

(b) The provisions of subsection (a)(1)(B) shall not apply to:

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

(2) a candidate transmitting or delivering an advance voting ballot in accordance with section 2(b), and amendments thereto.

(c) As used in this section, "advance voting site" means the central county election office or satellite advance voting sites designated as such pursuant to ~~subsection (e) of~~ K.S.A. 25-1122(c), and amendments thereto, and adult care homes and hospital based care units at the time of an election participating in the voting procedures prescribed in K.S.A. 2020 Supp. 25-2812, and amendments thereto.

~~(e)~~(d) Electioneering is a class C misdemeanor.

New Sec. 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 10. K.S.A. 25-608 and K.S.A. 2020 Supp. 25-1124, 25-1128, 25-1132 and 25-2430 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after 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.