

SESSION OF 2007

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR HOUSE BILL NO. 2129**

As Amended by Senate Committee on
Elections and Local Government

Brief*

Sub. for HB 2129 addresses the issues of advance voting and political advertising, as follows.

**Corrupt Political Advertising and
Related Recordkeeping**

The bill would amend KSA 25-2407 in order to conform more closely with the definition of corrupt political advertising in the statute with the campaign finance statute on the same issue. The bill would clarify that in a publication or broadcast that “expressly advocates the nomination, election or defeat of any candidate” must be followed by the words or statement “advertisement” or “adv” or it would be corrupt political advertising. The bill also would amend current law to require broadcasts aimed at influencing a vote, including the vote for or against questions submitted as a proposition, to amend the Constitution, to authorize the issuance of bonds, or any other question submitted at an election to include the statement “Paid for” or “Sponsored by” followed by name of the sponsoring organization and the name of the chairperson or treasurer of the organization, or name of the person responsible for the advertisement.

The bill also would require any vendor or other person who provides the campaign advertising services referred to in either of the “corrupt political advertising” statutes (KSA 25-2407 or 25-4156) to maintain for one year a record of the person who

*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>

purchased or requested the services and the amount paid for the services. Failure to do so would be a class C misdemeanor.

Advance Voting Suppression

The bill would create the new crime of advance voting suppression, a level 9, nonperson felony. The bill would define advance voting suppression as knowingly, with intent to impede, obstruct or influence the election process:

- Destroying or altering another person's advance ballot without written consent of the registered voter;
- Obstructing the delivery of the advance ballot to the voter, or obstructing the return of the completed ballot to the county election officer;
- Failing to deliver an advance ballot to the county election officer within two business days or before the close of polls on election day;
- Delivering or causing delivery of an advance ballot to any place other than the county election office;
- Using undue influence on an advance voter in applying for, delivering, or marking an advance ballot; or
- Opening an advance ballot envelope sealed by the voter, examining or disclosing the contents except as required by official duties as prescribed by law.

Delivery of an advance ballot in the United States mail at least five calendar days prior to the election day for delivery to the county election officer would not be a violation of the new crime of advance voting suppression. The bill defines the term "undue influence" to mean coercion, compulsion or restraint as to diminish the voter's free agency, and by overcoming the

power of resistance, obliges or causes such voter to adopt the will of another. The bill defines the term “deliver” to mean hand-deliver, mail, or otherwise transmit an advance voting ballot.

Advance Ballot Delivery

The bill would address the issue of designating a person other than the voter to deliver a voter’s advance ballot and the subsequent delivery of the ballot, as well as other issues. The bill would:

- Require written designation by the voter of the person who will deliver the ballot.
- Allow the designee to return the voter’s ballot by personal delivery or by mail.
- Require the designee to return the voter’s ballot to the county election office within two business days after receiving the ballot, but not later than the close of polls on election day. (The bill also would allow an advance voter to return the voter’s own ballot by personal delivery or by mail.)
- Increase the penalty for violation of this requirement (or other requirements in the underlying statute) to a level 9, nonperson felony. (Current law has the penalty for violation set at a class C misdemeanor.)
- Make changes to statutory language dealing with disabled voters to conform with other sections of law.

Background

The original language of HB 2129 would have repealed KSA 25-2407. The Committee heard testimony that the bill would remove conflicting language with other statutory

provisions. The Committee, rather than repealing the statute, adopted a substitute bill which would change the language to be consistent with other statutory provisions.

The Senate Committee on Elections and Local Government amended the bill to:

- Add the contents of SB 133, as amended by the Senate Committee on Judiciary, regarding the crime of advance voting suppression;
- Add the contents of SB 159, as amended by the Senate Committee on Elections and Local Government, regarding delivery of an advance ballot; and
- Add the requirement that vendors of campaign advertising services maintain records for a year and make failure to do so a class C misdemeanor.
- Make a technical change.

The fiscal note on the original HB 2129 indicated no fiscal impact.

The fiscal notes for SB 133 and SB 159 indicated passage of each of these bills could have a fiscal impact related to a possible slight increase in the prison population. The SB 133 fiscal note indicated the increase would amount to \$2,000 per inmate for basic support, if additional prison capacity would not be needed. If additional capacity were necessary, there would be one-time construction and equipment costs as well as annual staffing and operation costs. The SB 159 fiscal note indicated the effect of a slight prison population increase was not known.