

SESSION OF 2023

SUPPLEMENTAL NOTE ON SENATE BILL NO. 221

As Amended by House Committee on Elections

Brief*

SB 221, as amended, would amend procedures for write-in candidates for certain elected offices.

Affidavit for Write-in Candidacy

Current law requires a write-in candidate for the office of President, Vice President, Governor, Lieutenant Governor, or any other statewide elected office to submit an affidavit of write-in candidacy to the Secretary of State (Secretary) by 12:00 noon on the second Monday preceding the general election for such office. The bill would change the deadline applicable to these offices to 12:00 noon on the fourth Monday preceding the general election for such office.

The bill would expand the provision to require an affidavit for write-in candidacy to be filed with the Secretary for an individual wishing to run as a write-in candidate for the State House of Representatives, State Senate, or the State Board of Education. The bill would require the write-in candidacy affidavit to be submitted not later than 12:00 noon on the fourth Monday preceding the election at which the write-in candidate seeks nomination or election.

The bill would add a requirement for any individual wishing to run as a write-in candidate for district judge, district magistrate judge, district attorney, any county officer, or any city officer of a city of the first class to file an affidavit of write-in candidacy with the appropriate county election office not

*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>

later than 12:00 noon on the fourth Monday preceding the election at which the write-in candidate seeks nomination or election.

Ballots

The bill would remove a provision in statute that states failure to make a cross or check mark in the square to the left of the write-in candidate name would not invalidate that portion of the ballot unless it is impossible to determine the voter's intention. The removal of this provision would mean the voter must mark the square by the write-in vote in order for the vote to be counted.

Board of Canvassers

The bill would prohibit the Board of Canvassers from counting write-in votes for a candidate for the State House of Representatives, State Senate, State Board of Education, district judge, district magistrate judge, district attorney, any county officer, or any city officer of a city of the first class unless the candidate has filed an affidavit of candidacy.

The bill would also make technical amendments to ensure consistency in statutory phrasing.

Background

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Thompson.

[*Note:* Provisions of the bill as amended regarding deadlines for filing an affidavit of candidacy are similar to those in HB 2086.]

Senate Committee on Federal and State Affairs

In the Senate Committee hearing, **proponent** testimony was provided by a representative of the Secretary, who stated the bill would reduce the workload on county election office staff by expanding the offices that require an affidavit of write-in candidacy. Currently, county election officials are required to count and record every write-in vote for nearly all candidates.

Written-only proponent testimony was provided by representatives of the Kansas County Clerks and Election Officials Association and the Shawnee County Election Office.

Written-only neutral testimony was provided by a private citizen.

No other testimony was provided.

The Senate Committee amended the bill to specify that individuals filing for write-in candidacy for the State House of Representatives, State Senate, or the State Board of Education would be required to submit the affidavit of write-in candidacy no earlier than 30 days before and no later than 21 days before the relevant election, rather than by noon on the second Monday before the election. The Committee also amended the bill to remove a provision that would have provided blank lines for write-in candidates on primary city election ballots for offices of cities of the first class.

House Committee on Elections

In the House Committee hearing, a representative of the Secretary provided **proponent** testimony, stating the bill would reduce the workload on county election office staff by expanding the offices that require an affidavit of write-in candidacy. Written-only proponent testimony was provided a representative of the Kansas County Clerks and Election Officials Association.

No other testimony was provided.

The House Committee amended the bill to change the deadline for filing an affidavit of write-in candidacy to the fourth Monday preceding the relevant election. This deadline would apply to the offices of Governor and Lieutenant Governor, President and Vice President, state offices elected on a statewide basis, State House of Representatives, State Senate, State Board of Education, district judge, district magistrate judge, district attorney, any county officer, and any city officer of a city of the first class.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of the Secretary indicates it would use existing resources to provide training and update manuals for county election officials; update the agency's website; update public documents and information; and work with media, political parties, candidates, and the public to ensure knowledge of the new requirements that must be followed to be a write-in candidate for selected offices. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

The Kansas Association of Counties indicates the bill could have a fiscal effect on counties' labor costs depending on the number of affidavits filed with the county election

offices; however, the Association is unable to estimate the fiscal effect.

Elections; write-in candidates; affidavits; ballots; Secretary of State