
**State Government & Tribal
Affairs Committee**

ESB 5738

Brief Description: Modifying absentee ballot and related election provisions.

Sponsors: Senators Oemig and Swecker; by request of Secretary of State.

Brief Summary of Engrossed Bill

- Allows a mail voter to vote a regular ballot at a poll site upon confirmation that the voter has not yet voted.
- Requires that mismatched signatures be cured by providing a photocopy of identification or by providing the attestation of two witnesses with the return of the affidavit.

Hearing Date: 3/21/07

Staff: Marsha Reilly (786-7135).

Background:

Processing Mail Ballots

Opening and processing of mail ballots may begin upon receipt of the ballot. Before opening the ballot, election personnel must verify that the voter's signature on the return envelope is the same as the signature of the voter in the registration files of the county. Once the signature on the ballot envelope has been verified, the voter is credited with voting and the outer ballot envelope is removed. Ballots that are tabulated on electronic vote tallying systems may be removed from the inner envelopes and prepared for tabulation. After opening the envelopes, all ballots are placed in secure storage until after 8:00 p.m. of the day of the primary or election.

Provisional Ballots

The Help America Vote Act (HAVA) requires that under certain circumstances, voters may be issued and vote a provisional ballot. Provisional ballots may be counted only if election officials can confirm that the voter is registered, is entitled to vote, and has not already voted. The HAVA also requires that every polling site have disability access voting equipment.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In 2005, legislation was enacted allowing counties to conduct elections entirely by mail. Counties that adopt mail voting must also make available disability access voting equipment. A voter who has requested an absentee ballot but chooses to vote at a polling site may be issued and may vote a provisional ballot. The provisional ballot may only be counted if election officials confirm that the absentee ballot was not returned. Most disability access voting equipment does not allow for provisional voting.

Verification of Mail Ballot Signatures

The county auditor must notify a voter by first-class mail in the event that the voter fails to sign the outside envelope of the absentee or provisional ballot, or if the voter's signature does not match the signature on file in the voter's registration file. To correct a missing signature, the voter must: (1) appear in person and sign the envelope; or (2) sign and return a copy of the envelope provided by the auditor.

If the signature on the ballot envelope does not match the signature on file, the voter must: (1) appear in person and sign a new registration form; or (2) return a signed affidavit provided by the county auditor. The voter has the option to enclose with the affidavit a photocopy of a valid government or tribal issued identification document that includes the voter's current signature.

If the signature on the copy of the affidavit does not match the signature on file or the signature on the copy of the identification document, the voter is required to appear in person and sign a new voter registration form before certification of the election in order for the ballot to be counted.

Summary of Bill:

Processing Mail Ballots

The time designation of 8:00 p.m. on election day is removed for purposes of storing absentee ballots.

Provisional Ballots

An absentee or mail voter who requests to vote at a poll site may vote a regular ballot if the election worker can confirm that the voter has not already returned a ballot. If the election worker can confirm that the absentee or mail ballot has not been returned, the voter must immediately be credited with voting.

Verification of Mail Ballot Signatures

The same provisions for correcting a missing signature are applied to include persons who sign the oath with a mark and fail to have two witnesses attest to the signature.

Clarification is made that when a voter cures a mismatched signature by appearing in person and signing a new registration record, the new registration form becomes the official record for the current and future elections.

Provisions for curing a mismatched signature by signing and returning an affidavit are as follows:

- The voter must provide a photocopy of the allowed identification documents. In order for the vote to be counted, the signature on the affidavit, the ballot envelope, and the identification must match.

- The voter may sign a copy of the affidavit in front of two witnesses who are registered voters who can attest to the signature. The signature on the affidavit must match the signature on the ballot envelope.

Senate Bill Compared to House Bill:

The following provisions were removed from the Senate bill:

Overseas and Service Voters

An overseas or service voter may return a voted ballot and the accompanying signed envelope electronically. The provision requiring the original ballot and signed envelope to be returned to the county auditor before certification is removed.

Political Party Requests for a Manual Count

Provisions allowing for manual counts by political parties are changed. A manual count may be requested on up to 500 ballots for one race or issue. The request must be made by 8:00 p.m. on the day of the primary or election, and must be completed no later than two days after the primary or election.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.