

MAR 9 2005
STATE GOVERNMENT

HOUSE FILE 677
BY BUKTA

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring elections to be conducted by mail ballots and
2 providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 677

1 Section 1. NEW SECTION. 49B.1 MAIL BALLOT ELECTIONS.

2 All elections shall be conducted by mail as provided in
3 this chapter. However, primary and general elections shall
4 also be conducted pursuant to chapter 49 to allow registered
5 voters to vote in person at the polling place in such
6 elections. In implementing this section, the state
7 commissioner of elections shall determine the voting machines
8 or voting booths needed to accommodate voters on election day.

9 Sec. 2. NEW SECTION. 49B.2 DEFINITIONS.

10 As used in this chapter, unless the context otherwise
11 requires:

12 1. "Return verification envelope" means an envelope that
13 contains a secrecy envelope and that is designed to allow
14 election officials, upon examination of the outside of the
15 envelope, to determine that the ballot is being submitted by
16 someone who is in fact a registered voter and who has not
17 already voted.

18 2. "Secrecy envelope" means an envelope that is used to
19 contain the elector's ballot and that is designed to conceal
20 the voter's vote and to prevent the voter's ballot from being
21 distinguished from the ballots of other voters.

22 Sec. 3. NEW SECTION. 49B.3 MAIL BALLOT ELECTION
23 PROCEDURE.

24 The state commissioner of elections shall prescribe uniform
25 procedures and forms to be used in the conduct of mail ballot
26 elections.

27 Sec. 4. NEW SECTION. 49B.4 PUBLICATION OF NOTICE.

28 The county commissioner shall, not more than ten days and
29 not less than four days before the date that ballots are to be
30 mailed, publish notice that a mail ballot election will be
31 conducted. The notice shall be published in a newspaper
32 pursuant to section 49.53. The notice shall include all of
33 the following information:

- 34 1. The date ballots will be mailed.
35 2. The date of the election.

1 3. Voter registration deadlines.

2 4. Location or locations where mail ballots can be
3 deposited pursuant to section 49B.11.

4 5. Instructions for obtaining a replacement ballot if a
5 voter's ballot is destroyed, spoiled, lost, or not received
6 pursuant to section 49B.7.

7 Sec. 5. NEW SECTION. 49B.5 MAILING BALLOTS.

8 1. Official ballots for a mail ballot election shall be
9 prepared and all other initial procedures for elections shall
10 be followed as otherwise provided by law.

11 2. The county commissioner of elections shall mail an
12 official ballot to every registered voter on a date not sooner
13 than the twentieth day before the date of the election and not
14 later than the tenth day before the date of the election. The
15 state commissioner shall specify the date on which all ballots
16 shall be mailed for any statewide election. An exception
17 shall be made for those ballots delivered as prescribed in
18 section 49B.10.

19 3. All ballots shall be mailed by first class mail.

20 4. Ballots mailed by the county commissioner shall be
21 addressed to the address of each voter appearing in the
22 registration records, and placed in an envelope which is
23 prominently marked "Do Not Forward".

24 5. The ballot shall contain the following warning:

25 "Any person who, by use of violence, threats of violence,
26 or any means of duress, procures the vote of a voter for or
27 against any measure or candidate is subject, upon conviction,
28 to imprisonment or to a fine, or both."

29 Sec. 6. NEW SECTION. 49B.6 REGISTRATION.

30 The county commissioner shall not mail a ballot under this
31 chapter to any voter not registered thirty days before the
32 date of the election. Voters registered less than thirty days
33 before the date of the election, but before the close of
34 registration, may apply for a ballot under section 49B.7.

35 Sec. 7. NEW SECTION. 49B.7 REPLACEMENT BALLOTS.

1 If the mail ballot is destroyed, spoiled, lost, or not
2 received by the voter, or if the voter was registered less
3 than thirty days before the date of the election but before
4 the close of registration, the voter may obtain a replacement
5 ballot from the county commissioner as provided in this
6 section. A voter seeking a replacement ballot shall sign a
7 statement, on a form prescribed by the state commissioner,
8 that the ballot was destroyed, spoiled, lost, or not received,
9 or that the voter was registered less than thirty days before
10 the date of the election but before the close of registration.
11 The voter or the voter's designee shall deliver the statement
12 to the county commissioner before noon on the date of the
13 election. The voter may mail the statement to the county
14 commissioner. However, a county commissioner shall not
15 transmit a ballot by mail under this section unless the
16 statement is received before five p.m. on the fourth day
17 before the date of the election. When a statement is timely
18 received under this section, the county commissioner shall
19 give the ballot to the voter if the voter is present in the
20 office of the county commissioner, or promptly mail the ballot
21 to the voter at the address contained in the statement, except
22 when prohibited by this section. If the voter is present in
23 the county commissioner's office, the ballot shall be voted at
24 that time. The county commissioner shall provide a place
25 where the voter may conveniently mark the ballot with secrecy.
26 The county commissioner shall keep a record of each
27 replacement ballot provided under this section. If a voter,
28 having received and voted a replacement ballot as provided
29 under this section, later finds the lost ballot, the voter
30 shall return the lost ballot to the county commissioner.

31 Sec. 8. NEW SECTION. 49B.8 VOTING AND RETURN OF BALLOT.

32 1. A registered voter, upon receipt of a mail ballot,
33 shall mark the ballot in such a manner that no other person
34 will know how the ballot is marked and shall place it in the
35 secrecy envelope provided with the ballot.

1 A voter who is blind, cannot read, or because of a physical
2 disability is unable to mark the ballot, may be assisted by
3 any person selected by the voter.

4 2. The voter shall place the secrecy envelope containing
5 the ballot in the return verification envelope and sign and
6 securely seal the return verification envelope. The sealed
7 return verification envelope shall be returned to the county
8 commissioner by one of the following methods:

9 a. The sealed return verification envelope may be
10 delivered by the registered voter or the voter's designee to
11 the county commissioner's office or a place designated by the
12 commissioner no later than the time the polls close on
13 election day.

14 b. The sealed return verification envelope may be mailed,
15 postage paid, to the county commissioner. In order for the
16 ballot to be counted, the return verification envelope must be
17 clearly postmarked by an officially authorized postal service
18 not later than the day before the election and received by the
19 county commissioner not later than the time established for
20 the canvass by the board of supervisors for that election.
21 The county commissioner shall contact the post office serving
22 the county commissioner's office at the latest practical hour
23 before the canvass by the board of supervisors for that
24 election, and shall arrange for return verification envelopes
25 received in that post office but not yet delivered to the
26 commissioner's office to be brought to the commissioner's
27 office before the canvass for that election by the board of
28 supervisors.

29 Sec. 9. NEW SECTION. 49B.9 SPECIAL VOTER ACCOMMODATION.

30 1. A registered voter who will be absent during the time
31 when the ballots are mailed may do either of the following:

32 a. Vote in person in the county commissioner's office as
33 soon as ballots are available and until noon the day before
34 the ballots are scheduled to be mailed.

35 b. Make a written request, signed by the voter and

1 addressed to the county commissioner, that the ballot be
2 mailed to an address other than that which appears on the
3 voter's registration record. Written requests shall be
4 accepted until noon the day before the ballots are scheduled
5 to be mailed.

6 2. Ballots mailed to voters pursuant to this section shall
7 be mailed the same day that all other ballots are mailed.

8 Sec. 10. NEW SECTION. 49B.10 BALLOTING BY CONFINED
9 PERSONS.

10 A person who is a resident or patient in a health care
11 facility or hospital located in the county in which the
12 election is to be held shall not be mailed a ballot but shall
13 have a ballot delivered in the manner prescribed by section
14 53.22, subsection 1.

15 Sec. 11. NEW SECTION. 49B.11 PERSONAL DELIVERY OF MAIL
16 BALLOT -- BALLOT DROPOFF STATIONS.

17 A ballot dropoff station for the deposit of mail ballots
18 shall be established in the county for the mail ballot
19 election at the direction of the county commissioner. A
20 ballot dropoff station may be designated at a polling place
21 and shall be open from eight a.m. until five p.m. on the day
22 of the election. At each ballot dropoff station, the county
23 commissioner shall prominently display a sign stating that the
24 location is an official ballot dropoff site.

25 Sec. 12. NEW SECTION. 49B.12 RECEIPT OF BALLOT --
26 SIGNATURE VERIFICATION.

27 When a mail ballot is returned, the county commissioner, or
28 the county commissioner's designees, shall first examine the
29 return verification envelope to determine whether it was
30 submitted by a registered voter who has not previously voted.
31 A ballot shall be counted only if it is returned in the return
32 verification envelope, the envelope is signed by the voter to
33 whom the ballot is issued, and the signature has been verified
34 as provided in this section.

35 The county commissioner or the county commissioner's

1 designees shall verify the signature of each voter on the
2 return verification envelope with the signature in the voter's
3 registration records and may commence verification at any time
4 before election day. If a voter to whom a replacement ballot
5 has been issued under section 49B.7 returns more than one
6 ballot, only the replacement ballot shall be counted.

7 If the voter's signature is verified and the ballot is
8 otherwise valid, the county commissioner or the county
9 commissioner's designees shall deposit the ballot unopened in
10 an official ballot box.

11 Sec. 13. NEW SECTION. 49B.13 PROCEDURE FOR INVALID
12 BALLOTS.

13 If the county commissioner is not convinced that the
14 individual who signed the return verification envelope is the
15 voter whose name appears on the registration card, the county
16 commissioner shall not deposit the ballot in a ballot box but
17 shall do all of the following:

18 1. Give notice to the voter as follows:

19 a. As soon as possible after receipt of a voter's ballot,
20 give notice to the voter, either by telephone or by first
21 class mail, if the county commissioner is unable to verify the
22 voter's signature.

23 b. Inform the voter that the voter may appear in person at
24 the county commissioner's office before the close of the polls
25 on election day and verify the signature.

26 2. Permit any voter appearing pursuant to subsection 1,
27 paragraph "b", to:

28 a. Verify the voter's signature, after proof of
29 identification, by affirming that the signature is in fact the
30 voter's or by completing a new registration card containing
31 the voter's current signature.

32 b. If necessary, request and receive a replacement ballot
33 and vote at that time.

34 3. If the discrepancy is not rectified to the county
35 commissioner's satisfaction, present the unopened envelope and

1 the registration card to the special precinct election board
2 for a determination. If the election board is unable to
3 resolve the issue to its satisfaction, the ballot shall not be
4 counted.

5 Sec. 14. NEW SECTION. 49B.14 COUNTING BALLOTS.

6 Mail ballots shall be counted in the manner prescribed by
7 section 53.23 for absentee ballots. The county commissioner
8 shall supervise the procedures for the handling, counting, and
9 canvassing of ballots to ensure the safety and confidentiality
10 of all ballots.

11 Sec. 15. NEW SECTION. 49B.15 CHALLENGES.

12 Votes cast pursuant to this chapter may be challenged in
13 the manner prescribed by section 53.31 for absentee ballots.

14 Sec. 16. NEW SECTION. 49B.16 CANVASS OF VOTES.

15 The provisions of chapter 50 relating to canvass of votes
16 apply to this chapter only to the extent they do not conflict
17 with this chapter.

18 Sec. 17. NEW SECTION. 49B.17 OTHER LAWS.

19 All laws which apply to elections apply to mail ballot
20 elections held under this chapter to the extent applicable.

21 Sec. 18. NEW SECTION. 49B.18 RULES.

22 The state commissioner of elections shall adopt rules
23 pursuant to chapter 17A to govern the procedures and forms
24 necessary to administer this chapter. The authority of the
25 state commissioner to adopt rules under this chapter shall be
26 liberally construed.

27 Sec. 19. NEW SECTION. 49B.19 MISCONDUCT -- VIOLATIONS --
28 PENALTIES.

29 A person who violates or attempts to violate any provision
30 or requirement of this chapter for which a penalty is not
31 otherwise provided under chapter 39A commits a simple
32 misdemeanor.

33 Sec. 20. NEW SECTION. 39.2A MAIL BALLOT ELECTIONS.

34 All mail ballot elections shall be conducted pursuant to
35 chapter 49B.

1 The bill contains a contingent effectiveness provision
2 which states that the bill does not take effect unless the
3 state complies with the state mandate funding requirement of
4 Code section 25B.2, which requires funding for the cost of the
5 state mandate to be provided or specified.

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