House File 544 - Introduced

HOUSE FILE _____
BY GASKILL

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

A BILL FOR

An Act relating to inspection of absentee ballot affidavit envelopes by the county commissioner of elections.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1851HH 82
sc/cf/24

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Section 1. Section 53.10, unnumbered paragraph 2, Code 2007, is amended to read as follows:

Each person who wishes to vote by absentee ballot at the commissioner's office shall first sign an application for a ballot including the following information: name, current address, and the election for which the ballot is requested. The person may report a change of address or other information on the person's voter registration record at that time. The registered voter shall immediately mark the ballot; enclose the ballot in a secrecy envelope, if necessary, and seal it in ~~a ballot~~ an affidavit envelope; subscribe to the affidavit on the reverse side of the envelope; and return the absentee ballot to the commissioner. The commissioner shall record the numbers appearing on the application and ~~ballot~~ affidavit envelope along with the name of the registered voter.

Sec. 2. Section 53.18, Code 2007 is amended to read as follows:

53.18 MANNER OF PRESERVING BALLOT AND APPLICATION == REVIEW OF AFFIDAVIT == REPLACEMENT BALLOTS.

1. Upon receipt of the return carrier envelope containing the completed absentee ballot, the commissioner shall at once record the serial number appearing on the application and return carrier envelope and time of receipt of such ballot and attach the elector's application to the ~~unopened~~ return carrier envelope. Absentee ballots shall be stored in a secure place until they are delivered to the absentee and special voters precinct board.

2. If the commissioner receives the return carrier envelope containing the completed absentee ballot by five p.m. on the Saturday before the election for general and primary elections and by five p.m. on the Friday before the election for all other elections, the commissioner shall open the envelope to review the affidavit for any deficiencies. If the affidavit contains a deficiency that would cause the ballot to be rejected, the commissioner shall, within twenty=four hours of the time the envelope was received, notify the voter of that fact and that the voter may correct the deficiency by five p.m. on the day before the election.

3. If the affidavit envelope is open when received by the commissioner, or has been opened and resealed, the commissioner shall immediately notify the voter of that fact and that the voter's absentee ballot shall not be counted unless the voter applies for a replacement ballot and returns the replacement ballot in the time permitted under section 53.17, subsection 2. The replacement ballot application shall be the same as is required for an application under section 53.2. If the information on the replacement ballot application matches the information on the original application, the voter shall be allowed to complete a replacement absentee ballot. The same serial number that was assigned to the records of the original absentee ballot application shall be used on the envelope and records of the replacement ballot. The affidavit envelope containing the completed replacement ballot shall be marked "Replacement ballot". The affidavit envelope containing the original

ballot shall be marked "Defective ballot" and the replacement ballot and replacement ballot application shall be attached to the original application and affidavit envelope containing the original ballot and shall be stored in a secure place until they are delivered to the absentee and special voters precinct board, notwithstanding sections 53.26 and 53.27.

4. The state commissioner of elections shall adopt rules for implementation of this section.

Sec. 3. Section 53.19, unnumbered paragraph 3, Code 2007, is amended to read as follows:

However, any registered voter who has received an absentee ballot and not returned it may surrender the absentee ballot to the precinct officials and vote in person at the polls. The precinct officials shall mark the uncast absentee ballot "void" and return it to the commissioner. Any registered voter who has been sent an absentee ballot by mail but for any reason has not received it or who has not brought the ballot to the polls may appear at the voter's precinct polling place on election day and shall cast a ballot in accordance with section 49.81. Any registered voter who has been notified by the commissioner pursuant to section 53.18 of the need to correct a deficiency on the affidavit or to apply for and vote a replacement absentee ballot and who has not corrected the deficiency or voted a replacement absentee ballot may appear at the voter's precinct polling place on election day and shall cast a ballot in accordance with section 49.81.

Sec. 4. Section 53.21, unnumbered paragraph 4, Code 2007, is amended to read as follows:

The voter shall enclose one copy of the above statement in the return carrier envelope with the ~~ballot~~ affidavit envelope and retain a copy for the voter's records.

Sec. 5. Section 53.23, subsection 3, Code 2007, is amended to read as follows:

3. a. The commissioner shall set the convening time for the board, allowing a reasonable amount of time to complete counting all absentee ballots by ten p.m. on election day. The commissioner may direct the board to meet on the day before the election solely for the purpose of reviewing the absentee voters' affidavits appearing on the sealed ~~ballot~~ affidavit envelopes. If in the commissioner's judgment this procedure is necessary due to the number of absentee ballots received, the members of the board may open the sealed ~~ballot~~ affidavit envelopes and remove the secrecy envelope containing the ballot, but under no circumstances shall a secrecy envelope be opened before the board convenes on election day. If the ~~ballot~~ affidavit envelopes are opened before election day, two observers, one appointed by each of the two political parties referred to in section 49.13, subsection 2, shall witness the proceedings.

b. If the board finds any ballot not enclosed in a secrecy envelope and the ballot is folded in such a way that any of the votes cast on the ballot are visible, the two special precinct election officials, one from each of the two political parties referred to in section 49.13, subsection 2, shall place the ballot in a secrecy envelope. No one shall examine the ballot. Each of the special precinct election officials shall sign the secrecy envelope.

Sec. 6. Section 53.24, Code 2007, is amended to read as follows:

53.24 COUNTIES USING VOTING MACHINES.

In counties which provide the special precinct election board with voting machines, the ~~absentee ballot~~ affidavit envelopes shall be opened by the board and the ballots shall, without being unfolded, be thoroughly intermingled, after which they shall be unfolded and, under the personal supervision of precinct election officials of each of the political parties, be registered on voting machines the same as if the absent voter had been present and voted in person, except that a tally of the write=in votes may be kept in the tally list rather than on the machine. When two or more political subdivisions in the county are holding separate elections simultaneously, the commissioner may arrange the machine so that the absentee and provisional ballots for more than one election may be recorded on the same machine.

Sec. 7. Section 53.25, Code 2007, is amended to read as follows:

53.25 REJECTING BALLOT.

~~In case~~ If the absentee voter's affidavit is found to be insufficient, ~~or that~~ if the applicant is not a duly registered voter in such precinct, ~~or that the ballot envelope is open, or has been opened and resealed, or that~~ if the

~~ballot~~ affidavit envelope contains more than one ballot of any one kind, or ~~that said~~ if the voter has voted in person, such vote shall not be accepted or counted. If the affidavit envelope is open, or has been opened and resealed, and an affidavit envelope with the same serial number and marked "Replacement ballot" is not attached as provided in section 53.18, the vote shall not be accepted or counted.

If the absentee ballot is rejected prior to the opening of the ~~ballot~~ affidavit envelope, the voter casting the ballot shall be notified by a precinct election official by the time the canvass is completed of the reason for the rejection on a form prescribed by the state commissioner of elections.

Sec. 8. Section 53.27, Code 2007, is amended to read as follows:

53.27 REJECTION OF BALLOT == RETURN OF ENVELOPE.

If the ballot is rejected, ~~said ballot~~ the affidavit envelope, with the affidavit of the voter endorsed thereon, shall be returned with ~~said~~ the rejected ballot in the envelope endorsed "Defective ballots".

Sec. 9. Section 53.32, Code 2007, is amended to read as follows:

53.32 BALLOT OF DECEASED VOTER.

When it shall be made to appear by due proof to the precinct election officials that any elector, who has so marked and forwarded a ballot, has died before the ~~ballot~~ affidavit envelope is opened, then the ballot of such deceased voter shall be endorsed, "Rejected because voter is dead", and be returned to the commissioner; but the casting of the ballot of a deceased voter shall not invalidate the election.

Sec. 10. Section 53.38, Code 2007, is amended to read as follows:

53.38 WHAT CONSTITUTES REGISTRATION.

Whenever a ballot is requested pursuant to section 53.39 or 53.45 on behalf of a voter in the armed forces of the United States, the affidavit upon the ~~ballot~~ affidavit envelope of such voter, if the voter is found to be an eligible elector of the county to which the ballot is submitted, shall constitute a sufficient registration under chapter 48A. A completed federal postcard registration and federal absentee ballot request form submitted by such eligible elector shall also constitute a sufficient registration under chapter 48A. The commissioner shall place the voter's name on the registration record as a registered voter if it does not already appear there.

Sec. 11. Section 53.40, unnumbered paragraph 5, Code 2007, is amended to read as follows:

If the affidavit on the ~~ballot~~ affidavit envelope shows that the affiant is not a qualified voter on the day of the election at which the ballot is offered for voting, the envelope shall not be opened, but the envelope and ballot contained in the envelope shall be preserved and returned by the precinct election officials to the commissioner, who shall preserve them for the period of time and under the conditions provided for in sections 50.12 through 50.15 and section 50.19.

Sec. 12. Section 53.44, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The affidavit on the affidavit envelope used in connection with voting by absentee ballot under this division by members of the armed forces of the United States need not be notarized or witnessed, but the affidavit on ~~the ballot~~ such envelope shall be completed and signed by the voter.

EXPLANATION

This bill requires the county commissioner of elections to open the absentee ballot return carrier envelope in order to inspect the affidavit on the affidavit envelope containing the ballot. If there is a deficiency in the affidavit that would cause the ballot to be rejected, the commissioner is to contact the voter and inform the voter of the deficiency and that the deficiency may be corrected by the voter by 5 p.m. on the day before the election.

The bill also requires the county commissioner of elections to notify an absentee voter if the voter's completed absentee ballot is returned in an affidavit envelope that is unsealed or that has been opened and resealed. The commissioner shall allow the voter to complete another absentee ballot application and a replacement ballot by 5 p.m. on the day before the election.

The bill provides that if the voter does not correct the affidavit deficiency or vote a replacement ballot, as the case may be, the voter shall be allowed to vote a provisional

ballot at the polls.

Finally, the bill changes the term "ballot envelope" to "affidavit envelope" to conform to the use of the term "affidavit envelope" throughout the Code.

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