

House Study Bill 34

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON JOCHUM)

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

A BILL FOR

1 An Act allowing elections in certain cities to be conducted by
2 mail ballots and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1655HC 82
5 sc/es/88

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1 1 Section 1. NEW SECTION. 49B.1 MAIL BALLOT ELECTIONS.
1 2 A mail ballot election may be conducted in cities with a
1 3 population of two hundred or less. Mail ballot elections
1 4 shall be conducted as provided in this chapter.
1 5 Sec. 2. NEW SECTION. 49B.2 DEFINITIONS.
1 6 As used in this chapter, unless the context otherwise
1 7 requires:
1 8 1. "Election day" is the date established by law on which
1 9 a particular election would be held if that election were
1 10 being conducted by means other than a mail ballot election.
1 11 2. "Return verification envelope" means an envelope that
1 12 contains a secrecy envelope and that is designed to allow
1 13 election officials, upon examination of the outside of the
1 14 envelope, to determine that the ballot is being submitted by
1 15 someone who is in fact a registered voter and who has not
1 16 already voted.
1 17 3. "Secrecy envelope" means an envelope that is used to
1 18 contain the voter's ballot and that is designed to conceal the
1 19 voter's vote and to prevent the voter's ballot from being
1 20 distinguished from the ballots of other voters.
1 21 Sec. 3. NEW SECTION. 49B.3 MAIL BALLOT ELECTION
1 22 PROCEDURE.
1 23 The state commissioner of elections shall prescribe uniform
1 24 procedures and forms to be used in the conduct of mail ballot
1 25 elections.
1 26 Sec. 4. NEW SECTION. 49B.4 INITIATION BY GOVERNING BODY.
1 27 1. If the city council of a city with a population of two
1 28 hundred or less determines that it is economically and
1 29 administratively feasible to conduct the regular city election
1 30 or a special city election by mail, the city council, by
1 31 resolution, may require the county commissioner of elections
1 32 to conduct the election under this chapter by filing the
1 33 resolution with the county commissioner not later than ninety
1 34 days before the date of the election.
1 35 2. After the resolution is filed, the county commissioner
2 1 shall prepare a written plan for conducting the election as
2 2 provided in section 49B.5. At least seventy-one days before
2 3 the date set for the election, the county commissioner shall
2 4 forward a copy of the written plan to the city council.
2 5 Sec. 5. NEW SECTION. 49B.5 WRITTEN PLAN FOR CONDUCTING
2 6 ELECTION == AMENDMENTS == APPROVAL PROCEDURE.
2 7 1. The county commissioner shall prepare a written plan,
2 8 including a timetable, for conducting a mail ballot election
2 9 and shall submit it to the state commissioner of elections at
2 10 least seventy-one days before the date of the election.
2 11 2. The plan may be amended by the county commissioner any
2 12 time before the sixty-fourth day before the date of the
2 13 election by notifying the state commissioner of elections in
2 14 writing of any changes.
2 15 3. Within five days after receiving the plan, and as soon
2 16 as possible after receiving any amendments, the state
2 17 commissioner of elections shall approve, disapprove, or
2 18 recommend changes to the plan or amendments. The final plan

2 19 shall be approved by the state commissioner and available to
2 20 the public at least two days before the deadline for
2 21 candidates to file nomination papers in the office of the city
2 22 clerk. The county commissioner shall forward a copy of the
2 23 final plan to the city council of the city for which the mail
2 24 ballot election will be conducted.

2 25 4. When the plan has been approved, the county
2 26 commissioner shall proceed to conduct the election according
2 27 to the approved plan.

2 28 Sec. 6. NEW SECTION. 49B.6 PUBLICATION OF NOTICE.

2 29 1. The county commissioner shall, not more than ten days
2 30 and not less than four days before the date that ballots are
2 31 to be mailed, publish notice that a mail ballot election will
2 32 be conducted. The notice shall be published in a newspaper of
2 33 general circulation in each city for which the mail ballot
2 34 election will be conducted. The notice shall include all of
2 35 the following information:

3 1 a. The date ballots will be mailed.

3 2 b. The last day that a voter can request an absentee
3 3 ballot.

3 4 c. Voter registration deadlines.

3 5 d. Location or locations where mail ballots can be
3 6 deposited pursuant to section 49B.13.

3 7 e. Instructions for obtaining a replacement ballot if a
3 8 voter's ballot is destroyed, spoiled, lost, or not received
3 9 pursuant to section 49B.9.

3 10 2. The county commissioner is not required to publish a
3 11 sample ballot.

3 12 Sec. 7. NEW SECTION. 49B.7 MAILING BALLOTS.

3 13 1. Official ballots for a mail ballot election shall be
3 14 prepared and all other initial procedures for elections shall
3 15 be followed as otherwise provided by law.

3 16 2. The county commissioner of elections shall mail an
3 17 official ballot to every registered voter of the city
3 18 conducting the election on a date not sooner than the
3 19 twentieth day before the date of the election and not later
3 20 than the tenth day before the date of the election. An
3 21 exception shall be made for those ballots delivered as
3 22 prescribed in section 49B.12.

3 23 3. All ballots shall be mailed by first class mail.

3 24 4. Ballots mailed by the county commissioner shall be
3 25 addressed to the address of each voter appearing in the
3 26 registration records of the city, and placed in an envelope
3 27 which is prominently marked "Do Not Forward".

3 28 Sec. 8. NEW SECTION. 49B.8 REGISTRATION.

3 29 The county commissioner shall not mail a ballot under this
3 30 chapter to any voter not registered thirty days before the
3 31 date of the election. Voters registered less than thirty days
3 32 before the date of the election, but before the close of
3 33 registration, may apply for a ballot under section 49B.9.

3 34 Sec. 9. NEW SECTION. 49B.9 REPLACEMENT BALLOTS.

3 35 If the mail ballot is destroyed, spoiled, lost, or not
4 1 received by the voter or if the voter was registered less than
4 2 thirty days before the date of the election but before the
4 3 close of registration, the voter may obtain a replacement
4 4 ballot from the county commissioner as provided in this
4 5 section. A voter seeking a replacement ballot shall sign a
4 6 statement, on a form prescribed by the state commissioner,
4 7 that the ballot was destroyed, spoiled, lost, or not received
4 8 or that the voter was registered less than thirty days before
4 9 the date of the election but before the close of registration.
4 10 The voter or the voter's designee shall deliver the statement
4 11 to the county commissioner before noon on the date of the
4 12 election. The voter may mail the statement to the county
4 13 commissioner. However, a county commissioner shall not
4 14 transmit a ballot by mail under this section unless the
4 15 statement is received before five p.m. on the fourth day
4 16 before the date of the election. When a statement is timely
4 17 received under this section, the county commissioner shall
4 18 give the ballot to the voter if the voter is present in the
4 19 office of the county commissioner or shall promptly mail the
4 20 ballot to the voter at the address contained in the statement,
4 21 except when prohibited by this section. If the voter is
4 22 present in the county commissioner's office, the ballot shall
4 23 be voted at that time. The county commissioner shall keep a
4 24 record of each replacement ballot provided under this section.
4 25 If a voter, having received and voted a replacement ballot as
4 26 provided under this section, later finds the lost ballot, the
4 27 voter shall return the lost ballot to the county commissioner.

4 28 Sec. 10. NEW SECTION. 49B.10 VOTING AND RETURN OF
4 29 BALLOT.

4 30 1. A registered voter, upon receipt of a mail ballot,
4 31 shall mark the ballot in such a manner that no other person
4 32 will know how the ballot is marked and shall place it in the
4 33 secrecy envelope provided with the ballot.

4 34 A voter who is blind, cannot read, or because of a physical
4 35 disability is unable to mark the ballot, may be assisted by
5 1 any person selected by the voter.

5 2 2. The voter shall place the secrecy envelope containing
5 3 the ballot in a return verification envelope marked postage
5 4 paid and shall sign and securely seal the return verification
5 5 envelope. The sealed return verification envelope shall be
5 6 returned to the county commissioner by one of the following
5 7 methods:

5 8 a. The sealed return verification envelope may be
5 9 delivered by the registered voter or the voter's designee to
5 10 the county commissioner's office or a place designated by the
5 11 commissioner no later than the time the polls close on
5 12 election day.

5 13 b. The sealed return verification envelope may be mailed
5 14 to the county commissioner. In order for the ballot to be
5 15 counted, the return verification envelope must be clearly
5 16 postmarked by an officially authorized postal service not
5 17 later than the day before the election and received by the
5 18 county commissioner not later than the time established for
5 19 the canvass by the board of supervisors for that election.
5 20 The county commissioner shall contact the post office serving
5 21 the county commissioner's office at the latest practicable
5 22 hour before the canvass by the board of supervisors for that
5 23 election and shall arrange for return verification envelopes
5 24 received in that post office but not yet delivered to the
5 25 commissioner's office to be brought to the commissioner's
5 26 office before the canvass for that election by the board of
5 27 supervisors.

5 28 Sec. 11. NEW SECTION. 49B.11 ABSENTEE BALLOTS.

5 29 1. A registered voter who will be absent from the city
5 30 during the time when the ballots are mailed may do either of
5 31 the following:

5 32 a. Vote in person in the county commissioner's office as
5 33 soon as ballots are available and until noon the day before
5 34 the ballots are scheduled to be mailed.

5 35 b. Make a written request, signed by the voter and
6 1 addressed to the county commissioner, that the ballot be
6 2 mailed to an address other than that which appears on the
6 3 voter's registration record. Written requests shall be
6 4 accepted until noon the day before the ballots are scheduled
6 5 to be mailed.

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

6 8 Sec. 12. NEW SECTION. 49B.12 BALLOTING BY CONFINED
6 9 PERSONS.

6 10 A person who is a resident or patient in a health care
6 11 facility or hospital located in the county in which the
6 12 election is to be held shall not be mailed a ballot but shall
6 13 have a ballot delivered in the manner prescribed by section
6 14 53.22, subsection 1.

6 15 Sec. 13. NEW SECTION. 49B.13 PERSONAL DELIVERY OF MAIL
6 16 BALLOT == BALLOT DROPOFF STATIONS.

6 17 Ballot dropoff stations for the deposit of mail ballots may
6 18 be established in the city conducting the mail ballot election
6 19 at the direction of the county commissioner. A ballot dropoff
6 20 station established at the direction of the commissioner shall
6 21 be open from eight a.m. until the polls close on the day of
6 22 the election.

6 23 Sec. 14. NEW SECTION. 49B.14 RECEIPT OF BALLOT ==
6 24 SIGNATURE VERIFICATION.

6 25 When a mail ballot is returned, the county commissioner or
6 26 the county commissioner's designees shall first examine the
6 27 return verification envelope to determine whether it was
6 28 submitted by a registered voter who has not previously voted.
6 29 A ballot shall be counted only if it is returned in the return
6 30 verification envelope, the envelope is signed by the voter to
6 31 whom the ballot is issued, and the signature has been verified
6 32 as provided in this section.

6 33 The county commissioner or the county commissioner's
6 34 designees shall verify the signature of each voter on the
6 35 return verification envelope with the signature in the voter's
7 1 registration records and may commence verification at any time
7 2 before election day. If a voter to whom a replacement ballot
7 3 has been issued under section 49B.9 returns more than one
7 4 ballot, only the replacement ballot shall be counted.

7 5 If the voter's signature is verified and the ballot is

7 6 otherwise valid, the county commissioner or the county
7 7 commissioner's designees shall deposit the ballot unopened in
7 8 an official ballot box.

7 9 Sec. 15. NEW SECTION. 49B.15 PROCEDURE FOR INVALID
7 10 BALLOTS.

7 11 If the county commissioner is not convinced that the
7 12 individual who signed the return verification envelope is the
7 13 voter whose name appears on the registration card, the county
7 14 commissioner shall not deposit the ballot in a ballot box but
7 15 shall do all of the following:

7 16 1. Give notice to the voter as follows:

7 17 a. As soon as possible after receipt of a voter's ballot,
7 18 give notice to the voter, either by telephone or by first
7 19 class mail, that the county commissioner is unable to verify
7 20 the voter's signature.

7 21 b. Inform the voter that the voter may appear in person at
7 22 the county commissioner's office before the close of the polls
7 23 on election day and verify the signature.

7 24 2. Permit any voter appearing pursuant to subsection 1,
7 25 paragraph "b", to:

7 26 a. Verify the voter's signature, after proof of
7 27 identification, by affirming that the signature is in fact the
7 28 voter's or by completing a new registration card containing
7 29 the voter's current signature.

7 30 b. If necessary, request and receive a replacement ballot
7 31 and vote at that time.

7 32 3. If the discrepancy is not rectified to the county
7 33 commissioner's satisfaction, present the unopened envelope and
7 34 the registration card to the special precinct election board
7 35 for a determination. If the election board is unable to
8 1 resolve the issue to its satisfaction, the ballot shall not be
8 2 counted.

8 3 Sec. 16. NEW SECTION. 49B.16 COUNTING BALLOTS.

8 4 Mail ballots shall be counted in the manner prescribed by
8 5 section 53.23 for absentee ballots. The county commissioner
8 6 shall supervise the procedures for the handling, counting, and
8 7 canvassing of ballots to ensure the safety and confidentiality
8 8 of all ballots.

8 9 Sec. 17. NEW SECTION. 49B.17 CHALLENGES.

8 10 Votes cast pursuant to this chapter may be challenged in
8 11 the manner prescribed by section 53.31 for absentee ballots.

8 12 Sec. 18. NEW SECTION. 49B.18 CANVASS OF VOTES.

8 13 The provisions of chapter 50 relating to canvass of votes
8 14 apply to this chapter only to the extent they do not conflict
8 15 with this chapter.

8 16 Sec. 19. NEW SECTION. 49B.19 OTHER LAWS.

8 17 All laws which apply to elections apply to mail ballot
8 18 elections held under this chapter to the extent applicable.

8 19 Sec. 20. NEW SECTION. 49B.20 RULES.

8 20 The state commissioner of elections shall adopt rules
8 21 pursuant to chapter 17A to govern the procedures and forms
8 22 necessary to administer this chapter. The authority of the
8 23 state commissioner to adopt rules under this chapter shall be
8 24 liberally construed.

8 25 Sec. 21. NEW SECTION. 49B.21 MISCONDUCT == VIOLATIONS ==
8 26 PENALTIES.

8 27 A person who violates or attempts to violate any provision
8 28 or requirement of this chapter for which a penalty is not
8 29 otherwise provided under chapter 39A commits a simple
8 30 misdemeanor.

8 31 Sec. 22. Section 39.3, Code 2007, is amended by adding the
8 32 following new subsection:

8 33 NEW SUBSECTION. 8A. "Mail ballot election" means an
8 34 election conducted pursuant to chapter 49B.

8 35 EXPLANATION

9 1 This bill creates a new Code chapter 49B and establishes a
9 2 procedure for elections in cities with a population of 200 or
9 3 less to be conducted by mailed ballots. To qualify for this
9 4 method of election, the city council must adopt a resolution
9 5 not later than 90 days before the date of the election
9 6 directing the county commissioner of elections to conduct the
9 7 regular city election or special city election as a mail
9 8 ballot election. The election must be conducted pursuant to a
9 9 plan proposed by the county commissioner of elections (county
9 10 auditor) and approved by the state commissioner of elections
9 11 (secretary of state).

9 12 The bill requires the county commissioner to mail the
9 13 ballots to registered voters in the city no more than 20 days
9 14 and no less than 10 days before the date of the election. To
9 15 receive a mailed ballot, an elector must be registered to vote
9 16 30 or more days before the date of the election. A completed

9 17 ballot must be personally delivered to the commissioner's
9 18 office or a designated place no later than the time the polls
9 19 close on election day or must be postmarked no later than the
9 20 day before the election and received by the commissioner not
9 21 later than the date set for canvassing the ballots.

9 22 The bill provides a method for receiving a replacement
9 23 ballot if a mail ballot is destroyed, spoiled, lost, or not
9 24 received by the voter. The bill provides that absentee
9 25 ballots may be voted at the county commissioner's office as
9 26 soon as ballots are available or, upon written request of the
9 27 voter, may be mailed to an address other than the address on
9 28 the voter's registration record.

9 29 The bill also provides that state election laws apply to
9 30 mail ballot elections to the extent applicable. The bill
9 31 requires the state commissioner of elections to adopt
9 32 administrative rules relating to mail ballot elections.

9 33 A person who violates any provision of mail ballot election
9 34 law for which a penalty is not otherwise provided commits a
9 35 simple misdemeanor.

10 1 LSB 1655HC 82

10 2 sc:rj/es/88