

Senate Study Bill 3131 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act relating to the administration of elections and voter
2 registration by modifying the close of registration prior
3 to a primary election, requiring that absentee ballots
4 be received before the polls close on election day, and
5 allowing for changes to the envelopes provided to absentee
6 voters.

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

1 Section 1. Section 48A.9, subsection 1, Code 2014, is
2 amended to read as follows:

3 1. Registration closes at 5:00 p.m. eleven days before each
4 election except ~~primary and~~ general elections. For ~~primary and~~
5 general elections, registration closes at 5:00 p.m. ten days
6 before the election. An eligible elector may register during
7 the time registration is closed in the elector's precinct but
8 the registration shall not become effective until registration
9 opens again in the elector's precinct, except as otherwise
10 provided in section 48A.7A.

11 Sec. 2. Section 48A.26, subsection 3, Code 2014, is amended
12 to read as follows:

13 3. If the registration form is missing required information
14 pursuant to section 48A.11, subsection 8, the acknowledgment
15 shall advise the applicant what additional information is
16 required. The commissioner shall enclose a new registration
17 form for the applicant to use. If the registration form has
18 no address, the commissioner shall make a reasonable effort
19 to determine where the acknowledgment should be sent. If the
20 incomplete registration form is received during the period in
21 which registration is closed pursuant to section 48A.9 but
22 by 5:00 p.m. on the Saturday before the election for general
23 ~~and primary~~ elections or by 5:00 p.m. on the Friday before the
24 election for all other elections, the commissioner shall send
25 a notice advising the applicant of election day and in-person
26 absentee registration procedures under section 48A.7A.

27 Sec. 3. Section 50.20, Code 2014, is amended to read as
28 follows:

29 **50.20 Notice of number of provisional ballots.**

30 The commissioner shall compile a list of the number of
31 provisional ballots cast under section 49.81 in each precinct.
32 The list shall be made available to the public as soon as
33 possible, but in no case later than 9:00 a.m. on the second
34 day following the election. Any elector may examine the
35 list during normal office hours, and may also examine the

1 ~~affidavit~~ affidavits on the envelopes bearing containing the
2 ballots of challenged electors until the reconvening of the
3 special precinct board as required by this chapter. Only those
4 persons so permitted by section 53.23, subsection 4, shall have
5 access to the affidavits while that board is in session. Any
6 elector may present written statements or documents, supporting
7 or opposing the counting of any provisional ballot, at the
8 commissioner's office until the reconvening of the special
9 precinct board.

10 Sec. 4. Section 50.22, Code 2014, is amended to read as
11 follows:

12 **50.22 Special precinct board to determine challenges and**
13 **canvass absentee ballots.**

14 1. Upon being reconvened, the special precinct election
15 board shall review the information upon the envelopes bearing
16 the provisional ballots, and all evidence submitted in support
17 of or opposition to the right of each challenged person to vote
18 in the election. The board may divide itself into panels of
19 not less than three members each in order to hear and determine
20 two or more challenges simultaneously, but each panel shall
21 meet the requirements of section 49.12 as regards political
22 party affiliation of the members of each panel.

23 2. The decision to count or reject each ballot shall be
24 made upon the basis of the information given on the envelope
25 containing the provisional ballot, the evidence concerning
26 the challenge, the registration, and the returned receipts of
27 registration.

28 3. If a provisional ballot is rejected, the person casting
29 the ballot shall be notified by the commissioner within ten
30 days of the reason for the rejection, on the form prescribed
31 by the state commissioner pursuant to section 53.25, and the
32 envelope containing the provisional ballot shall be preserved
33 unopened and disposed of in the same manner as spoiled ballots.
34 The provisional ballots which are accepted shall be counted
35 in the manner prescribed by section 53.23, subsection 5. The

1 commissioner shall make public the number of provisional
2 ballots rejected and not counted, at the time of the canvass of
3 the election.

4 ~~The special precinct board shall also canvass any absentee~~
5 ~~ballots which were received after the polls closed in~~
6 ~~accordance with section 53.17. If necessary, they shall~~
7 ~~reconvene again on the day of the canvass by the board of~~
8 ~~supervisors to canvass any absentee ballots which were timely~~
9 ~~received.~~

10 4. The special precinct board shall submit their tally list
11 to the supervisors before the conclusion of the canvass by the
12 board.

13 Sec. 5. Section 50.24, subsection 2, Code 2014, is amended
14 to read as follows:

15 2. Upon convening, the board shall open and canvass the
16 tally lists and shall prepare abstracts stating the number of
17 votes cast in the county, or in that portion of the county
18 in which the election was held, for each office and on each
19 question on the ballot for the election. ~~The board shall~~
20 ~~contact the chairperson of the special precinct board before~~
21 ~~adjourning and include in the canvass any absentee ballots~~
22 ~~which were received after the polls closed in accordance with~~
23 ~~section 53.17 and which were canvassed by the special precinct~~
24 ~~board after election day.~~ The abstract shall further indicate
25 the name of each person who received votes for each office on
26 the ballot, and the number of votes each person named received
27 for that office, and the number of votes for and against each
28 question submitted to the voters at the election. The votes
29 of all write-in candidates who each received less than five
30 percent of the votes cast for an office shall be reported
31 collectively under the heading "scattering".

32 Sec. 6. Section 53.2, subsection 6, Code 2014, is amended
33 to read as follows:

34 6. If an application for an absentee ballot is received
35 from an eligible elector who is not a registered voter

1 the commissioner shall send the eligible elector a voter
2 registration form and another absentee ballot application form.
3 If the application is received after the time registration
4 closes pursuant to section 48A.9 but by 5:00 p.m. on the
5 Saturday before the election for general and ~~primary~~ elections
6 or by 5:00 p.m. on the Friday before the election for all other
7 elections, the commissioner shall notify the applicant by
8 mail of the election day and in-person absentee registration
9 provisions of section 48A.7A. In addition to notification
10 by mail, the commissioner shall also attempt to contact the
11 applicant by any other method available to the commissioner.

12 Sec. 7. Section 53.8, subsection 1, Code 2014, is amended
13 to read as follows:

14 1. a. Upon receipt of an application for an absentee ballot
15 and immediately after the absentee ballots are printed, the
16 commissioner shall mail an absentee ballot to the applicant
17 within twenty-four hours, except as otherwise provided in
18 subsection 3. The absentee ballot shall be sent to the
19 registered voter by one of the following methods:

20 (1) The absentee ballot shall be enclosed in an unsealed
21 envelope bearing imprinted with a serial number and affidavit.
22 The absentee ballot and ~~unsealed~~ affidavit envelope shall
23 be enclosed in or with a an unsealed return envelope marked
24 postage paid which bears the same serial number as the ~~unsealed~~
25 affidavit envelope. The absentee ballot, ~~unsealed~~ affidavit
26 envelope, and return envelope shall be enclosed in a third
27 envelope to be sent to the registered voter. If the ballot
28 cannot be folded so that all of the votes cast on the ballot
29 will be hidden, the commissioner shall also enclose a secrecy
30 envelope with the absentee ballot.

31 (2) The absentee ballot shall be enclosed in an unsealed
32 return envelope imprinted with a serial number and affidavit
33 and marked postage paid. The absentee ballot and return
34 envelope shall be enclosed in a second envelope to be sent
35 to the registered voter. If the ballot cannot be folded so

1 that all of the votes cast on the ballot will be hidden, the
2 commissioner shall also enclose a secrecy envelope with the
3 absentee ballot.

4 b. The affidavit shall be imprinted on the appropriate
5 envelope in a form prescribed by the state commissioner of
6 elections.

7 Sec. 8. Section 53.10, subsection 2, Code 2014, is amended
8 to read as follows:

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

23 Sec. 9. Section 53.16, Code 2014, is amended to read as
24 follows:

25 **53.16 Subscribing to affidavit.**

26 After marking the ballot, the voter shall make and subscribe
27 to the affidavit on the ~~reverse side of the~~ affidavit envelope
28 or on the return envelope imprinted with the affidavit, and
29 fold the ballot or ballots, separately, so as to conceal
30 the markings on them, and deposit them in the envelope, and
31 securely seal the envelope.

32 Sec. 10. Section 53.17, subsection 1, unnumbered paragraph
33 1, Code 2014, is amended to read as follows:

34 ~~The~~ If the commissioner mailed the ballot pursuant to
35 section 53.8, subsection 1, paragraph "a", subparagraph (1),

1 the sealed affidavit envelope containing the absentee ballot
2 shall be enclosed in a return envelope which shall be securely
3 sealed. If the commissioner mailed the ballot pursuant to
4 section 53.8, subsection 1, paragraph "a", subparagraph (2),
5 the absentee ballot shall be enclosed in the return envelope
6 which shall be securely sealed. The sealed return envelope
7 shall be returned to the commissioner by one of the following
8 methods:

9 Sec. 11. Section 53.17, subsection 2, Code 2014, is amended
10 to read as follows:

11 2. In order for the ballot to be counted, the return
12 envelope must be received in the commissioner's office before
13 the polls close on election day ~~or be clearly postmarked by an~~
14 ~~officially authorized postal service not later than the day~~
15 ~~before the election and received by the commissioner not later~~
16 ~~than noon on the Monday following the election.~~

17 Sec. 12. Section 53.17, subsection 3, Code 2014, is amended
18 by striking the subsection.

19 Sec. 13. Section 53.17, subsection 4, paragraph f, Code
20 2014, is amended to read as follows:

21 f. A statement that the completed absentee ballot will
22 be delivered to the commissioner's office within seventy-two
23 hours of retrieving it from the voter or before the closing of
24 the polls on election day, whichever is earlier, or that the
25 completed absentee ballot will be mailed to the commissioner
26 within seventy-two hours of retrieving it from the voter ~~or~~
27 ~~within time to be postmarked not later than the day before the~~
28 ~~election, whichever is earlier.~~

29 Sec. 14. Section 53.18, subsections 2 and 3, Code 2014, are
30 amended to read as follows:

31 2. If the commissioner receives the return envelope
32 containing the completed absentee ballot by 5:00 p.m. on
33 the Saturday before the election for general ~~and primary~~
34 elections and by 5:00 p.m. on the Friday before the election
35 for all other elections, the commissioner shall review the

1 affidavit imprinted on the return envelope, if applicable, for
2 completeness or shall open the return envelope to review the
3 affidavit for completeness. If the affidavit is incomplete,
4 the commissioner shall, within twenty-four hours of the time
5 the envelope was received, notify the voter of that fact and
6 that the voter may complete the affidavit in person at the
7 office of the commissioner by 5:00 p.m. on the day before the
8 election, vote a replacement ballot in the manner and within
9 the time period provided in subsection 3, or appear at the
10 voter's precinct polling place on election day and cast a
11 ballot in accordance with section 53.19, subsection 3.

12 3. If the affidavit envelope or the return envelope
13 imprinted with the affidavit contains a defect that would
14 cause the absentee ballot to be rejected by the absentee
15 and special voters precinct board, the commissioner shall
16 immediately notify the voter of that fact and that the
17 voter's absentee ballot shall not be counted unless the
18 voter requests and returns a replacement ballot in the time
19 permitted under section 53.17, subsection 2. The voter may
20 request a replacement ballot in person, in writing, or over
21 the telephone. The same serial number that was assigned
22 to the records of the original absentee ballot application
23 shall be used on the envelope and records of the replacement
24 ballot. The ~~affidavit~~ envelope imprinted with the affidavit
25 and containing the completed replacement ballot shall be
26 marked "Replacement ballot". The ~~affidavit~~ envelope imprinted
27 with the affidavit and containing the original ballot shall
28 be marked "Defective" and the replacement ballot shall be
29 attached to ~~the affidavit~~ such envelope containing the original
30 ballot and shall be stored in a secure place until they are
31 delivered to the absentee and special voters precinct board,
32 notwithstanding sections 53.26 and 53.27.

33 Sec. 15. Section 53.21, subsection 2, paragraph b, Code
34 2014, is amended to read as follows:

35 b. The voter shall enclose one copy of the above statement

1 in the return envelope along with the affidavit envelope, if
2 the voter was mailed a separate affidavit envelope, and shall
3 retain a copy for the voter's records.

4 Sec. 16. Section 53.23, subsection 3, paragraph b,
5 subparagraph (1), Code 2014, is amended to read as follows:

6 (1) The commissioner may direct the board to meet on the day
7 before the election for the purpose of reviewing the absentee
8 voters' affidavits appearing on the sealed affidavit envelopes.
9 If in the commissioner's judgment this procedure is necessary
10 due to the number of absentee ballots received, the members of
11 the board may open the sealed affidavit envelopes and remove
12 the secrecy envelope containing the ballot, but under no
13 circumstances shall a secrecy envelope or a return envelope
14 imprinted with an affidavit be opened before the board convenes
15 on election day, except as provided in paragraph "c". If the
16 affidavit envelopes are opened before election day pursuant
17 to this paragraph "b", two observers, one appointed by each
18 of the two political parties referred to in section 49.13,
19 subsection 2, shall witness the proceedings. The observers
20 shall be appointed by the county chairperson or, if the
21 county chairperson fails to make an appointment, by the state
22 chairperson. However, if either or both political parties fail
23 to appoint an observer, the commissioner may continue with the
24 proceedings.

25 Sec. 17. Section 53.23, subsection 5, Code 2014, is amended
26 to read as follows:

27 5. The special precinct election board shall preserve
28 the secrecy of all absentee and provisional ballots. After
29 the affidavits on the envelopes have been reviewed and the
30 qualifications of the persons casting the ballots have been
31 determined, those that have been accepted for counting shall
32 be opened. The ballots shall be removed from the affidavit
33 envelopes or return envelopes imprinted with the affidavit, as
34 applicable, without being unfolded or examined, and then shall
35 be thoroughly intermingled, after which they shall be unfolded

1 and tabulated. If secrecy folders or envelopes are used with
2 provisional paper ballots, the ballots shall be removed from
3 the secrecy folders after the ballots have been intermingled.

4 Sec. 18. Section 53.25, Code 2014, is amended to read as
5 follows:

6 **53.25 Rejecting ballot.**

7 1. If the absentee voter's affidavit lacks the voter's
8 signature, if the applicant is not a duly registered voter on
9 election day in the precinct where the absentee ballot was
10 cast, if the ~~affidavit~~ envelope imprinted with the affidavit
11 contains more than one ballot of any one kind, or if the
12 voter has voted in person, such vote shall be rejected by the
13 absentee and special voters precinct board. If the affidavit
14 envelope or return envelope imprinted with the affidavit is
15 open, or has been opened and resealed, or if the ballot is
16 not enclosed in ~~the affidavit~~ such envelope, and an affidavit
17 envelope or return envelope imprinted with the affidavit with
18 the same serial number and marked "Replacement ballot" is
19 not attached as provided in section 53.18, the vote shall be
20 rejected by the absentee and special voters precinct board.

21 2. If the absentee ballot is rejected prior to the opening
22 of the affidavit envelope or return envelope imprinted with the
23 affidavit, the voter casting the ballot shall be notified by a
24 precinct election official by the time the canvass is completed
25 of the reason for the rejection on a form prescribed by the
26 state commissioner of elections.

27 Sec. 19. Section 53.27, Code 2014, is amended to read as
28 follows:

29 **53.27 Rejection of ballot — return of envelope.**

30 If the ballot is rejected, the ~~affidavit~~ envelope, imprinted
31 with the affidavit ~~of,~~ with the ~~voter endorsed~~ voter's
32 endorsement thereon, shall be returned with the rejected ballot
33 in the envelope endorsed "Defective ballots".

34 Sec. 20. Section 53.30, Code 2014, is amended to read as
35 follows:

1 **53.30 Ballots, ballot envelopes, and other information**
2 **preserved.**

3 At the conclusion of each meeting of the absentee and
4 special voter's precinct board, the board shall securely
5 seal all ballots counted by them in the manner prescribed in
6 section 50.12. The ballot envelopes, including the affidavit
7 ~~envelope having the registered voter's affidavit on it if an~~
8 affidavit envelope was provided, the return envelope, and
9 secrecy envelope bearing the signatures of precinct election
10 officials, as required by section 53.23, shall be preserved.
11 All applications for absentee ballots, ballots rejected without
12 being opened, absentee ballot logs, and any other documents
13 pertaining to the absentee ballot process shall be preserved
14 until such time as the documents may be destroyed pursuant to
15 section 50.19.

16 Sec. 21. Section 53.32, Code 2014, is amended to read as
17 follows:

18 **53.32 Ballot of deceased voter.**

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

27 Sec. 22. Section 53.38, Code 2014, is amended to read as
28 follows:

29 **53.38 What constitutes registration.**

30 Whenever a ballot is requested pursuant to section 53.39 or
31 53.45 on behalf of a voter in the armed forces of the United
32 States, the affidavit upon the ~~affidavit~~ envelope imprinted
33 with the affidavit of such voter, if the voter is found to
34 be an eligible elector of the county to which the ballot is
35 submitted, shall constitute a sufficient registration under

1 chapter 48A. A completed federal postcard registration and
2 federal absentee ballot request form submitted by such eligible
3 elector shall also constitute a sufficient registration under
4 chapter 48A. The commissioner shall place the voter's name
5 on the registration record as a registered voter if it does
6 not already appear there. The identification requirements of
7 section 48A.8 and the verification requirements of section
8 48A.25A do not apply to persons who register to vote under this
9 division.

10 Sec. 23. Section 53.40, subsection 3, Code 2014, is amended
11 to read as follows:

12 3. If the affidavit on the ~~affidavit~~ envelope imprinted
13 with the affidavit shows that the affiant is not a qualified
14 voter on the day of the election at which the ballot is
15 offered for voting, the envelope shall not be opened, but
16 the envelope and ballot contained in the envelope shall be
17 preserved and returned by the precinct election officials to
18 the commissioner, who shall preserve them for the period of
19 time and under the conditions provided for in sections 50.12,
20 50.13, 50.15, and 50.19.

21 Sec. 24. Section 53.44, unnumbered paragraph 1, Code 2014,
22 is amended to read as follows:

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

29 Sec. 25. REPEAL. Sections 53.13 and 53.14, Code 2014, are
30 repealed.

31

EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill relates to the administration of elections and
35 voter registration.

1 Under current law, voter registration closes at 5:00 p.m.
2 10 days prior to a general or primary election and 11 days
3 prior to all other elections. The bill requires that voter
4 registration close 11 days prior to primary elections.

5 Relating to completed absentee ballots mailed to the
6 commissioner, the bill provides that in order for an absentee
7 ballot to be counted, the return envelope must be received in
8 the commissioner's office before the polls close on election
9 day. Under current law, in order to be counted, the absentee
10 ballot must be received before the polls close on election
11 day or must be postmarked not later than the day before the
12 election and received by the county commissioner of elections
13 no later than 12:00 p.m. on the Monday following that election.

14 Relating to the envelopes provided to absentee voters, under
15 current law, absentee ballots mailed to a voter are required
16 to be enclosed in an unsealed envelope bearing a serial number
17 and an affidavit, which are then required to be enclosed in or
18 with a return envelope, all of which are then required to be
19 enclosed in a third envelope to be sent to the registered voter
20 requesting an absentee ballot.

21 The bill allows for an affidavit to be imprinted on the
22 return envelope. If a return envelope imprinted with the
23 affidavit is used, absentee ballots mailed to a voter are
24 required to be enclosed in the unsealed return envelope
25 imprinted with the affidavit which is required to be enclosed
26 in a second envelope to be sent to the registered voter
27 requesting an absentee ballot. The bill allows a county
28 commissioner of elections to continue sending absentee ballots
29 as provided under current law or to send absentee ballots
30 utilizing a return envelope imprinted with the affidavit. The
31 bill makes additional conforming changes.

32 The bill also repeals Code section 53.14 which requires that
33 the printed affidavit designate the voter's party affiliation
34 if the ballot enclosed is a primary election ballot.