

JAN 1 2 2005  
STATE GOVERNMENT

HOUSE FILE 40  
BY 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:

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HF 40

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

2 A mail ballot election may be conducted in cities with a  
3 population of two hundred or less as provided in this chapter.

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

5 As used in this chapter, unless the context otherwise  
6 requires:

7 1. "Election day" is the date established by law on which  
8 a particular election would be held if that election were  
9 being conducted by means other than a mail ballot election.

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

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

20 Sec. 3. NEW SECTION. 49B.3 MAIL BALLOT ELECTION  
21 PROCEDURE.

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

25 Sec. 4. NEW SECTION. 49B.4 INITIATION BY GOVERNING BODY.

26 1. If the city council of a city with a population of two  
27 hundred or less determines that it is economically and  
28 administratively feasible to conduct the regular city election  
29 or a special city election by mail, the city council, by  
30 resolution, may require the county commissioner of elections  
31 to conduct the election under this chapter by filing the  
32 resolution with the county commissioner not later than ninety  
33 days before the date of the election.

34 2. After the resolution is filed, the county commissioner  
35 shall prepare a written plan for conducting the election as

1 provided in section 49B.5. At least seventy-one days before  
2 the date set for the election, the county commissioner shall  
3 forward a copy of the written plan to the city council  
4 concerned.

5 Sec. 5. NEW SECTION. 49B.5 WRITTEN PLAN FOR CONDUCTING  
6 ELECTION -- AMENDMENTS -- APPROVAL PROCEDURE.

7 1. The county commissioner shall prepare a written plan,  
8 including a timetable, for conducting a mail ballot election  
9 and shall submit it to the state commissioner of elections at  
10 least seventy-one days before the date of the election.

11 2. The plan may be amended by the county commissioner any  
12 time before the sixty-fourth day before the date of the  
13 election by notifying the state commissioner of elections in  
14 writing of any changes.

15 3. Within five days after receiving the plan, and as soon  
16 as possible after receiving any amendments, the state  
17 commissioner of elections shall approve, disapprove, or  
18 recommend changes to the plan or amendments. The final plan  
19 shall be approved and available to the public at least two  
20 days before the deadline for candidates to file nomination  
21 papers in the office of the city clerk.

22 4. When the written plan has been approved, the county  
23 commissioner shall proceed to conduct the election according  
24 to the approved plan.

25 Sec. 6. NEW SECTION. 49B.6 PUBLICATION OF NOTICE.

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

33 1. The date ballots will be mailed.

34 2. The last day that a voter can request an absentee  
35 ballot.

1 3. Voter registration deadlines.

2 4. Location or locations where mail ballots can be  
3 deposited pursuant to section 49B.13.

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.9.

7 The county commissioner is not required to publish a sample  
8 ballot.

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

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

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

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

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

25 5. The ballot shall contain the following warning:

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

30 Sec. 8. NEW SECTION. 49B.8 REGISTRATION.

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

1     Sec. 9. NEW SECTION. 49B.9 REPLACEMENT BALLOTS.

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

30     Sec. 10. NEW SECTION. 49B.10 VOTING AND RETURN OF  
31 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. 11. NEW SECTION. 49B.11 ABSENTEE BALLOTS.

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

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

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

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

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

11 A person who is a resident or patient in a health care  
12 facility or hospital located in the county in which the  
13 election is to be held shall not be mailed a ballot but shall  
14 have a ballot delivered in the manner prescribed by section  
15 53.22, subsection 1.

16 Sec. 13. NEW SECTION. 49B.13 PERSONAL DELIVERY OF MAIL  
17 BALLOT -- BALLOT DROPOFF STATIONS.

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

24 Sec. 14. NEW SECTION. 49B.14 RECEIPT OF BALLOT --  
25 SIGNATURE VERIFICATION.

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

34 The county commissioner or the county commissioner's  
35 designees shall verify the signature of each voter on the

1 return verification envelope with the signature in the voter's  
2 registration records and may commence verification at any time  
3 before election day. If a voter to whom a replacement ballot  
4 has been issued under section 49B.9 returns more than one  
5 ballot, only the replacement ballot shall be counted.

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

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

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

17 1. Give notice to the voter as follows:

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

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

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

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

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

33 3. If the discrepancy is not rectified to the county  
34 commissioner's satisfaction, present the unopened envelope and  
35 the registration card to the special precinct election board

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

4 Sec. 16. NEW SECTION. 49B.16 COUNTING BALLOTS.

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

10 Sec. 17. NEW SECTION. 49B.17 CHALLENGES.

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

13 Sec. 18. NEW SECTION. 49B.18 CANVASS OF VOTES.

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

17 Sec. 19. NEW SECTION. 49B.19 OTHER LAWS.

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

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

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

26 Sec. 21. NEW SECTION. 49B.21 MISCONDUCT -- VIOLATIONS --  
27 PENALTIES.

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

32 Sec. 22. NEW SECTION. 39.2A MAIL BALLOT ELECTIONS.

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

35

EXPLANATION

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

12 The bill requires the county commissioner to mail the  
13 ballots to registered voters in the city no more than 20 days  
14 and no less than 10 days before the date of the election. To  
15 receive a mailed ballot, an elector must be registered to vote  
16 30 or more days before the date of the election. A completed  
17 ballot must be personally delivered to the commissioner's  
18 office or a designated place no later than the time the polls  
19 close on election day or must be postmarked no later than the  
20 day before the election and received by the commissioner not  
21 later than the date set for canvassing the ballots.

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

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

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