

LEGISLATIVE BILL 838

Approved by the Governor April 16, 2008

Introduced by Karpisek, 32.

FOR AN ACT relating to elections; to amend sections 32-202, 32-953, 32-954, and 32-957, Reissue Revised Statutes of Nebraska, and section 32-947, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to identification envelopes for early voting and voting by mail; to eliminate the requirement of a secrecy envelope for elections held by mail; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal section 32-955, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 32-202, Reissue Revised Statutes of Nebraska, is amended to read:

32-202 In addition to any other duties prescribed by law, the Secretary of State shall:

(1) Supervise the conduct of primary and general elections in this state;

(2) Provide training for election commissioners, county clerks, and other election officials in providing for registration of voters and the conduct of elections;

(3) Enforce the Election Act;

(4) With the assistance and advice of the Attorney General, make uniform interpretations of the act;

(5) Provide periodic training for the agencies and their agents and contractors in carrying out their duties under sections 32-308 to 32-310;

(6) Develop and print forms for use as required by sections 32-308, 32-310, 32-320, 32-329, ~~32-955~~, 32-947, 32-956, and 32-958;

(7) Contract with the Department of Administrative Services for storage and distribution of the forms;

(8) Require reporting to ensure compliance with sections 32-308 to 32-310;

(9) Prepare and transmit reports as required by the National Voter Registration Act of 1993, 42 U.S.C. 1973gg et seq.;

(10) Develop and print a manual describing the requirements of the initiative and referendum process and distribute the manual to election commissioners and county clerks for distribution to the public upon request;

(11) Develop and print pamphlets described in section 32-1405.01;

(12) Adopt and promulgate rules and regulations for elections conducted under sections 32-952 to 32-959; and

(13) Establish a free access system, such as a toll-free telephone number or an Internet web site, that any voter who casts a provisional ballot may access to discover whether the vote of that voter was counted and, if the vote was not counted, the reason that the vote was not counted. The Secretary of State shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system. Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot.

Sec. 2. Section 32-947, Revised Statutes Cumulative Supplement, 2006, is amended to read:

32-947 (1) Upon receipt of an application or other request for a ballot to vote early, the election commissioner or county clerk shall determine whether the applicant is a registered voter and is entitled to vote as requested. If the election commissioner or county clerk determines that the applicant is a registered voter entitled to vote early and the application was received at or before 4 p.m. on the Wednesday preceding the election, the election commissioner or county clerk shall deliver a ballot to the applicant in person or by mail, postage paid. The election commissioner or county clerk or any employee of the election commissioner or county clerk shall write his or her customary signature or initials on the ballot.

(2) An unsealed identification envelope shall be delivered with the ballot, and upon the back of the envelope shall be printed a form substantially as follows:

VOTER'S OATH

I, the undersigned voter, declare that the enclosed ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked, enclosed in the identification

envelope, and sealed in such envelope.

My voting residence in Nebraska is (street and number or rural route and number) of (city, village, or township) Nebraska. I am a registered voter of the State of Nebraska.

I hereby declare, under penalty of election falsification, that the statements above are true to the best of my knowledge.

To the best of my knowledge and belief, I declare under penalty of election falsification that:

- (a) I am a registered voter in County;
- (b) I reside in the State of Nebraska at the address printed below;
- (c) I have voted the enclosed ballot and am returning it in compliance with Nebraska law; and
- (d) I have not voted and will not vote in this election except by this ballot.

ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO FIVE YEARS OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

.....
(here follows space for signature of registered voter)

I also understand that failure to complete the information below will invalidate my ballot.

Signature
Printed Name
Residence Address

The primary election ballot, if any, within this envelope is a primary election ballot of the party.

Ballots contained in this envelope are for the (primary, general, or special) election to be held on the day of 20.. .

(3) If the ballot and identification envelope will be returned by mail or by someone other than the voter, the election commissioner or county clerk shall include with the ballot an identification envelope upon the face of which shall be printed the official title and post office address of the election commissioner or county clerk.

(4) The election commissioner or county clerk shall also enclose with the ballot materials:

(a) A registration application, if the election commissioner or county clerk has determined that the applicant is not a registered voter pursuant to section 32-945, with instructions that failure to return the completed and signed application indicating the residence address as it appears on the voter's request for a ballot to the election commissioner or county clerk by the close of the polls on election day will result in the ballot not being counted;

(b) A registration application and the oath pursuant to section 32-946, if the voter is without a residence address, with instructions that the residence address of the voter shall be deemed that of the office of the election commissioner or county clerk of the county of the voter's prior residence and that failure to return the completed and signed application and oath to the election commissioner or county clerk by the close of the polls on election day will result in the ballot not being counted; or

(c) Written instructions directing the voter to submit a copy of an identification document pursuant to section 32-318.01 if the voter is required to present identification under such section and advising the voter that failure to submit identification to the election commissioner or county clerk by the close of the polls on election day will result in the ballot not being counted.

(5) The election commissioner or county clerk may enclose with the ballot materials a separate return envelope for the voter's use in returning his or her identification envelope containing the voted ballot, registration application, and other materials that may be required.

Sec. 3. Section 32-953, Reissue Revised Statutes of Nebraska, is amended to read:

32-953 The election commissioner or county clerk shall mail the official ballot to all registered voters of the political subdivision at the addresses appearing on the voter registration register on the same day. The ballots shall be mailed by nonforwardable first-class mail not sooner than the twentieth day before the date set for the election and not later than the tenth day before the date set for the election. The election commissioner or county clerk shall include with the ballot a secrecy envelope, a return an unsealed identification envelope, meeting the requirements of subsection (2) of section 32-947 and instructions sufficient to describe the voting process.

Sec. 4. Section 32-954, Reissue Revised Statutes of Nebraska, is amended to read:

32-954 Upon receipt of the official ballot, the registered voter shall mark it, seal the ballot in the ~~secrecy envelope~~, ~~sign the return identification envelope~~ supplied with the ballot, sign the identification envelope, and comply with the instructions provided with the ballot. The voter may return the ballot to the election commissioner or county clerk by mailing it or by personally delivering it to the office of the election commissioner or county clerk. The deadline for receipt of the ballot is 5 p.m. on the date set for the election. The official ballot must be returned in the ~~return~~ identification envelope. The registered voter shall, by signing the envelope, certify to the facts contained on the envelope. The election commissioner or county clerk shall keep the ~~return~~ identification envelopes received from registered voters unopened in a fireproof safe or other suitable location which is locked until delivered to the counting board.

Sec. 5. Section 32-957, Reissue Revised Statutes of Nebraska, is amended to read:

32-957 An official ballot under section 32-953 shall be counted only if it is returned ~~in the sealed secrecy envelope which is in the return~~ identification envelope, the envelope is signed by the voter to whom it was issued, and the signature is verified by the election commissioner or county clerk. The election commissioner or county clerk shall verify the signature on each ~~return~~ identification envelope received in his or her office with the signature appearing on the voter registration records. If the election commissioner or county clerk is unable to verify a signature, the election commissioner or county clerk shall contact the voter within two days after determining that he or she is unable to verify the signature to ascertain whether the voter cast a ballot. The election commissioner or county clerk may request that the registered voter sign and submit a current signature card pursuant to section 32-318. The election commissioner or county clerk may begin verifying the signatures as the envelopes are received in his or her office. If the election commissioner or county clerk determines that a voter has voted more than once, no ballot cast by that voter in that election shall be counted. The election commissioner or county clerk shall not make public any record or list of registered voters who have returned their ballots until the election has been certified by the canvassing board.

Sec. 6. This act becomes operative on January 1, 2009.

Sec. 7. Original sections 32-202, 32-953, 32-954, and 32-957, Reissue Revised Statutes of Nebraska, and section 32-947, Revised Statutes Cumulative Supplement, 2006, are repealed.

Sec. 8. The following section is outright repealed: Section 32-955, Reissue Revised Statutes of Nebraska.