



identification card issued by a county and approved by the State Board of elections, any identification card with the voter's photograph and name stated, any food stamp card, electronic benefit transfer card, or supplemental nutrition card issued by the state, or a credit or debit card.

**Section 2:**

Allows a voter to cast a **provisional ballot** on the day of a primary, and election, or during in-person absentee voting without proof of identification if that voter is eligible, entitled to vote in that precinct, and by executing a voter's affirmation. The affirmation shall follow the same guidelines as defined in Section 1 **except the affirmation shall not address impediments to procuring proof of identification.** Once the information is affirmed the voter shall sign the "Provisional Ballot Signature Roster" and cast his or her provisional ballot. Procedures are provided regarding how to remit the provisional ballot to ensure it is counted.

Provides for the counting of the provisional ballot only if the voter appears before the county clerk by the close of business on the Friday following a primary or an election, and either provides proof of identification or a social security card, a county-issued identification card containing the name of the voter and which has been approved in writing by the State Board of elections; **any** identification card with the voter's picture and signature; any food stamp identification card, electronic transfer card, or supplemental nutrition assistance card issued by the state; or a debit or credit card with the name of the voter stated; or affirm to the identical set of guidelines required in Section 1 **including any impediments to procuring proof of identification.**

The county board of elections then determines if the provisional ballot is valid. The ballot is deemed invalid if the affirmation has not been properly executed, the signature on the affirmation does not match the signature of the voter on the registration card, the affirmation is unsigned, the provisional voter is not a qualified voter of the precinct, the provisional voter is not registered to vote, or the provisional voter is unable to provide proof of identification.

**Section 4:**

Clarifies the use of a supplemental paper ballot receptacle in precincts where supplemental paper ballots have been approved. This box along with the provisional ballot receptacle shall be transported to and counted by the county board of elections.

**Section 5:**

Provides a medical exception allowing a registered voter and the registered voter's spouse to apply for a mail-in absentee ballot within fourteen days of an election as opposed to seven days.

Requires in-person absentee voters to adhere to the proof of identification requirements stipulated in Sections 1 and 2.

Requires a copy of the voter's proof of identification, an executed voter's affirmation, and an instructional statement detailing the requirement for presenting the proof of identification and affirmation accompany a mail-in absentee ballot application.

**Section 9:**

Amends KRS 117.0865 to require that any person who aids another in completing an absentee ballot or a provisional absentee ballot shall not solicit or encourage that person to vote for or against any candidate, party, or issue. A violation of this section shall be a Class D felony.

**Section 23:**

Defines proof of identification as one issued by the United States, the Commonwealth of Kentucky or any other state of the United States, a military ID, an ID issued by a university, college, or technical or professional school located within the United States. The identification must contain the name of the individual and a photograph of the individual.

**Section 26:**

Amends KRS 117.995 to include violations performed by a county clerk, election officer, or voter in regards to provisional ballots and absentee ballots will be guilty of either a Class D felony or a Class A misdemeanor.

**Section 37:**

Provides that there shall be no fee charged for the original, renewal, or replacement of a standard personal identification card if the individual does not have a valid operator's license or a commercial driver's license; is at least 18 years of age on or before the next regular election; and is otherwise eligible to vote in the regular election.

**The fiscal impact of SB 2 HCS on counties is expected to be minimal to significant depending on the percentage of registered voters in a county and the number of provisional ballots printed.**

According to Harp Enterprises, a vendor servicing 96 Kentucky counties, it costs between \$12 and \$15 per precinct in total to print provisional ballots for primary and general federal elections. Assuming 3,659 precincts (November 2019 General Election), the aggregate cost to counties currently ranges from \$43,900 to \$54,900 per even-numbered calendar year.

Due to using provisional ballots for state and local races, provisional ballots will need to be printed to accommodate independent voters for nonpartisan local and judicial primaries (usually just two sets of ballots for Democrats and Republicans are printed). Also, provisional ballots will vary throughout the counties. While this in itself will not cause an increase in the number of ballots printed, the process of printing will be more labor-intensive, which will further increase printing costs.

Attached is an estimate as provided by the Kentucky County Clerk's Association and inclusive of cost for ballot boxes and scanners. This was previously presented to the House Elections, Constitutional Amendments & Intergovernmental Affairs Committee.

Sections 5 and 6 require verification by the county clerk and possible additional mailings. County clerks, precinct clerks, and County Board of Elections will have to have training to implement the changes presented herein. Whereas these concerns are expansions of training and procedures already in place, these added responsibilities and cost should be easily absorbed.

The impact to local jails as a result of Sections 9 and 26 and expanding the violations to include violations against provisional ballots and provisional absentee ballots likely be minimal. Costs associated with Class A misdemeanors and Class D felons are explained below.

A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 77 full service jails or three life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day.

When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 77 full service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky's full service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$31.34 per day to house a D felon. Since the per diem pays for the estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the actual housing cost.

### **Part III: Differences to Local Government Mandate Statement from Prior Versions**

#### **The impact of SB 2 HCS 1 on local governments is the same it was with SB 2 GA.**

SB 2 HCS 1 1 keeps the major provisions of SB 2 GA and makes the following additions/changes:

Section 1 and 2: Adds food stamp cards and other assistance cards as allowable forms of identification.

Section 4: changes provisional ballot boxes to provisional ballot receptacles.

Section 5: deletes the requirement that a copy of the voter's proof of identification (Section 23) accompany the application for a mail-in absentee ballot resulting from a medical emergency within fourteen days of an election.

Provides a medical exception allowing a registered voter and the registered voter's spouse to apply for a mail-in absentee ballot within fourteen days of an election as opposed to seven days.

Section 6: Expands what is required for a mail-in absentee ballot application to include an executed voter's affirmation and an instructional statement detailing the requirement for presenting the proof of identification and affirmation.

Deletes procedures allowing for an absentee ballot if a voter is unable to provide a copy of his or her proof of identification, yet otherwise qualifies to receive a mail-in absentee ballot.

Section 23: Clarifies proof of identification must be issued within the United States.

**The impact of SB 2 GA on local governments is the same it was with SB 2 SCS.**

The impact to local governments is the same within SB 2 SCS as it was to SB 2 as introduced.

The SCS makes the following changes to SB 2 as introduced.

Section 1: Removes reference to provisional ballot. Replaces the voter affidavit requirement with a voter affirmation requirement. Provides what must be included in the affirmation. It further details what forms of identification may be provided in lieu of a photo ID.

Section 2: Details the requirement for casting a provisional ballot including the voter's affirmation and what is required to be affirmed. Details what

Section 6: Requires in-person absentee voters to adhere to the proof of identification requirements stipulated in Sections 1 and 2.

Section 30: Changes the date for certifying the votes by the Secretary of State from Friday to the following Monday following the election.

**Data Source(s):** LRC Staff, Harp Enterprises; KY Department of Corrections

**Preparer:** Wendell F. Butler      **Reviewer:** KHC      **Date:** 3/12/20

February 18, 2020

RESPONSE TO SB2 SUBSTITUTE SUBMITTED ON 2/17/2020

Chairman, Committee members

I am here on behalf of the Kentucky County Clerk's Association. The KCCA is looking forward to working with the Secretary of State over the next four years. We believe that together we can develop and implement statutes and regulations that will be good for voters, which ensures fair and efficient elections.

Today, we are here to discuss SB2, its implementations and fiscal impact.

**Current fiscal impact to implement SB2 is approximately 2,212,800.** This cost is based on:

120 COUNTIES

3,600 PRECINCTS

7,432 VOTING MACHINES

Provisional ballots @ 50 cent a ballot in 50 ballot packs or 25.00 per pack x 3,600 precincts (2 elections)	180,000
Provisional ballot boxes- estimating the cost @ 300.00 per box x 3,600 precincts	1,080,000
Provisional secrecy envelope @ approximately .25 cents per envelope -need 50 = 12.50	86,400
Provisional outer envelope @ approximately .25 cents per envelope	86,400
Scanner to accommodate provisional ballots @ 6,500 per machine x 120 counties	780,000.00
Programming costs for ballot systems with our vendors	??????
	2,212,800

Based on the language in the bill, many of the costs current being borne by the State Board of Elections will now fall to the counties, like the affirmations, provisional ballots and envelopes.

County clerks currently have a ballot scanner for in-person ballots and mail in ballots. Clerks will now need a scanner for provisional ballots for in-person provisional ballots and one for mail-in provisional ballots. That is two additional scanners which are approximately \$6,500 per scanner.

Section 2 describes the provisional ballot process and requires a provisional ballot receptacle/box. To meet the requirements the cost per box would approximately \$300.00 apiece. Adding an additional piece of equipment to a precinct will likely increase the delivery costs on Election Day.

**PRIVACY ISSUE:** Page 4-6. The voter must come to the office by Friday to provide ID. The County Board must meet to review and you are finding the affirmation and matching it up the provisional ballot envelope. There are concerns over protecting the privacy of that voters vote.

**DELAY OF RESULTS:** Results in all races will be delayed till Monday following Election Day to provide voters time to come to the office and present ID

**MEDICAL EMERGENCY:** Section 5. Shouldn't be mail in. If it isn't mail in then (2) on lines 13-17 will not be needed.

**SPECIAL CLASS:** Page 28 line 17-19. This creates a special class of people and often people who live in these facilities are registered there.

**PROGRAMMING ISSUES:** Page 20 is requiring that separate lists are required for ballots voted in office, by mail and by provisional ballot. This will require programming changes to the VRS and to our vendor systems to create these separate lists.

Also will VRS need to be updated to let voters know whether we accept or reject the provisional ballot?

Page 24- The requirement that the clerk must print a sufficient number of provisional ballots means that a clerk will be creating a ballot for each precinct. There can't be a generic provisional ballot for the whole county as we currently have in federal elections. Also this requirement means we can program our in-office machine to print provisional ballots on-demand or be programmed into our voting equipment that is used at the precinct.

All of these changes to provisional ballots will also require programming changes to the e-poll books.

#### **INCONSISTENCIES IN BILL:**

- a. Page 1 line 22 "voter's affirmation is to be furnished by SBE  
Page 24 line 11-12 states "county clerk shall have printed a sufficient number of paper absentee ballots and voter affirmations.
- b. Page 3 line 4 "any ID card issued by a federal, state, or local authority" (Need to define local authority)  
  
Page 5 line 9 only says "any ID card with the voter's picture and signature
- c. Page 7, line 19 refers to "receptacle" for the provisional ballots  
Page 28 line 2 "separate locked ballot box..."
- d. Page 42 line 16-21 which defines a provisional voter, which doesn't match the language in 31KAR 6:020 on provisional ballots.

#### **OTHER CONCERNS:**

The County Clerks would like examples of what identification is acceptable under Section 24.

Clerks are concerned about how this will slow down the check in process. For those clerks using e-poll books, the majority of voters are producing their driver's license because it makes the check in process faster, but if a clerk is using a paper roster this will significantly increase the check-in process.

If SB2 can't be modified then the KCCA is requesting that implementation of SB2 be delayed until 2022. This would give our Fiscal Courts time to purchase the appropriate equipment needed. It would give our vendors time to reprogram our voting equipment. And it would give the clerks time to prepare for these additional items and be able to properly prepare our training materials for our staff and election officers.

I'd like to thank the committee for your time today.