

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

Section 5:

Requires that a copy of the voter's proof of identification (Section 24) accompany the application for a mail-in absentee ballot resulting from a medical emergency within fourteen days of an election. If the voter does not submit proof of identification, yet otherwise qualifies to receive a mail-in absentee ballot, the county clerk shall mail a mail-in absentee ballot and voter's affirmation, two official envelopes for returning the ballot and affirmation, and instructions for voting a mail-in absentee ballot.

Section 6:

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 accompany a mail-in absentee ballot application. If proof is not submitted, and the voter would otherwise qualify for an absentee ballot by mail, the county clerk shall mail to the applicant a mail-in absentee ballot, a voter's affirmation, two return envelopes for the ballot and affirmation, and instructions for voting a mail-in absentee ballot. The mail-in absentee affirmations shall be returned within the outer envelope to ensure anonymity of the cast mail-in ballot.

Section 10:

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 24:

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

Section 27:

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 38:

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 SCS 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.

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 10 and 27 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 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:** _____ **Date:** _____