

JAN 18 2002

STATE GOVERNMENT

HOUSE FILE 2085

BY SCHERRMAN

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act allowing elections in cities with a population of two
2 hundred or less to be conducted by mail ballots and providing
3 penalties.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 2085

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 conduct of 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 CONDUCT OF
6 ELECTION -- AMENDMENTS -- APPROVAL PROCEDURE.

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

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

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

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

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

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

34 1. The date ballots will be mailed.

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

1 ballot.

2 3. Voter registration deadlines.

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

5 5. Instructions for obtaining a replacement ballot if a
6 voter's ballot is destroyed, spoiled, lost, or not received
7 pursuant to section 49B.9.

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

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

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

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

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

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

26 5. The ballot shall contain the following warning:

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

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

32 The county commissioner shall not mail a ballot under this
33 chapter to any voter not registered thirty days before the
34 date of the election. Voters registered less than thirty days
35 before the date of the election, but before the close of

1 registration, may apply for a ballot under section 49B.9.

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

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

27 Sec. 10. NEW SECTION. 49B.10 VOTING AND RETURN OF
28 BALLOT.

29 1. A registered voter, upon receipt of a mail ballot,
30 shall mark the ballot in such a manner that no other person
31 will know how the ballot is marked and shall place it in the
32 secrecy envelope provided with the ballot.

33 A voter who is blind, cannot read, or because of a physical
34 disability is unable to mark the ballot, may be assisted by
35 any person selected by the voter.

1 2. The voter shall place the secrecy envelope containing
2 the ballot in the return verification envelope and sign and
3 securely seal the return verification envelope. The sealed
4 return verification envelope shall be returned to the county
5 commissioner by one of the following methods:

6 a. The sealed return verification envelope may be
7 delivered by the registered voter or the voter's designee to
8 the county commissioner's office or a place designated by the
9 commissioner no later than the time the polls close on
10 election day.

11 b. The sealed return verification envelope may be mailed,
12 postage paid, to the county commissioner. In order for the
13 ballot to be counted, the return verification envelope must be
14 clearly postmarked by an officially authorized postal service
15 not later than the day before the election and received by the
16 county commissioner not later than the time established for
17 the canvass by the board of supervisors for that election.
18 The county commissioner shall contact the post office serving
19 the county commissioner's office at the latest practical hour
20 before the canvass by the board of supervisors for that
21 election, and shall arrange for return verification envelopes
22 received in that post office but not yet delivered to the
23 commissioner's office to be brought to the commissioner's
24 office before the canvass for that election by the board of
25 supervisors.

26 Sec. 11. NEW SECTION. 49B.11 ABSENTEE BALLOTS.

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

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

33 b. Make a written request, signed by the voter and
34 addressed to the county commissioner, that the ballot be
35 mailed to an address other than that which appears on the

1 voter's registration record. Written requests shall be
2 accepted until noon the day before the ballots are scheduled
3 to be mailed.

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

6 Sec. 12. NEW SECTION. 49B.12 BALLOTING BY CONFINED
7 PERSONS.

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

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

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

21 Sec. 14. NEW SECTION. 49B.14 RECEIPT OF BALLOT --
22 SIGNATURE VERIFICATION.

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

31 The county commissioner or the county commissioner's
32 designees shall verify the signature of each voter on the
33 return verification envelope with the signature in the voter's
34 registration records and may commence verification at any time
35 before election day. If a voter to whom a replacement ballot

1 has been issued under section 49B.9 returns more than one
2 ballot, only the replacement ballot shall be counted.

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

7 Sec. 15. NEW SECTION. 49B.15 PROCEDURE FOR INVALID
8 BALLOTS.

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

14 1. Give notice to the voter as follows:

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

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

22 2. Permit any voter appearing pursuant to subsection 1,
23 paragraph "b", to:

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

28 b. If necessary, request and receive a replacement ballot
29 and vote at that time.

30 3. If the discrepancy is not rectified to the county
31 commissioner's satisfaction, present the unopened envelope and
32 the registration card to the special precinct election board
33 for a determination. If the election board is unable to
34 resolve the issue to its satisfaction, the ballot shall not be
35 counted.

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 The bill provides that a person who uses violence or duress
34 to procure a mail ballot vote commits an aggravated
35 misdemeanor. A person who violates any provision of mail

1 ballot election law for which a penalty is not otherwise
2 provided commits a simple misdemeanor.

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35