

HOUSE BILL No. 2603

By Representatives Howerton and Underhill

1-25

1 AN ACT concerning elections; establishing the citizens' election oversight
2 board; authorizing such board to review, investigate and report on
3 citizen complaints on the conduct of elections and election procedures;
4 providing for the membership, powers and duties thereof.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) There is hereby established the citizens' election
8 oversight board. The board shall consist of the following members:

9 (1) Each political party that is a recognized political party in
10 accordance with K.S.A. 25-302a, and amendments thereto, shall appoint
11 one member;

12 (2) the speaker and the minority leader of the house of representatives
13 shall each appoint two members, one of whom shall be unaffiliated with
14 any political party;

15 (3) the president and the minority leader of the senate shall each
16 appoint one member;

17 (4) the secretary of state, or the secretary's designee, who shall serve
18 as a nonvoting ex officio member;

19 (5) the attorney general, or the attorney general's designee, who shall
20 serve as a nonvoting ex officio member; and

21 (6) the Kansas county clerks and election officials association shall
22 appoint one member, who shall serve as a nonvoting member.

23 (b) All members of the board shall be registered to vote in this state.
24 Any vacancy in the board membership shall be filled by appointment in
25 the same manner as the original appointment as prescribed by this section.

26 (c) The members first appointed pursuant to subsection (a)(1) shall
27 serve an initial term of two years. The members first appointed pursuant to
28 subsection (a)(2) shall serve an initial term of three years. The members
29 first appointed pursuant to subsection (a)(3) and (a)(6) shall serve an initial
30 term of four years. All succeeding terms of board members shall be four
31 years. Members shall serve not more than two consecutive terms.

32 (d) No person shall be appointed pursuant to subsections (a)(1)
33 through (a)(3) if such person has held an elected office at any time during
34 the three years immediately preceding such person's appointment. For
35 purposes of this subsection, an elected office includes any federal, state or
36 county office that is filled by election of a candidate for such office.

1 (e) The secretary of state, or the secretary's designee, shall call an
2 organizational meeting of the board on or before August 1, 2024. At such
3 organizational meeting, the members shall elect a chairperson and vice
4 chairperson from the board membership. The board shall hold an
5 organizational meeting each year thereafter for the purpose of electing a
6 chairperson and vice chairperson.

7 (f) The board shall meet within 45 days after the date of any primary
8 election and within 45 days after the date of any general election and may
9 meet at any time and at any place within the state on the call of the
10 chairperson. A quorum of the board shall be a majority of the members. All
11 actions of the board shall be by motion adopted by a majority of those
12 members present when there is a quorum.

13 (g) Board members attending meetings authorized by the board shall
14 be paid amounts for expenses, mileage and subsistence as provided in
15 K.S.A. 75-3223(e), and amendments thereto.

16 (h) The secretary of state shall provide such technical and clerical
17 staff assistance as may be requested by the board, including sending
18 notices on behalf of the board when required under section 2, and
19 amendments thereto.

20 (i) The attorney general shall provide investigatory services as may
21 be requested by the board. Such investigatory services shall not exceed 10
22 hours per month unless additional services are agreed to by the attorney
23 general.

24 Sec. 2. (a) The citizens' election oversight board shall receive
25 complaints on the conduct of elections held in this state and election
26 procedures, including, but not limited to, voter registration, advance voting
27 procedures, access to the polls, use of election equipment, handling of
28 ballots, canvassing of ballots and election audits. The subject of such
29 complaints may relate to policies and procedures of the secretary of state
30 or one or more county election officers, or both. Any person may submit a
31 complaint to the board in such form and manner as prescribed by the
32 board.

33 (b) (1) Except as otherwise provided, upon receiving a complaint, the
34 citizens' election oversight board shall review such complaint and may,
35 upon a majority vote of the members, conduct a hearing on the matter. If
36 the board decides to conduct a hearing on the complaint, such hearing shall
37 be held not more than 60 days after the decision to conduct a hearing is
38 made. The board shall provide not less than 30 days' written notice of such
39 hearing to the complainant and any persons named in the complaint. The
40 board shall allow the complainant, any person named in the complaint and
41 any other interested party an opportunity to be heard at the hearing. The
42 board shall conduct a hearing upon the request of the secretary of state or
43 the attorney general.

1 (2) At the conclusion of the hearing or if no hearing is conducted, if
2 the board determines that the complaint cannot be substantiated, then the
3 board may:

4 (A) Dismiss the complaint and provide written notice of such
5 dismissal to the complainant within 10 days of the board's decision; or

6 (B) refer the complaint to the appropriate authority with the
7 recommendation that additional information or clarification of the
8 applicable federal or state law or rules and regulations be provided to the
9 complainant.

10 (3) If the board determines that the complaint is substantiated, then
11 the board shall refer the complaint to the appropriate authority. Complaints
12 may be referred to the secretary of state, the attorney general, the
13 appropriate county election officer, the appropriate county or district
14 attorney or any combination thereof as determined by the board.

15 (4) Any complaint alleging a violation of any provision of title III of
16 the "help America vote act of 2002" shall be immediately referred to the
17 secretary of state pursuant to the help America vote act of 2002
18 administrative complaint act, K.S.A. 25-4701 et seq., and amendments
19 thereto.

20 (c) Any referral by the board may include recommendations
21 regarding disposition of the complaint. Such recommendations may
22 include, but are not limited to:

23 (1) Providing additional information or clarification of applicable
24 federal or state law or rules and regulations to the complainant;

25 (2) providing additional information or clarifying information
26 provided to the public;

27 (3) additional training for employees, election judges or volunteer
28 poll workers;

29 (4) additional auditing of election results;

30 (5) auditing and testing of election equipment;

31 (6) review of and changes to election policies and procedures;

32 (7) additional training and oversight by the secretary of state's office;

33 (8) disciplinary action against one or more individuals; or

34 (9) prosecution of one or more individuals for violations of federal or
35 state law.

36 (d) The citizens' election oversight board shall monitor and record the
37 progress and disposition of any complaint that is referred by the board
38 pursuant to subsection (b)(3). If a referral is made, the officer or agency to
39 whom the referral is made shall submit a report on the progress and
40 disposition, if any, of the matter to the board within 90 days after such
41 referral is made. The officer or agency may have an extension of not more
42 than 60 days to submit the report upon providing written notice of such
43 extension to the board prior to the original date such report is to be

1 submitted. If the matter is unresolved at the time such report is submitted,
2 the officer or agency shall continue to submit a report on the progress and
3 disposition, if any, of the matter to the board. Such additional reports shall
4 be submitted within 90 days of the submission of the immediately
5 preceding report. If an officer or agency fails to submit a report as required
6 under this section, the board shall send notice of such failure to the house
7 standing committee on elections and the senate standing committee on
8 federal and state affairs. Upon final disposition of a complaint, the board
9 shall provide written notice describing such disposition to the complainant
10 within 10 days after the board receives notice of such final disposition, and
11 a copy shall be sent to the secretary of state.

12 (e) The board shall develop and implement a tracking system for all
13 complaints submitted to the board. For each complaint, the system shall
14 record the names and contact information of the complainant and any
15 persons named in the complaint, the county in which the complaint
16 originated, any written notices issued by the board, the name and contact
17 information of the officer or agency to whom a matter was referred,
18 progress reports submitted to the board and the disposition of the
19 complaint. Such system shall be maintained by the secretary of state and
20 made publicly available on the secretary of state's website.

21 Sec. 3. On or before the second Wednesday of January of each year,
22 the citizens' election oversight board, with assistance from the secretary of
23 state, shall prepare and submit a report to the legislature and the governor
24 summarizing the activities of the board during the immediately preceding
25 calendar year. Such report shall include statistics on the number of the
26 complaints received, the number of complaints dismissed and referred by
27 the board, the number of complaints disaggregated by the county in which
28 the complaint originated and any recommendations by the board to
29 improve elections in this state or the election process, including any
30 recommendations for legislation.

31 Sec. 4. The citizens' election oversight board shall adopt policies and
32 procedures to implement the provisions of sections 1 through 3, and
33 amendments thereto.

34 Sec. 5. The provisions of sections 1 through 5, and amendments
35 thereto, shall expire on July 1, 2029. On or before the first Monday of
36 January 2029, the secretary of state shall submit notice of the pending
37 expiration of sections 1 through 5, and amendments thereto, to the
38 legislature.

39 Sec. 6. This act shall take effect and be in force from and after its
40 publication in the statute book.