

MINUTES OF THE Senate COMMITTEE ON Elections

The meeting was called to order by Senator Ronald R. Hein at
Chairperson

1:30 ~~xx~~ p.m. on February 21, 1983 in room 522-S of the Capitol.

All members were present except:
Senator Joseph Norvell
Senator Edward F. Reilly, Jr.

Committee staff present:
Ramon Powers, Legislative Research Department
Arden Ensley, Revisor of Statutes' Office
Sharon Green, Committee Secretary

Conferees appearing before the committee:
Senator William Mulich
Senator Tom Rehorn
Senator Jim Allen
Senator Don Montgomery
Mr. Dennis McFall, Kansas Association of School Boards
Senator James Francisco
Mr. Jim Flory, Attorney General's Office
Ms. Carol Williams, Kansas Public Disclosure Commission
Mr. Fred Harris, Kansas Press Association
Ms. Patty Jaimes, Douglas County Election Officer
Ms. Lee Alt, Johnson County Election Commissioner
Mr. Jon Josserand, Assistant Secretary of State
Mr. Chris McKenzie, League of Kansas Municipalities

The Chairman called the meeting to order.

Senator Mulich testified in favor of SB 185, stating that if this measure was not passed statewide, he hopes it will pass at the local level. (Attachment 1)

Senator Rehorn testified in favor of SB 185, stating that openness is good for government and closedness is not, and the expense would be the only problem he could see with the bill.

Senator Allen testified in favor of SB 229, moving the filing deadline from June 20 to June 10.

Senator Montgomery requested the Committee to introduce legislation to have sheriff's vacancies to be appointed in the same manner as vacancies in the office of state Representatives.

The Chairman indicated that he has a bill draft for introduction of that same request. (Attachment 2)

Motion was made by Senator Meyers and seconded by Senator Gannon to introduce this legislation. The motion was adopted.

Mr. Dennis McFall testified in opposition to SB 185, indicating that the bill would expose School Board members to unnecessary expense and exposure, and that School Board members should continue to be exempted. (Attachment 3)

Senator Francisco testified in favor of SB 185, stating that there should be the same standards for all public offices.

Mr. Jim Flory testified on SB 185, stating that he supports enactment of a local campaign finance act rather than amending the state campaign finance act. He indicated that the Attorney General has been preparing a draft of such an act.

The Chairman read a telegram which was submitted by Mr. Joe Less, representing Kansas Common Cause, urging passage of SB 185. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Elections,
room 522-S, Statehouse, at 1:30 ~~am~~/p.m. on February 21, 1983.

The Chairman also distributed an article made available by Mr. Chris McKinzie regarding the subject matter in SB 185. (Attachment 5)

Ms. Carol Williams testified on SB 185, stating that the Public Disclosure Commission opposes the bill unless it is funded.

Mr. Fred Harris testified in favor of SB 185, stating that the newspapers favored open elections.

Ms. Patty Jaimes testified in favor of SB 229, stating that the election officers need more time to process absentee ballots, and that every vote is important.

Ms. Lee Alt testified in favor of SB 229, stating that more time was needed to set up voting machines in the schools, as the schools were closed in August and part of September, and that the mail system was sometimes too slow. (Attachment 6)

Mr. Jon Josserand testified on SB 185, stating that the bill should be amended to provide for the campaign finance information collected to be filed at the local level.

The Chairman requested the Committee to introduce legislation concerning district conventions, to add "county-wide" to statewide elections. (Attachment 7)

Motion was made by Senator Gannon and seconded by Senator Talkington to introduce this legislation. The motion was adopted.

Mr. Chris McKinzie asked the Committee to introduce legislation dealing with non-binding advisory referendum, to help the County elected officers with the referendum.

Motion was made by Senator Talkington and seconded by Senator Gannon to introduce this legislation. The motion was adopted.

Motion was made by Senator Talkington and seconded by Senator Gannon to adopt the minutes of February 14. The motion was adopted.

The meeting was adjourned by the Chairman.

STATE OF KANSAS

WILLIAM (BILL) MULICH
SENATOR, FIFTH DISTRICT
WYANDOTTE COUNTY
3744 NORTH 67TH
KANSAS CITY, KANSAS 66104
PHONE (913) 299-8283 OR
299-1237



TOPEKA

SENATE CHAMBER

February 21, 1983

COMMITTEE ASSIGNMENTS
CHAIRMAN WYANDOTTE COUNTY DELEGATION
MEMBER ASSESSMENT AND TAXATION
GOVERNMENTAL ORGANIZATION
JUDICIARY
LOCAL GOVERNMENT

Mr. Chairman

Members of the Committee:

Thank you for allowing me the opportunity to appear before you today to encourage your approval of SB 185.

Several years ago, voters in Kansas were asked to enter polls on election day to select from a list of candidates for public office, persons representing the interest of the majority of people in that district. There was only one problem preventing the voter from making a well informed decision in the polling booth. Candidates for public office were not required to divulge the sources from which campaign contributions were solicited. Outwardly, a candidate would support issues sympathetic to the public, whereas, the public had no idea about the sympathetic ear a candidate may have for special interests.

To correct the problem, this legislative body enacted the Campaign Finance Act which placed restrictions upon candidates for elected "state" offices. Unfortunately, the Legislature failed to place candidates for local government offices within the perimeters of this law. As a result, candidates for local government offices were allowed to continue concealing their

Attch. 1

campagin sources and motives, each having an impact upon all individuals within a community when decisions are rendered from that elected office.

Passage of SB 185 will correct this imbalance in government. Candidates for "all" government offices will be required to divulge the sources of their campaign contributions and have limitations placed upon the dollar amounts of contributions made by individuals. More importantly, voters will be given the opportunity to be informed about the interests a candidate may reflect, prior to casting a vote having an impact upon their futures.

Thank you for your time and consideration of SB 185.

SENATE BILL NO. _____

By Committee on Elections

AN ACT relating to the office of sheriff; concerning the filling of vacancies therein; amending K.S.A. 19-804 and repealing the existing section.

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

Section 1. K.S.A. 19-804 is hereby amended to read as follows: 19-804. Except in those counties operating under the provisions of ~~the~~ consolidated law enforcement ~~act~~ acts, whenever a vacancy occurs in the office of sheriff of any county, the undersheriff of such county shall in all things execute the office of sheriff until a sheriff shall be appointed by the governor in the manner provided by law for filling vacancies in the office of member of the house of representatives, who shall hold ~~his~~ office during the unexpired term for which ~~he is~~ appointed and at the expiration of such term if no sheriff is elected and qualifies for such office, the governor shall appoint a sheriff for the ensuing term in the manner provided by law for filling vacancies in the office of member of the house of representatives; and any default or misfeasance in office of such undersheriff in the meantime, as well as before such vacancy, shall be deemed to be a breach of the condition of the bond given by the sheriff who appointed ~~him~~ the undersheriff, and also a breach of the condition of the bond executed by such undersheriff to the sheriff by whom ~~he~~ the undersheriff was appointed.

Sec. 2. K.S.A. 19-804 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Atch. 2

KANSAS
ASSOCIATIONOF
SCHOOL
BOARDS5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

Testimony before the Senate Committee on Elections
Regarding S.B. 185

by

Dennis McFall, Staff Legal Counsel
Kansas Association of School Boards

February 21, 1983

Mr. Chairman and members of the committee, thank you for this opportunity to appear before you to discuss the proposed extension of the requirements of the Kansas campaign finance act to local school board candidates and other local candidates.

At a time when financial problems, complex issues of educational policy and curriculum, and potentially difficult relations with staff make school board service less attractive than in the recent past, it seems an unnecessary burden on the time and patience of these volunteer public servants to subject them to the intricacies and paperwork of the campaign finance law. While the existing law is a good and appropriate one, the cost of time, energy, and legal expertise to local school board candidates of S.B. 185 would exceed the benefits of preventing the possibility of minimal abuse which might be imagined to exist at this level of political activity.

Every two years, there are about 1067 school board positions to be filled by the electorate in the state of Kansas. Although we do not have statistics on the point, it seems reasonable to think that there are more than 2000 candidates who file for these school board positions. To burden them and the office of the secretary of state with the several thousand reports, including the appointment of treasurer, the three reports required by 25-4148, the

Atch. 3

termination report, and the reports by contributors of over \$100, is an unnecessary expense and exposure of these volunteers to criminal penalties and the risk of ouster from office.

Under S.B. 185 it is a crime--a class A misdemeanor--for any school board candidate to fail to file a report of appointment of a treasurer, even if he or she intends to spend only a few dollars on the campaign. The relatively small amount of money spent in these campaigns was apparently the reason they were excluded originally from the provisions of this act, intended to control the money and power associated with much more expensive and complex political activities than a local school board election. We believe that this exemption should continue in recognition of the good faith, volunteer status of local school board candidates.

WU PERMIT TPK

ATTACHMENT 4

WU INFOMASTER 1-005064M052 02/21/83

ICS IPMKAKC KSC

ZCZC 01571 02-21 1044A CST KAKA

TLX 420435 WU PERMIT TPK

BT

4-012233S052 02/21/83

ICS IPMBNGZ CSP

8164744712 TDBN KANSAS CITY MO 28 02-21 1148A EST

PMS SENATOR TOM REHORN, ELECTIONS COMMITTEE, DLR ASAP, DLR
STATE CAPITOL BLDG.

TOPEKA KS 66612

COMMON CAUSE/KANSAS REGRET UNABLE TO TESTIFY IN PERSON FOR SB 185. W

E

URGE PASSAGE OF THIS BILL WHICH WOULD OPEN UP STATE CAMPAIGN FINANCE
REPORTING ON LOCAL LEVEL.

JOE LESS, CHAIRMAN, COMMON CAUSE/KANSAS

1151 EST

NNNN

1351 EST

*

WU PERMIT TPK

Atch. 4

Western Union Telegram

reporting requirements of K.S.A. 25-904. K.S.A. 25-905 also provides penalties for violation of K.S.A. 25-903. References to this statute and penalties for violation should be disregarded since K.S.A. 25-903, which limited the amount of campaign expenditures, was repealed in 1976.

Organizations or Agencies: Receipts and Expenditures

K.S.A. 25-901 states as follows: "Every committee, club, organization, municipality or association designed to promote or engage in promoting the success or defeat of any party or the election or defeat of any candidate or candidates for any city, school district, community junior college, township or county office, or the adoption or defeat of any question submitted at any city, school district, community junior college, township or county election shall have a treasurer, and shall cause to be kept a detailed account of all moneys or property or other thing of value received by it, and of the manner in which the same shall be expended. . . ."

The statute further states that an annual statement of receipts and expenditures covering the period ending December 1 must be filed on or before December 31 with the county election officer in the county in which such committee, etc., has its headquarters. That statement must show in detail from whom all moneys or property or other thing of value were received, to whom such moneys or property or thing of value were paid, for what specific purposes each payment was made, and the exact nature of the service rendered in consideration of such payment.

Any person violating K.S.A. 25-901 is guilty of a misdemeanor and upon conviction shall be fined not more than \$100. (K.S.A. 25-902)

Limitation on Amount of Campaign Expenditure

There is no longer any limitation on the amount of campaign expenditures. Prior to 1976, there was a statute (K.S.A. 25-903) which limited expenditures to 10 percent of the first year's salary of the office sought, except for a \$500 limitation on certain offices. This statute was repealed by the 1976 legislature.

The U.S. Supreme Court has held that limitations upon campaign expenditures violate First Amendment free speech guarantees by placing a substantial and direct restriction on the ability of candidates, citizens and associations to engage in protected political expression. (*Buckley v. Valeo*, 424 U.S. 1 (1976)). On the other hand, the court held that legislation that places restrictions upon or requires disclosure of campaign contributions is constitutional as appropriate legislative weapons against the reality or appearance of the improper influence stemming from the dependence of can-

Campaigning for Local Office

Candidates for local elective office should know that they are subject to state laws which require disclosure of campaign financing and potential conflicts of interest. This report briefly reviews the applicable laws.

Candidate Expenses

At the outset it should be noted that the campaign finance act enacted by the 1981 Kansas legislature (K.S.A. 25-4143 *et seq.*) does not apply to candidates for local office. Candidates for nomination or election to a local office are subject to the provisions of K.S.A. 25-901 through 904. K.S.A. 25-904 requires every candidate for nomination or election to any city office, school district, community junior college, township or county office to file with the county election officer an itemized statement, under oath, of all expenditures made or obligation contracted or incurred in connection with each primary, general or special election. This statement must be filed within 30 days after each primary, general or special election. The statute was amended in 1974 to provide that if no expenditures are made and no

obligations contracted or incurred by the candidate, a statement to that effect must be filed with the county election officer.

K.S.A. 25-905 states that if a candidate for nomination or election to any city of the first or second class, school district, community junior college or county office fails to file an itemized statement within the time prescribed, it is the duty of the officer with whom such statement should be filed to notify the candidate that he has failed to file the statement. The notice must be given within 10 days from the expiration of the time for filing and before any action is brought to enforce penalties. If the candidate files the statement within 10 days after receiving such notice, no penalty for failure to file is to be imposed, unless the statement is shown to be untrue. The penalty for violation is a fine not to exceed \$1,000.

However, this same statute states: "That the penalties herein imposed shall not apply to candidates for city of the third class or township offices." In other words, candidates for offices in cities of the third class and townships cannot be penalized for failure to comply with the

didates on large campaign contributions.

Declaration of Financial Interests

One purpose of the state conflict of interest law (K.S.A. Supp. 75-4301 *et seq.*) is to require public officials to disclose business interests which may be in conflict with the public interest. Section 75-4302 of this act states that "Every candidate for elective public office at the time and place of filing such candidate's declaration of candidacy or at the time of his or her appointment as a candidate, shall file a written report disclosing all of such candidate's substantial interests." This section also provides that any person appointed to fill a vacancy in an elective public office shall file a report disclosing such person's substantial interest within 30 days after taking office. If any change occurs in the substantial interests of any person required to file a disclosure, a supplemental report disclosing the change must be filed within 10 days (K.S.A. 75-4302(c)). A form titled "Disclosure of Substantial Interests" may be obtained from the county election officer.

The term "substantial interest" is defined in K.S.A. 75-4301, but it should be noted that the Kansas Public Disclosure Commission (formerly the Governmental Ethics Commission), which is charged with administering the law, has issued regulations K.A.R. 19-50 and 19-51 implementing and interpreting this statute. Candidates for local office should read K.S.A. 75-4301 and the regulations mentioned to determine whether they are required to file a disclosure of substantial interests form and, if so, what must be reported.

Under K.S.A. Supp. 75-4302a the Kansas Public Disclosure Commission is required to render opinions on the interpretation and application of the conflict of interest law upon written request of a public officer or employee or by any person who has filed as a candidate for elective public office. Requests for opinions should be made to the Secretary of State who notifies the commission. Copies of advisory opinions rendered by the commission are filed in the office of the Secretary of State.

City Regulations

Cities may, in the exercise of their home rule powers, pass ordinances paralleling or supplementing state laws on the same subject. Therefore, candidates for city office may also be subject to city ordinances relating to the disclosure of campaign finances. At least one city, Wichita, has passed an ordinance relating to campaign contribution and expenditure reports. Many provisions of this ordinance are similar to provisions found in the campaign finance act (K.S.A. 25-4143 *et seq.*) which is applicable to candidates for state office.

New Budget Overloading Congressional Agenda

EDITOR'S NOTE. The following report was written by George Gross, Director, Office of Federal Relations, National League of Cities, Washington, D.C.

Congress may become overloaded this year by the number and controversy of President Reagan's budget proposals, and an early casualty could be his far-reaching New Federalism plan.

Apart from these matters, Congress faces a busy election-year schedule, including renewal of the clean air and voting rights laws and the highways, mass transit, employment and training programs, as well as enactment of comprehensive telecommunications legislation.

In addition, the Senate was planning to take action on such social issues as busing, abortion and school prayer.

The president's budget dwarfs that agenda, requiring legislation — often of the most controversial kind — in virtually every area and from every congressional committee. If all committees follow their directions in the budget reconciliation process and come forth with the legislation needed to fulfill the president's budget requests, a bill even larger than last year's omnibus reconciliation act — about 600 pages — would be likely. Congress has little enthusiasm for such a measure this year.

To comply with Reagan's deficit reduction program, the budget requires legislation, for example, to raise taxes, to increase user fees, to reform such entitlement programs as Medicare, Medicaid, AFDC, food stamps and aid for higher education, to establish seven new block grants and expand three existing ones, to reform civil and military retirement systems and to provide legislative authority for many of the administration's planned management initiatives. Scores of individual bills will be involved.

In addition, the administration's housing voucher and urban enterprise zone programs will require legislation.

The tax writing committees — House Ways and Means and Senate Finance — would be the busiest of all. In addition to raising taxes, Ways and Means has jurisdiction over Medicare, AFDC, social services, low-income fuel assistance and certain user taxes, all significantly affected by the president's budget proposals. The Finance Committee has similar, although not identical, jurisdiction.

Congress, in turn, is likely to add two major issues to the agenda: defense spending and tax increases. As anxious as Reagan is to cut the deficit, Congress appears ready to cut defense spending and to increase taxes beyond his recommendations. To the extent that Congress is successful on these issues, it can postpone or avoid numerous controversial votes on the president's proposals to cut domestic programs.

With so full an agenda, it appears unlikely that Congress would have time for meaningful consideration of the president's federalism proposals. Furthermore, since those proposals assume certain funding levels for both the Medicare-AFDC-food stamp swap and the 44 programs to be turned over to the states, Congress is not likely to act before knowing what and how much are involved.

Also at issue in the wide ranging federalism proposal is how congressional committees will treat it. Unless a select federalism committee is established in each house — similar to the select energy committees set up in 1977-1978 to deal with President Carter's energy program — the federalism proposals would be considered in a piecemeal fashion by dozens of committees and subcommittees, and a comprehensive and coordinated approach to the president's proposals is unlikely.

E. Lee Alt
ELECTION COMMISSIONER
PHONE (913) 782-3441

Johnson County Election Office

P.O. BOX 460

135 SOUTH FIR ST.

OLATHE, KANSAS 66061

Statement in Support of S. B. 229

Submitted by E. Lee Alt
Election Commissioner
Johnson County, Kansas

The time lapse resulting from a June 20 filing deadline is not adequate to prepare for an election. In 1982 the certified list was available on July 6 (or 27 days prior to election day). During this time, we must print ballots, program, check, and deliver the machines. This past year, it was necessary for us to print ballots before we were in receipt of a certified list. This is not a professional way of doing things, but the time required for all operations cannot be shortened.

In addition, many absentee ballots being mailed to foreign countries require a four (4) week turn around time. With this time frame, we actually deprive some voters their right to vote.

I urge your support of S. B. 229.

Atch. 4

SENATE BILL NO. _____

By Committee on Elections

AN ACT relating to elections; concerning district committees of congressional districts; amending K.S.A. 25-3803 and repealing the existing section.

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

Section 1. K.S.A. 25-3803 is hereby amended to read as follows: 25-3803. The district committee of each party for each congressional district shall consist of the county chairperson and vice-chairperson of each county in the district and two additional members, of opposite sex, to be elected by each of the county central committees in the district at their respective organizational meetings for each ~~one-thousand-(1,000)~~ 1,000 votes or major fraction thereof in excess of ~~one-thousand-five-hundred (1,500)~~ 1,500 votes cast in the county by the party for all candidates for the statewide or countywide office receiving the highest party vote at the preceding primary election. In the event a county is partly in each of two or more congressional districts, the county chairperson and vice-chairperson shall be members of each such district committee, but the county's entitlement to additional members shall be computed separately for each such district as hereinbefore specified on the basis of the votes cast by the party in each district at such primary election. Such district party committee shall organize by electing a chairperson, a vice-chairperson, a secretary and a treasurer (the last two of whom may be the same person). A meeting for such purpose shall be called by the district chairperson of each party, or if the chairperson fails to do so for any reason, by the district vice-chairperson. Such meeting shall be called by mailing a notice of such meeting to each member and alternate member of the district committee at least

Atch. 7

~~ten--(10)~~ 10 days before the date of the meeting. Such meeting shall be held within the district not later than ~~ninety--(90)~~ 90 days after the general election following the organization of the county committees. The person calling such meeting shall serve as temporary chairperson thereof. When the additional members are chosen by each county central committee, there shall also be chosen an alternate for each. Additionally, an alternate shall be chosen for the chairperson and vice-chairperson of each county. Alternate members shall represent their respective regular member in the absence of the regular member. No member of a district committee shall be represented by proxy at its meetings.

Sec. 2. K.S.A. 25-3803 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.