

Approved

R. H. Fisher
Date Feb 16, 1984

MINUTES OF THE House COMMITTEE ON Elections

The meeting was called to order by Representative Richard L. Harper at
Chairperson

9:00 a.m. a.m./p.m. on Thursday, February 9, 1984 in room 521-S of the Capitol.

All members were present except: Representative Justice and Representative Knopp

Committee staff present: Myrta Anderson, Legislative Research Department
Arden Ensley, Revisor
Eric Rucker, Secretary of State's Office
Dottie Musselman, Committee Secretary

Conferees appearing before the committee:

Brad Smoot, Attorney General's Office, Topeka, Kansas
Eric Rucker, Secretary of State's Office

Chairperson Harper called the Elections Committee meeting to order.

HB 2580, An Act concerning the crime of bribery, by the Committee on Federal and State Affairs, 1983 session, was scheduled first on the agenda for discussion and final action.

At this time, Chairperson Harper called upon Brad Smoot of the Attorney General's office to give a briefing of this bill. Mr. Smoot told the Committee that the former Representative Whitaker was the party who introduced this bill to the Committee on Federal and State Affairs.

A news release which was dated Thursday, April 14, 1983, from the Office of the Attorney General was passed out to the committee members. (Attachment 1)

After a discussion period, it was moved by Representative Baker to favorably pass out of committee HB 2580 and place it on consent calendar. Seconded by Representative Dean. Motion carried.

Chairperson Harper announced that HB 2787, An act relating to elections; concerning the recount of ballots cast at elections, was next on the agenda. At this time, Eric Rucker, of the Secretary of State's office, took the floor and gave the committee a short overview of this bill. He noted that several changes should be made in the language, one being line 65 which would be changing candidate's bond to person's bond. The second change would be to strike the wording "by a candidate" on line 67.

It was moved by Representative Kline to amend HB 2787 by changing the language on line 65 from "candidate's bond" to "person's bond" and striking "by a candidate" on line 67. Seconded by Representative Moomaw. Motion carried.

Representative Crumbaker made a motion to pass out of committee HB 2787 as amended. Seconded by Representative Acheson. Motion carried.

HB 2788, An Act relating to elections; concerning filing by candidate for city office, was the next item of business up for discussion and committee action. Chairperson Harper called upon Eric Rucker to give the committee a brief review of this bill.

Following a general discussion, it was moved by Representative Moomaw to favorably pass out of committee HB 2788. Seconded by Representative Acheson. Motion carried.

The meeting adjourned at 9:45 a.m.

(Attachment)



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

FOR IMMEDIATE RELEASE
THURSDAY, APRIL 14, 1983

Contact: Neil A. Woerman
Special Assistant

Attorney General Robert T. Stephan and Sedgwick County District Attorney Clark Owens said today they have completed their investigation and research into offers of campaign contributions to local candidates in exchange for official action.

Stephan and Owens said offers of the "conditional campaign contributions" are against public policy and would be unenforceable. They said the offers to incumbent officeholders also could be considered illegal bribes. They declined to prosecute, however, because of uncertainty over the bribery law's application.

Home Owners Trust, a Wichita antitax group, had offered campaign contributions -- in some cases \$250 -- to Wichita city commission and school board candidates in exchange for candidates signing contracts to approve budgets in the next year at least one percent lower than the preceding year. Otherwise, contracts called for return of the contributions.

The offers were made to incumbents seeking reelection, as well as candidates first seeking election. The offers were

Atch. 1

accepted by one candidate only, who was not an incumbent. She later returned the contribution.

Stephan and Owens said:

"We believe this type of conduct is wrong. We cannot tolerate the buying and selling of candidates for office.

"Kansas governmental ethics laws clearly make it a crime to offer this kind of 'conditional campaign contribution' to candidates for state office. It would be a crime for any public officer or employee to accept such a 'bribe.' There appears to be a gap in the law, however, in regard to local candidates.

"We don't believe we can prosecute HOT for offering its 'conditional contribution' to the Wichita city commission or school board candidates who were not incumbents. Nor do we believe we could prosecute the candidate who was not an incumbent who accepted and then returned the contribution.

"It could be possible to attempt prosecution of HOT under the state's general bribery statute for its offer to incumbent candidates. That statute provides that bribery, a class D felony, is:

Offering, giving or promising to give, directly or indirectly, to any public officer or public employee any benefit, reward or consideration to which he is not legally entitled with intent thereby to influence such officer or employee with respect to the performance of his powers or duties as such officer or employee...K.S.A. 21-3901(a)

"It is not clear, however, whether this criminal statute would be found applicable, because it was necessary for these incumbents to be reelected before they could take the required action. Criminal statutes are strictly construed against the

state, so in this situation we have decided not to prosecute HOT.

"We warn HOT and anyone else not to attempt such 'bribery' of candidates again, because a different factual situation could lead to a different conclusion. We would not have hesitated to prosecute under the bribery statute, for instance, if the incumbents could have taken the requested action immediately without the intervening need to be reelected.

"We have also discussed with Kansas House Federal and State Affairs Committee Chairman Neal Whitaker the introduction of legislation to make bribery of any candidate clearly a crime. We urge the legislature to take prompt action to plug this loophole."

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4/14/83/12

~~HOT~~ 'Deal' Was Out of Line

WEB 4-1-83

Home Owners Trust leaders attempt to buy the loyalty of some Wichita City Commission and school board candidates with contributions contingent on signed vote-our-way-or-give-back-the-money pledges is reprehensible. It's to the candidates' credit that all but one flatly refused to deal. Commission candidate Cheri Preston said it never occurred to her such an arrangement might be illegal.

Whether the ploy is indeed illegal under Kansas bribery laws is under investigation. But it certainly is in bad taste, destructive of HOT's image as an advocate of good government, and shortsighted. Many a sincere cham-

panion of lower taxes as a candidate — one is named Ronald Reagan — sometimes finds it necessary to adjust, however unwillingly, to hard budgetary realities as an elected public servant.

Critical and constructive examination of governmental operations is important, of course, and HOT's role in this regard many times has been helpful. But it has done its cause no good with this unabashed demand for IOUs from candidates who accept its support. Government economy cannot be bought in this manner.

478	2787
Fiscal Note	Bill No.
1984 Session	
February 6, 1984	

The Honorable Richard L. Harper, Chairperson
Committee on Elections
House of Representatives
Third Floor, Statehouse

Dear Representative Harper:

SUBJECT: Fiscal Note for House Bill No. 2787 by Committee
on Elections

In accordance with K.S.A. 75-3715a, the following fiscal note concerning House Bill No. 2787 is respectfully submitted to your committee.

House Bill No. 2787 would amend K.S.A. 1983 Supp. 25-3107 concerning the recount of ballots by allowing any registered elector who cast a ballot in a special election to request a recount. The elector would be required to post bond and if no action is taken as a result of the recount, the bond would be forfeited. Otherwise, the recount would be an expense of the county. Because no reliable estimate can be made of the number of elections affected, the fiscal impact upon the counties is unknown.

Ed Mullins

Ed Mullins
Budget Analyst
For the Director of the Budget

EM:dh

MARSHALL COUNTY, KANSAS

GAYLE LANDOLL
COUNTY CLERK

COUNTY CLERK'S OFFICE
PHONE 913 562-████████ 5361
MARYSVILLE, KANSAS 66508

MELBA COFFEE
DEPUTY COUNTY CLERK

February 7, 1984

Representative Richard L. Harper
Room 175-W
Capitol Building
Topeka, Kansas 66612

Re: HB 2788

Dear Representative Harper:

I'm writing to request your support of House Bill 2788, which would allow a candidate for city office in third class cities to file for office in either the city clerk's office or the county clerk's office.

The majority of the third class cities in Marshall County, as in many other counties, are staffed by city clerks that work on a part-time basis, with irregular hours.


Last year a citizen from my county who wished to file for city office on the final day allowed for such filings was unable to do so as the city clerk was out of town and had not made provisions for the office to be open.

This citizen contacted me and I had to inform him that I could not take his filing as the law does not permit him to file anywhere but with the city clerk.

I feel this bill would provide a convenience to the prospective candidate but, by the same token, would not usurp the authority of the city clerk.

Thank-you for your time and consideration.

Respectfully yours,


Gayle Landoll
Marshall County Clerk

cc: Rep. Lloyd Polson

CLAY COUNTY CLERK

Box 98

Clay Center, Kansas 67432

Phone 632-2552

February 6, 1984

Dear Rep. *Harpur,*

As County Election Officer of a county with seven third class cities, most with part time city clerks, I would appreciate it if you would show your support of House Bill #2788, allowing the candidates for city office to file either with the city clerk or the county election officer.

We had a case last spring where one of the city clerks had a serious illness in her family and was out of town and candidates for city office were unable to file with us. Most of our city clerks are part time people so it does create a problem.

In our democracy everyone should be allowed the opportunity to file for office.

I will appreciate any consideration you can give in this matter.

Sincerely,



Shirley Mackender
Clay County Clerk