

Approved

R.H. March 20, 1984
Date

MINUTES OF THE House COMMITTEE ON Elections

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

9:00 am a.m./p.m. on Thursday, March 15, 1984 in room 521-S of the Capitol.

All members were present except: Representative Crumbaker, excused;
Representative Knopp, excused, and,
Representative Runnels, excused

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

Conferees appearing before the committee:

Janet Williams, Public Disclosure Commission
Jon Josserand, Secretary of State's Office
D. E. Mathia, Representing Douglas County Clerks' Office
Representative Steve Cloud
Brad Smoot, From the Office of the Attorney General
Jim Edwards, Kansas Association of Commerce & Industry
Jim Kaup, League of Kansas Municipalities

Chairperson Harper called the Election Committee meeting to order and called Janet Williams, of the Public Disclosure Commission, to give the committee a briefing on SB 493.

SB 493, is a bill by Special Committee on Conflict of interest and Ethics, and is a bill on local conflict of interests law; Re Proposal No. 54. Ms. Williams told the committee that the Commission had no position on this bill at this time, but explained to the committee what the original bill did.

Following a short discussion, the hearing was closed on SB 493.

Next on the agenda was SB 651, An Act relating to community building districts; concerning the verification of petitions; amending K.S.A. 15-11b02 and 15-11b11 and repealing the existing sections.

Jon Josserand, Secretary of State's Office, was called upon to give the Committee insight on this bill. Mr. Josserand told the committee that this bill is actually a clean-up bill, and that the bill provides for an enumeration to be taken by the county election officer, instead of a qualified elector, as current law provides, to verify the sufficiency of petitions requesting the formation of a community building district and for attachment of territory to the district.

Representative Justice made a motion that the Committee pass out SB 651 favorably, and place on the Consent Calendar. This motion was seconded by Representative Johnson. Motion carried.

SB 299, An Act authorizing submission of petitions for non-binding advisory referenda, was the next order of business for the day. Chairperson Harper recognized D. E. Mathia, representing the Douglas County Clerks Office. Mr. Mathia appeared before the committee in support of SB 299.

Representative Cloud testified before the committee at this time, and called attention to the fact that a bill for non-binding advisory referenda was in the Election Committee last year, and that bill had passed the committee, and was later re-referred to the committee. Representative Cloud urged the committee to be in favor of this Senate Bill.

Brad Smoot, office of the Attorney General, was next to appear before the Committee, in support of SB 299. Written testimony from the office of the Attorney General had been passed to the members of the committee. (Attachment 1)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Elections,
room 521-S, Statehouse, at 9:00 a.m./p.m. on Thursday, March 15, 1984.

Jim Edwards, Kansas Chamber of Commerce and Industry, was next to testify on SB 299. Mr. Edwards came before the Committee in opposition to this bill. Legislative testimony is hereby attached to these minutes. (Attachment 2)

Jim Kaup, League of Kansas Municipalities, testified before the Committee in opposition to SB 299.

Following a discussion, the Vice-Chairman told the Committee that time was running out, and more discussion would follow at a later date.

The meeting adjourned at 10:10 am.

(Attachment 1)



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

March 15, 1984

The Honorable Richard Harper
Chairman
House Elections Committee
Capitol
Topeka, Kansas 66612

Dear Mr. Chairman and Committee Members:

Attorney General Stephan ask that I thank you for this opportunity to present his views on 1983 Senate Bill No. 299 which concerns advisory elections. Last session the attorney general testified in favor of a similar measure, 1983 House Bill No. 2384 and the need for such legislation to clarify the law has only increased during the last year. However, allow me to briefly review the history of his concern regarding advisory elections and our reasons for urging prompt legislative action.

As many of you know, the attorney general has had numerous occasions to address the legal issues surrounding non-binding advisory elections. In 1979 he advised Secretary of State Brier that a county could conduct an advisory election pursuant to its home rule powers with two restrictions. Kansas Attorney General Opinion No. 79-44. First, the question submitted to the voters must be related to a legitimate public purpose. And, second, it must be conducted independently of any constitutionally or statutorily authorized election, e.g., general, primary or special elections.

During December of last year we again discussed advisory elections. In Kansas Attorney General Opinion No. 83-117, we concluded that cities may conduct non-binding advisory elections pursuant to their constitutional home rule powers. But again the attorney general noted that non-binding advisory elections were not "question submitted elections" within the meaning of K.S.A. 25-2101 et seq., and thus were ot to be conducted by the county election

Atch. 1

officer in conjunction with another state or local election.

These opinions give rise to three conclusions: First, many cities and counties desire to hold such advisory elections. They view the public input to be significant in the governmental decision making process and find such "polling" of opinion to be a valuable addition to lobbying efforts and public hearings. We have no reason to believe that this interest in advisory elections will decline. As Attorney General Stephan said to the House last year, non-binding advisory elections represent a useful middle ground between pure representative democracy and government by initiative and referendum.

Second, city and county home rule powers permit the expenditure of public funds for such polls or elections so long as the issue submitted to the voters has a "public purpose." The term public purpose appears occasionally in Kansas case law but has a broad meaning. We have taken the view that any issue submitted to the voters in an advisory election must be related in some way to the functions of the municipality conducting the election. Armed with this discretion, Kansas cities and counties have considerable latitude in selecting issues on which to inquire of the voters' opinion.

Finally, although advisory elections may now be held, they must be divorced from elections authorized by the constitution or statute. It is clear that cities and counties would prefer to have the advisory poll conducted in connection with a general, primary or special election. Use of the existing election mechanism would enhance voter participation, ease administration of the advisory election and reduce costs. Unfortunately, current law does not authorize cities or counties to impose upon the county election officer the duty to conduct an advisory election.

Because there is substantial public support for advisory elections; because such elections may assist government in making wise decisions, and because the current statutes do not adequately address the mechanics of conducting such advisory elections, the Attorney General supports the adoption of 1983 Senate Bill No. 299.

This bill authorizes such advisory elections only when such is requested by 7% of the registered voters. Mr. Stephan prefers this limited use rather than permitting such elections on the motion of the city or county government. The bill, however, does not specify which public entity will absorb the costs of the advisory election or limit the number of advisory questions which may be submitted at any general election. Both of these issues may be a proper subject for addition to this bill.

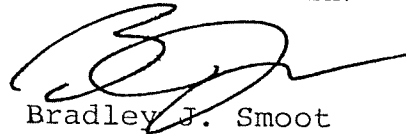
Thank you once again for this opportunity to speak in favor of advisory elections and if our office can be of assistance to

The Honorable Richard Harper |
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your committee concerning these matters, please feel free to
contact us.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN

A handwritten signature in black ink, appearing to be 'Bradley J. Smoot', written over the typed name.

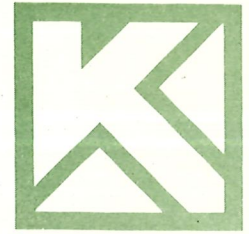
Bradley J. Smoot
Deputy Attorney General

BJS:crw

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321



A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

SB 299

March 15, 1984

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the HOUSE ELECTIONS COMMITTEE

Mr. Chairman and Members of the Committee:

My name is Jim Edwards, Director of Public Affairs for the Kansas Chamber of Commerce and Industry and I am here today to review KCCI's policy position in opposition to SB 299.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses plus 215 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

The issue of nonbinding referendums is one which on the surface appears to uphold the ideals of motherhood and apple pie yet when practiced can have very negative side effects on our form of representative government.

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Imagine, if you will, your constituent back home that is told that they have the right to express their opinions at the ballot box on issues they might choose but you, as their representative, don't have to vote that way. Or, imagine the reaction by a voting majority when they see you take a position opposite to their "message to you." In short, if we are to be realistic we must recognize that politics will not allow the issue to be non-binding in its outcome. A good example of what might appear to be good but has negative side effects.

If the vote by the public was to mean anything, they would have to have information regarding the issue, both pro and con. While this might be easy to do with so-called moral issues like parimutuel wagering, liquor-by-the-drink, or abortion, it would be extremely hard to discuss issues such as classification of property, telephone rates, or the education of Kansas schoolchildren in two sentences or a paragraph. A good case in point could be Proposition 2½, a Massachusetts referendum, which called for drastic cuts in property taxes but did not, and could not, address where cuts were to be made. Another example of what might appear to be good but has negative side effects.

While some might say that this could be handled through special mailings to the registered voters, we maintain that this is a waste of money because we hold elections every other year to select individuals to make these decision-based on much more information, hearings, and debates.

There are currently 23 states plus the District of Columbia that allow issues to be put directly on the ballot by voter petition. Comments with regard to the issue included:

1. California Secretary of State's office -

- * fosters more anti-two party activities
- * fosters more special interest legislation
- * does not help the "individual"
- * submissions to voters very expensive

2. Massachusetts Secretary of State's office -

- * very costly process in submitting information to voters

3. Boston Globe -

- * forces issues but provides no answers
- * voter accepts no responsibility for their vote

4. Nebraska Secretary of State's office -

- * process is extremely costly
- * sometimes causes much larger problems

The Kansas Constitution states that the legislative power of the state is vested in the House and Senate. I would hope that you remember this as well as my testimony in opposition to the bill before you consider any action on SB 299.

Mr. Chairman, thank you for the opportunity to appear before this committee today and I would be more than happy to stand for questions.

TO: Members of the House Election Committee

March 13, 1984

Ron Thornburg, City Clerk, Dodge City, Kansas, telephoned today, asking that the House Elections Committee pass SB 493 in its original form.

Dottie Musselman
Secretary of the Committee