

Approved

R.H. Feb. 5 '85  
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, January 31, 1985 in room 521-S of the Capitol.

All members were present except: Representative Norman Justice, excused  
Representative Phil Kline, excused

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

Conferees appearing before the committee: Eric Rucker, Secretary of State's Office  
Jim Kaup, Staff Attorney, League of  
Kansas Municipalities

Chairperson Harper called the meeting to order and gave a short briefing on the rules and conduct that the Election Committee would follow. At this time the Chairperson requested that each Committee member introduce themselves.

Eric Rucker, of the Secretary of State's office, was now introduced to the committee and was asked to give a briefing on the proposed legislation coming from his office.

Number 1 Proposal - Changing the law prohibiting the appearance of a name on the same ballot twice. In conversations with the Revisor of Statutes, Mr. Rucker indicated that this was the result of an over-sight which had occurred in drafting 1981 revisions to K.S.A. 25-613.

Number 2 Proposal - The Secretary of State's office is requesting a vehicle from the House Elections Committee which would prohibit exit polling. It was noted that there are approximately 3000 polling places in Kansas in every statewide general election. At each of these polling places, Kansans come to exercise their right to participate in free elections and to let their voice be heard. In recent times various organizations and service groups wishing to take advantage of the voluminous traffic that passes through a polling place in 12 hours, started to solicit signatures on petitions at the polling place, and also to solicit voter opinions on a variety of topics. Some of the fore-mentioned activities have resulted in voter confusion.

Number 3 Proposal - A request from the Secretary of State's office that the House Election Committee consider a resolution directed to the U. S. Congress which would exempt election board workers salaries from reporting requirements set out by the Social Security Administration. Due to the fact so many families are now comprised of two bread winners, the available pool of workers at the polling places on Election Day has diminished. Older citizens are now often the only citizens who are available to perform these functions. Yet, if they participate in this worth-while activity, their wages are reported to officials from Social Security, and in turn, this may effect their benefits as provided by that agency.

Number 4 Proposal - The Secretary of State's office is asking for a proposal which would either limit or eliminate the time a supplementary Recall Petition can be circulated in a community. It was noted by Mr. Rucker that to the best of his knowledge, no other petition, once submitted, is allowed to be supplemented by another petition which would add supplementary petition signatures to the initial petition, after determination that the petition has been appropriately filed.

Number 5 Proposal - The Secretary of State will be requesting the House Election Committee to consider legislation for a full and complete hearing on a Presidential Preference Primary. The Secretary of State would like to

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Elections,  
room 521-S, Statehouse, at 9:00 a.m./p.m. on Thursday, January 31,, 19 85

present the facts and figures of that particular proposal to the Committee himself.

Following a question and answer period, it was requested that Mr. Rucker give the committee a short briefing of the proposals which his office had presented to the Senate Election Committee.

Representative Guldner made a conceptual motion to adopt and accept the proposals that the Secretary of State's office presented, and have the bills drafted and referred back to the Committee. Seconded by Representative Crumbaker. Motion carried.

Chairperson Harper now called upon Jim Kaup, Staff Attorney, League of Kansas Municipalities. Mr. Kaup came before the committee and gave a briefing on proposed legislation for Determining Residency Qualifications for Candidates for City Elective Offices. (Attachment 1). Copies of the attachment were handed to members of the committee.

A motion was made by Representative Blumenthal to accept and introduce the proposed legislation by the League of Kansas Municipalities. Representative Helgerson seconded the motion.

Representative Crumbaker made an amended motion that "by request" of the Kansas League of Municipalities, a bill be drafted on the proposed legislation of that organization. Motion carried.

At this time, Representative Guldner ask for permission to visit with the committee with regard to a bill he would like to see introduced changing the language on K.S.A. 25-1436.

Representative Guldner made a motion that the attached draft be introduced as a committee bill, and be referred back to the committee. Seconded by Representative Baker. Motion carried.

The meeting adjourned at 10:05 a.m.





# League of Kansas Municipalities

(attachment 1)

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: Members of House Elections Committee  
FROM: Jim Kaup, Staff Attorney, League of Kansas Municipalities  
RE: Proposed Legislation for Determining Residency Qualifications for  
Candidates for City Elective Office

Because of a lack of precision in the wording of those statutes which establish the residency qualifications of councilmembers, commissioners and mayors some confusion exists as to when residency must be established in order for a candidate to be legally qualified to hold elective city office.

Generally, the statutes merely require that an elective officer must be a "qualified elector" of the city. The Kansas Constitution, at Article 5, Section 1, states: "Every citizen of the United States who has attained the age of eighteen years and who resides in the voting area in which he or she seeks to vote shall be deemed a qualified elector." K.S.A. 25-2302 provides that the act of registration to vote is prima facie evidence of the right to vote. The problem has been that the statutes do not expressly state at what point in time the status of being a "qualified elector" must be achieved--at the time of filing for office, the date of election to office, the date the elective term of office commences, or some other time.

The League's proposed solution to this problem is to provide uniformity in the statutory language and to have that language provide that a person, to be legally qualified to hold elective city office, must be a qualified elector of the city as of the date the elective term of office commences.

The following statutes are affected by the proposed bill: K.S.A. 13-305 (first class cities, mayor/council form of government); 13-1707b (first class, commission form); 13-1801 (first class, commission form); 14-109 (second class cities, mayor/council form); 14-204 (same); 14-205 (same); 14-1301 (second class, commission form); 15-209 (third class cities, mayor/council form); and 15-1401 (third class, commission form).

The League recommends the introduction of the bill in the attached form rather than a single amendment to Chapter 25 of the Kansas Statutes (elections) which would attempt to provide a residency qualification for all classes and forms of government for the following reasons: (1) The above mentioned statutes would still need to be amended to resolve the conflicting and ambiguous language; and (2) a single, uniform provision in Chapter 25 would raise a question as to the ability of cities to use their home rule powers to vary from the statutory residency requirement.

H. Elect. 1/31/85

(attachment #1)

HOUSE BILL No. \_\_\_\_\_

By Committee on Elections

AN ACT concerning residency qualifications for candidates for elective city offices; amending K.S.A. 13-305, 13-1707b, 13-1801, 14-109, 14-204, 14-205, 14-1301, 15-209 and 15-1401 and repealing the existing sections.

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

Section 1. K.S.A. 13-305 is hereby amended to read as follows: 13-305.

All officers elected shall be qualified electors of such city, and the removal from such city of any officer shall occasion a vacancy in such office. In case of any vacancy occurring by death, resignation, or removal of any officer elected under the provisions of this act, the mayor, by and with the consent of the council, shall fill such vacancy by appointment, until the next city election. In case of any vacancy in any appointive office the mayor, by and with the consent of the council, shall fill such vacancy for the unexpired term for which his or her predecessor was appointed. The clerk shall enter every appointment to office and the date thereof on the journal.

[as of the date of commencement of their elective terms of office

Sec. 2. K.S.A. 13-1707b is hereby amended to read as follows:  
13-1707b.

The mayor and each of said two commissioners shall be a citizen of the United States, and a qualified elector of such city, and must reside in such city during the period he or she remains in office.

[as of the date of commencement of the elective term of office

When any territory shall have become a part of such city, either by consolidation, annexation or otherwise prior to the time of any election held in said city, a person who has been a qualified elector of the consolidated or annexed territory, and is otherwise qualified as herein provided, shall be qualified for the offices mentioned in this act and the act of which this act is amendatory.

Sec. 3. K.S.A. 13-1801 is hereby amended to read as follows:  
13-1801.

The mayor and each of said four commissioners shall be a citizen of the United States and a qualified elector of such city. ~~Provided, however, That when any territory shall have become a part of such city, either by consolidation, annexation, or otherwise prior to the time of any election held in said city, a person who has been a qualified elector of the consolidated or annexed territory, and is otherwise qualified as herein provided, shall be qualified for the offices herein mentioned in said city.~~

[as of the date of commencement of the elective term of office.

Sec. 4. K.S.A. 14-109 is hereby amended to read as follows:

14-109.

The council of each city governed by this act shall consist of not less than four (4) nor more than twelve (12) citizens of said city, who, together with the mayor, shall be qualified electors therein under the constitution of the state of Kansas.

[as of the date of commencement of their elective terms of office.

Sec. 5. K.S.A. 14-204 is hereby amended to read as follows:

14-204.

Each ward of each city governed by this act shall have two councilmembers, who shall be chosen by the qualified electors of their respective wards. No person shall be eligible for the office of councilmember who is not at the time of election an actual resident of the ward from which elected. If any councilmember moves from the ward from which elected, the office shall be deemed vacant. Whenever a vacancy occurs, the governing body shall appoint an elector of the ward where the vacancy occurs to be councilmember for the balance of the unexpired term.

— a qualified elector

[as of the date of commencement of the elective term of office

The council shall elect from its membership a president of the council. The president of the council shall preside in the absence of the mayor. If a vacancy occurs in the office of the mayor by death, resignation, removal from the city, removal from office, refusal to qualify, or otherwise, the president of the council shall become mayor until the next regular city election and the vacancy created in the office of the councilmember becoming mayor shall be filled by the governing body of the city. Thereupon the council shall elect from its membership a new president of the council.

Sec. 6. K.S.A. 14-205 is hereby amended to read as follows:

14-205.

All officers elected or appointed shall be qualified electors of said city, except that the city may appoint nonresidents as city attorney, municipal judge and as law enforcement officers when deemed necessary, including the appointment of nonresidents who also serve as city attorney, municipal judge or law enforcement officers of another municipality or public agency: *Provided*, That nothing herein shall authorize the appointment of nonresidents of this state. The city attorney shall be a qualified elector of the county in which said city is located or of an adjoining county. The removal from such city of any officer required to be a qualified elector shall occasion a vacancy in such office. The clerk shall enter every appointment to office, and the date thereof, on the journal of proceedings. The council may require all city officers, elected or appointed, to take and subscribe an oath and give bonds and security for the faithful performances of their duties.

as of the date of commencement of their elective or appointive terms of office

Sec. 7. K.S.A. 14-1301 is hereby amended to read as follows:

14-1301.

The mayor and each of said commissioners shall be a citizen of the United States and a qualified elector of such city.

as of the date of commencement of their elective terms of office.

Sec. 8. K.S.A. 15-209 is hereby amended to read as follows:

15-209.

The officers elected or appointed under this act shall be qualified electors of said city, except the city may appoint nonresidents as city attorney, municipal judge and as law enforcement officers when deemed necessary, including the appointment of non-residents who also serve as city attorney, municipal judge or law enforcement officers of another municipality or public agency: *Provided*, That nothing herein shall authorize the appointment of nonresidents of this state. The city attorney, shall be a qualified elector of the county in which said city is located or of an adjoining county. The removal from such city of any officer elected or appointed under this act, who is required to be a qualified elector thereof, shall occasion a vacancy in such office. All vacancies in office, except in the offices of mayor and councilman, may be filled until the next regular time for appointment by appointment by the governing body. Every appointment to office, and the date thereof, shall be entered on the journal of proceedings of the council.

as of the date of commencement of their elective or appointive terms of office

Sec. 9. K.S.A. 15-1401 is hereby amended to read as follows:

15-1401.

The mayor and each of said commissioners shall be a citizen of the United States and a qualified elector of such ~~city~~ [as of the date of commencement of their elective terms of office.

Sec. 10. K.S.A. 13-305, 13-1707b, 13-1801, 14-109, 14-204, 14-205, 14-1301, 15-209, and 15-1401 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.



HOUSE BILL NO. \_\_\_\_\_

By

AN ACT relating to elections;

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

Section 1. K.S.A. 25-1436 is hereby amended to read as follows: 25-1436. Any contest of election to which K.S.A. 25-1435, and amendments thereto, applies shall be brought on any one or more of the following grounds:

(a) The person to whom a certificate of election was issued was ineligible to hold such office at the time of the election;

(b) some voters were deprived of the right of voting for a candidate or on a question submitted, when such voters had the right under the election laws of this state to vote thereon, and such deprivation could change the result of the election;

(c) illegal votes were received or legal votes were rejected which would change the result of the election;

(d) illegal votes were received or legal votes were rejected which could change the result of the election;

(e) error or fraud occurred in computing the results of the election which would change the result of the election;

~~(e)~~ (f) the person to whom the certificate of election was issued offered or gave, or caused to be offered or given, a bribe to any person charged by law with any election duty, for the purpose of procuring such person's election; or

~~(f)~~ (g) any other cause which shows that another was the person to whom the certificate of election for such office should have been issued.

Sec. 2. K.S.A. 25-1448 is hereby amended to read as follows: 25-1448. Upon final determination of a contest of an election to an office by the court, after the time for appeal thereof specified in K.S.A. 25-1450, and amendments thereto, has expired, or in case of an appeal, upon the final judicial

determination of the contest, if the contestant succeeds in the contest, the court may invalidate and revoke any election certificate which has been issued to the contestee, and the secretary of state or county election officer authorized to issue the certificate of election shall issue the certificate to the person the court finds is entitled thereto; except that in cases where the court has found that the contestant prevails in the contest on the grounds provided for in subsection (a), (b) or (c), (d) or (f) of K.S.A. 25-1436, and amendments thereto, then the court may order another election for such office to be held within ~~thirty-(30)~~ 30 days after the date of such order or may make such other orders as the court deems appropriate. This section shall not apply to any contest of the office of state senator or member of the house of representatives.

Sec. 3. K.S.A. 25-1436 and 25-1448 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

"could" - sup situation of illegal vote was cast but no one knew who cast - (what candidate)

182 MASS. : Mayor election

