

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS

The meeting was called to order by Senator Gordon at  
Chairperson

1:30 ~~xxx~~/p.m. on March 7, 1985 in room 522-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Myrta Anderson, Legislative Research Department  
Ramon Powers, Legislative Research Department  
Theresa Kiernan, Assistant Revisor of Statues  
Phil Lowe, Secretary to Committee

Conferees appearing before the committee:

Representative Harold Guldner  
Jim Edwards, Director of Public Affairs for the Kansas Chamber  
of Commerce and Industry

HB 2184 - Representative Guldner spoke in support of the bill and said there was an urgency to get the bill passed before the April 2 school board elections and the city elections. In explaining the bill he said a person to whom a certificate of election was issued was ineligible to hold such office at the time of the election and that some voters were deprived of the right of voting for a candidate or on a question and such deprivation could change the result of the election. Mr. Guldner said illegal votes were received or legal votes were rejected which could change the result of an election. The word "would" was changed to the word "could". The House Elections Committee also made another change which would increase the number of days from "30" to "45" days in which an election could be held if the contestant prevails on the grounds set forth and the court orders another election be held. Jack Brier, Secretary of State, said that their office was supportive of this bill.

Senator Walker moved and Senator Strict seconded the motion that HB 2184 be favorably recommended for passage. Motion carried.

SB 200 - The committee heard Senator Norvell on SB 200 at an earlier meeting and the question was raised as to the constitutionality of this bill. Senator Norvell said he had contacted the Attorney General's office and handed out copies of the reply he received (Attachment No. 1) in regard to the constitutionality of the bill. Senator Norvell pointed out that one sentence of the letter stated: "Our general research on the question, however, has not revealed any constitutional provisions, either state or federal, which are offended by the amendments offered in SB 200".

Senator Norvell then moved that SB 200 be recommended favorably for passage. Senator Vidricksen seconded the motion and the motion carried.

SB 220 - It was reported that the House had not taken any action on a similar bill in their committee pertaining to presidential preference primary elections and in order to get the bill onto the Senate Calendar before the deadline it was agreed to work this bill. It was the consensus of the committee to strike the date of 1980 and change it to 1988 in the first section of the bill.

Senator Johnston moved and Senator Norvell seconded the motion to report SB 220 favorably for passage. Motion carried. Senator Walker asked to be recorded as voting "no".

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS,  
room 522-S, Statehouse, at 1:30 ~~xxx~~/p.m. on March 7, 1985

SCR 1617 - Jim Edwards, Director of Public Affairs for the Kansas Chamber of Commerce and Industry spoke in opposition to SCR 1617, a resolution which proposes to amend the Kansas Constitution to allow initiative form of government. (Attachment No. 2). The committee heard other testimony on this resolution at the last meeting. The resolution provides that the petition is signed by qualified electors of the state equal in number to not less than 12% of the total vote cast for the office of governor at the last election for such office. In answering a question Jack Brier said he had no problem with dividing the 12% equally among the five congressional districts. The Secretary also said he had no problem with the filing of such petition not less than nine months prior to the election date rather than six months to provide time for the legislature to take a look at every resolution to be placed on the ballot. It was pointed out that this resolution might become a tool for the special interest groups and also attention was called to the fact that people sign petitions without knowing what they are signing.

Senator Vidricksen moved to amend the resolution by striking the 12% and inserting 15% of the total vote cast, and that it be distributed evenly among the five congressional districts. Senator Johnston seconded the motion and the motion carried.

Senator Vidricksen moved to limit to three the number of petitions to be placed on the ballot at any election instead of five as stated in Resolution 1617. Senator Walker seconded the motion. Senator Strick made a substitute motion to reduce the number to one petition. Senator Vidricksen seconded the motion but the motion lost. Senator Norvell then made a substitute motion to make it four issues to be placed on the ballot at any one time. Senator Johnston seconded the motion. The substitute motion was withdrawn after committee discussion. The original motion was then voted on to limit it to three initiatives to be placed on the ballot. The original motion carried.

Senator Vidricksen moved to raise the percentage from 12 to 15 signed by qualified electors of the state equal in number of the total vote cast for the office of governor at the last election for such office. Senator Norvell seconded the motion and the motion carried.

Senator Vidricksen moved to amend Resolution 1617 by changing six months to nine months prior to the date of the general election at which the question is to be submitted to the electors for their approval or rejection. Senator Strick seconded the motion and the motion carried.

Senator Johnston moved to recommend SCR 1617, as amended, favorably for adoption. Senator Reilly seconded the motion and the motion carried.

The meeting was adjourned.

Attachments:

- #1 - Letter from the Attorney General
- #2 - Testimony of Jim Edwards, KCCI
- #3 - Standing Committee Report SB 200
- #4 - Standing Committee Report SB 220
- #5 - Standing Committee Report SCR 1617



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ROBERT T. STEPHAN  
ATTORNEY GENERAL

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

March 7, 1985

The Honorable Joseph F. Norvell  
State Senator, Thirty-seventh District  
State Capitol, Room 453-E  
Topeka, Kansas 66612

Re: 1985 Senate Bill No. 200

Dear Senator Norvell:

This letter is to respond to your telephone request of Friday, March 1, 1985, regarding 1985 Senate Bill No. 200. That bill concerns tie votes in state and local elections and amends three statutes which currently provide that tie votes be determined by lot. The amendments to the statute provide that in the case of a tie vote in which one of the candidates is an incumbent officer, "the incumbent officer shall be deemed nominated or elected, as the case may be."

You inform us that one of your colleagues had offered the opinion that there might be unspecified "constitutional problems" with such provisions and you have posed that question to us. It is difficult, of course, to offer an opinion on the question without knowing the nature of the "constitutional problems" which may be at issue. Our general research on the question, however, has not revealed any constitutional provisions, either state or federal, which are offended by the amendments offered in SB 200.

In the absence of a provision for determining ties, it is generally held that in the case of a tie vote, there is no election. See 29 C.J.S. Elections §244. Kansas statutes have provided for the determination of tied elections by lot since 1861. (Laws 1861, ch. 28, §§29, 37.) The provisions of the Kansas constitution pertaining to elections (Article 4) do not prevent the legislature from providing for the determination of a

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tie and it does not appear that any of these provisions are offended by Senate Bill 200.

I trust this is responsive to your general concerns. If you have further, more specific questions regarding this matter, please do not hesitate to contact this office. It should be emphasized that this letter should not be construed as either support or opposition to the bill, but only addresses the constitutional issue you present.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL  
ROBERT T. STEPHAN



Mary F. Carson  
Assistant Attorney General

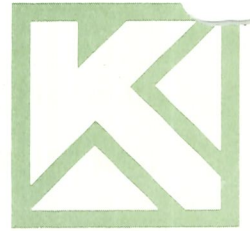
MFC:crw

cc: Theresa Kiernon, Revisor's Office

# 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

SCR 1617

February 28, 1985

### KANSAS CHAMBER OF COMMERCE AND INDUSTRY

#### Testimony Before the SENATE ELECTIONS COMMITTEE

Mr. Chairman and Members of the Committee:

I am Jim Edwards, Director of Public Affairs for the Kansas Chamber of Commerce and Industry. I appreciate the opportunity to appear before you today to express our opposition of SCR 1617, a resolution which proposes to amend the Kansas Constitution to allow initiative form of government.

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.

Many of you might be asking yourselves why an organization that is supporting several proposed changes in the Constitution would oppose another issue which would be

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of some help in passing our supported changes. Those issues, specifically liquor-by-the-drink and pari-mutuel wagering, would most likely pass if put on the ballot by voter petition. There is a question of passage by the Legislature. While the initiative might be the quickest and easiest, it is not, in our opinion, the best method to address change in our Constitution. In short, we don't feel that is necessary, or proper, to "sell the farm" to ensure passage of several issues. Our present form of Constitutional change by referendum can handle the needs of our state.

While there are 23 states, plus the District of Columbia, that allow change in either statutes or their constitution by the initiative process, most have found that the idea of the initiative as "the people's last resort" has been subverted. A common assessment is that initiative campaigns are full of oversimplified half-truths. In many cases, the side that wins is the one which spends the most money. In addressing both of these, Charles Winner, chairman of Winner & Wagner & Associates, a firm that has handled 50 initiative campaigns, stated that "the initiative process is being misused and abused as more and more single-purpose and special interest groups attempt to circumvent the normal legislative process with their quick-fix solutions to complex problems."

We feel that the existing legislative process available for Constitutional change in Kansas is sound. For many, many years, this body, along with similar bodies in 26 other states, has used sound judgement in resisting a move toward populist government. Are you ready to say that you as legislators can't address the issues? We feel you can, and have, addressed the issues and therefore urge you to oppose SCR 1617.

I appreciate the opportunity to appear before you today and would be happy to answer questions you might have.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Elections

Recommends that Senate Bill No. 200

"AN ACT concerning elections; relating to tie votes; amending K.S.A. 25-3108, 25-3208 and 25-3209 and repealing the existing sections."

Be passed.

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Chairperson

*Attachment # 3*  
*S. Elect. 3/7/85*

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Elections

Recommends that Senate Bill No. 220

"AN ACT relating to elections; concerning presidential preference primary elections; amending K.S.A. 25-4501 and repealing the existing section."

Be amended:

On page 1, in line 22, by striking "1980" and inserting "1988";

And the bill be passed as amended.

\_\_\_\_\_  
Chairperson

*Attachment # 4  
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REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Elections

Recommends that Senate Concurrent Resolution No. 1617

"A PROPOSITION to amend article 14 of the constitution of the state of Kansas by adding a new section thereto, relating to amendment of the constitution by propositions initiated by qualified electors of the state."

Be amended:

On page 1, in line 37, by striking "12%" and inserting "15%"; also in line 37, following "cast", by inserting "in each of the congressional districts"; in line 39, by striking "six" and inserting "nine";

On page 2, in line 52, by striking "five" and inserting "three"; in line 55, by striking "five" and inserting "three"; in line 56, by striking "five" and inserting "three"; in line 76, by striking "five" and inserting "three";

And the resolution be adopted as amended.

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Chairperson

*Attachment # 5  
S. Elect. 3/7/25*