

Approved RLH

Date 3-5-87

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 Tuesday, March 3, 1987 in room 521-S of the Capitol.

All members were present except: Representative Jenkins, excused; and,
Representative Littlejohn, excused.

Committee staff present: Myrta Anderson, Legislative Research Department
Nancy Ryan, Secretary of State's Office
Ron Thornburgh, Secretary of State's Office
Jill Wolters, Office of the Revisor of Statutes
Dottie Musselman, Committee Secretary

Conferees appearing before the committee:

Representative Lowther
Ron Thornburgh, Secretary of State's Office
Representative Elaine Wells
Erving Niles, Former State Representative
Dale Green, Milbourn Township
Belva Ott, Former State Representative
Dave Hill, Precinct Committeeman
Representative Harper
Jana Acheson, Public Disclosure Commission
John Peterson, came before the committee as an
individual, not representing any
organization

Chairperson Harper called the meeting to order, and announced the first order of business for today as HB 2322. He recognized Representative Lowther. HB 2322 is an act providing for the recount of ballots when using optical scanning systems.

Representative Lowther came before the committee to give them a briefing of this bill. He told the committee this bill arose as a result of a request for a recount in Osage County at the last election. This recount was between Elaine Wells and Bert DeBaun. The law is apparently silent on how to go about recounts. In talking with the Election Officer, it seems everyone is extremely pleased with the machine, and it does seem to be working very accurately and proficiently for a period of years. The committee was told by the author of HB 2322 that the ballots that go through the machine with even a very small deviation are rejected. Even if a person leaves one blank, it is rejected. When this happens these ballots are referred to what is either called a Review Committee or a Resolution Committee which is picked by the County Clerk. This committee consists of some of the best people who come in and serve on the six member review committee. These people review the ballots which are rejected by the optical scanner, and these people have the responsibility of resolving the problem with the ballots. There are some ballots that will never go through the machine, and these are hand-counted, even in the case of a recount. A lot of candidates would feel more comfortable with the old method of hand-counting on a recount, and the Representative said that he would say that this is probably true, but he feels there is more room for error this way. The Representative told the committee he would like for something to pass on this because they certainly do need some direction on this.

Representative Harper asked the question if this was amended to "may", would it leave the decision up to the local election officer. The Representative said that it would then be the decision of the election officer.

The Chair recognized Ron Thornburgh, Secretary of State's office. He came before the committee telling them that they, too, do agree that the machines work very well, and that they have had absolutely no problems in the nine counties that use the optical scanning machines at this point. Their office can appreciate the idea behind the bill which is that it would save some money

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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room 521-S, Statehouse, at 9:00 a.m./p.m. on Tuesday, March 3, 1987

and to streamline the process of recounting the ballots. However, there is always that one-in-a-million chance that there could be a programming error, or even that there could be human errors in the way that the ballot has been fed through the machine. Mr. Thornburgh told the committee that in talking with the clerks who are currently in the optical scan counties, his office has come up with a compromise. His office thought if they could get something that would put it at the discretion of the candidate, and they would eliminate the may where the county clerk "may" use the machine or "may" hand-count. His office would like to put it where it "shall" be at the discretion of the candidate, whether he wants to pay the extra money to do the manual count, or, if they want to try to save some money, and hence go with the optical scan machines, and as Representative Lowther said earlier, the candidate does pay for it if the decision is not overturned.

The hearing closed on HB 2322.

The Chair recognized Representative Elaine Wells, author of HB 2431, and hearings began on this bill. HB 2431 is an act relating to the filling of certain vacancies; appointment of precinct committeemen and committeewomen. The Representative came before the committee telling them that this bill is an attempt to implement fairness and procure a majority rule in filling a vacancy of an elected official. She told the committee, through visiting with both parties, she has found that this problem is not a new one.

Representative Wells asked that the committee see fit to pass HB 2431 favorably. (Attachment 1).

The Chair now recognized former state representative Irving Niles. Mr. Niles appeared before the committee in support of HB 2431.

Dale Green came before the committee in support of HB 2431. Mr. Green told the committee that this is a good beginning, but the bill should go a little farther, and said not to leave it up to just one person to fill the vacancies.

The next person recognized by the Chair was Belva Ott, former state representative. Ms. Ott appeared before the committee in support of HB 2431, and told the committee several years back she had proposed legislation similar to this bill. Ms. Ott asked that "vote stacking" not be allowed.

Dave Hill, precinct committeeman, testified before the committee in support of this piece of legislation.

There being no questions, the hearing closed on HB 2431.

HB 2541 was next on the agenda for hearing today. Representative Harper told the committee why this bill is being studied and heard today. He said this bill came up due to an opinion by the Kansas Public Disclosure Commission, and this was called to his attention on the last day for committees to introduce bills, so he took it upon himself to have a bill prepared, and sent to the committee. Copies of this opinion had been distributed to all members of the committee. (Attachment 2). This bill concerns the reporting of certain events by certain lobby groups.

The Chair recognized Jana Acheson, Public Disclosure Commission. Ms. Acheson told the committee first it should be noted under KSA 46-236, that as a general rule, it is unlawful for a State officer or employee to solicit funds from a lobbying organization to finance a special event for a State officer or employee. In cases where a group of lobbying organizations act in concert to finance a special event, there are two alternatives available for disclosure. The "group", as a "person" under KSA 46-233, may register and report the expenditures made on the event or the contributions to the fund may be made to an existing lobbying organization which would report the expenditures made. Carol Williams, also of the Public Disclosure Commission, told the committee the contributions, in either case, need not be reported by the individual lobbyists contributing to the fund. Ms. Acheson told the committee she had talked with the commission members yesterday individually, and the commission takes no position whatsoever on this bill.

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John Peterson came before the committee in support of HB 2541 and made several comments on his own behalf.

The hearing was closed on HB 2541.

At this time Chairperson Harper asked the committee if they had reviewed the balloon amendment to HB 2541, which had been passed to them earlier in the meeting. The committee was told by the Chair, that it appeared that this would require a substitute bill.

Representative Blumenthal moved that the committee introduce a substitute bill using the hand-outs from the Public Disclosure Commission as verbiage of choice. Seconded by Representative Baker. Motion carried.

Representative Foster moved that the committee recommend the substitute for HB 2541 favorably for passage. Seconded by Representative Baker. Motion carried.

The Chair asked the committee to turn their attention to HB 2201. A balloon amendment was prepared by the revisor. A copy of this was passed to members of the committee. This bill is a piece of legislation which the Attorney General had requested early in the session. (Attachment 3).

Jill Wolters told the committee she had talked with the office of the Attorney General, and that they were in agreement with the changes made. Jill explained the amendment to the committee. Following discussion, Representative Baker made a motion to adopt the amendments to HB 2201. Seconded by Representative Johnson. Motion carried.

Representative Baker made a motion to report HB 2201 favorably, as amended. Seconded by Representative Flottman. Motion carried.

The Chairperson called a meeting for Thursday, March 5, telling them that it would give them time to look over the bills heard today to see if there are any technical amendments that need to be made, and action will be taken on those at that time.

Representative Flottman made a motion to accept the minutes of the February 26, 1987, meeting as written. Seconded by Representative Amos. Motion carried.

Meeting adjourned at 9:50 a.m.

ELAINE L. WELLS
 REPRESENTATIVE, THIRTEENTH DISTRICT
 OSAGE AND NORTH LYON COUNTIES
 R.R. 1, BOX 166
 CARBONDALE, KANSAS 66414
 (913) 665-7740



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: AGRICULTURE AND SMALL BUSINESS
 INSURANCE
 PUBLIC HEALTH AND WELFARE

TESTIMONY ON H. B. 2431
 by
 Representative Elaine Wells

Thank you, Mr. Chairman and members of the committee for the opportunity to testify on behalf of H.B. 2431.

This bill is an attempt to implement fairness and procure a majority rule in filling a vacancy of an elected official. In talking to House members, both Republicans and Democrats, I was told the problem is not a new one. I have requested past Representatives Belva Ott and Irving Niles to also testify on the bill.

One of the important tasks of the precinct committee men and women to perform is the filling of vacancies. I understand that many precincts may have openings on the committee when a vacancy occurs. This bill addresses how, and if persons are to be appointed to those positions before that important task is performed.

The change begins in line 42 and states that the County Chairman and existing committee persons will meet to determine (by majority vote) whether or not to fill the openings of the precinct positions before electing to fill the vacancy.

The timeframe will vary according to the date the chairman receives the notification. The process should take approximately two weeks which does not interfere with the existing statutes K.S.A. 25-3902. (The convention to fill the vacancy must be held within thirty (30) days after such vacancy occurs.)

The intent is to place the decision with the majority of the elected or appointed committee. With the existing statute, the chairman can appoint or choose not to appoint persons to those positions and a possibility of misrepresentation of the party may occur. What actually might happen is that the newly appointed committee persons (depending upon the number of open positions) could determine the outcome of the election, or, with the chairman deciding not to fill the openings, incomplete representation may occur.

By a majority vote, fairness will be afforded to all the candidates in the election.

Prior attempts to rectify this situation included a requirement of the committeemen serving a certain number of days prior to the convention to elect to fill a vacancy. This would have placed an impossibility of filling those vacancies that were present at the time the vacancy occurred. This bill will allow this as long as the majority of the committee agrees to do so.

One of the positive outcomes of this bill, if passed, will be the motivated effort for the County Chair to appoint persons to the committee whenever there are open positions. It will also give credence to the longstanding members who have worked hard as committeemen prior to the convention of election.

In conclusion, I support H.B. 2431 and hope to see it passed favorably from committee.

3-3-87

Haune Election
 attachment 1

STATE OF KANSAS

KANSAS PUBLIC DISCLOSURE COMMISSION

109 W. NINTH
TOPEKA, KANSAS 66612
PHONE: (913) 296-4219

February 18, 1987

Opinion No. 87-3

TO ALL INTERESTED PERSONS:

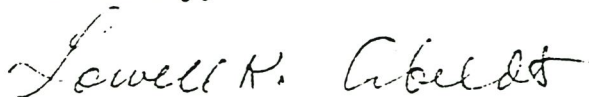
Pursuant to K.S.A. 46-254, the Commission takes this opportunity to issue its opinion concerning the funding of special events for State officers and employees such as birthday parties.

It should first be noted under K.S.A. 46-236, that as a general rule, it is unlawful for a State officer or employee to solicit funds from a lobbying organization to finance a special event for a State officer or employee.

~~In those situations where a group of lobbying organizations act in concert to finance a special event, there are two alternatives available for disclosure. The "group", as a "person" under K.S.A. 46-233, may register and report the expenditures made on the event or the contributions to the fund may be made to an existing lobbying organization which would report the expenditures made.~~

~~The contributions, in either case, need not be reported by the individual lobbyists contributing to the fund.~~

Sincerely,



Lowell Abeldt, Chairman

By Direction of the Commission

LA:DDP:d1w

3-3-87
Attachment 2.
House Elections.

HOUSE BILL No. 2541

By Committee on Elections

2-25

0017 AN ACT concerning governmental ethics of state officers and
0018 employees and candidates for such office; amending K.S.A.
0019 ~~46-237~~ and repealing the existing section.

46-269

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 46-237 is hereby amended to read as fol-
0022 lows, 46-237. (a) No state officer or employee or candidate for
0023 state office shall accept, or agree to accept any economic oppor-
0024 tunity, gift, loan, gratuity, special discount, favor, hospitality, or
0025 service having an aggregate value of \$100 or more in any calen-
0026 dar year from any one person known to have a special interest,
0027 under circumstances where such person knows or should know
0028 that a major purpose of the donor is to influence such person in
0029 the performance of their official duties or prospective official
0030 duties.

0031 (b) No person with a special interest shall offer, pay, give or
0032 make any economic opportunity, gift, loan, gratuity, special dis-
0033 count, favor, hospitality or service having an aggregate value of
0034 \$100 or more in any calendar year to any state officer or em-
0035 ployee or candidate for state office with a major purpose of
0036 influencing such officer or employee in the performance of
0037 official duties or prospective official duties.

0038 (c) No person licensed, inspected or regulated by a state
0039 agency shall offer, pay, give or make any economic opportunity,
0040 gift, loan, gratuity, special discount, favor, hospitality, or service
0041 having an aggregate value of \$100 or more in any calendar year to
0042 that agency.

0043 (d) Hospitality in the form of food and beverages are pre-
0044 sumed not to be given to influence a state officer or employee in
0045 the performance of such officer's or employee's official duties or

0046 prospective official duties, except when a particular course of
0047 official action is to be followed as a condition thereon.

0048 (e) Except when a particular course of official action is to be
0049 followed as a condition thereon, this section shall not apply to (1)
0050 any contribution reported in compliance with the campaign
0051 finance act; or (2) a commercially reasonable loan or other
0052 commercial transaction in the ordinary course of business.

0053 (f) *Nothing in this section shall be construed as prohibiting a*
0054 *group of persons representing differing interests from contrib-*
0055 *uting to a single special event so long as no single person offers*
0056 *or gives gifts or favors in excess of the amounts prescribed by*
0057 *this section.*

0058 Sec. 2. K.S.A. 46-237 is hereby repealed.

0059 Sec. 3. This act shall take effect and be in force from and
0060 after its publication in the statute book.

Insert attachment

Section 1. K.S.A. 46-269 is hereby amended to read as follows: 46-269. Each report under K.S.A. 46-268, and amendments thereto, shall disclose the following: (a) The full name and address of each person who has paid compensation for lobbying to the lobbyist or has paid for expenses of lobbying by the lobbyist.

(b) The aggregate amount or value of all expenditures made (except for expenses of general office overhead) by the lobbyist or by the lobbyist's employer for or in direct relation to lobbying during the reporting period, if such expenditures exceed \$100. Individual expenditures of less than \$2 shall not be required to be reported under this subsection. Such expenditures shall be reported according to categories of expenditures established by rules and regulations of the Kansas public disclosure commission. With regard to expenditures for entertainment or hospitality which is primarily food and beverages, only amounts expended on a state officer or employee or on such officer or employee's spouse shall be considered to be for or in direct relation to lobbying. Notwithstanding the requirements of this subsection and subsection (c), no lobbyist shall be responsible to report any expenditure by the lobbyist's employer of which such person has no knowledge.

(c) All gifts, honoraria or payments, of value in excess of \$20 by the lobbyist to any state officer or employee.

Whenever an individual lobbyist contributes to a single special event, such lobbyist shall report only the aggregate amount or value of the expenditure contributed by such lobbyist.

Whenever more than one lobbyist is employed by a single employer, the reports required by this section relating to such employer shall be made by only one such lobbyist and that lobbyist shall be the lobbyist who is most directly connected with the particular expenditure or gift, honoraria or payment. No expenditure or gift, honoraria or payment required to be reported by this section shall be reported by more than one lobbyist.

Sec. 2. K.S.A. 46-260 is hereby repealed.

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

HOUSE BILL No. 2201

By Committee on Elections

2-6

0017 AN ACT concerning elections; relating to financial reports of
0018 constitutional campaigns; repealing K.S.A. 25-4201.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. (a) Every person who engages in any activity
0021 promoting or opposing the adoption or repeal of any provision of
0022 the Kansas constitution and who accepts moneys or property for
0023 the purpose of engaging in such activity shall make an annual
0024 report to the secretary of state of contributions or contributions in
0025 kind in an aggregate amount or value in excess of \$50 received
0026 during the preceding calendar year for such purposes. The report
0027 shall show the name and address of each contributor for the
0028 activity and the amount or value of the contribution made,
0029 together with a total value of all contributions received, and shall
0030 also account for expenditures in an aggregate amount or value in
0031 excess of \$50 from such contributions by showing the amount or
0032 value expended to each payee and the purpose of each such
0033 expenditure, together with a total value of all expenditures
0034 made. The annual report shall be filed on or before February 15
0035 of each year for the preceding calendar year.

0036 In addition to the annual report, a person engaging in an
0037 activity promoting the adoption or repeal of a provision of the
0038 Kansas constitution who accepts any contributed moneys for
0039 such activity shall make a preliminary report to the secretary of
0040 state 15 days prior to each election at which a proposed consti-
0041 tutional amendment is submitted. Such report shall show the
0042 name and address of each contributor, together with the amount
0043 contributed or contributed in kind in an aggregate amount or
0044 value in excess of \$50, and the expenditures in an aggregate
0045 amount or value in excess of \$50 from such contributions by

individual

3-3-87

Attachment #3
House Elections

0046 showing the amount paid to each payee and the purpose of the
 0047 expenditure. A supplemental report in the same format as the
 0048 preliminary report shall be filed with the secretary of state
 0049 within 15 days after any election on a constitutional proposition
 0050 where contributed funds are received and expended in opposing
 0051 or promoting such proposition.

0052 The word "person" as used herein means an individual, cor-
 0053 poration, partnership, association, organization or other legal
 0054 entity.

0055 (b) (1) The Kansas public disclosure commission shall send a
 0056 notice by registered or certified mail to any person failing to file
 0057 any report required by subsection (a) within the time period
 0058 prescribed therefor. The notice shall state that the required
 0059 report has not been filed with the office of the secretary of state.
 0060 The notice shall also state that such person shall have 15 days
 0061 from the date such notice is deposited in the mail to comply with
 0062 the reporting requirements before a civil penalty shall be im-
 0063 posed for each day that the required documents remain unfiled.
 0064 If such person fails to comply within the prescribed period, such
 0065 person shall pay to the state a civil penalty of \$10 per day for each
 0066 day that such report remains unfiled, except that no such civil
 0067 penalty shall exceed \$300. The Kansas public disclosure com-
 0068 mission may waive, for good cause, payment of any civil penalty
 imposed by this section.

0070 (2) Civil penalties provided for by this section shall be paid
 0071 to the state treasurer, who shall deposit the same in the state
 0072 treasury to the credit of the state general fund.

0073 (3) If a person fails to pay a civil penalty provided for by this
 0074 section, it shall be the duty of the attorney general or county or
 0075 district attorney to bring an action to recover such civil penalty in
 0076 the district court of the county in which such person resides.

0077 ~~(c) Failure to file any report required by subsection (a) is the~~
 0078 ~~intentional failure of any person required to make and file with~~
 0079 ~~the secretary of state any report or supplemental report at the~~
 0080 ~~time specified in subsection (a). Failure to file a report as~~
 0081 ~~required in subsection (a) is a class A misdemeanor.~~

0082 (d) This section shall be part of and supplemental to the

Any person who engages in any activity promoting or opposing the adoption or repeal of any provision of the Kansas constitution shall be considered engaged in such activity upon the date the concurrent resolution passes the Kansas house of representatives and senate in its final form. Upon such date, if the person has funds in the constitutional amendment campaign treasury, such person shall be required to report such funds as provided by this section.

The intentional failure to file any report required by subsection (a) is a class A misdemeanor.

0083 campaign finance act.

0084 Sec. 2. K.S.A. 25-4201 is hereby repealed.

0085 Sec. 3. This act shall take effect and be in force from and
0086 after its publication in the statute book.