

Approved ELH Date 3-1-88

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, February 23, 1988 in room 521-S of the Capitol.

All members were present except: Representative Jenkins, Helgerson, Roy, and Russell,
all excused.

Committee staff present: Myrta Anderson, Legislative Research Department
Ron Thornburg, Secretary of State's Office
Mary Torrence, Revisor of Statute's Office
Dottie Musselman, Committee Secretary

Conferees appearing before the committee:

Representative Cribbs
Jim Kaup, League of Kansas Municipalities

Chairperson Harper called the meeting to order, and recognized Representative Cribbs. The Representative came before the committee giving them a briefing on HB 2809. This bill, is An Act relating to the election members of the governing body of the city of Wichita, Kansas; providing for the division of such city into districts.

The Representative came before the committee telling them that HB 2809 will make the election of the City Councilmen by District in the primary and also by District in the general election, and that he thinks it brings fairness into the election process. As it stands now, the election of the City Councilmen is by election in the city primary, and at large in the general election, which has proven in most elections to not be fair to minorities and to the poor. Attachments # 1 and 2 were handed to members of the committee.

Jim Kaup, League of Kansas Municipalities, came before the committee in opposition to HB 2809.

Following a discussion period, the hearing closed on HB 2809.

The Chairperson called the attention of the committee to SB 501. A balloon amendment was handed to members earlier by Mary Torrence, Revisor. The Chair asked Ms. Torrence to explain the amendment to the committee. She said this amendment was simply technical changes and a clarification of language on page 5. Attachment 3

Representative Baker moved to accept and adopt the amendment to SB 501.
Seconded by Representative Johnson. Motion carried.

Representative Baker made a motion to recommend that SB 501 be reported favorably, as amended, from committee and be passed. Seconded by Representative Johnson. Motion carried.

Representative Blumenthal asked that the wording "be placed on Consent Calendar" with reference to SB 252, be stricken from the February 16, 1988, minutes. He then made a motion to accept the minutes of the February 16 and February 18, 1988, meetings as corrected and written. Seconded by Representative Flottman. Motion carried.

The meeting adjourned at 9:40 a.m.

STATE OF KANSAS

THEO CRIBBS
SEDGWICK COUNTY
1551 NORTH MINNESOTA
WICHITA, KANSAS 67214



COMMITTEE ASSIGNMENTS
MEMBER: PUBLIC HEALTH AND WELFARE
CONSERVATION AND NATURAL
RESOURCES

TOPEKA

HOUSE OF
REPRESENTATIVES

February 23, 1988

TO: House Elections Committee
FROM: Representative Theo Cribbs

Mr. Chairman and members of the committee. My name is Theo Cribbs, it is a pleasure to appear before your Committee on behalf of HB 2809. House Bill 2809 is a very important bill and I think it brings fairness into the election process.

As you know HB 2809 will make the election of the City Councilmen by District in the primary and also by District in the general election. As it stands now, the election of the City Councilmen is by election in the city primary and at large in the general election, which has proven in most elections to not be fair to minorities and the poor.

Therefore, I would urge you to please consider HB 2809 to make this adjustment so that we can have elections that will give everyone in that particular District a chance to be elected. Attached to this are some figures which will show the difference in Districts and at large by District elections.

I hope you will give this your favorable consideration. Thank you for your time and consideration of this bill.

A handwritten signature in cursive script, appearing to read "Theo Cribbs".

THEO CRIBBS
State Representative
District #89

*attn #1
Hansen & Johnson
2-23-88*

<u>CANDIDATE</u>	<u>PRIMARY</u>	<u>GENERAL</u>	
		<u>In District</u>	<u>Total</u>
#1 Curry	1,901	3.287	15,970
Dewey	1,341	1,807	17,499
#2 Kamen	3,903	5,261	20,157
Ryan	1,714	3.928	13,559
#3 Stanga	1,497	2,883	14,972
Winkler	1,154	2.631	15,092
#4 Ferris	879	2,584	19,321
Jarchow	1,131	2,451	11,835
#5 Knight	3,848	6,579	21,408
Brown	3,206	3,953	13,229



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

ATTORNEY GENERAL OPINION NO. 88-_____

The Honorable Theo Cribbs
State Representative, Eighty-Ninth District
State Capitol, Room 273-W
Topeka, Kansas 66612

Re: Elections--City Elections--Commissioners Nominated
From Districts and Elected At Large

Synopsis: The issue of whether there has been a violation of
the Voting Rights Act or the Fourteenth and
Fifteenth Amendments to the United States
Constitution in utilizing at large or
multi-member electoral systems is a question of
fact. Relevant factors a court will consider in
making such a factual determination are set forth
in this opinion. Cited herein: 42 U.S.C.A. §1973a.

* * *

Dear Representative Cribbs:

You have requested an opinion as to the constitutionality of
Charter Ordinance No. 93 of the city of Wichita, whereby
members of the city commission are nominated from districts
and are elected at large. For reasons set forth below, this
office cannot provide a definitive opinion as to the legality
of the Wichita voting system under the Fourteenth and
Fifteenth Amendments to the United States Constitution and the
Voting Rights Act; however, I would like to briefly summarize
the principles which have been applied in determining the
legality of at large or multi-member electoral systems.

*Attachment #2
House Election
2-23-88.*

In Thornburg v. Gingles, 92 L.Ed.2d 25 (1986), the U.S. Supreme Court held that where there is a claim of vote dilution through districting, a court must consider the totality of the circumstances and determine, based upon a searching practical evaluation of the past and present reality, whether the political process is equally open to minority voters. 92 L.Ed.2d at 65. The court also set forth the following factors which may be relevant in assessing the impact of a voting system on minority electoral opportunities:

"1. the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process;

"2. the extent to which voting in the elections of the state or political subdivision is racially polarized;

"3. the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group;

"4. if there is a candidate slating process, whether the members of the minority group have been denied access to that process;

"5. the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process;

"6. whether political campaigns have been characterized by overt or subtle racial appeals;

"7. the extent to which members of the minority group have been elected to public office in the jurisdiction.

"Additional factors that in some cases have had probative value as part of plaintiffs' evidence to establish a violation are:

"whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group;

"whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous." 92 L.Ed.2d at

The above factors would be relevant in determining whether minority voters in the city of Wichita have an equal opportunity to participate in the political process and to elect candidates of their choice. However, the issue of whether there has been a violation of the Voting Rights Act or the Fourteenth and Fifteen Amendments to the U.S. Constitution is a question of fact. Rogers v. Lodge, 73 L.Ed.2d 1012, 1021 (1982); Thornburg v. Gingles, 92 L.Ed.2d 25, 64 (1986). As this office is limited to providing opinions on questions of law (see enclosed policy statement), we cannot provide an opinion as to the legality of the Wichita voting system. The federal district court is the appropriate forum to consider questions as to the constitutionality of a voting system, and I would encourage you to take any evidence of discrimination to the U.S. Attorney who is responsible for enforcing the provisions of the Voting Rights Act. 42 U.S.C.A. §1973a.

Very truly yours,

ROBERT T. STEPHAN
Attorney General of Kansas

Terrence R. Hearshman
Assistant Attorney General

RTS:JLM:TRH:jm

SENATE BILL No. 501

By Committee on Elections

1-21

0016 AN ACT concerning elections; amending K.S.A. 25-205, 25-303,
0017 25-305, 25-3304, 25-3306, 25-4310 and 25-4320 and repealing
0018 the existing sections.

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

0020 Section 1. K.S.A. 25-205 is hereby amended to read as fol-
0021 lows: 25-205. (1) (a) The names of candidates for national, state,
0022 county and township offices shall be printed upon the official
0023 primary ballot when each shall have qualified to become a
0024 candidate by one of the following methods and none other: ~~First~~;

0025 (1) They shall have had filed in their behalf, not later than 12:00
0026 noon, June 10, prior to such primary election, or if such date falls
0027 on Saturday, Sunday or a holiday, then before 12:00 noon of the
0028 next following day that is not a Saturday, Sunday or a holiday,
0029 nomination petitions, as provided for in this act: ~~Or, second~~; or

0030 (2) they shall have filed not later than the time for filing nomi-
0031 nation petitions, as above provided, with the proper officer a
0032 declaration of intention to become a candidate, accompanied by
0033 the fee required by law. ~~Nomination petitions shall be in sub-~~
0034 stantially the following form:

0035 I, the undersigned, an elector of the _____ precinct of the township
0036 of _____ (or _____ precinct of the
0037 _____ ward of _____); county of
0038 _____, and state of Kansas, and a duly registered voter, and a
0039 member of _____ party, hereby nominate _____
0040 who resides in the township of _____ (or at number
0041 _____ on _____ street, city of _____),
0042 in the county of _____ and state of Kansas, as a candidate for the
0043 office of (here specify the office) _____, to be voted for at
0044 the primary election to be held on the first Tuesday in August in
0045 _____, as representing the principles of said such party; and I
0046 further declare that I intend to support the candidate herein named and that I
0047 have not signed and will not sign any nomination petition for any other person,
0048 or said such office at such primary election.

11 (b)

*3 - 3 - 3
Howard
Att. m*

(HEADING)

00 0055 0059	Name of Signers.	Street Number or Rural Route (as registered).	Name of City.	Date of Signing.
--------------------	---------------------	---	------------------	---------------------

0061 ~~(2)~~ All nomination petitions shall have substantially the
 0062 foregoing form, written or printed at the top thereof. No signa-
 0063 ture shall be counted unless it is upon a sheet having such
 0064 written or printed form at the top thereof.

(c)

0065 ~~(3)~~ Each signer of a nomination petition shall sign but one
 0066 such petition for the same office, and shall declare that such
 0067 person intends to support the candidate therein named, and shall
 0068 add to such person's signature and residence, if in a city, by
 0069 street and number (if any); or, otherwise by post-office address.
 0070 No signature shall be counted unless the place of residence of
 0071 the signer is clearly indicated and the date of signing given as
 0072 herein required and if ditto marks are used to indicate address
 0073 they shall be continuous and clearly made. Such sheets shall not
 0074 be cut or pasted together.

(d)

0075 ~~(4)~~ All signers of each separate nomination petition shall
 0076 reside in the same ~~precinct~~ county and election district of the
 0077 office sought. The affidavit described in this paragraph of a
 0078 qualified elector who resides in such ~~precinct~~ county and elec-
 0079 tion district or of the candidate shall be appended to each
 0080 petition and shall contain, at the end of each set of documents
 0081 carried by each circulator, a verification, signed by the circulator
 0082 or the candidate, to the effect that such circulator or the can-
 0083 didate personally witnessed the signing of the petition by each
 0084 person whose name appears thereon. The person making such
 0085 affidavit shall be duly registered to vote.

(e)

0086 ~~(5)~~ Such nomination petitions shall be signed: ~~(a)~~ If for a state
 0087 officer elected on a statewide basis (or for the office of United
 0088 States senator) by not less than 1% of the total vote of the party
 0089 designated in the state.

¶ (1)

0090 ~~(4)~~ If for a state or national officer elected on less than a
 0091 statewide basis by not less than 2% of the total vote of the party
 0092 designated in such district, except that for the office of district
 0093 magistrate judge, by not less than 2% of the total vote of the party
 0094 designated in the county in which such office is to be filled.

(2)

00. ~~(e)~~ If for a county office by not less than 3% of the total vote of
 0096 the party designated in such district or county. (3)

0097 ~~(4)~~ If for a township office by not less than 3% of the total
 0098 vote of the party designated in such township. (4)

0099 ~~(6)~~ The basis of a percentage shall be the vote of the party for
 0100 secretary of state at the last preceding election; or, in case of a
 0101 new party, the basis of a percentage shall be the vote cast for the
 0102 successful candidate for secretary of state at the last preceding
 0103 election, and, subject to the requirements of K.S.A. 25-202, and
 0104 amendments thereto, any political organization filing nomina-
 0105 tion petitions for a majority of the state or county offices, as
 0106 provided in this act, shall have a separate primary election ballot
 0107 as a political party, and, upon receipt of such nomination peti-
 0108 tions the respective officers shall prepare a separate state and
 0109 county ballot for such new party in their respective counties or
 0110 districts thereof in the same manner as is provided for existing
 0111 parties. required by this subsection (e)

0112 Sec. 2. K.S.A. 25-303 is hereby amended to read as follows:
 0113 25-303. This section shall not apply to city and school elections,
 0114 nor to election of other officers provided by law to be elected in
 0115 April. All nominations other than party nominations shall be
 0116 independent nominations. Independent nominations of candi-
 0117 dates for any office to be filled by the voters of the state at large
 0118 may be made by nomination petitions signed by not less than
 0119 2,500 qualified voters of the state for each candidate and in the
 0120 case of governor and lieutenant governor for each pair of such
 0121 candidates. (f)

0122 Independent nominations of candidates for offices to be filled
 0123 by the voters of a county, district or other division less than a
 0124 state may be made by nomination petitions signed by not less
 0125 than 5% of the qualified voters of such county, district or other
 0126 division voting for secretary of state at the last preceding general
 0127 election for each candidate, and in no case to be signed by less
 0128 than 25 voters of such county, district or division, for each
 0129 candidate.

0130 Independent nominations of candidates for offices to be filled
 0131 by the voters of a township may be made by nomination papers

0133 signed by not less than 5% of the qualified voters of such
0134 township, computed as above provided, for each candidate, and
0135 township for each candidate.

0136 The signatures to such nomination petitions need not all be
0137 appended to one paper, but each registered voter signing an
0138 independent certificate of nomination shall add to the signature
0139 such petitioner's place of residence and post-office address. All
0140 signers of each separate nomination petition shall reside in the
0141 same ~~precinct~~ *county and election district of the office sought.*
0142 The affidavit of a qualified elector who resides in such ~~precinct~~
0143 *county and election district* or of the candidate shall be ap-
0144 pended to each petition and shall contain, at the end of each set
0145 of documents carried by each circulator, a verification, signed by
0146 the circulator, to the effect that such circulator personally wit-
0147 nessed the signing of the petition by each person whose name
0148 appears thereon. The person making such affidavit shall be duly
0149 registered to vote. No such nomination paper shall contain the
0150 name of a candidate for governor without in the same such paper
0151 containing the name of a candidate for lieutenant governor, and
0152 if it does it shall be void. No person shall join in nominating more
0153 than one person for the same office, and if this is done, the name
0154 shall not be counted on any certificate.

0155 Sec. 3. K.S.A. 25-305 is hereby amended to read as follows:
0156 25-305. (a) Certificates of nomination by convention or caucus
0157 ~~and independent nomination petitions~~ for the nomination of
0158 candidates for national, state, county, and township offices, shall
0159 be filed with the secretary of state, or the county election officer,
0160 not later than 12:00 noon, June 10, preceding the national, state,
0161 county and township general election, except when such date
0162 falls on Saturday, Sunday or a holiday, and then not later than
0163 12:00 noon the following day that is not a Saturday, Sunday or a
0164 holiday.

0165 (b) *Independent nomination petitions for the nomination of*
0166 *candidates for national, state, county and township offices shall*
0167 *be filed with the secretary of state or the county election officer*
0168 *no later than 12:00 noon on the Monday preceding the first*

6. Tuesday of August preceding a national, state, county or town-
0170 ship general election.

0171 Sec. 4. K.S.A. 25-3304 is hereby amended to read as follows:

0172 25-3304. (a) Any person who has declared ~~his party~~ such person's ~~party~~ or
0173 voter affiliation in the manner provided by law shall thereafter
0174 be listed on ~~the party a voter~~ affiliation list as a member of ~~that~~
0175 ~~political party a registered political organization, or on a party~~
0176 ~~affiliation list if a member of a recognized political party, unless~~ person's
0177 ~~his the voter's~~ name is purged or removed therefrom as provided
0178 by K.S.A. 25-3303, ~~and amendments thereto, or unless he the~~ person changes party or voter
0179 ~~voter changes his party~~ affiliation as provided in this section.

0180 (b) Any elector person, who, having declared ~~his a party~~ or voter
0181 affiliation, desires to change the same, may; ~~not less than twenty~~
0182 ~~(20) days prior to the date of any national, state, county and~~
0183 ~~township primary election;~~ file a written declaration with the or voter
0184 county election officer, stating ~~his the~~ change of party affiliation;
0185 ~~and. Such declaration shall be filed not less than 20 days prior to~~
0186 ~~the date of any national, state, county or township primary~~
0187 ~~election. The county election officer shall enter a record of such~~ or voter
0188 change on the party affiliation list of such preceding primary
0189 election in the proper column opposite the voter's name.

0190 (c) Any elector person who has never declared ~~his a party~~ or voter
0191 affiliation in the county in which ~~he such person~~ resides may; ~~not~~
0192 ~~less than twenty (20) days prior to the date of any national, state,~~
0193 ~~county and township primary election;~~ file a written declaration or voter
0194 with the county election officer, stating ~~his the~~ party affiliation;
0195 ~~and. Such declaration shall be filed not less than 20 days prior to~~
0196 ~~the date of any national, state, county or township primary~~
0197 ~~election. The county election officer shall enter a record of such~~ or voter
0198 declaration on the party affiliation list of the preceding primary
0199 election in the proper column opposite the voter's name.

0200 Sec. 5. K.S.A. 25-3306 is hereby amended to read as follows:

0201 25-3306. County election officers and deputy election officers
0202 shall inform each person registering as a voter that such person
0203 may declare ~~his or her party a~~ voter affiliation with any rec- party or
0204 ~~ognized political party or registered political organization and~~
0205 shall inform such person of the procedure for declaring such