

Approved February 3, 1988
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS

The meeting was called to order by Senator Gordon at
Chairperson

1:30 ~~xm~~/p.m. on January 28, 1988 in room 522-S of the Capitol.

All members were present except:

Senator Johnston (excused)

Committee staff present:

Myrta Anderson - Legislative Research Department
Theresa Kiernan - Revisor of Statutes
Phil Lowe - Committee Secretary

Conferees appearing before the committee:

Danton Rice - Deputy Assistant Secretary of State
Ron Thornburgh - Secretary of State's Office
Dan Kolditz - Attorney General's Office
Douglas Merritt - Atchison - Libertarian Party
Warren C. Martin - Junction City

The minutes of January 27 were approved.

SB 501 - concerns elections and political party affiliations.

Mr. Dan Rice, Legal Counsel and Deputy Assistant of the Secretary of State's office, appeared before the committee and distributed handouts regarding his testimony on SB 501. He stated that Ron Thornburgh from the Secretary of State's office and also Dan Kolditz from the Attorney General's office were also in attendance to respond to questions. Mr. Rice said the bill was introduced because of several alleged constitutional defects in the Kansas election laws which were brought to their attention in a lawsuit. These issues have been addressed to in SB 501. The first issue concerns the current June 10 filing date for independent candidates for any office to be filled by the voters of the state at large. The second issue relates to the "precinct rule" which requires circulators and signers of petitions to reside in the same precinct. The third issue concerns the limitation on voter affiliation information and allows an individual to register with the party of their choice. Currently, one must register as Republican, Democrat or unaffiliated. In answer to a question Mr. Rice stated that none of these issues were brought to the attention of their office before the lawsuit was filed.

The question was raised as to whether the Libertarians would drop their suit against the Secretary of State's office if the legislature would approve this bill, SB 501. Mr. Rice and Mr. Kolditz from the Attorney General's office said they could not comment on a pending lawsuit. However, Mr. Merritt said that the plaintiffs agreed to a continuance of the lawsuit if the bill passes. Mr. Rice's testimony Attachment 1.

Douglas Merritt, representing the Libertarian party, stated that Mr. Rice's explanation was quite adequate and eloquent and their party urges the committee to consider the bill since it is very important to them to be recognized and represented. He further stated that the bill is quite satisfactory and does everything that their party asked for. Concern was expressed over Sec. 2, page 4, line 143 which reads "The affidavit of a qualified elector who resides in such precinct county and election district". The committee thought this should be defined and instructed the staff to work out correct wording.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS,
room 522-S, Statehouse, at 1:30 ~~am~~/p.m. on January 28, 19⁸⁸.

Warren C. Martin, Junction City, Chairman of the Prohibition party, expressed his desire to see the third parties represented and recognized and stated the minor parties want results.

The Chairman announced that the bill on lobbyist registration would be introduced in the Senate today and that the committee would hold hearings on the bill next Wednesday, February 3, 1988.

The meeting was adjourned.

Bill Graves
Secretary of State



2nd Floor, State Capitol
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STATE OF KANSAS

TESTIMONY BEFORE THE SENATE ELECTIONS COMMITTEE
ON SB 501

BY: DANTON B. RICE - DEPUTY ASSISTANT SECRETARY OF STATE

JANUARY 28, 1988

The purpose of SB 501 is to remedy several alleged constitutional defects in the Kansas election laws which were brought to the attention of our office in a lawsuit filed in September of 1987. On the advice of the Attorney General, and as a result of negotiations with the plaintiffs, our office is seeking legislative review of the statutes in question. Three issues are addressed by SB 501: (1) the June 10 filing date for independent candidates, (2) the "precinct rule," and (3) the limitation on voter affiliation information.

The first issue concerns the current June 10 filing date for independent candidates for any office to be filled by the voters of the state at large. Recognized political parties are not required to provide the names of their candidates until after they hold primary elections. Similar inconsistent filing dates in other jurisdictions have been found to be unconstitutional burdens upon independent candidates. Section 3 of SB 501 addresses this issue and changes the filing deadline for independent nominations to no later than 12:00 noon on the Monday preceding the first Tuesday in August.

The second issue concerns the "precinct rule" which requires circulators and signers of petitions to reside in the same precinct. This rule is the result of the historical need to check voter registration lists by hand. Kansas is currently the only state with the system and it has been determined to be unconstitutional. Several sections of SB 501 address this issue and change the precinct requirements to county or district wide requirements.

The final issue addressed in the bill is the existence of voter affiliation lists. Currently, K.S.A. 25-302c allows an individual to register as a "democrat," "republican," or "unaffiliated." A recent federal court of appeals decision has found that such a system is unconstitutional. A new section is included in SB 501 that would allow members of a political organization that has filed a statement of organization with the Secretary of State to be listed as such on voter affiliation lists.

Attachment 1
Senate Elections Committee
January 28, 1988

TO: Interested Parties
FROM: Danton B. Rice - Legal Counsel
Deputy Assistant Secretary of State
RE: Merritt v. Graves - Issues
DATE: 1/19/88

Three issues have been raised by the the Libertarian Party of Kansas in the most recent lawsuit: (1) the June 10 filing date for independent candidates (K.S.A. 25-303), (2) the "precinct rule" (K.S.A. 25-303), and (3) the limitation on voter affiliation information (K.S.A. 25-302c).

The first issue concerns the current June 10 filing date for independent candidates for any office to be filled by the voters of the state at large. The libertarians argue that the early filing date required by K.S.A 25-303 burdens their efforts to gather signatures and that they are required to provide the names of their candidates approximately 60 days before the recognized political parties hold primaries. Similar cases in other jurisdictions have held that early filing dates for independent candidates are unfair burdens.

The second issue concerns the "precinct rule" which requires circulators and signers of nomination~~s~~ petition~~s~~ to reside in the same precinct. The precinct rule is the result of the historical need to check voting records by hand. Because of modern computers this need has been removed. Kansas currently has a "precinct rule" and the practice has been found unconstitutionally burdensome in every other jurisdiction.

The final issue raised in the suit is the existence of voter affiliation lists. Currently, K.S.A. 25-302c allows an individual to register as a "democrat," "republican," or "unaffiliated." The Plaintiffs in the present suit feel that this discriminates against them because they do not have a list of affiliated voters for organizational purposes. A recent federal district court of appeals decision, arising out of similar Colorado statutes, requires the state to provide for alternate registration procedures for political organizations in addition to the ones for recognized political parties.

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00002 K.S.A. 25-3306

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00004 County election officers and deputy election officers shall
00005 inform each person registering as a voter that such person may
00006 declare his or her party voter affiliation with any
00007 recognized political party or registered political
00008 organization and shall inform such person of the procedure for
00009 declaring such affiliation. A printed notice containing such
00010 information shall be posted conspicuously at each registration
00011 place.

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00013

00014 K.S.A. 25-3304

00015

00016 (a) Any person who has declared his party voter
00017 affiliation in the manner provided by law shall thereafter be
00018 listed on a the party voter affiliation list as a
00019 member of that political party a registered political
00020 organization, or on a party affiliation list if a member of a
00021 recognized political party, unless his the voter's
00022 name is purged or removed therefrom as provided by K.S.A.
00023 25-3303, or unless he the voter changes his
00024 party affiliation as provided in this section.

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00027 New Section - Registered Political Organization, Definition

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00029 (a) Any political organization seeking the right of
00030 designation on voter affiliation lists after the effective date
00031 of this act shall file a statement of organization and a
00032 certified list of officers with the Secretary of State. Such
00033 organization shall have obtained official recognition as a
00034 political party at some time prior to filing. However,
00035 current status as a recognized political party is not required.

00036

00037 (b) The Secretary of State may adopt rules and regulations
00038 prescribing the method of listing members of all registered
00039 political organizations in voter registration and affiliation
00040 lists.

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00043 K.S.A. 25-305

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00045 (a) Certificates of nomination by convention or caucus
00046 and independent nomination petitions for the nomination of
00047 candidates for national, state, county, and township offices,
00048 shall be filed with the secretary of state, or the county
00049 election officer, not later than 12:00 noon, June 10, preceding
00050 the national, state, county and township general election,
00051 except when such date falls on Saturday, Sunday or a holiday,
00052 and then not later than 12:00 noon the following day that is
00053 not a Saturday, Sunday or a holiday.

00054

00055 (b) Independent nomination petitions for the nomination of
00056 candidates for national, state, county, and township offices
00057 shall be filed with the secretary of state or the county
00058 election officer no later than 12:00 noon on the Monday
00059 preceding the first Tuesday of August preceding a national,
00060 state, county or township general election.

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25-4320. Same; petition; contents; circulation; form; sample from election officer on request; affidavit. (a) Each petition for recall of a local officer shall include (1) the name and office of the local officer sought to

be recalled, (2) the grounds for recall described in particular in not more than two hundred (200) words, (3) a statement that the petitioners are registered electors of the election district of the local officer sought to be recalled, (4) the names and addresses of three (3) registered electors of the election district of the officer sought to be recalled who shall comprise the recall committee, (5) the statement of warning required in K.S.A. 25-4321 and amendments thereto and (6) a statement that a list of all sponsors authorized to circulate recall petitions for such recall may be examined in the office of the county election officer where the petition is required to be filed. Each sponsor shall be a registered elector of the election district of the local officer sought to be recalled and of the ~~precinct~~ in which such sponsor circulates the petition.

County

(b) Each page of a petition for recall of a local officer shall be in substantially the following form:

I, the undersigned, hereby seek the recall of _____ from the office of _____, on the ground(s) that _____, and _____ (state specific grounds) declare that I am a registered elector of the _____ precinct of _____ Township (or the _____ precinct of the _____ ward of _____), _____ County, Kansas, and of the election district of the officer named above.

Name of Signer	Street Number or RR (as Registered)	Name of City	Date of Signing
_____	_____	_____	_____

NOTE:

1. It is a class B misdemeanor to sign a name other than your own name to this petition, to knowingly sign more than once for the recall of the same officer at the same election or to sign this petition knowing you are not a registered elector.
2. The following comprise the recall committee:

_____ (names and resident addresses)
 3. A list of all sponsors authorized to circulate petitions for this recall may be examined in the office of the _____ County election officer.

(c) A county election officer shall provide a sample of the form prescribed by subsection (b) upon request by any person.

(d) The affidavit required by K.S.A. 25-4325 and amendments thereto shall be appended to each petition for recall of a local officer.

25-303. Independent nominations; requirements; number of signers. This section shall not apply to city and school elections, nor to election of other officers provided by law to be elected in April. All nominations other than party nominations shall be independent nominations. Independent nominations of candidates for any office to be filled by the voters of the state at large may be made by nomination petitions signed by not less than 2,500 qualified voters of the state for each candidate and in the case of governor and lieutenant governor for each pair of such candidates.

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

Independent nominations of candidates for offices to be filled by the voters of a township may be made by nomination papers signed by not less than 5% of the qualified voters of such township, computed as above provided, for each candidate, and in no case to be signed by less than 10 such voters of such township for each candidate.

The signatures to such nomination petitions need not all be appended to one paper, but each registered voter signing an independent certificate of nomination shall add to the signature such petitioner's place of residence and post-office address. All signers of each separate nomination petition shall reside in the same ~~precinct~~

county.

The affidavit of a qualified elector who resides in such ~~precinct~~

county

or of the candidate shall be appended to each petition and shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator, to the effect that such circulator personally witnessed the signing of the petition by each person whose name appears thereon. The person making such affidavit shall be duly registered to vote. No such nomination paper shall contain the name of a candidate for governor without in the same such paper containing the name of a candidate for lieutenant governor, and if it does it shall be void. No person shall join in nominating more than one person for the same office.

25-205. Names of candidates printed on primary election ballots; nomination petitions, form and requirements; declarations of intent with fee; deadline for filing nomination petitions and declarations of intention to become candidate. (1) The names of candidates for national, state, county and township offices shall be printed upon the official primary ballot when each shall have qualified to become a candidate by one of

county.

The affidavit described in this paragraph of a qualified elector who resides in such precinct

county

the following methods and none other: First, they shall have had filed in their behalf, not later than 12:00 noon, June 10, prior to such primary election, or if such date falls on Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or a holiday, nomination petitions, as provided for in this act: Or, second, they shall have filed not later than the time for filing nomination petitions, as above provided, with the proper officer a declaration of intention to become a candidate, accompanied by the fee required by law. Nomination petitions shall be in substantially the following form:

I, the undersigned, an elector of the _____
~~precinct of the township of _____~~ (or
~~precinct of the _____ ward~~
of _____), county of _____
and state of Kansas, and a duly registered voter,
and a member of _____ party, hereby
nominate _____, who resides in the township of
_____ (or at number _____
on _____ street, city of _____),
in the county of _____ and state of Kansas,
as a candidate for the office of _____
(here specify the office)

to be voted for at the primary election to be held on the first Tuesday in August in _____, as representing the principles of said party; and I further declare that I intend to support the candidate herein named and that I have not signed and will not sign any nomination petition for any other person, for said office at such primary election.

(HEADING)

Name of Signers.	Street Number or Rural Route (as registered).	Name of City.	Date of Signing.
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(2) All nomination petitions shall have substantially the foregoing form, written or printed at the top thereof. No signature shall be counted unless it is upon a sheet having such written or printed form at the top thereof.

(3) Each signer of a nomination petition shall sign but one such petition for the same office, and shall declare that such person intends to support the candidate therein named, and shall add to such person's signature and residence, if in a city, by street and number (if any); or, otherwise by post-office address. No signature shall be counted unless the place of residence of the

or of the candidate shall be appended to each petition and shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator or the candidate, to the effect that such circulator or the candidate personally witnessed the signing of the petition by each person whose name appears thereon. The person making such affidavit shall be duly registered to vote.

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

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

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

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

(6) The basis of a percentage shall be the vote of the party for secretary of state at the last preceding election; or, in case of a new party, the basis of a percentage shall be the vote cast for the successful candidate for secretary of state at the last preceding election; and, subject to the requirements of K.S.A. 25-202, any political organization filing nomination petitions for a majority of the state or county offices, as provided in this act, shall have a separate primary election ballot as a political party, and, upon receipt of such nomination petitions the respective officers shall prepare a separate state and county ballot for such new party in their respective counties or districts thereof in the same manner as is provided for existing parties.

History: R.S. 1923, 25-205; L. 1968, ch. 406, § 69; L. 1970, ch. 133, § 1; L. 1971, ch. 125, § 1; L. 1972, ch. 127, § 1; L. 1973, ch. 124, § 20; L. 1976, ch. 180, § 1; L. 1979, ch.

25-4310. Same; petition; circulation; signatures; withdrawal. The petitions may be circulated only by a sponsor who is a registered elector in the ~~precinct~~

county

in which he or she circulates the petition and only in person throughout the state or election district of the state officer sought to be recalled. No copy of a petition shall be circulated in more than one county, and the county election officer of the county in which each petition is circulated shall certify to the secretary of state the sufficiency of the signatures on the petition. Any registered elector of such election district or of the state, as the case may be, may subscribe to the petition by signing his or her name and address as the same appears on the voter registration books. A person who has signed the petition may withdraw his or her name only by giving written notice to the secretary of state before the date the petition is filed. The necessary signatures on a petition shall be secured within ninety (90) days from the date that the petitions prepared by the secretary of state pursuant to K.S.A. 25-4309 are delivered to the recall committee. The petition shall be signed only in ink. Illegible signatures unless accompanied by a legible printed name may be rejected by the secretary of state or by any county election officer assisting the secretary of state.

History: L. 1976, ch. 178, § 8; April 14.