

Approved 3-26-91
Date

MINUTES OF THE House COMMITTEE ON Elections

The meeting was called to order by Representative Tom Sawyer
Chairperson

9:10 a.m./p.m. on Thursday, March 21, 1991 in room 521-S of the Capit

All members were present except:

Representative Mary Jane Johnson, excused

Committee staff present:

Pat Mah, Research
Arden Ensley, Revisor
Ellie Luthye, Committee Secretary

Conferees appearing before the committee:

Representative Dick Edlund
Ed Powers, Wyandotte County citizen
Patricia Baker, Kansas Association of School Boards
Don Moder, Attorney, League of Kansas Municipalities
Bev Bradley, Deputy Director of the Kansas Association of Counties
Rebecca Bossemeyer, Office of the Secretary of State

The House Elections Committee was called to order at 9:10 a.m. by Chairman Tom Sawyer on Thursday, March 21st, 1991

The Chair opened hearings on HB 2570, concerning recall of local officers.

Representative Dick Edlund, one of the sponsors of the bill, appeared first before the committee. He stated that after talking with his constituents, and becoming aware of some of the problems involved, he introduced this legislation. The bill, he further stated, would reduce the precinct structure and allow the recall petitions to be circulated through a district rather than precincts. It would also reduce the percentage of signatures required from 40% to 15%.

Mr. Ed Powers, Wyandotte County citizen, spoke in support of HB 2570. He also asked for elimination of the precinct requirement for circulation of a recall petition, changing it to districts, and also to revise the 40% requirement for numbers of petition signatures to 15%. He concluded his testimony by stating that HB 2570 is a minor correction to solid existing law and it gives greater practical effect to a strong tradition of citizen rights. (Attachment 1)

Patricia Baker, Kansas Association of School Boards, stood in opposition to HB 2570. She stated that school board members are volunteers who serve without pay and at a time when the board is trying to convince qualified people to take part in the public service of boardmanship, HB 2570 will be a further discouraging sign. (Attachment 2)

Don Moler, Attorney for the League of Kansas Municipalities, appeared next before the committee in opposition to HB 2570. He suggested an amendment to the bill that would require the sponsor of a recall petition be a registered elector in the district of the officer he sought to have recalled. The League also opposed reducing the number of signatures required from 40% to 15%. He stated the number of signatures required to force a recall election should be significant enough to indicate the majority of the voters are ready and willing to vote an incumbent out of office. (Attachment 3)

The Chair next called on Bev Bradley, Deputy Director of the Kansas Association of Counties. She also appeared in opposition to HB 2570. She stated that if the percentage of registered electors needed for a recall was 15% it would be next to impossible to get anyone to run for office, let alone qualified people. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Elections,
room 521-S, Statehouse, at 9:10 a.m./p.m. on Thursday, March 21, 1991

Rebecca Bossemeyer spoke on behalf of Secretary of State Graves. She stated the office was in opposition to this bill because a recall is more than a vote against an official but is a judgement against the person's character and abilities as an office holder. Therefore, there is a need for protection against over zealous opponents and reducing the signature requirement would weaken the system. (Attachment 5)

Following these presentations, and questions by the committee, the Chair declared hearings closed on HB 2570.

The minutes of the meeting on March 20th were presented for approval. Representative Macy made a motion to approve the minutes, seconded by Representative Stephens and the motion carried.

The Chair adjourned the meeting at 10:00 a.m. The next meeting of the House Elections Committee will be held on Friday, February 22nd at 9:00 a.m.

STATEMENT OF EDWARD H. POWERS
BEFORE THE ELECTIONS COMMITTEE
HOUSE OF REPRESENTATIVES
TOPEKA, KANSAS
MARCH 21, 1991

RE; H.B. 2570
Recall of Local Officers

Members of the Committee:

This bill completes what the Legislature began a session or two ago. The proposed changes are two-fold:

1. Eliminate the "precinct" requirement for circulation of a Recall Petition;
2. Revise the 40% requirement for numbers of petition signatures to 15%.

POINT 1:

Without adoption of the proposed elimination of the "precinct" requirement, the Recall of Local Officers law in Kansas is internally inconsistent.

In a recent Session, the Legislature amended K.S.A. 25-4320 to **eliminate** the statutory requirement that a Recall petition could be circulated **only** in the precinct in which the petition-circulator lived and was registered to vote. K.S.A. 25-4324, which contains a similar provision, should have been amended then.

Things move fast during a Legislative Session, and this was undoubtedly a clerical oversight. H.B. 2570, by eliminating the "precinct" provision from K.S.A. 25-4324, will correct this problem.

Beyond the housekeeping idea, however, there are important substantive public policy reasons why this should be done.

Local officers are elected from Districts, not precincts. Realistically, only the politically fine-tuned have the slightest idea where precincts begin and end. Wyandotte County boasts the internationally-famous Surveyor and Planner, Murray Rhodes. Murray builds the best political maps I've seen, but they still would not tell an ordinary citizen the house-by-house boundaries of a precinct.

This means that well-intentioned citizens will do what they think is right...and be wrong. Invalid signatures will be submitted to the Election Official and what might otherwise have been a legally-sufficient Recall petition will be ruled invalid on abstruse technicalities.

I think this subverts the clear statutory intention to
House Elections Committee
Attachment 1
3-21-91

provide unhappy voters and taxpayers with a fair, PRACTICAL legal method by which they can call an election to remove a local official.

H.B. 2570 eliminates the unrealistic "precinct" requirement to reflect electoral reality. A City Councilmember, a County Commissioner, a Mayor...all are elected from Electoral Districts, not precincts. It seems only reasonable that the circulation of Recall Petitions proposing the removal of an elected official should be legally valid when circulated in precisely the same electoral district from which the official was originally elected.

POINT 2:

It is important to remember that legally-sufficient Recall petitions DO NOT remove an elected official from office. They merely require an election in which ALL REGISTERED VOTERS within the District determine WHETHER the official shall be removed.

H.B. 2570 does NOT change the formula by which the number of signatures are determined. It only reduces the percentage, and therefore the actual number, of signatures required.

The question is: what is reasonable?

Too low is when a few wild revolutionaries can force an election. Too high is when a legitimate, significant number of affected voters and taxpayers cannot be heard at the ballot box.

It is a judgment call. But there is historical experience.

The House is currently considering House Bills 5003, 5004, 5005, dealing with Initiative and Referendum. The House Committee recommendation in H.B. 5003, Initiative, is that 60% of the required signatures be obtained equally from each congressional district. Note: congressional DISTRICT.

This would mean 12% from each of the five current congressional districts. When reapportionment comes next year, there will be four districts. This will equal 15% from each congressional district.

It is 15% that H.B. 2570 establishes as reasonable.

In a broader historical perspective, the right of Recall was first suggested in the Articles of Confederation of 18th century revolutionary America. It was discussed by the Constitutional Convention in 1787. Its first enactment into law was by the city government of Los Angeles, California, in 1903. Ex-president Theodore Roosevelt included it in his Bull Moose platform of 1912. Kansas first adopted the right of Recall in 1914. By 1926, twelve states and many local governments had adopted it as a fundamental citizen right.

The percentage required for a minimum number of legally-

sufficient petition signatures has varied. The current Kansas requirement of 40% is the highest of any Recall statute I have researched.

Research of current law indicates that 20% is the average requirement of all states that permit Recall.

H.B. 2570 has established 15% because it is consistent with H.B. 5003.

In the history of citizen-originated rights, Initiative, Referendum and Recall have been treated uniformly. They are the three great Citizen Rights given to "ordinary" citizens, voters and taxpayers to remedy the occasional excesses of a public official who has forgotten that he or she is the servant, not the master, of the people who gave them the power of public office. These rights are Hallmarks of our great American democracy.

H.B. 2570 is a minor correction to solid existing law. It gives greater practical effect to a strong tradition of citizen rights.

I urge your adoption of H.B. 2570 as written.

Respectfully submitted,

Edward H. Powers
Box 1150
Kansas City, KS 66117
913-621-0277



Testimony on H.B. 2570
before the
House Committee on Elections

by
Patricia E. Baker
Associate Executive Director/General Counsel
Kansas Association of School Boards

March 21, 1991

Mister Chairman, Committee members. Thank you for the opportunity to appear on behalf of nearly 300 locally elected school boards and nearly 2,100 board members.

House Bill 2570 drastically reduces the number of signatures required to force a recall election. School board members are volunteers who serve without pay. When faced with a potential recall, board members are on their own in terms of legal costs; must bear the burden of fighting a potential recall alone and cannot look to the district for assistance. All of this for a volunteer job. The present statute protects the voters if a substantial number believe that a locally elected school board member should not remain in office. To reduce the percentage of required signatures by 25% may result, in some of our districts, in a very small number of disgruntled people to force an expensive election.

At a time when we are trying to convince qualified people to take part in the public service of boardsmanship, H.B. 2570 will be a further discouraging sign.

We ask that you not recommend H.B. 2570 favorably. Thank you.



League of Kansas Municipalities

Municipal Legislative Testimony

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Elections
FROM: Don Moler, Attorney, League of Kansas Municipalities
RE: HB 2570--Recall Petitions
DATE: March 21, 1991

The League does not have an official position on HB 2570, relating to the recall of elected local officers, because of the late introduction of the bill. However, the League has in the past advocated that a reasonable minimum number of signatures be required on recall petitions, and we think the proposed 15% change falls short of this "reasonable minimum".

We have no particular comments as to the changes made in Section 1, line 15. However, it seems to us that the bill should clearly require the sponsor of a petition be a registered elector in the election district of the local officer sought to be recalled.

Section 2 of the bill would reduce from 40% to 15% the number of signatures required, applied to the number of votes cast for the office at the last general election--not the number of electors. League records do not indicate any particular rationale followed in 1976 which resulted in the present 40% requirement. We believe that the legislative intent was to avoid a situation whereby elected local officials would be unduly harassed by threatened recall petitions resulting from the emotional concerns of single-issue, special interest groups. Some legislators were concerned that the number of signatures not be so low as to encourage and facilitate the filing of recall petitions to the extent it discourages good candidates from running for city and other local offices.

We call to your attention the impact HB 2570 would have on many of our smaller cities. There are now 240 cities in Kansas which have a population of less than 300. Nearly all of them elect five councilmembers and a mayor, at a single election, for a two-year term--some cities have staggered the terms of office of the governing body, but this commonly occurs in cities over 300 population. Under the existing law, as shown on lines 6:10 on page 2, you would apply the proposed 15% to the total number of votes cast for the five elected councilmembers, divided by five. Assuming that one-half of all the residents (not electors) of a city of 200 voted for five councilmembers at the most recent election, the number of required recall signatures would be only three (15% of 100)/5=3.

Since recall is not a substitute for legal ouster from office, it seems to us that the number of signatures required to force a recall election should be significant enough to indicate that a possible majority of the voters are ready and willing to vote the incumbent(s) out of office.

House Elections Committee
Attachment 3
3-21-91

President: Frances J. Garcia, Commissioner, Hutchinson * **Vice President: Robert G. Knight**, Mayor, Wichita * **Past President: Irene B. French**, Mayor, Merriam * **Directors: Michael A. Conduff**, City Manager, Manhattan * **Ed Eilert**, Mayor, Overland Park * **Harry L. Felker**, Mayor, Topeka * **Greg Ferris**, Councilmember, Wichita * **Idella Frickey**, Mayor, Oberlin * **William J. Goering**, City Clerk/Administrator, McPherson * **Judith C. Holinsworth**, Mayor, Humboldt * **Jesse Jackson**, Commissioner, Chanute * **Stan Martin**, City Attorney, Abilene * **Mark Mingenback**, Councilmember, Great Bend * **Joseph E. Steineger, Jr.**, Mayor, Kansas City * **Bonnie Talley**, Commissioner, Garden City * **Executive Director: E. A. Mosher**



"Service to County Government"

212 S.W. 7th Street
Topeka, Kansas 66603
(913) 233-2271
FAX (913) 233-4830

EXECUTIVE BOARD

President

Marjory Scheufler
Edwards County Commissioner
R.R. 1, Box 76
Belpre, KS 67519
(316) 995-3973

Vice-President

Marion Cox
Wabaunsee County Sheriff
Wabaunsee County Courthouse
Alma, KS 66401
(913) 765-3303

Past President

Winifred Kingman
Shawnee County Commissioner
(913) 291-4040
(913) 272-8948

Thomas "Tom" Pickford, P.E.
Shawnee County Engineer
(913) 266-0192

Murray Nolte
Johnson County Commissioner
(913) 791-5501

DIRECTORS

Leonard "Bud" Archer
Phillips County Commissioner
(913) 689-4685

George Burrows
Stevens County Commissioner
(316) 593-4534

John Delmont
Cherokee County Commissioner
(316) 848-3717

Berneice "Bonnie" Gilmore
Wichita County Clerk
(316) 375-2731

Betty McBride
Cherokee County Treasurer
(316) 429-3848

Roy Patton
Harvey County Weed Director
(316) 283-1890

Gary Post
Seward County Appraiser
(316) 624-0211

Nancy Prawl
Brown County Register of Deeds
(913) 742-3741

Vernon Wendelken
Clay County Commissioner
(913) 461-5694

NACo Representative

Keith Devenney
Geary County Commissioner
(913) 238-7894

Executive Director

John T. Torbert

March 21, 1991

To: Representative Tom Sawyer, Chairman
Members House Elections Committee

From: Bev Bradley, Deputy Director
Kansas Association of Counties

Re: HB 2570 Concerning recall of local officers

Good morning Chairman Sawyer and members of the committee. I am Bev Bradley, representing the Kansas Association of Counties. I appear before you today in opposition to HB 2570. We believe that 15 percent of the registered electors of the election district is far too low a number. We believe that it should be "tough" to instigate a recall. We believe that if the percentage of registered electors in the election district needed for a recall were 15 percent, it would be next to impossible to get anyone to run for office, let alone qualified people. We believe that this would be a method of clogging the system and would allow the minority to rule. The Kansas Association of Counties is opposed to HB 2570.

TSB2570

House Elections Committee
Attachment 4
3-21-91

Bill Graves
Secretary of State



2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

TESTIMONY OF REBECCA BOSSEMEYER
HOUSE ELECTIONS COMMITTEE
MARCH 21, 1991

House Bill 2570

Thank you Mr. Chairman and members of the committee for the opportunity to appear before you today on behalf of Secretary of State Graves.

Recalling an elected official is a very serious matter. The grounds for recalling an official as stated in KSA 25-4302 are "conviction of a felony, misconduct in office, incompetence or failure to perform duties prescribed by law." Thus, recall is more than a "vote" against an official. It is not a call for a new election. It is a judgement against the person's character and abilities as an office holder. As many of you well know, any allegations made in a recall petition are deemed pure fact in many voters eyes even though they may have no factual basis. These allegations could cost an official an election even if they are unfounded. Because of the seriousness of a recall petition, it should not be as easy as the 15% proposed in this bill.

In some cases 15% of votes cast would be less than a minority of those who voted against the candidate.

In addition the requirements to recall a state official are more difficult. An application with signatures of 10% of the votes cast for the official must first be filed. If the application is approved, then petitions with 40% of the votes cast must be filed. Changing the local requirement to 15% from 40% will increase the discrepancy between the different levels of government.

We believe that there needs to be stability in government. There also needs to be protection against over zealous opponents. We believe that reducing the signature requirement would weaken the system.

We urge you to report HB 2570 unfavorably.