

Approved 1-30-92  
Date

MINUTES OF THE House COMMITTEE ON Elections

The meeting was called to order by Representative Sherman Jones at  
Chairperson

9:10 a.m./p.m. on January 23, 1992 in room 521-S of the Capitol

All members were present except: Representative Shallenburger (excused)  
Representative Cates (excused)

Committee staff present: Arden Ensley, Revisor  
Pat Mah, Research  
Shirley Lee, Committee Secretary

Conferees appearing before the committee:

Marilyn Chapman, Commissioner of Elections, Sedgwick County  
Joe De la Torre, Deputy Assistant Secretary of State

Others attending: see attached list.

Chairman Jones opened the hearing for **HB 2711**.

Representative Cozine appeared before the Committee and presented written testimony in support of **HB 2711**. She testified that **HB 2711** as amended does three things: 1) Extend mail ballot elections to include recall elections. 2) Relieve counties of the expense of recall elections by giving voters the option of paying the postage to return their ballot or hand carrying their ballot to the Election Commissioner themselves. 3) Extend the deadline for recall elections to 120 days (Attachment 1).

Chairman Jones opened the floor for questions. Representative Bishop raised the question of the cost savings. Representative Cozine indicated with a purge in rolls e.g., 16,000 people, a savings of \$30,000 on that alone could be made, and with the voters paying for the election there was an opportunity to save in excess of that. Representative Jones questioned if the bill directed itself exclusively to Sedgwick County. Representative Cozine stated it did not and that it would be effective statewide.

Ms. Marilyn Chapman, Commissioner of Elections, Sedgwick County appeared before the Committee as a proponent and presented written testimony. She stated the bill would allow recall elections to be held in a very cost effective manner by requiring that the voter pay the postage on the return of the ballot (Attachment 2).

Chairman Jones opened the floor for questions. Representative Parkinson expressed a concern in the fairness of changing the process for officials in the middle of recall. Representative Baker stated that the mail ballots dealt strictly with issues and not with people, and expressed a concern about the policy.

Ms. Chapman stressed her position on the mail ballot issue and stated she hoped to see it expand to city and school elections. She further expressed the bill would not solve the problems faced at Sedgwick County. Representative McKechnie asked why the bill would not meet the needs of Sedgwick County. Ms. Chapman replied that it was a time element primarily as the 120th day of certification would be April 18.

Representative Johnson asked if the bill just changed how you vote, and if it was for any recall elections. Ms. Chapman replied affirmatively. (Attachment 2)

Representative Cozine asked if there time period was extended, how much extra time was needed. Ms. Chapman expressed an extension would not be of benefit to anyone.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Elections,  
room 521-S, Statehouse, at 9:10 a.m./p.m. on January 23, 1992

Joe de la Torre, Deputy Assistant Secretary of State for Elections and Legislative matters appeared before the Committee and provided written testimony. He testified that the Secretary of State supported the legislation as a policy to conduct elections, and they did not see the bill as a solution to the Wichita School Board recall election (Attachment 4).

Chairman Jones opened the floor to entertain questions. Representative Scott asked if it was just a matter of mechanics of getting everything in an orderly process. Mr. Torre stated a plan has to be submitted to the Secretary of State for review 45 days in advance. Representative Cozine asked how much time will it take to do a purge. Ms. Chapman replied that a purge has been done and stated as she interpreted the statutes they could not do another one, and that they usually plan on 60 days for the purge. Mr. Torre stated a purge involved the Commissioner sending a notice to the voters for the November election. Ms. Chapman stated that process had been done.

Following further questions by the Committee, Chairman Jones closed the hearing for **HB 2711**.

Chairman Jones recognized the Majority Leader. He made no comment.

Chairman Jones appointed Representatives Macy (Chair), Shallenburger, Wells, Cozine, and Thompson to serve on the subcommittee to make a recommendation in four weeks on the Wells bills.

With no further business the meeting was adjourned at 9:40 a.m.



ANN COZINE  
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TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 ELECTIONS  
 INSURANCE  
 PUBLIC HEALTH & WELFARE

January 23, 1992

HB2711 as amended does three things:

- (1) It extends the mail ballot election to include recall elections.
- (2) Relieves counties of the expense of recall elections by giving voters the option of paying the postage to return their ballot or hand carrying their ballot to the election commissioner themselves.

These options will be printed on the outside of the envelope for the ballot, and also in the instructions included with the ballot.

- (3) Extends the deadline for recall elections to 120 days.

Peanut: Provides greater ease and access to the voting process (i.e., no lines to wait in, don't have to take off from work to go to the polls, etc.) Higher participation is more usual with mail ballot elections than polling elections. This saves money, potentially many thousands of dollars, for counties on recall elections by mail ballot.

Background: Presently Wichita School District 259 has a certified petition to recall a school board member (Darrel Thorp). The petition was certified by the Sedgwick County Election Commissioner on March 19th. The current law states that a recall election must take place within 90 days of the petition certification, which would be June 16, 1992.

If we have a Presidential primary this recall election could be combined with the primary and there would be no additional cost for the recall election, but if the primary is not funded, the recall is estimated to cost \$100,000 of taxpayer's money, unless we provide another option, such as this one, to save Sedgwick County the enormous cost of a polling election.

Presently we have mail ballots for absent and homebound voters, and mail ballots for issues. This would extend the mail ballot for recall elections to provide more convenience and access for voters and cost savings for the county. It is also a much needed option for the 259 school district recall in the event the primary is not funded.

Your attention and support of this bill is expediently needed and greatly appreciated.

Representative Ann Cozine

*House Elections  
 1-23-92  
 Attachment 1*

## MEMBERS COPY

HOUSE BILL NO. 2711

By Representatives Cozine, Bishop, Bowden, Bradford, Cornfield, Dean, Gilbert, Gjerstad, Grotewiel, Helgerson, Lahti, Lawrence, Pottorff, Sawyer, Sluiter, Wagle, Webb and Welshimer

AN ACT relating to elections; amending K.S.A. 25-4328 and K.S.A. 1991 Supp. 25-432 and 25-433 and repealing the existing sections.

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

Section 1. K.S.A. 1991 Supp. 25-432 is hereby amended to read as follows: 25-432. An election shall not be conducted under this act unless:

(a) Conducted on a date, mutually agreed upon by the governing body of the political or taxing subdivision and the county election officer, not later than 120 days following the date the request is submitted by the political or taxing subdivision; and

(b) the secretary of state approves a written plan for conduct of the election, which shall include a written timetable for the conduct of the election, submitted by the county election officer; and

(c) the election is nonpartisan; and

(d) the election is not one at which any candidate is elected 7 or retained ~~or-recalled~~; and

(e) the election is not held on the same date as another election in which the qualified electors of that subdivision of government are eligible to cast ballots; and

(f) the election is a question submitted election at which all of the qualified electors of one of the following subdivisions of government are the only electors eligible to vote:

(1) Counties;

(2) cities;

- (3) school districts, except in an election held pursuant to K.S.A. 72-7302 et seq., and amendments thereto;
- (4) townships;
- (5) benefit districts as organized under K.S.A. 31-301, and amendments thereto;
- (6) cemetery districts as organized under K.S.A. 15-1013 or 17-1330, and amendments thereto;
- (7) combined sewer districts as organized under K.S.A. 19-27,169, and amendments thereto;
- (8) community college districts as organized under K.S.A. 71-1101 et seq., and amendments thereto;
- (9) fire districts as organized under K.S.A. 19-3601 or 80-1512, and amendments thereto;
- (10) hospital districts;
- (11) improvement districts as organized under K.S.A. 19-2753, and amendments thereto;
- (12) Johnson county park and recreation district as organized under K.S.A. 19-2859, and amendments thereto;
- (13) sewage disposal districts as organized under K.S.A. 19-27,140, and amendments thereto; or
- (14) water districts as organized under K.S.A. 19-3501 et seq., and amendments thereto.

Sec. 2. K.S.A. 1991 Supp. 25-433 is hereby amended to read as follows: 25-433. (a) The county election officer shall mail all official ballots with a return identification envelope and instructions sufficient to describe the voting process to each elector entitled to vote in the election on one date not sooner than the 20th day before the date of the election and not later than the 10th day before the date of the election. Ballots shall be mailed by first-class mail. Ballots mailed by the county election officer shall be addressed to the address of each elector appearing in the registration records, and placed in an envelope which is prominently marked "Do Not Forward."

- (b) Upon receipt of the ballot the elector shall mark it,

sign the return identification envelope supplied with the ballot and comply with the instructions provided with the ballot. The elector may return the marked ballot to the county election officer by United States mail, if it is received by the county election officer by the date of the election, or personally deliver the ballot to the office of the county election officer before noon on the date of the election. The ballot must be returned in the return identification envelope. The county election officer shall provide for the payment of postage for the return of ballot envelopes except for elections for the recall of elected officials. The return identification envelope for elections for the recall of elected officials shall contain a statement that such ballot envelope may be personally delivered to the office of the county election officer or mailed to such office at the expense of the voter. Such statement shall be prominently printed on such envelope and included in the instructions describing the voting process.

(c) The return identification envelope shall contain the following form:

I declare under penalty of election perjury, a felony, that I am a resident and a qualified voter for this election as shown on voter registration records and that I have voted the enclosed ballot and am returning it in compliance with Kansas law, and amendments thereto, and have not and will not vote more than one ballot in this election.

I also understand that failure to complete the information below will invalidate my ballot.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Residence Address

(d) If the ballot is destroyed, spoiled, lost or not received by the elector, the elector may obtain a replacement ballot from the county election officer as provided in this subsection. An elector seeking a replacement ballot shall sign a

statement verified on oath or affirmation, on a form prescribed by the secretary of state, that the ballot was destroyed, spoiled, lost or not received. The applicant shall deliver the statement to the county election officer before noon on the date of the election. The applicant may mail the statement to the county election officer, except a county election officer shall not transmit a ballot by mail under this subsection unless the application is received prior to the close of business on the second day prior to the election. When an application is timely received under this subsection, the county election officer shall deliver the ballot to the voter if the voter is present in the office of the county election officer, or promptly transmit the ballot by mail to the voter at the address contained in the application, except when prohibited in this subsection. The county election officer shall keep a record of each replacement ballot provided under this subsection.

(e) A ballot shall be counted only if: (1) It is returned in the return identification envelope; (2) the envelope is signed by the elector to whom the ballot is issued; and (3) the signature has been verified as provided in this subsection. The county election officer shall verify the signature of each elector on the return identification envelope with the signature on the elector's registration records and may commence verification at any time prior to the canvass of the election. If the county election officer determines that an elector to whom a replacement ballot has been issued under subsection (d) has voted more than once, the county election officer shall not count any ballot cast by that elector.

(f) The county election officer shall supervise the procedures for the handling and canvassing of ballots to insure the safety and confidentiality of all ballots properly cast.

(g) The names of voters whose mail ballot envelopes are returned to the county election officer as "undeliverable" shall be subject to removal from the voter registration book and party



affiliation list in the manner provided in subsection (d) of K.S.A. 25-2316c, and amendments thereto.

Sec. 3. K.S.A. 25-4328 is hereby amended to read as follows: 25-4328. If the county election officer of the county where petitions are required to be filed determines the petition is properly filed and if the office is not vacant, such election officer shall prepare the ballots and shall: (a) Call a special election to be held on a date not less than 60, nor more than 90, days after the date that notification is given that the petition was properly filed; or (b) submit such question at a mail ballot election conducted not more than 120 days after the date that notification is given that the petition was properly filed. If a vacancy occurs in the office held by the local officer sought to be recalled at any time after the date that notification is given that the petition therefor was properly filed, the county election officer, if such officer determines that unnecessary election expenses may be avoided thereby, may cancel such special election. The county election officer shall immediately notify the recall committee and any other county election officer involved of such vacancy and determination and take such other action as may be necessary to withdraw such proposition from submission to election. If a primary or general election is to be held not less than 60, nor more than 90, days after the date that notification is given that the petition was properly filed, the special election shall be held on the date of the primary or general election. The ballot shall be designed with the question of whether the local officer shall be recalled, placed on the ballot in the following manner: "Shall (name of official) be recalled from the office of \_\_\_\_\_?". Provision shall be made for marking the question "Yes" or "No." Except as otherwise specifically provided by this act, laws applicable to question submitted elections shall apply to elections held under this section.

Sec. 4. K.S.A. 25-4328 and K.S.A. 1991 Supp. 25-432 and

25-433 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.



SEDGWICK COUNTY, KANSAS

Commissioner of Elections

TO: Sherman Jones, Chairman  
House Elections Committee

FROM: Marilyn K. Chapman, Commissioner of Elections

DATE: January 22, 1992

SUBJECT: H.B. 2711

As an early proponent of the Mail Ballot Act, I would like to offer my support for this bill. Mail ballot elections have proven themselves to be an efficient and effective way of conducting elections.

Voter participation in mail ballot elections is extremely high. A special recall election held recently in Sedgwick County had a voter turnout of 25%. Elections held by mail have had voter turnouts of 70% or more.

This bill would allow recall elections to be held in a very cost effective manner by requiring that the voter pay the postage on the return of the ballot. Most voters would not object to putting a stamp on their ballot. They would be happy to spend 29 cents for a stamp (less than it would cost to drive to a voting place) in order to save \$38,000 tax dollars. In this time when taxpayers are feeling especially pressed, cost saving methods must be considered. And the provision remains that would allow voters to return the ballot personally if they choose to do so.

While I support this bill, it is not a solution for the problem currently facing the voters of Sedgwick County. But I do urge you to pass this bill favorably so that this process can be available the next time it is needed.

1-23-92  
Attachment 3



Bill Graves  
Secretary of State

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

## STATE OF KANSAS

TESTIMONY ON HOUSE BILL 2711

January 23, 1992

Mr. Chairman, members of the committee, my name is Joe de la Torre, Deputy Assistant Secretary of State for Elections and Legislative matters.

Thank you for the opportunity to testify on House Bill 2711.

We support the legislation as a policy to conduct elections; however, we don't see this bill as a solution to the Wichita School Board recall election. It is our opinion that the time frame as defined in this bill does not give enough time to the Sedgwick County Election Commissioner to conduct an election which protects and assures the integrity of the process.

1-23-92  
Attachment 4