

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by the Chair, Carol Dawson, at 9:00 a.m. on February 14, 1995 in Room 521-S of the Capitol.

All members were present except: Rep. Dee Yoh, Excused
 Rep. Britt Nichols, Excused

Committee staff present: Carolyn Rampey, Legislative Research Department
 Dennis Hodgins, legislative Research Department
 Arden Ensley, Revisor of Statutes
 Donna Luttjohann, Committee Secretary

Conferees appearing before the committee: Elizabeth Ensley, Shawnee Co. Election Commission
 Brad Bryant, Deputy Asst Secretary of State
 Marilyn Chapman
 Linda Schreppel
 Doug Mosier

Others attending: See attached list

Chairman Dawson opened the public hearing on HB 2222 regarding the downsizing of election boards.

The Chair recognized Elizabeth Ensley as a proponent of the bill. She assured the committee that a 2 member election board would be adequate in order to protect against fraud or the appearance of it. See Attachment 1 for more detail. Ms. Ensley made note of written testimony submitted by Sondra Solander of the Kansas County Clerk's Association. See Attachment 2.

Brad Bryant was recognized by Chairman Dawson as a proponent of the bill. He testified that this legislation could enable some counties to save money. See Attachment 3.

The Chairman closed the hearing on HB 2222.

The public hearing on HB 2242 regarding advisory elections on ballots was opened by the Chair.

Elizabeth Ensley was recognized by the Chairman as a proponent of the bill. She testified that advisory elections confused voters in their thinking that something would happen when they cast their vote on an advisory issue. See Attachment 4.

Chairman Dawson recognized Marilyn Chapman as a proponent of the bill. She testified that she did not want her office to become an opinion poll business and that she wanted elections to mean that something is going to happen. See Attachment 5.

Linda Schreppel was recognized by the Chairman as a proponent of the bill. She testified that county election officers should not be part of advisory elections because they never bring results. See Attachment 6.

Brad Bryant was recognized by the Chairman as a proponent of the bill but that there needed to an amendment to exclude the educational elections program (kids taking part in voting) from this requirement. See Attachment 7.

The Chairman recognized Doug Moshier as an opponent of the bill. He testified that this law could do away with the ability to ask voters their opinions about an issue. See Attachment 8.

The hearing on HB 2242 was closed.

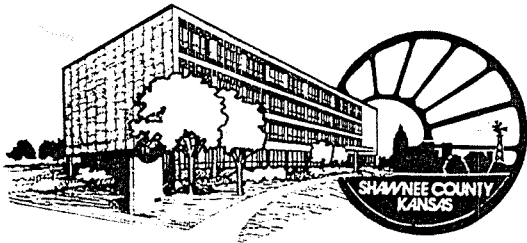
The Chairman adjourned the meeting at 10:07 a.m.

The next meeting is scheduled for Wednesday, February 15, 1995, at 9:00 a.m. in Room 521-S of the Capitol.

GOVERNMENTAL ORGANIZATION AND ELECTIONS
COMMITTEE GUEST LIST

DATE: February 14, 1995

NAME	REPRESENTING
Brad Bryant	Sec. of State
Libby Ensley	Co Clerks
Marilyn Chapman	Sedgwick County
ALAN COBB	City of Wichita
Doug Moshier	" "



Shawnee County Commissioner of Elections

Elizabeth Ensley
Election Commissioner
Norine Staab
Asst. Election Commissioner

911 S.W. 37th, Suite A
Topeka, Kansas 66611-2378
(913) 266-0285

DATE: February 10, 1995

TO: The Honorable Carol Dawson, Chairman
House Committee on Governmental Organization
and Elections

FROM: Elizabeth Ensley, Election Commissioner
County Clerks' Association *E. Ensley*

RE: HB 2222 CONCERNING ELECTION BOARDS

House Bill No. 2222 accomplishes two things.

FIRST, this bill responds to areas of the state where there are large, sparsely populated voting areas. Many times, it is not possible to appoint a three member board. The alternative is to not open a polling place in that area.

VOTERS WOULD BE ENCOURAGED TO VOTE if they had a voting place in their community. Driving long distances to vote only discourages voters.

TWO MEMBERS OF OPPOSITE POLITICAL PARTIES ARE ADEQUATE to protect against fraud and the appearance of fraud.

PUBLIC SCRUTINY IS THE BEST PROTECTION This bill recognizes the dangers of fraud in the voting place by making public any time that ballots are not accompanied by both members of the board.

SECONDLY, HB 2222 updates current law to conform to changes made a year ago which allows for smaller election boards.

MINIMUM NUMBER OF BOARD WORKERS - Since the public signs their own name, the two clerk positions are no longer necessary. Current law uses the size of the election board (not voter turnout) to determine if a portion of the board can start counting ballots during the day.

Thank you for your time and consideration.

HOUSE GOVERNMENTAL ORGANIZATION
AND ELECTIONS
February 14, 1995
Attachment 1



Office of
Woodson County Clerk

Court House - Room 103

105 West Rutledge Yates Center, Kansas 66783-1497

Sondra K. Solander, County Clerk

DATE: February 14, 1995

TO: The Honorable Representative Carol Newman, Chairman
House Committee on Governmental Organization and Elections

FROM: Sondra K. Solander, Election Committee Member
Kansas County Clerks' Association

RE: HB 2222 CONCERNING ELECTION BOARDS

House Bill No. 2222 responds to precincts of the state where there are large sparsely populated voting areas.

Many times it is actually NOT possible to appoint a three member election board. Typically this occurs in the far corners of the County where voters are required to drive miles and miles to be able to vote. The board workers that were always relied on are elderly and simply no longer available. The younger population have other employment commitments that make them unavailable to be election board workers. Thus, they are faced with losing their polling place. Woodson County has already reduced precincts from fifteen to nine. Further reductions are simply not feasible.

As County Clerk and County Election Officer we are elected by the entire County. We do not want to discourage voter turnout. The sparsely populated areas should not be required to drive long distances to vote. It is important to stress the point that EVERY VOTE COUNTS!

Thank you for your support.

HOUSE GOVERNMENTAL ORGANIZATION
AND ELECTIONS
February 14, 1995
Attachment 2

Ron Thornburgh
Secretary of State



2nd Floor, State Capitol
300 S.W. 10th Ave.
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

House Committee on Governmental Organization and Elections

Testimony on House Bill 2222

Brad Bryant, Deputy Assistant Secretary of State
Elections and Legislative Matters

February 14, 1995

Madam Chair and Members of the Committee:

Thank you for the committee's consideration of HB 2222. The office of the Secretary of State urges the committee to support this legislation and recommend it favorably for passage.

This bill has two main provisions:

(1) it will allow county election officers in rural areas to reduce the size of some election boards to two members; and

(2) it will allow election boards consisting of only five or six members, instead of seven, to split into receiving and counting boards during the time the polls are open on election day.

Our office supports this legislation for two reasons:

(1) it will allow county election officers to save money without compromising the efficiency or integrity of the election; and

(2) it will reduce the difficulty of finding and appointing enough good election board workers in rural areas where there is often a shortage of qualified persons.

Our office recommends the committee pass HB 2222. Thank you.

HOUSE GOVERNMENTAL ORGANIZATION
AND ELECTIONS

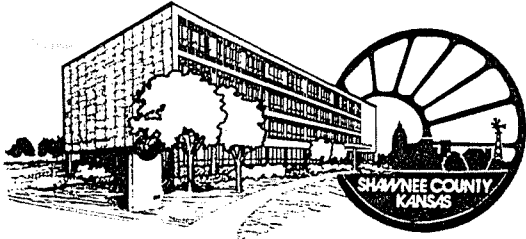
February 14, 1995

Corporations (913) 296-4564
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Elections (913) 296-4561
Administration (913) 296-2236
FAX (913) 291-3051

UCC (913) 296-3650
FAX (913) 296-3659

Attachment 3



Shawnee County Commissioner of Elections

Elizabeth Ensley
Election Commissioner
Norine Staab
Asst. Election Commissioner

911 S.W. 37th, Suite A
Topeka, Kansas 66611-2378
(913) 266-0285

DATE: February 10, 1995

TO: The Honorable Carol Dawson, Chairman
House Committee on Governmental Organization
and Elections

FROM: Elizabeth Ensley, Election Commissioner
County Clerks' Association *Ensley*

RE: HB 2242 CONCERNING ADVISORY ELECTIONS

The Kansas County Clerks recognize the benefit that all levels of government can achieve from public feedback on many issues. We also recognize that there are many ways to achieve this goal.

PUBLIC ADVICE CAN BE GAINED by opinion polls, exit polls, telephone polls, questionnaires sent in bills or other notices, and many other methods of research.

ADVISORY QUESTIONS DO NOT NEED AN OFFICIAL ELECTION with: polling places within precincts, polling place lease agreements, election boards made up of members of the opposite political parties, three member boards, board worker oaths, poll books, registration books, official publications, challenged ballots, absentee ballots, publicly tested tabulation equipment or regulated counting boards.

ADVISORY QUESTIONS ON THE BALLOT CONFUSE VOTERS Voters will remember voting on a subject - not that it was unofficial. The attached ballot shows what such a question might look like. How would a voter remember which question was unofficial?

PEOPLE EXPECT RESULTS FROM THEIR VOTES Voters should know that their vote becomes law. Otherwise their perception of the value of their vote may be diminished.

ADVISORY QUESTIONS COMPLICATE OFFICIAL ELECTIONS They increase the time it takes to tally election results. They can confuse board workers when an unregistered taxpayer wants to vote on the advisory question.

OFFICIAL ELECTIONS ARE EXPENSIVE because of the many necessary requirements listed above. If every voter is eligible to vote in the county, only the cost of the publication is reimbursed. If the election is just for one portion of a county, only direct expenses are reimbursed. Indirect expenses include staff time.

There are many ways to get in touch with public opinion. Counties and cities can still work together to get this information. However, the method chosen should not be confused with an official election.

JUDGES OF THE DISTRICT COURT

QUESTIONS SUBMITTED

QUESTION NUMBER 1

To vote for a Judge of the District Court being retained in office, darken the oval to the left of the word "Yes". To vote against a Judge of the District Court being retained in office, darken the oval to the left of the word "No".

Shall FRED S. JACKSON, Topeka, District Judge, 3rd District, Division 2, be retained in office?

- YES
- NO

Shall MARLA J. LUCKERT, Topeka, District Judge, 3rd District, Division 3, be retained in office?

- YES
- NO

Shall ERIC S. ROSEN, Topeka, District Judge, 3rd District, Division 4, be retained in office?

- YES
- NO

Shall JAMES M. MACNISH JR., Topeka, District Judge, 3rd District, Division 5, be retained in office?

- YES
- NO

Shall TERRY L. BULLOCK, Topeka, District Judge, 3rd District, Division 6, be retained in office?

- YES
- NO

Shall DANIEL L. MITCHELL, Topeka, District Judge, 3rd District, Division 10, be retained in office?

- YES
- NO

Shall JAMES P. BUCHELE, Topeka, District Judge, 3rd District, Division 12, be retained in office?

- YES
- NO

To vote in favor of any question submitted upon this ballot, darken the oval to the left of the word "Yes"; to vote against it, darken the oval to the left of the word "No".

SHAWNEE COUNTY QUESTION NUMBER 1

SHALL THE FOLLOWING BE ADOPTED?

Shall a countywide retailers' sales tax in the amount of one-quarter percent (.25%), for the lawful purposes set forth below, be levied in Shawnee County, Kansas to take effect January 1, 1995 and expire four years after its effective date: To provide the necessary revenue to finance the acquisition, construction, improvements and equipping of the law enforcement center for the City of Topeka and the County of Shawnee, Kansas and all things necessary and incidental thereto; and For the County of Shawnee, Kansas to finance county bridge maintenance and improvements?

- YES
- NO

SHAWNEE COUNTY ADVISORY ELECTION

SHOULD THE FOLLOWING BE ALLOWED?

Shall sale of alcoholic liquor by the individual drink in Shawnee County be allowed in public places without a requirement that any portion of their gross receipts be from sales of food?

- YES
- NO

UNIFIED SCHOOL DISTRICT NO. 450

SHALL THE FOLLOWING BE ADOPTED?

Shall Unified School District No. 450, Shawnee County, Kansas (the "District"), sell and issue its General Obligation Bonds in an amount not to exceed \$8,800,000.00 for the purpose of providing funds to pay the costs to construct, equip, furnish, repair, remodel and make additions to buildings and sites used for District purposes, together with all other things necessary and incidental thereto, at a total estimated cost of \$8,800,000.00; all under the authority of K.S.A. 72-6761 and Article I of Chapter 10 of the Kansas Statutes Annotated?

- YES
- NO

MONMOUTH TOWNSHIP

SHALL THE FOLLOWING BE ADOPTED?

Shall Monmouth Township, in Shawnee County, Kansas, levy a tax of 5 mills for five year(s) under the authority of K.S.A. 80-1413, beginning in 1995, to raise funds for the purpose of improving the township roads, such levy to be in addition, as authorized by K.S.A. 79-5036, to the aggregate tax levy limitation contained in K.S.A. 79-5020 to 79-5035 and amendments thereto.

- YES
- NO



SEDGWICK COUNTY, KANSAS

Commissioner of Elections

Marilyn K. Chapman

Historic Courthouse • 510 North Main • Wichita, Kansas 67203-3798 • Telephone (316) 383-7101 • Fax (316) 383-7388

TO: Committee on Governmental Organization & Elections
FROM: Marilyn Chapman
SUBJECT: HB 2242
DATE: February 14, 1995

County election officers are not in the opinion poll business. There are cheaper and more effective ways to conduct an opinion poll. To allow advisory "elections" is folly. It allows officials, who are elected to make decisions, a way NOT to make decisions -- especially unpopular ones.

All elections conducted by the county election officer must be official and binding elections. Voters EXPECT that when they go to the polls their votes will count. With advisory elections their votes DO NOT count.

I am in favor of making even further amendments to K.S.A. 25-2413(2) by placing the period after the fourth word, eliminating advisory elections at the polling place completely. Elections must continue to be meaningful.

I urge you to pass this bill favorably and with tenacity.

HOUSE GOVERNMENTAL ORGANIZATION
AND ELECTIONS
February 14, 1995
Attachment 5

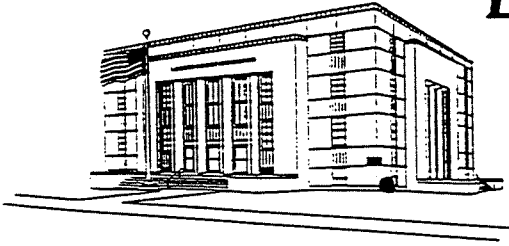
Office of

Labette County Clerk

Labette County, Kansas
Oswego, Kansas 67356
316-795-2138

LINDA SCHREPPPEL, *County Clerk*

PEGGY HOSTÉTTLER, *Deputy Clerk*



Date: February 13, 1995

To: The House Elections Committee

From: Labette County Clerk/Election Officer

Re: Proponent of H. B. 2242 concerning Advisory Elections

Traditionally, County Election officers have only conducted Special Question Elections in which the vote was a **deciding** factor, whether it be an affirmative or negative action. At least in the end the electorate knew a decision had been made, and if affirmed, some action would be taken.

County Election Officers should not be involved, in any way, with Advisory Elections. If this happens we take the risk of the electorate becoming confused and disillusioned with the system, because this type of ballot may never bring results. These elections may be held in any number of ways, other than, in conjunction with legal binding elections.

Until the Court set a precedence in a recent election, in Sedgwick County, County Election Officers still maintained that K.S.A 25-2413 made the process of polling at the election place unlawful. The new language in House Bill 2242 will surely make it clear that it remains unlawful

Thank you for you consideration to our request.

Handwritten signature of Linda Schreppel

Linda Schreppel

Labette County Clerk/Election Officer

HOUSE GOVERNMENTAL ORGANIZATION
AND ELECTIONS

February 14, 1995

Attachment 6

Ron Thornburgh
Secretary of State



2nd Floor, State Capitol
300 S.W. 10th Ave.
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(913) 296-2236

STATE OF KANSAS
House Committee on Governmental Organization and Elections

Testimony on House Bill 2242

Brad Bryant, Deputy Assistant Secretary of State
Elections and Legislative Matters

February 14, 1995

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear before the committee today to recommend passage of HB 2242. This bill concerns what are generally referred to as advisory elections.

HB 2242 would prohibit county election officers from conducting nonbinding advisory elections. If a local government entity wished to conduct a nonbinding advisory election on the day of an official binding election, they would have to conduct it entirely separately from the official election. The major purposes of this legislation are to avoid voter confusion as to what is being voted on, and to avoid spending county election budget money on opinion polls.

The office of the Secretary of State does recognize and support certain organized educational voting programs such as mock elections, and we propose amending HB 2242 to include the following language to protect the status of such programs:

On line 17, insert:

(c) This section shall not prohibit the conduct of nonbinding educational election programs for students under the age of eighteen in grades kindergarten through twelve.

HB 2242 does not greatly affect the election process; in reality, it merely strengthens and clarifies the way current law has been interpreted and applied. It does not remove anyone's right to conduct nonbinding advisory elections, but it does prohibit county election officers from having to spend time and money conducting them, and in so doing it decreases the chance for voter confusion.

We urge the committee to favorably report HB 2242. Thank you.

HOUSE GOVERNMENTAL ORGANIZATION
AND ELECTIONS

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February 14, 1995

UCC (913) 296-3650
FAX (913) 296-3659

Attachment 7



DEPARTMENT OF LAW
OFFICE OF CITY ATTORNEY
CITY HALL — THIRTEENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202 - 1635
(316) 268-4681

February 14, 1995

Representative Carol Dawson, Chairperson
House Committee on Government Organization
and Elections
Room 521-South
State Capital Building
Topeka, Kansas

Re: Testimony in Support of Amendment to H.B. No. 2242

Dear Representative Dawson:

My name is Douglas J. Moshier and I am a senior assistant city attorney for the City of Wichita, Kansas. I am here today to offer an amendment to House Bill No. 2242 which would make it clear that cities in Kansas, under their Home Rule powers and under applicable statutes, have the ability to call and hold advisory elections and that such elections can be held in conjunction with general elections and can be conducted by the county election officer.

House Bill No. 2242, as originally proposed would have prohibited a county election officer from conducting a nonbinding advisory election. A recent opinion of the Attorney General (Attorney General Opinion No. 94-106) concludes that county election officers can, under existing statutes, conduct advisory elections called by cities. However, that same opinion limits the usefulness of that interpretation by further concluding that when a county election officer conducts such an election, "separate polling places for the advisory election must be maintained" and "election judges and clerks appointed pursuant to K.S.A. 25-2801 may not distribute, collect, or count ballots" for the advisory election.

Attorney General Opinion No. 94-106 was issued in response to a request by the City of Wichita. The City Council was interested in exploring the issue of city-county consolidation and wished to conduct a nonbinding advisory election to determine the will of the electorate on this important and controversial issue. In light of a prior Attorney General Opinion (No. 83-177) which interpreted state law to directly prohibit county election officials

HOUSE GOVERNMENTAL ORGANIZATION
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Attachment 8

from conducting advisory elections, the City asked for a reexamination of that interpretation. When Opinion No. 94-106 was received the City asked the Attorney General to rethink his interpretation which prohibited such elections from being held in conjunction with regularly held elections and which prohibited election officials from distributing, collecting or counting the ballots from such an election. The Attorney General refused.

In the fall of 1994, the issue of gun control was a pressing matter for many in the City of Wichita. The City of Wichita acted to place a nonbinding advisory question on the ballot for the November general election. The question was sent to the county election officer, who by statute is the election officer of the City of Wichita. Because of his belief that it was not lawful for the county election officer to conduct an advisory election for the City under conditions in which the question would be placed on the ballot for the general election and the ballots for the advisory election would be distributed, collected and counted by county election officials, the Attorney General filed an injunction action against Marilyn Chapman, the county election officer, seeking a court order directing the officer **not** to place the City's advisory election question on the general election ballot.

That case was heard in the Sedgwick County District Court and the court ruled that the Attorney General's interpretation of existing state election statutes **did not** prohibit the county election officer from conducting the election in the manner requested by the City. The Court held that the City of Wichita, under its Home Rule powers and pursuant to existing state law, could call nonbinding advisory elections and that the City's election officer (the county election officer) could conduct such elections and that they could be conducted in conjunction with regularly held elections. That question was on the ballot for the November general election and the turnout was significant. The election officer experienced no difficulties in joining this advisory election question with the general election. The cost to the City of Wichita was minimal (some publication expense and the expense of specially printed absentee ballots).

It is important to the City of Wichita, and we believe to all cities in Kansas, that the ability of a city to hold a nonbinding advisory election not be taken away. There are certainly times when an issue is of such importance that the governing body may want to know for themselves and may want portions of the electorate to know how the rest of the voting citizens of the community feel about the issue. If House Bill No. 2242 is adopted as proposed, the only way that a city could hold a nonbinding advisory election would be to call the election and conduct it itself, outside the authority of the county election officer and away from any other regularly scheduled election conducted by that officer. The cost of such an endeavor is quite staggering. The City of Wichita estimated that it would have cost close to \$80,000 for it to have conducted a separate election last November.

The proposed amendment does no harm to the existing election process. It merely makes

clear legislatively what we believe is the existing law. The City of Wichita asks that this committee act favorably on the proposed amendment (a copy of which, in balloon form, is attached to this testimony).

Very truly yours,

A handwritten signature in black ink, appearing to read "Douglas J. Moshier". The signature is fluid and cursive, with a prominent loop at the end.

Douglas J. Moshier
Senior Assistant City Attorney

Attachment

HOUSE BILL No. 2242

By Committee on Governmental Organization and Elections

1-31

9 AN ACT relating to elections; concerning advisory elections; amending
10 K.S.A. ~~25-2115~~ and repealing the existing section.

25-2103

11

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

13 New Section 1. ~~(a)~~ County election officers shall perform such duties
14 relating to the conduct of elections as may be prescribed by law.

15 ~~-(b)- No nonbinding advisory election shall be conducted by a county
16 election officer.~~

17 Sec. 2. K.S.A. 25-2413 is hereby amended to read as follows: 25-
18 2413. Disorderly election conduct is willfully: (a) Disturbing the peace in
19 or about any voting place on election day;

20 (b) leaving or attempting to leave a voting place in possession of any
21 ballot, except as is specifically permitted by law;

22 (c) approaching or remaining closer than three feet to any voting
23 booth, voting machine or table being used by an election board except as
24 admitted for the purpose of voting or by authority of the supervising
25 judge;

26 (d) interrupting, hindering or obstructing any person approaching
27 any voting place for the purpose of voting;

28 (e) engaging in any of the following activities within 250 feet from
29 the entrance of a polling place during the hours the polls are open on
30 election day:

31 (1) Solicitation of contributions; or

32 (2) conduct of advisory elections other than those specifically au-
33 thorized by law, including the exercise of home rule power, to be con-
34 ducted by a county election officer.

35 ~~Disorderly election conduct is a class B misdemeanor.~~

36 ~~Sec. 3. K.S.A. 25-2412 is hereby repealed.~~

37 Sec. 4. This act shall take effect and be in force from and after its
38 publication in the statute book.

, including any advisory election, whenever held, which is called by the governing body of a city under its powers granted by section 5 of article 12 of the constitution of Kansas or any applicable statute.

Delete and substitute:

Sec. 2. K.S.A. 25-2103 is hereby amended to read as follows: 25-2103. "City election" means the election of such city officers as are provided by law to be elected, and any advisory election, whenever held, which is called by the governing body of a city under its powers granted by section 5 of article 12 of the constitution of Kansas or any applicable statute.

25-2103