

Approved: 2-20-97  
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION & ELECTIONS.

The meeting was called to order by Chairperson Kent Glasscock at 9:00 a.m. on February 19, 1997, in Room 521-S of the Capitol.

All members were present except: Representative Ruby Gilbert, Excused  
Representative Bob Tomlinson, Excused

Committee staff present: Mary Galligan, Legislative Research Department  
Mike Heim, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Representative Kenny Wilk  
Marilyn Scafe, Chair of the Kansas Parole Board  
Wendy McFarland, Representing American Civil Liberties Union

Others attending: See attached list

The minutes were distributed for the meeting held February 18, 1997, and Representative Jim Long made a motion to approve the February 18, 1997 minutes. Representative Deena Horst seconded, and motion passed.

Chairperson Glasscock announced that the Committee would be having hearings on HB 2265 and HB 2211. He also said that his plan was to work HB 2133 from the Elections Subcommittee. Fiscal Note for HB 2211 was distributed.

Chairperson Glasscock opened the Public Hearing for HB 2265.

**HB 2265 - An act concerning elections; establishing a bipartisan commission on campaign practices.**

Chairperson Glasscock welcomed Representative Wilk who spoke as a proponent for HB 2265. Representative Wilk thanked the Committee for the sincere, hard work that it has put into campaign ethics reform. He pointed out that the general electorate is tired of the status quo and wants a substantial change. He said that he believed the Committee was unparalleled as a group in trying to accomplish changes in ethics and campaign finance reform, but unfortunately, the Committee is only on the first step of a lengthy process. Representative Wilk said that HB 2265 offers a different approach to the problem by creating a bi-partisan campaign reform commission similar to the system used with the hospital closing issue. He said the federal government also used a similar process when making military base-closing decisions. He said that HB 2265 is an attempt to de-politicize the process. (Attachment 1.)

Representative Deena Horst inquired about the cost, and was apprised of the fiscal note estimated at \$5,000.

Representative Jonathan Wells questioned the statement about the bill being fully debatable, but not amendable. He asked about what was the purpose of debate?

Representative Kenny Wilk replied that debate would afford an opportunity for legislators to express their views and discuss how they would vote.

Representative David Haley asked if there would be an opportunity for public input or if it would be governed by the Sunshine Law.

Representative Wilk said that it would fall under the Sunshine Law.

Representative Lisa Benlon asked about his perception of what the Elections division of the Committee would be doing next year?

Representative Wilk answered that hopefully the Commission's work would be done near the beginning of the Session since there was a deadline of February 2, 1998.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION & ELECTIONS, Room 521-S Statehouse, at 9:00 a.m. on February 19, 1997.

Chairperson Glasscock thanked Representative Wilk, and since there was no additional testimony, closed the Public Hearing on **HB 2265**.

The Chair opened the Public Hearing for **HB 2211**.

**HB 2211 - Kansas Parole Board membership reduced to four; unanimous vote required to parole inmates convicted of certain crimes.**

Chairperson Glasscock welcomed Ms. Marilyn Scafe, Chairperson of the Kansas Parole Board, who spoke as a proponent for **HB 2211**. She said that she is one of the five members of the current parole board. She presented seven amendments in addition to the original concept of the reduction of one board member beginning in FY 98. The following is a summary of these seven amendments: 1) changes the four to three in the number required for parole of a class A or B felony or off-grid crime; 2) Some cleanup language in which all references to *hearing* are deleted; 3) Involves some wording which needs to be removed from the statutes; 4) Board no longer needs to hold informational hearings, so does not currently apply; 5) Changes in technical wording involving restrictions; 6) Allows for some cleanup language in establishing halfway houses; 7) Provides flexibility in consolidating hearings in certain places. (Attachment 2.)

Representative Gwen Welshimer commented that she had sat in on some Parole Board hearings and had observed that there were never more than two members of the Parole Board in attendance. She said that it was extremely difficult for one or two board members to handle a large room full of people.

Ms. Scafe explained that these meetings are not hearings, but rather an opportunity for public comments. She said that the format is cumbersome and awkward in that there are no appointments and the number in attendance is unpredictable. As of September of 1995, three board members are required to be at these monthly meetings which are held in Wichita, Kansas City, and Topeka. She said the first priority would be to have all five members attend, but fiscally that is not possible.

Representative Ralph Tanner said that he has heard that one of the biggest reasons for the increase in inmates is due to parole violators.

Ms. Scafe said that was partly true, but that many are probation violators.

Representative David Haley voiced a couple of concerns. One was about the reduction from five to four and another was the current pay. He also wondered if malfeasance was considered the same as conflict of interest?

Ms. Scafe was not able to answer his question, and she said that she had actually never even thought about it. She did respond that the pay is right at \$79,000.

Representative Ted Powers expressed some confusion between a hearing and a public meeting, and Ms. Scafe responded that one person could do a hearing and act as a hearing officer.

Chairperson Glasscock recognized Ms. Wendy McFarland who represented the ACLU and spoke as an opponent to **HB 2211**. She said that the objection concerned the requirement of a unanimous decision and that she was addressing the original bill before the amendments were presented. She also said they would like the five member board to continue, but if it should be reduced, they would recommend it be reduced to a three member board. (Attachment 3.)

During questioning, Ms. McFarland was asked if she would have any problem with **HB 2211** with the proposed amendments, and she replied that she would not.

Since there was no additional testimony, the Chair closed the Public Hearing for **HB 2211**.

Chairperson Glasscock asked the Committee to turn its attention to **HB 2133**. Written testimony was distributed from The Kansas County Clerk's Association. (Attachment 4.)

**HB 2133 - An act concerning elections; relating to candidates for office; relating to nominations for office; relating to ballots, etc.**

Representative Ralph Tanner made a motion to amend **HB 2133** by deleting Section 5. Representative Jonathan Wells seconded, and Motion passed.

Representative Ralph Tanner made a motion to pass out the amended **HB 2133** and to recommend favorably.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION & ELECTIONS, Room 521-S Statehouse, at 9:00 a.m. on February 19, 1997.

Representative Deena Horst seconded.

Discussion followed, and Brad Bryant from the Secretary of State's office answered some questions concerning the elimination of the placeholder issue and exactly when a candidate could withdraw.

Following the discussion, the vote was taken, and the motion passed.

The meeting adjourned at 10:10 a.m.

The next meeting is scheduled for February 20, 1997.



State of Kansas

**KENNY A. WILK**  
REPRESENTATIVE, 42ND DISTRICT  
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TOPEKA

House of Representatives

Testimony for H.B. 2265

February 19, 1997

COMMITTEE ASSIGNMENTS  
MEMBER: APPROPRIATIONS  
SUBCOMMITTEES:  
EDUCATION  
K-12 SCHOOL FINANCE

Mr. Chairman and members of the committee. Thank you for your timely consideration of H.B. 2265. I want to commend the committee for the hard work and commitment you have made to true ethics and campaign finance reform. For any of us who have been in the legislature for more than a year, we know how difficult and frustrating it is to accomplish change.

I suspect that all 165 elected legislators heard about ethics and campaign finance during the recent fall election cycle. As elected officials, we hear the cry from the general electorate that they are tired of the status quo. They want substantial substantive change. We come to Topeka each year committed to delivering the needed change. But year in and year out, the system seems to win and defeat well-intentioned, meaningful public policy changes regarding ethics and campaign finance reform. Please don't misunderstand me, I believe the energy and dedication of this committee's members to this issue is unparalleled as a group. Unfortunately, you are only at step one in a very lengthy process. Given the experience of last week's floor debate on your first reform bill, I don't hold out much hope that your work product will become law.

H.B. 2265 offers a different approach to the problem. H.B. 2265 would create the bi-partisan campaign reform commission. It would be made up of nine members (two members appointed by the speaker, two by the senate president, two by the governor, one member appointed by the house minority leader, and one by the senate minority leader, with a special provision for the selection of the chairperson). The commission would work throughout 1997 and study all aspects of campaign finance and ethics reform. On or before Feb. 2, 1998, the commission

House GO and E  
Attachment 1  
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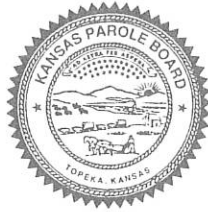
would submit its report to the legislature. Any of the reform measures endorsed by six or more members of the commission would be drafted in bill form and submitted to the 1998 legislature. The legislature would be obligated to take action on the bills. The bills would be fully debatable, but **could not be amended**. Members would have to vote yes or no on these reforms.

There is precedent for this procedure. The state legislature had a similar system to deal with the hospital closing issue, and the federal government used a very similar process for the military base closing decisions. In fact, H.B. 2265 was generated from the legislation that Senator Dole was promoting in Washington for some time.

H.B. 2265 is not intended to abrogate our legislative responsibility. Rather, H.B. 2265 attempts to de-politicize the process and offers a mechanism to more easily address policy that so directly impacts us as legislators.

I believe the only way we will implement true campaign finance and ethics reform is through a mechanism like H.B. 2265. I ask for your support and passage of H.B. 2265.

Marilyn Scafe  
Chairperson



Leo "Lee" Taylor  
Vice Chairperson

Christopher N. Cowger  
Member

Bob J. Mead  
Member

Larry D. Woodward  
Member

**KANSAS PAROLE BOARD**  
LANDON STATE OFFICE BUILDING  
900 SW JACKSON STREET, 4TH FLOOR  
TOPEKA, KANSAS 66612-1236  
(913) 296-3469

Teresa L. Saiya  
Administrator

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**MEMORANDUM**

TO: Chairman and Members  
Governmental Organization and Elections

FROM: Marilyn Scafe, Chair  
Kansas Parole Board MS

DATE: February 19, 1997

RE: HB2211

The Kansas Parole Board is in support of the concept of the reduction of the board membership by one member beginning FY98. A number of changes have been implemented to streamline the operations in order to reach this goal, and we have advised the Governor that the timing is now appropriate for a reduction. However, the Board is proposing the following amendments in addition.

1. Section 22-3709 regarding the vote required for parole of a class A or B felony or off-grid crime: Keeping the original wording of statute and simply changing the *four* to *three* would be consistent with our present way of voting for parole.
2. Section 22-3701 regarding recommendations for pardon or commutation of sentence (clemency): All references to *hearing* are deleted. The Board does not hold personal hearings with inmates making application. The procedure used is a file review and a recommendation to the Governor.
3. Section 22-3709 regarding the director position of the Kansas Parole Board: SB505, which was passed in 1996, eliminated this position with the reorganization of the support staff of the Board. Staff is now provided by the Department of Corrections and supervised by an administrator within the DOC.

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Attachment 2  
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4. Section 22-3717 regarding informational hearings: Previously, the Board conducted regular meetings with new inmates upon admission to the DOC to orientate them on requirements for favorable consideration by the Board at such time as they would be parole eligible. Since most new admissions are now under the new law, there will no longer be a reason for the Board to conduct these meetings. Currently, institutional staff work with the inmates in preparation for parole hearings.

5. Section 22-3717, 22-3718 regarding restitution: The Board is given the authority to order restitution in cases prior to July 1, 1986, if the court did not specify anything at the time of the sentencing. By deleting these sections, the Board wishes to clearly define that the Board is the enforcer of court orders. If restitution appears to be appropriate, it needs to be referred back to the court where there are appropriate procedures to conduct fair investigations and hearings to determine the amount owed.

6. Section 22-3712 allows the KPB to establish halfway houses in the state of Kansas. The KPB is proposing the deletion of this section. This function is currently completed through the private sector and contracted by the Kansas Department of Corrections.

7. Section 22-3717 governs the time frames allowed for parole eligibility hearings. Currently, the statute requires the KPB to conduct hearings the month before an inmate is parole eligible. The KPB proposes changing the wording of *during* to *at least* the month before... This will give the KPB more flexibility and will allow the KPB to utilize resources in a more efficient and effective manner by holding some hearings, especially hearings in remote areas of the state and/or facilities with a consistently small number of inmates who are parole eligible, two months at a time.



# ACLU

*American Civil Liberties Union*

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Wendy McFarland - Lobbyist  
(913) 575-5749

TESTIMONY IN OPPOSITION TO HB 2211  
PRESENTED TO THE HOUSE GOVERNMENTAL ORGANIZATIONS  
AND ELECTIONS COMMITTEE ON 2/19/97

I APPEAR TODAY BEFORE YOU IN OPPOSITION TO HB 2211 THAT WILL REDUCE THE SIZE OF THE PAROLE BOARD FROM 5 MEMBERS TO 3 AND WILL REQUIRE A UNANIMOUS DECISION TO GRANT PAROLE TO CERTAIN INMATES.

I WOULD LIKE TO CONVINCING YOU TO ALLOW THE STATUTE THIS BILL SEEKS TO AMEND TO REMAIN AS IT IS WRITTEN OR TO INSTEAD REDUCE THE BOARD FROM 5 MEMBERS TO 3 AND TO ALLOW FOR MAJORITY VOTES TO GRANT PAROLE.

WHETHER OR NOT I AM SUCCESSFUL REMAINS TO BE SEEN BUT IN EITHER CASE, MY APPEARANCE HERE TODAY WILL AT LEAST CAUSE YOU TO SEE THAT THERE ARE TWO SIDES TO THE AMENDMENTS PROPOSED IN HB 2211.

ON THE SURFACE, OF COURSE, IT IS A SIMPLE ARGUMENT TO MAKE THAT BY REDUCING THE 5 MEMBER BOARD TO A MEMBERSHIP OF 4 WILL SAVE THE STATE THE \$80,000 SALARY IT PAYS FOR THAT POSITION.

SENTENCING GUIDELINES PASSED BY THE LEGISLATURE HAVE MOST CERTAINLY REDUCED THE WORKLOAD FOR MEMBERS WHO HAD HERETOFORE HAD MORE CASES THAN THEY COULD HANDLE SO I TAKE NO ISSUE WITH THE PROPOSAL TO REDUCE THE NUMBER OF MEMBERS.

HOWEVER, ANY ARGUMENTS MADE THAT THE REASON FOR THIS REDUCTION WOULD BE COST SAVINGS MUST BE RESPONDED TO. IF YOU ARE TO CAST YOUR VOTE ON THIS BILL BASED UPON THE AMOUNT OF MONEY IT WOULD SAVE THE STATE, LET ME TELL YOU WHAT MY RESEARCH HAS SHOWN WILL BE THE PRICE TAG ASSOCIATED WITH THE BILL.

BY ELIMINATING ONE MEMBER OF THE PAROLE BOARD AND REQUIRING A UNANIMOUS VOTE TO GRANT PAROLES TO CERTAIN OFFENDERS YOU

House GO and E  
Attachment 3  
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WILL SAVE THE STATE \$80,000 HOWEVER THAT SAVINGS WILL BE VOIDED WHEN COMPARED TO THE COST OF FURTHER INCARCERATION WHEN ONLY 4 INMATES ARE DENIED PAROLE AT A COST OF APP. \$80,000 PER YEAR. ADD TO THIS FIGURE LAST YEARS LEGISLATION THAT WILL DELAY THE TIME BETWEEN PAROLE HEARINGS TO 10 YEARS AND THE PRICE TAG BECOMES \$800,000 BEFORE THESE INMATES WILL MAKE ANOTHER APPEARANCE BEFORE THE BOARD.

YOU SHOULD KNOW THAT THIS IS NOT AN ENTIRELY NEW PROPOSAL. LAST YEAR SB 329 WOULD HAVE REDUCED THE BOARD FROM 5 MEMBERS TO 3. WE HAD NO OPPOSITION TO A 3 MEMBER BOARD. OUR OBJECTION THEN, MUCH AS IT IS NOW, WAS IN ALLOWING ONLY UNANIMOUS DECISIONS TO GRANT PAROLE FOR A LARGE NUMBER OF INMATES.

OUR POSITION, BASED UPON MY PERSONAL INTERVIEWS WITH 11 FORMER AND CURRENT MEMBERS OF THE PAROLE BOARD, IS THAT UNANIMOUS DECISIONS ARE VERY RARE INDEED.

THAT IS WHY THE CURRENT PRACTICE OF A MAJORITY VOTE OF A 3 MEMBER PANEL WHICH THEN FORCED A MAJORITY VOTE OF THE ENTIRE 5 MEMBER BOARD WAS AND IS A FAIR AND EQUITABLE METHOD IN MAKING AN IMPORTANT DECISION SUCH AS GRANTING PAROLE.

THE SECOND VOTE PROVIDED A SAFEGUARD THAT APPEASED ALL CRITICS WHO WANTED ONLY TO INSURE THAT PAROLE DECISIONS WERE NOT ARRIVED AT HASTILY.

IN PROPOSING A BOARD WITH AN EVEN NUMBER OF 4 MEMBERS, YOU INVITE THE PROBLEM OF A 2 FOR AND 2 AGAINST SPLIT VOTE WITH NO STATED METHOD FOR BREAKING THAT TIE. WISDOM THEN APPEARS TO HAVE BEEN APPLIED IN ARRIVING AT THE CHOICE OF A 5 OR 3 MEMBER BOARD BY INSURING THERE WOULD BE NO SPLIT VOTES.

IF YOU ARE DETERMINED THEN TO REDUCE THE SIZE OF THE PAROLE BOARD, YOU MAY THEN WISH TO CONSIDER A REDUCTION OF 2 MEMBERS, NOT ONLY ONE.

IN EITHER CASE, PLEASE WEIGH HEAVILY THE DECISION TO REQUIRE UNANIMOUS DECISIONS. AS I SAID, I SPENT A GREAT DEAL OF TIME CONTACTING CURRENT AND FORMER MEMBERS OF THE PAROLE BOARD.

ALL BUT 2 WERE OF THE OPINION THAT A MAJORITY VOTE WAS BY FAR, THE BEST METHOD IN REACHING THEIR DECISIONS.

AS YOU MAY RECALL, 2 FORMER MEMBERS OF THE BOARD SUCCESSFULLY PARLAYED THEIR APPOINTMENTS AS BOARD MEMBERS INTO ELECTED POSITIONS IN COUNTY AND STATE GOVERNMENT AND BOTH CAMPAIGNED PROUDLY ON THEIR PRISTINE PAROLE BOARD

VOTING RECORDS OF SOLID NO VOTES.

IF THE EMPLOYMENT EXPECTATIONS OF A PAROLE BOARD MEMBER WERE SIMPLY TO CAST ONLY NO VOTES THEN THERE WOULD BE NO NEED FOR ANY OF THESE \$80,000 A YEAR POSITIONS.

WE MUST EXPECT OF THEM CAREFUL REVIEW AND CONSIDERATION OF EVERY CASE THAT COMES BEFORE THEM.

UNDERSTAND THAT IF THE 2 FORMER MEMBERS I MAKE REFERENCE TO WHO PROUDLY DISPLAYED THEIR RECORDS OF ALWAYS VOTING NO WERE CURRENTLY VOTING MEMBERS, THEN REQUIRING A UNANIMOUS DECISION WOULD MAKE THE PURPOSE OF THE PAROLE BOARD ONE OF NO REAL PURPOSE AT ALL.

IN OTHER WORDS, NO PAROLE WOULD EVER BE GRANTED. TRUST IN THE WISDOM AND EXPERIENCE OF THOSE WHO HAVE BEEN THERE WHEN THEY SAY THAT UNANIMOUS DECISIONS WILL BE A VERY RARE OCCURRENCE.

AND REMEMBER THAT EVERY PAROLE ON A PERSON CONVICTED OF AN A OR B FELONY THAT IS DENIED, WILL COST THE STATE APP. \$200,000 BEFORE THAT PERSON WILL BE SEEN AGAIN SINCE HEARINGS ARE ALLOWED ONLY EVERY 10 YEARS.

A UNANIMOUS VOTE REQUIREMENT CONSTITUTES AN INCREDIBLE DELEGATION OF ARBITRARY POWER TO A SINGLE INDIVIDUAL EVEN IF ALL OTHER MEMBERS ARE WILLING TO GRANT SOME PAROLES FOR FAIR AND IMPARTIAL REASONS.

A SYSTEM WHICH WILL VERY LIKELY PREVENT THE GRANTING OF MOST IF NOT ALL PAROLES IS NOT WHAT WE NEED NOW GIVEN THE SERIOUS OVERCROWDING PROBLEMS AND THE MONEY THE SECRETARY OF CORRECTIONS IS NOW SEEKING FROM YOU TO BUILD MORE PRISONS WITH.

WE WOULD ASK THAT YOU ALLOW THE CURRENT STATUTE TO REMAIN AS WRITTEN. IF, HOWEVER, YOU ARE CONVINCED THAT REDUCING THE SIZE OF THE BOARD IS NECESSARY, THEN REDUCE THE MEMBERSHIP TO 3, SAVING THE STATE \$160,000 A YEAR AND CONTINUE TO ALLOW FOR A MAJORITY VOTE TO GRANT A PAROLE.

THANK YOU.

# KANSAS COUNTY CLERK'S ASSOCIATION

*Paulie Seemann*  
President  
Thomas County

*Linda Scheer*  
Vice President  
Leavenworth Co.

*Don Proffitt*  
Secretary  
Linn County

*Jolene Walker*  
Treasurer  
Mitchell County

DATE: February 18, 1996  
TO: Committee on Governmental Organization and Government  
FROM: The Kansas County Clerk's Association  
RE: House Bill No. 2133

Thank you for considering HB 2133. I am Elizabeth Ensley, the Shawnee County Election Commissioner and the registered lobbyist for the Kansas County Clerk's Association. HB 2133 is an important bill for all County Clerks in Kansas.

Recent years have seen an increase in the number of candidates who have withdrawn from a race. The result is very serious for the election process.

**BALLOT PREPARATION IS DISRUPTED.** If the maximum number of days is taken in each step of filling the vacancy, the timetable can extend into advance voting with no time for ballot preparation.

**BALLOT PRINTING BECOMES MORE EXPENSIVE.** Frequently, the election official is never notified if the candidate is to be replaced. Printing is held up, which increases the cost to the the County.

**VOTING IS DISRUPTED.** Federal service voting begins 45 days prior to the election. The lack of a candidate on the ballot means multiple mailings to the federal service voter without giving adequate time for the voter to return the voted ballot. Advance Voting can also be disrupted if no time is allowed for ballot preparation.

**THE KANSAS COUNTY CLERK'S ASSOCIATION URGES THE FAVORABLE PASSAGE OF HB 2133. Thank you.**

*KCCA ELECTIONS COMMITTEE: Chairman Libby Ensley - Shawnee Co., Patty Jaimes - Douglas Co., Alberta Klaus - Ellis Co., Connie Schmidt - Johnson Co., Inge Luntsford - Kingman Co., Doris White - Lincoln Co., Karen Hartenbower - Lyon Co., Clara Strutt - Rooks Co., Linda Bott - Rush Co., Marilyn Chapman - Sedgwick Co., Maurine Burns - Wilson Co., Pat Rahija - Wyandotte Co.*