

Approved: 3-3-99
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairman Senator Janice Hardenburger at 1:30 p.m. on February 17, 1999 in Room 529-S of the Capitol.

All members were present:

Committee staff present: Dennis Hodgins, Legislative Research Department
Mike Heim, Legislative Research Department
Ken Wilke, Revisor of Statutes
Graceanna Wood, Committee Secretary

Conferees appearing before the committee: Brad Bryant, Deputy Asst. Secretary of State
Senator Stan Clark

Others attending: See attached list

Chairman Hardenburger opened the hearing on **SB 230 concerning election procedures.**

Brad Bryant, Deputy Assistant Secretary of State presented testimony in favor of **SB 230** and outlined six provisions to the bill. He also advised the Committee that the bill would (1) require the county election officer to send a copy of the petition to the county or district attorney, (2) require the county or district attorney to render the opinion regarding the sufficiency of the grounds within five days, and (3) clarify that the 90 days allowed for signature gathering begins after the recall committee receives notice from the county or district attorney that the grounds for recall are sufficient to proceed. (Attachment #1)

The Committee discussed dual nominations, as to what is allowed or disallowed. Mr. Bryant informed the Committee that dual nomination is already prohibited in Kansas. Kansas laws allow each recognized party to nominate one candidate for each office.

Senator Stan Clark gave testimony in opposition of **SB 230** for a friend of his, Kenneth Clark, Colby, who has argued the case annotations relating to Kansas recall statutes before the Kansas Supreme Court. (Attachment #2)

Chairman Hardenburger informed the Committee she was appointing a Sub-Committee on **SB 230**. Senator Becker was appointed as Chairman of the Sub-Committee, and Senator Steineger and Senator Huelskamp as members.

Chairman Hardenburger informed the Committee that further consideration would be given to **SB 7 relating to consolidation of cities and counties.** **SB 7** was amended in the preceding meeting.

Senator Becker moved that the bill as amended be passed out favorably, seconded by Senator Vidricksen.

Senator Petty requested Legislative Staff to review the amendments.

Ken Wilke, Revisor, presented the amendments to the Committee. (Attachment #3)

Senator Petty asked the Committee if the proposal being voted on means there has to be one joint resolution between county and city governing body as opposed to two individual separate resolutions, one by the county and one by the city.

Chairman Hardenburger informed the Committee that it was a joint resolution of the county and a city or cities. The election itself would have to approve the joint resolution to have a study commission on consolidation. Everyone would vote on the study because everyone is a resident of the county.

Senator Petty raised the question that former testimony brought up, if that was fair to people who reside in the county since there are those people who are both city and county and those who are merely in the

CONTINUATION SHEET

county. In the past, bills being considered like this, have required two separate votes, a majority of those within the city limits, and a majority of those outside the city limits.

Senator Petty said her concern was about the people who reside in the county since there are fewer of those than reside in the city. Last year's bill had that clarification, so there was a majority of both entities.

Legislative Staff said the residence of an unincorporated area needing to have a majority, was talked about during the interim Committee and the interim Committee rejected that idea. Two majorities would be needed, if this was adopted, that is, the cities would have the entire county with the majority vote needed, and then you would have the majority within the unincorporated area as well.

Chairman Hardenburger said that the petition was a threat to one or two isolated counties in that they fear what a petition would do to them that was garnered by an action within a city, and the city could control that vote. The bill is more appealing to a broader base removing the petition process and only allowing a joint resolution.

Senator Petty advised the Committee that her concern is the people who remain only in the unincorporated area. She continued, if what you are establishing is a commission to look at this and you appoint four members, or one-third of the body for the commission, then what you have in the city is like dual citizenship, and the county is singular citizenship. In the instances where you have the unincorporated areas where they say no, they do not want this, then you will have one-third membership of the commission represented by people who basically are not going to be engaged in making a system like this work. It seems it would be more important at the beginning stage before a commission is established to determine whether or not the unincorporated area is in fact on board. If there are in fact four members of the unincorporated area who would want to serve on the commission, they would, in fact, want to represent a majority on the commission.

Chairman Hardenburger advised if the joint resolution required that the board members to be elected, then you would have a second election to elect the board members to a study commission. The members can be elected or appointed and that is spelled out in the joint resolution. Subsequently, you can have a second election just to elect the board members.

Senator Petty offered a substitute motion to amend New Section 2 stating "that such resolutions would not be effective until the question has been submitted to and approved by majority of the qualified electors of the incorporated cities and the unincorporated area establishing two separate processes requiring a majority for each area."seconded by Senator Huelskamp. Motion failed.

Chairman Hardenburger called for action on the bill.

Motion carried.

Senator Petty and Senator Huelskamp asked to be recorded as voting NO.

Meeting was adjourned at 2:30 p.m. Next meeting scheduled for February 18, 1999.

ELECTIONS & LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: FEBRUARY 17, 1999

NAME	REPRESENTING
Jay Heverfield	Leadership Logan County
Jenny Colman	Duck OK
Krista McClain	
Erin Wiley	
Megan Trecker	
Cindy Mullin	Leadership Logan County
Susan Bloom	LEADERSHIP LOGAN CO
Margie Brackelmon	Leadership So. Co.
Mary Terwort	Leadership Barber Co.
St. Chl	South
Stacy Farmer	KASB
Troy G. Faulkender	Leadership Logan Co.
David Pearson	Leadership Logan County
Paula Burke	Salina South Middle School
Michelle Kearns	Salina South Middle School
Sarah Fast	Salina South Middle School
Arthur Thompson	SMS
Jason R. Rider	Salina South Middle
Mike "Nacho" Olivigni	Salina South Middle

Lynn Fischer
 Becky Stickney
 Spida Thwa Davis
 Barbara Bunting

Salina
 South Middle
 Leadership Barber County
 parent of page
 parent of page

Elections

2-17-99

<u>Name</u>	<u>Representing</u>
Debby Fleming	Federico Consulting
Don Moler	CKM
Brad Bryant	Sec. of state
Melissa Wangemann	Sec. of State
Judy Moler	Ks. Assn of Counties
Bruce Dimmitt	Kansans for Life.
Mike Taylor	city of wichita
Marci Jess	Sedgwick County
Randy Allen	Ks. Assoc. of Counties
South Middle School	City of Kansas

Ron Thornburgh
Secretary of State



2nd Floor, State Capitol
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Topeka, KS 66612-1594
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STATE OF KANSAS
Senate Committee on Elections and Local Government

Testimony on SB 230

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

February 17, 1999

Madam Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee to urge your support of Senate Bill 230. The Secretary of State has proposed this bill as an election administration bill. It has six provisions.

1. Section 1 of the bill would prohibit dual nominations. It would mean that no person may be nominated by more than one party in the same election year. It would prohibit a person from filing as a candidate in a major party primary and in the same year receiving a third party or independent nomination. Kansas law already prohibits a person from having their name on the ballot twice; this provision strengthens that rule by limiting each person to a single candidacy.

2. Section 2 would amend the law governing vacancies in state Senate districts. Current law states that if the vacancy occurs before October 15 of the second year of the Senator's term, the person appointed to fill the vacancy serves until the midterm election, when the appointee faces election to complete the remainder of the term. If the vacancy occurs after October 15, the appointee serves the remainder of the term.

This bill changes the vacancy deadline to May 1 of the second year of the term. If the vacancy occurs before that date, this bill would require the appointee to face a midterm election; if the vacancy occurs after that date, the appointee completes the term.

We propose this change for two reasons: (1) using the May 1 deadline allows time for a candidate filing period, campaign and primary before the general election, and (2) it is consistent with statutes governing vacancies in other elective offices.

3. Sections 3, 5 and 6 eliminate provisions requiring county election officers to send certain official election mailings by first class mail. We propose this because it would allow counties to save some money by using a new, official election logo authorized by the U.S. Postal Service. Using this logo allows election mailings to receive priority handling without paying extra, and sometimes for reduced rates. This is the first time the Postal Service has granted permission for such a logo. We have included a sample for your consideration.

Administration (785) 296-4564
FAX (785) 291-3051
Corporations (785) 296-4564
FAX (785) 296-4570

Web Site:
<http://www.ink.org/public/sos>
e-mail:
kssos@ssmail.wpo.state.ks.us

Senate Elections & Local Government
Attachment: # 1-1
Date: 2-19-99

4. Section 4 deals with applications for advance voting ballots. It asks voters who apply for advance ballots to provide the last four digits of their Social Security numbers on their ballot applications. This would allow the county election officer to more easily determine whether they had received multiple applications from the same voter. During the busiest advance voting periods before an election, applications often come in to the county election office too fast to ensure that none are duplicative.

5. Section 7 moves the date of the county canvass after each election from the Friday after the election to the following Monday. As a result, Section 8 of the bill moves the deadline for a candidate to request a recount from noon on the Monday after the election to the next day. We propose this change to help county election officers and canvassers who face increasing numbers of provisional ballots which must be processed before the county canvass. Since implementation of the National Voter Registration Act (NVRA) in 1996, the fail-safe voting provisions of the Act have greatly increased the number of provisional, or challenged, ballots. These ballots are not opened on election day, but they must be processed and categorized by the county election officer and presented to the canvassers during the canvass for their decision as to whether the ballots should be counted. Fail-safe voting rights required by the NVRA increase the number of provisional ballots with each election, and this makes it increasingly difficult to process these ballots between election day and the canvass.

6. Sections 9, 10 and 11 of the bill amend several statutes dealing with recall petitions. Current law requires a committee that forms to initiate a recall against an elected official to file and subscribe a blank copy of their petition with the county election officer. The county or district attorney is required to issue an opinion as to the sufficiency of the grounds stated in the petition, but the law does not clearly state how the attorney receives the petition and when the opinion is required to be issued. This has resulted in cases where petitioners submitted their blank petitions, collected signatures, and were then informed that the grounds stated in the petition were insufficient.

This bill would: (1) require the county election officer to send a copy of the petition to the county or district attorney, (2) require the county or district attorney to render the opinion regarding the sufficiency of the grounds within five days, and (3) clarify that the 90 days allowed for signature gathering begins after the recall committee receives notice from the county or district attorney that the grounds for recall are sufficient to proceed.

We believe these changes to the recall statutes would ensure a more orderly process and help petition circulators know the procedures they must follow in their recall efforts.

Thank you for your consideration.

Small and Large Use

Reproduction Sheet

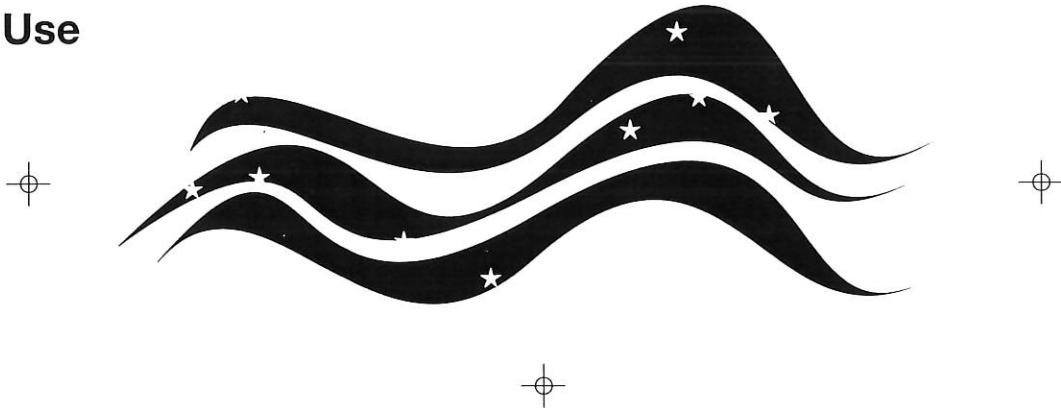
Important: Follow rules and regulations stated in the User Guide and this guideline manual

Small Use



DO NOT RESIZE DO NOT ALTER IN ANY WAY

Large Use



DO NOT RESIZE DO NOT ALTER IN ANY WAY

Testimony of Kenneth Clark
Before the Senate Committee on Election and Local Government
February 17, 1999
SB 230

Chairman Hardenburger and members of the committee,

I come to you today ^{as} and a messenger and in no way do I hold myself out to be an expert on recalls. Kenneth Clark is a friend of mine. We are not related. He has practiced law in Northwest Kansas for over 50 years. Most of the case annotations relating to Kansas recall statutes are cases he has argued before the Kansas Supreme Court.

He will be glad to work with any member of the committee in further discussion of this subject. His telephone number is 785-421-2129 (office) or 785-421-2320 (home). E-mail will reach him at kanzaken@ruraltel.net.

Senate Elections & Local Government

Attachment: # 2-1

Date: 2-17-99

COMMENTS REGARDING RECALL

The Kansas Supreme Court in *Unger v. Horn*, 240 Kan. 740,732 P2d. 1275. (1987), points out at p. 746 of the opinion:

"In 1975, Senate Bill No. 438, a procedure to recall elective public officials, was introduced. The bill provided that the petition for recall 'shall contain a general statement of the grounds upon which the recall is sought, which statement is intended solely for the information of the electors and the sufficiency of which shall not be open for review.' The bill was referred to committee. In 1976, House Bill 2661 was drafted for consideration by the legislature. House Bill 2661 provided that each petition for recall of a local officer shall include "the grounds for recall described in particular in not more than two hundred (200) words." Both the Senate and House bills were referred to a special committee. The Reports of Special Committees to the 1976 Kansas Legislature reveals that major features of the recall laws of five states (Alaska, California, Colorado, Idaho and Wisconsin) were compared. Of the five states, only the Alaska statute specified that the grounds for recall be stated in particular.

The committee's recommendation for recall provided for a two-phase recall procedure prior to a possible recall election for state officers - an application and the recall petition. It stated that the application 'should include, among other things, the grounds for recall described in particular in not over 200 words.' In its recommendations to the 1976 legislature, the committee found that H.B. 2661 made the constitutional provisions for recall meaningful and prevented undue harassment of elected officials. Our current recall statutes followed the committee's recommendation and were enacted in 1976. K.S.A. 25-4320(a)(2) provides that each petition for recall of a local officer shall include 'the grounds for recall described in particular in not more than two hundred (200) words.'"

The Court said at p. 747: "The 1976 amendment of the recall statutes requires specificity when stating the grounds for recall. The grounds stated in a recall petition must be specific enough to allow the official an opportunity to prepare a statement in justification of his or her conduct in office."

I personally argued this case before the Supreme Court. During argument the Court pointed out that there was no requirement in the law at that time which required petitioners for recall to swear under oath that the grounds for recall were true and that any petitioner could file a petition based on falsehood.

Thereafter the Legislature amended K.S.A. 25-4325 by inserting section (f) therein, which required an affidavit, on oath, stating that the grounds for recall were true. (1987 Session Laws, Chapter 130, Section 2.)

The purpose of the amendment was to subject the affiant to the possible penalty of perjury with regard to the absolute truth of the allegations in the recall and thus prevent the calling of recall elections based on false allegations.

The procedure and opinion of the Court in *Eveleigh v. Conness*, 261 Kan 970,(1997), has sidestepped the legislative mandate that the petitioner for recall must swear under oath, before filing the petition, that the grounds stated for recall are true. In this case the petition was only acknowledged when it was filed and plainly did not meet the requirements of the Legislature. However, the trial court, approved by the Supreme Court, permitted petitioners to testify that they thought they were verifying the truth of the grounds for recall when the petition was acknowledged. (Petitioners prepared the acknowledgement.)

If a charge of perjury had been filed against petitioners, does anyone think that they would have claimed that the petition was verified?

If the Legislature's purpose of preventing the harassment of officials by the filing of false charges is to be accomplished, it is necessary to add this additional language to section (f) of K.S.A. 25-4325 __. "This affidavit shall not be added to, subtracted from, rescinded or altered by testimony or in any other manner after the petition is filed."

The Court recognized the purpose of section (f) of K.S.A. 25-4325 in *Dustin v. Riggs*, 22 KA2d 919 (1996):

"Syl 1. PUBLIC OFFICERS AND EMPLOYEES-Recall of Elected Officials-Statute Construed Relating to Affiants Possible Penalty of Perjury. Under K.S.A. 25-4325, an affidavit supporting a petition to recall elected officials must place the affiant under possible penalty of

perjury with regard to the absolute truth of the allegations in the recall petition."

"Syl 2. SAME-Recall of Elected Officials-Supporting Affidavit Did Not Satisfy Statutory Requirements under Facts of Case. Under the facts of this case, the supporting affidavit to a recall petition which stated that facts are true to the best of the affiant's knowledge and ability did not satisfy the requirements of K.S.A. 25-4325."

The dissenting opinion in Unger v. Horn, supra, at p. 753, pointed out that false statements may be made in securing signatures on a recall petition and that voters may vote to recall an official for "a hundred other reasons" none of which constitute a valid reason for recall under K.S.A. 25-4302.

Some states provide for recall on demand - Kansas chose recall for reason which makes a requirement of an oath respecting the truth of the charge necessary to protect the official from false charges!

REQUIREMENT THAT COUNTY ATTORNEY APPROVE

The Secretary of State suggested an amendment providing that the district or county attorney make a determination regarding the sufficiency of the grounds of recall. The Legislature obliged and enacted Chapter 130, Section 1 of 1987 Session Laws of Kansas.

The Court held in Earnest v. Faler, 237 Kan. 125, 697 P2d. 870 (1985) that the requirement of K.S.A. 2-245, which required a person damaged from a pesticide application to file a written statement of the damage with the County Attorney within 60 days of the damage in order to file a suit to recover damages was unconstitutional under the Fourteenth Amendment to the U.S. Constitution and the Kansas Bill of Rights.

The provision of Senate Bill No. 230 requires the county attorney's blessing before circulating a recall petition meets the same sort of objection.

An Attorney General's Opinion No. 91-59 (1991), interprets the county attorney's chore to mean only whether the grounds for recall are described in

particular in not more than 200 words. The Court in *Cline v. Tittel*, 20 KA2d 695, (1995) p. 701-702, agreed with the Attorney General's opinion.

(The Court in this case, *(Cline)*, supra, then upheld the recall petitions, which were based only on a decision to discontinue the wrestling program in the school. If an official can be recalled because of an honest opinion of what is good for the school, who will want to be on any governmental board? This is a "thicket" which the Legislature will have to enter another time!)

The *Cline v. Tittel* case supra, and *Baker v. Gibson*, 222 KA2d 36 (1995) were cases appealed from the decisions of county attorneys. The purpose of the 1987 amendment, at request of the Secretary of State, to limit the number of cases has failed.

The election officer can make the "sufficiency" determination as well as the county attorney.

Section 3 of the Kansas Bill of Rights, like the First Amendment to the U.S. Constitution, recognizes the right of the people to petition to "redress grievances".

If the county attorney is directed by the provisions of Senate Bill No. 230 to determine the legality of the grounds for recall, then the Bill would encroach on the judicial branch of our government.

If the Bill gives the county attorney only a ministerial function then it only creates a hindrance and delay to the citizens who desire to present a "petition for redress of grievances". The election officer can count words. The determination of whether or not the grounds for recall are sufficient is a function of the Court!

The Court in *Baker v. Gibson*, supra, stated:

"After reviewing the Act and the case law, we conclude the legislature has intended that the county attorney undertake more than the ministerial review described by *Cline*."

If this is true then the Act does tramp on the judicial arm of the government.

5

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I submit that including the county attorney in a "word count" is unnecessary and that a judicial function cannot constitutionally be assigned to him.

2-17-99

Kenneth Clark
Attorney Kenneth Clark (#3831)
P.O. Box 278
323 N. Pomeroy
Hill City, KS 67642

Mr. Clark also questions the need to strike "first class mail" in 3 areas of the bill and wonders if a lower grade of mail service will be allowed.

In section 4 lines 33 and 34 ask for the last 4 digits of the social security number. He is against that provision and comments that this is not a proper use. People are resentful of being tagged and numbered like a pet or cattle. I have attached 2 pages of the voter registration list that I received from the Secretary of State's office. You will note that the entire Social Security number is listed for most registered voters. If the purpose is to identify voters, you need some identity far more secure than this number.

6

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1 ~~under authority of this act.~~ (a) No person may be a candidate for office
2 for more than one political party in the same election year. No person
3 may be an independent candidate for office if the person already has filed
4 as a party candidate or received the nomination for any office by a polit-
5 ical party in the same election year.

6 (b) When a person is presented with dual nominations or candidacy
7 filings the person shall be deemed to have accepted the first nomination
8 or candidacy filing made and to have declined all other such nominations
9 or candidacy filings unless the person shall file in the office where such
10 filings are required to be filed within seven days, including Saturdays,
11 Sundays and holidays, after the last nomination or filing is received, a
12 written and signed statement designating which one of the nominations
13 or filings the person accepts.

14 (c) No filing fee shall be refunded to any person withdrawing such
15 person's candidacy or nomination under this section.

16 (d) A person running for precinct committeeman or committeewoman
17 shall not be considered a candidate for purposes of this section.

18 Sec. 2. K.S.A. 25-321 is hereby amended to read as follows: 25-321.

19 A person appointed to the office of state representative under the pro-
20 visions of this act may hold the office for the remainder of the term. Any
21 person appointed to the office of senator under the provisions of this act
22 may hold the office: (a) If the vacancy occurs prior to ~~October 15~~ May 1
23 of the second year of the term, until the next general election, when a
24 senator shall be elected to fill the term; or (b) if such vacancy occurs on
25 or after ~~October 14~~ May 1 of the second year of the term, for the re-
26 mainder of the term. In cases where the appointment of a senator is until
27 the next general election, ~~nominations for senator to be elected at such~~
28 ~~general election shall be made as follows: (1) If the vacancy occurs prior~~
29 ~~to June 1 of the second year of the term, candidates for the office shall~~
30 ~~be nominated at the primary in like manner as regular nominations for~~
31 ~~state senator are made; and (2) if the vacancy occurs on or after June 1~~
32 ~~and prior to October 15 of the second year of the term, candidates for~~
33 ~~the office shall be nominated by the senatorial district party committee~~
34 ~~of any party having a state and national organization nomination and elec-~~
35 ~~tion of such successor shall be made in the same manner as nomination~~
36 ~~and election of a senator for a regular term.~~

37 Sec. 3. K.S.A. 25-433 is hereby amended to read as follows: 25-433.

38 (a) The county election officer shall mail all official ballots with a return
39 identification envelope and instructions sufficient to describe the voting
40 process to each elector entitled to vote in the election on one date not
41 sooner than the 20th day before the date of the election and not later
42 than the 10th day before the date of the election. ~~Ballots shall be mailed~~
43 ~~by first-class mail.~~ Ballots mailed by the county election officer shall be

Ballots shall be mailed
by first class mail.

2-8

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. 4. K.S.A. 1998 Supp. 25-1122d is hereby amended to read as follows: 25-1122d. (a) The application for an advance voting ballot shall be made on a form prescribed by the secretary of state and shall be accompanied by an affirmation in substance as follows:

Affirmation of an Elector of the County of _____ and State of Kansas Desiring to Vote an Advance Voting Ballot
State of _____, County of _____, ss:

I, _____
(Please print name)

do solemnly affirm that I am a qualified elector of the _____ precinct of the _____ ward, residing at number _____ on _____ street, city of _____, or in the township of _____, county of _____, and state of Kansas. I am entitled to vote an advance voting ballot and I have not voted and will not otherwise vote at the election to be held on _____ (date). My political party is _____ (to be filled in only when requesting primary election ballots). I desire my ballots to be sent to the following address

[Last four digits of voter's social security number]

Signature of voter.

Note: False statement on this affirmation is a class C misdemeanor.

(b) An application for permanent advance voting status shall be on a form prescribed by the secretary of state for this purpose. Such application shall contain an affirmation concerning substantially the same information required in subsection (a) and in addition thereto a statement regarding the permanent character of such illness or disability.

(c) Any application by a former precinct resident shall state both the

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1 former and present residence, address, precinct and county of such for-
2 mer precinct resident and the date of change of residence.

3 Sec. 5. K.S.A. 1998 Supp. 25-2309 is hereby amended to read as
4 follows: 25-2309. (a) Any person may apply in person, by mail, through a
5 voter registration agency, or by other delivery to a county election officer
6 to be registered. Such application shall be made on: (1) A form approved
7 by the secretary of state, which shall be provided by a county election
8 officer or chief state election official upon request in person, by telephone
9 or in writing; or (2) the mail voter registration application prescribed by
10 the federal election commission. Such application shall be signed by the
11 applicant under penalty of perjury and shall contain the original signature
12 of the applicant or the computerized, electronic or digitized transmitted
13 signature of the applicant.

14 (b) Applications made under this section shall give voter eligibility
15 requirements and such information as is necessary to identify the appli-
16 cant and to determine the qualifications of the applicant as an elector and
17 the facts authorizing such person to be registered, including, but not
18 limited to, the following data:

- 19 (1) Name;
- 20 (2) place of residence, including specific address or location, and
- 21 mailing address if the residence address is not a permissible postal
- 22 address;
- 23 (3) [date of birth];
- 24 (4) sex;
- 25 (5) telephone number, if available;
- 26 (6) naturalization data (if applicable);
- 27 (7) if applicant has previously registered or voted elsewhere, resi-
- 28 dence at time of last registration or voting;
- 29 (8) when present residence established;
- 30 (9) name under which applicant last registered or voted, if different
- 31 from present name;
- 32 (10) an attestation that the applicant meets each eligibility
- 33 requirement;
- 34 (11) a statement that the penalty for submission of a false voter reg-
- 35 istration application is a maximum presumptive sentence of 17 months in
- 36 prison;
- 37 (12) a statement that, if an applicant declines to register to vote, the
- 38 fact that the applicant has declined to register will remain confidential
- 39 and will be used only for voter registration purposes;
- 40 (13) a statement that if an applicant does register to vote, the office
- 41 to which a voter registration application is submitted will remain confi-
- 42 dential and will be used only for voter registration purposes; and
- 43 (14) political party affiliation declaration, if any. An applicant's failure

[applicant is 18 or more years
of age -- yes or no?]

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1 to make a declaration will result in the applicant being registered as an
2 unaffiliated voter.

3 If the application discloses any previous registration in any other county
4 or state, as indicated by paragraph (7) or (9), or otherwise, the county
5 election officer shall upon the registration of the applicant, give notice to
6 the election official of the place of former registration, notifying such
7 official of applicant's present residence and registration, and authorizing
8 cancellation of such former registration.

9 (c) Any person who applies for registration through a voter registra-
10 tion agency shall be provided with, in addition to the application under
11 subsection (b), a form which includes:

12 (1) The question "If you are not registered to vote where you live
13 now, would you like to apply to register to vote here today?";

14 (2) a statement that if the applicant declines to register to vote, this
15 decision will remain confidential and be used only for voter registration
16 purposes;

17 (3) a statement that if the applicant does register to vote, information
18 regarding the office to which the application was submitted will remain
19 confidential and be used only for voter registration purposes; and

20 (4) if the agency provides public assistance, (i) the statement "Apply-
21 ing to register or declining to register to vote will not affect the amount
22 of assistance that you will be provided by this agency.";

23 (ii) boxes for the applicant to check to indicate whether the applicant
24 would like to register or declines to register to vote, together with the
25 statement "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE
26 CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO
27 VOTE AT THIS TIME.";

28 (iii) the statement "If you would like help in filling out the voter
29 registration application form, we will help you. The decision whether to
30 seek or accept help is yours. You may fill out the application form in
31 private."; and

32 (iv) the statement "If you believe that someone has interfered with
33 your right to register or to decline to register to vote, your right to privacy
34 in deciding whether to register or in applying to register to vote, or your
35 right to choose your own political party or other political preference, you
36 may file a complaint with the Kansas Secretary of State, 300 SW 10th St.,
37 Topeka, KS 66612-1594."

38 (d) If any person, in writing, declines to register to vote, the voter
39 registration agency shall maintain the form prescribed by subsection (c).

40 (e) A voter registration agency shall transmit the completed registra-
41 tion application to the county election officer not later than five days after
42 the date of acceptance. Upon receipt of an application for registration,
43 the county election officer shall send, by nonforwardable ~~first class~~ mail,

first class

1 the result of any election, or if any candidate shall request the recount of
2 the ballots cast in all or in only specified voting areas for the office for
3 which such person is a candidate, or if any registered elector who cast a
4 ballot in a question submitted election requests a recount in all or only
5 specified voting areas to determine the result of the election, the county
6 board of canvassers shall cause a special election board appointed by the
7 county election officer to meet under the supervision of the county elec-
8 tion officer and recount the ballots with respect to any office or question
9 submitted specified by the county board of canvassers or requested by
10 such candidate or elector. If a recount is required in a county that uses
11 optical scanning systems as defined in K.S.A. 25-4601 et seq., and amend-
12 ments thereto, or electronic or electromechanical voting systems, as de-
13 fined in K.S.A. 25-4401, and amendments thereto, the method of con-
14 ducting the recount shall be at the discretion of the person requesting
15 such recount. The county election officer shall not be a member of such
16 special election board. Before the special election board meets to recount
17 the ballots upon a properly filed request, the party who makes the request
18 shall file with the county election officer a bond, with security to be ap-
19 proved by the county or district attorney, conditioned to pay all costs
20 incurred by the county in making such recount. In the event that the
21 candidate requesting the recount is declared the winner of the election
22 as a result of the recount, or if as a result of the recount a question
23 submitted is overturned, no action shall be taken on the person's bond
24 and the county shall bear the costs incurred for the recount. Any recount
25 requested must be requested in writing of the county election officer not
26 later than 12:00 noon on the ~~Monday~~ Tuesday following the election. The
27 request shall specify which voting areas are to be recounted. The county
28 election officer shall immediately notify any candidate involved in the
29 election for which such recount is requested, or shall notify the county
30 chairperson of each candidates party. Any such recount shall be initiated
31 not later than the following day and shall be completed not later than the
32 Friday of such week at 5:00 p.m. Upon completion of any recount under
33 this subsection, the election board shall package and reseal the ballots as
34 provided by law and the county board of canvassers shall complete its
35 canvass. The members of the special election board shall be paid as pre-
36 scribed in K.S.A. 25-2811 and amendments thereto for time actually spent
37 making the recount.

38 Sec. 9. K.S.A. 25-4302 is hereby amended to read as follows: 25-
39 4302. Grounds for recall are conviction of a felony, misconduct in office,
incompetence or failure to perform duties prescribed by law. ~~The~~ Before
40 ~~any petition for the recall of a local officer is circulated, the county or~~
41 ~~district attorney of the county where petitions are required to be filed~~
42 ~~shall determine the sufficiency of the grounds stated in the petition for~~
43

~~recall of a local officer. The county or district attorney shall make a determination within five days of receipt of the copy of the petition from the county election officer. In the case of a recall of the county or district attorney, a judge of the district court of such county shall designate an attorney to determine the sufficiency of the grounds stated in the petition for recall. Such attorney shall perform the duties imposed on the county or district attorney in the recall of other local officers.]~~ No recall submitted to the voters shall be held void because of the insufficiency of the grounds, application, or petition by which the submission was procured.

Sec. 10. K.S.A. 25-4322 is hereby amended to read as follows: 25-4322. Before any petition for recall of a local officer is circulated, a copy thereof accompanied by names and addresses of the recall committee and sponsors shall be filed in the office of the county election officer with whom the petitions must be filed. *The county election officer shall transmit a copy of such petition to the county or district attorney for determination of the sufficiency of the grounds stated in the petition for recall.* The copy of the petition so filed shall be subscribed by the members of the recall committee in the presence of such county election officer. The recall committee shall represent all sponsors and subscribers in matters relating to the recall. Notice on all matters pertaining to the recall may be served on any member of the recall committee in person or by mail addressed to a committee member as indicated on the petition so filed. The county election officer, upon request, shall notify the recall committee of the official number of votes cast for the office of the officer sought to be recalled in the last general election at which a person was elected to such office.

Sec. 11. K.S.A. 25-4324 is hereby amended to read as follows: 25-4324. The petitions shall be circulated in person by a sponsor and only in the election district in which such sponsor resides. No 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 county election officer where petitions are required to be filed the sufficiency of the signatures on the petition. Any registered elector of such election district may subscribe to the petition by signing such elector's name and address. A person who has signed the petition may withdraw such person's name only by giving written notice to the county election officer where petitions are to be filed before the date filed. The necessary signatures on a petition shall be secured within 90 days from the date that the copy of the petition subscribed by the members of the recall committee is filed pursuant to K.S.A. 25-4322, and amendments thereto. *recall committee receives notice that the county or district attorney has determined that the grounds for recall as stated in the petition are sufficient.* The petition shall be signed only in ink. Illegible signatures unless accompanied by a

2-12

copy of the petition subscribed by the members of the recall committee is filed pursuant to K.S.A. 25-4322, and amendments thereto

12

25-4325. Recall of local officers; petition; affidavit, form, number of signatures. Before being filed, each petition shall be certified by an affidavit by the sponsor who personally circulated the petition. The affidavit shall state in substance that (a) the person signing the affidavit is a sponsor, (b) the person is the only circulator of that petition or copy, (c) the signatures were made in such person's actual presence, (d) to the best of such person's knowledge, the signatures are those of the persons whose names they purport to be, (e) the person circulated the petition in the manner provided by this act and (f) the person signing the affidavit, being duly sworn, on oath states that the statements of grounds for recall contained in the recall petition are true. In determining the sufficiency of the petition, the county election officer shall not count signatures on petitions not properly certified. The recall committee may file the petition only if signed by registered electors in the election district of the local officer sought to be recalled equal in number to not less than 40% of the votes cast for all candidates for the office of the local officer sought to be recalled in the last general election at which a person was elected to such office. If more than one person was elected to such office at such election the number of signatures required shall be equal to not less than 40% of the votes cast at such election for all candidates for the office divided by the number of persons elected to such office.

History: L. 1976, ch. 178, § 25; L. 1976, ch. 177, § 5; L. 1978, ch. 147, § 8; L. 1987, ch. 130, § 2; July 1.

2-13

This affidavit shall not be added to, subtracted from, rescinded or altered in any other manner after the petition has been filed.

2-13

**TO: CHAIRMAN HARDENBURGER AND
MEMBERS OF THE COMMITTEE ON
ELECTIONS AND LOCAL GOVERNMENT**

**My name is Kenneth Clark. I have practiced Law in Northwest
Kansas for over 50 years and live in Hill City, Kansas.**

**I have studied Senate Bills No, 245, 244 and 230 and respectfully
offer the following suggestions**

RE: Senate Bill No. 245

**At Line 26, strike "Except as otherwise provided by law"
Comment: Surplus language.**

**At line 32, strike "the general bond law" and substitute
K.S.A. 10-120.**

**Comment: Makes section definite. Copy of K.S.A. 10-120 is attached
for your convenience.**

RE: Senate Bill No. 244

Strike Lines 35 thru 40 inclusive.

**Substitute: "within such five day period, there shall be a presumption
that the form of the petition complies with the requirements of this Act and
the applicable statutory time period for circulating a petition shall be
extended an additional calendar day for each day of delay by the county
or district attorney. If the county or district attorney determines that the form
of the question is illegal, the county or district attorney shall forthwith assist
the parties filing the petition in drafting the question in a form that complies
with the applicable laws of the state. There shall"**

RE: Senate Bill No. 230

Section 3 on page 2 at line 43: Do not strike the words "first class mail.

Section 5, page 6 at Line 43: Do not strike the words "first class".

2-14

14

Comment: If "first class" is omitted, does this mean that the election officer can use a lower grade of mail?

Section 4 on page 2: Strike Lines 33 and 34 which ask for the last four digits of social security number.

Comment: This is not a proper use of a social security number. People are resentful of being tagged and numbered like a pet or cattle.

Section 5 on page 5: Strike on Line 23: "date of birth", and substitute "applicant is 18 or more years of age---yes or no?"

Comment: Many people are sensitive about their age. A false date of birth is confusing to genealogists. The application for an advance voting ballot requires only the affirmation that the applicant is a "qualified elector".

Concerning K.S.A. 25-4302 et seq. (Recall)

Section 9 on page 10: Strike "Before" from Line 40. Strike Line 41 thru Line 6, page 11. On page 11, Strike the words "or district attorney in the recall of other officers from line 7.

Section 10, page 11: Strike Line 14 beginning " The county election officer shall trans" thru Line 16.

Section 11, page 11 Reinstate the word "copy" on Line 38, Reinstate Line 39 and all of Line 40 which is shown as deleted. Strike the words "recall committee" from Line 40. strike Line 41 and all of line 42 except the words "The petition".

In addition to the above suggestions, I respectfully suggest that K.S.A. 25-4325 be amended by inserting immediately after the words "recall petition are true, the following language: "This affidavit shall not be added to, subtracted from, rescinded or altered in any other manner after the petition has been filed".

For your convenience a copy of K.S.A. 25-4325 is attached hereto with the point of insertion of said language indicated thereon.

Comment: The purpose of the suggested changes in the Recall Statute is to remove the county and district attorney from the Statute.

My suggestions omitting captions would cause K.S.A. 25-4302 to read as follows:

“Grounds for recall are conviction of a felony, misconduct in office, incompetence or failure to perform duties prescribed by law. No recall submitted to the voters shall be held void because of insufficiency of the grounds, application, or petition by which the submission was procured.”

K.S.A 25-4322 would read as follows:

Before any petition for recall of a local officer is circulated, a copy thereof accompanied by names and addresses of the recall committee and sponsors shall be filed in the office of the county election officer with whom the petitions must be filed.

The copy of the petition so filed shall be subscribed by the members of the recall committee in the presence of such county election officer. The recall committee shall represent all sponsors and subscribers in matters relating to the recall. Notice on all matters pertaining to the recall may be served on any member of the recall committee in person or by mail addressed to a committee member as indicated on the petition so filed. The county election officer, upon request, shall notify the recall committee of the official number of votes cast for the office of the officer sought to be recalled in the last general election at which a person was elected to such office.

K.S.A. 25-4324 would read as follows:

“The petitions shall be circulated in person by a sponsor and only in the election district in which such sponsor resides. No 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 county election officer where petitions are required to be filed the sufficiency of the signatures on the petition. Any registered elector of such election district may subscribe to the petition by signing such elector’s name and address. A person who has signed the petition may withdraw such person’s name only by giving written notice to the county election officer where petitions are to be filed before the date filed. The necessary signatures on a petition shall be secured within 90 days from the date that the copy of the petition subscribed by the members of the recall committee is filed pursuant to K.S.A. 25-4322, and amendments thereto. The petition shall be signed only in ink. Illegible signatures unless accompanied by a legible printed name may be rejected by the county election officer.

2-16

17

FLORENCE	K	ALBRIGHT	512548187	908	COURT TERRACE		COLBY KS
GLENDA	M	ALBRIGHT		0 1170 S	FRANKLIN	20	COLBY KS
KENNETH	B	ALBRIGHT		0 625 S	FRANKLIN	4	COLBY KS
MERLE	R	ALBRIGHT	509542387	908	COURT TERRACE		COLBY KS
JANICE	L	ALDRICH		0 385 S	SCHOOL		COLBY KS
KENDAL	L	ALDRICH		0 385 S	SCHOOL		COLBY KS
JACQUI	K	ALEXANDER	510646598	440	RIDDLE		COLBY KS
HELEN	A	ALKIRE		0 600	MISSION	10	COLBY KS
CAROL	F	ALLAMAN	512460855	702 S	GRANT		COLBY KS
BARBARA	E	ALLEN		0 1355	LUE		COLBY KS
CECILIA	M	ALLEN	511185535	211	NEBRASKA		BREWSTER KS
EVERETT		ALLEN	JR 512241899	211	NEBRASKA		BREWSTER KS
FRED	W	ALLEN		0 1355	LUE		COLBY KS
DENNIS	L	ALLISON	509383545	1080 W	4TH		COLBY KS
BARBARA	J	ALWIN	507703172	1305 W	1ST		COLBY KS
SCOTT	R	ALWIN		0 1305 W	1ST		COLBY KS
STEVEN	R	ALWIN		0 1305 W	1ST		COLBY KS
HELEN	V	AMOS		0 1005	VILLA VISTA		COLBY KS
LILA	M	AMOS	512629816	2534	K 25		COLBY KS
ROBERT	LNN	AMOS	509508788	2534	K 25		COLBY KS
BEVERLY	A	ANDERSON	521761446	1365 E	8TH		COLBY KS
CINDY	L	ANDERSON	483966554	1014	COURT TERRACE		COLBY KS
CYNTHIA	L	ANDERSON	513601776	1959	COUNTY RD 36		MENLO KS
DIANE		ANDERSON	286501310	1230	LUE		COLBY KS
DORIS	L	ANDERSON	505500614	175 W	7TH		COLBY KS
DOROTHY	M	ANDERSON	510506979	365 S	CHICK		COLBY KS
ED	L	ANDERSON	514548392	365 S	CHICK		COLBY KS
GEORGIA	M	ANDERSON	511282498	2612	COUNTY RD 22		COLBY KS
L	DEAN	ANDERSON	524645890	1365 E	8TH		COLBY KS
MADONNA	L	ANDERSON		0 318	COTTONWOOD		GEM KS
MARK	L	ANDERSON	515584713	1959	COUNTY RD 36		MENLO KS
MICHAEL	G	ANDERSON	482947865	1014	COURT TERRACE		COLBY KS
FLORENCE	E	ANDERSON	416622745	1230	LANE		COLBY KS
RYAN	DEAN	ANDERSON	508960887	1365 E	8TH		COLBY KS

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8

VIOLET	S	ANDERSON	0	620 S	LINCOLN	COLBY KS
VIVIAN	T	ANDERSON	481941611	700 S	FRANKLIN	F-3 COLBY KS
BILLY	L	ANDREWS	510647352	5125	N LINCOLN AVE	COLBY KS
DARREN	LANE	ANDREWS	509748295	745	CHEROKEE	COLBY KS
ANNA	M	ANGELL	561274304	735	SUNSET	COLBY KS
GERALDINE	JOYCE	ANSCHUTZ	0	1125	BROOKSIDE	COLBY KS
RICHARD	W	ANSCHUTZ	514300030	1125	BROOKSIDE	COLBY KS
DONITA	M	APPLEBURY	512509119	1095 E	9TH	COLBY KS
DENNIS	E	APPLEGATE	510448878	825 S	COURT AVE	COLBY KS
JEANETTE	K	APPLEGATE	511568731	825 S	COURT	COLBY KS
JAMES	S	ARASMITH	514749184	105	SCHOOL	REXFORD KS
MARGARET		ARASMITH	0	105	SCHOOL	REXFORD KS
WILLIAM	S	ARASMITH	0	105	SCHOOL	REXFORD KS
LAURENCE	A	AREHART	226440851	1740	LYNDA	COLBY KS
PATSY	S	AREHART	229524200	1740	LYNDA	COLBY KS
BERNICE	M	ARENDR	0	360 W	PLUM	COLBY KS
MARLIN	D	ARENDR	510485535	665	CHEROKEE	COLBY KS
NANCY	JEAN	ARENDR	510500466	665	CHEROKEE	COLBY KS
STEVEN	M	ARENDR	0	360 W	PLUM	COLBY KS
GERARD	R	ARENSDORF	0	1140	WHEATRIDGE	COLBY KS
KATHERINE	C	ARENSDORF	0	1140	WHEATRIDGE	COLBY KS
DIANA	F	ARMBRUSTER	0	540 W	8TH	COLBY KS
CAROLYN	S	ARMSTRONG	505586786	1100	COURT PL	COLBY KS
BLAKE	A	ARNBERGER	0	690	LA HACIENDA	COLBY KS
DARREL	L	ARNBERGER	511582436	1121 S	COURT	COLBY KS
DAVID	A	ARNBERGER	513601314	215 W	6TH	COLBY KS
RODNEY	W	ARNBERGER	512580407	315	HARRISON	LEVANT KS
SHIRLY	ANN	ARNBERGER	510646507	215 W	6TH	COLBY KS
TERRI	A	ARNBERGER	510663665	315	HARRISON	LEVANT KS
VICKIE	A	ARNBERGER	514522867	1121 S	COURT	COLBY KS
ADELINE	M	ARNOLD	477460351	1085 W	6TH	COLBY KS
JAMES	E	ARNOLD	513407502	1085 W	6TH	COLBY KS
PENNY	R	ARNOLDY	0	660 S	LINCOLN	COLBY KS
DANIELA	I	ARY	514422164	660 W	5TH	COLBY KS

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SENATE BILL No. 7

By Special Committee on Local Government

12-16

8 AN ACT concerning cities and counties: relating to the consolidation
9 thereof: amending K.S.A. 12-301 and 12-3909 and K.S.A. 1998 Supp.
10 19-205 and repealing the existing sections.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. As used in this act:

14 (a) "Board" means the board of county commissioners.

15 (b) "City" means any city.

16 (c) "Commission" means a consolidation study commission selected
17 pursuant to section 2, and amendments thereto.

18 (d) "County" means any county.

19 New Sec. 2. (a) The board of county commissioners of a county and
20 the governing body of any city or cities located within such county may
21 adopt a joint resolution providing for the establishment of a consolidation
22 study commission to prepare a plan for the consolidation of the county
23 and such city or cities located in such county. Such resolution shall not
24 be effective until the question has been submitted to and approved by a
25 majority of the qualified electors of the county voting at an election
26 thereon. Such election shall be called and held in the manner provided
27 by the general bond law.

28 ~~(b) Upon presentation to the board of county commissioners of a~~
29 ~~sufficient petition requesting the establishment of a consolidation study~~
30 ~~commission, the board shall adopt a resolution providing for the estab-~~
31 ~~lishment of a consolidation study commission to prepare a plan for the~~
32 ~~consolidation of such county and city or cities located therein. Any such~~
33 ~~petition shall be signed by at least 10% of the qualified electors of the~~
34 ~~county. Any such petition shall contain a statement that the creation of a~~
35 ~~consolidation study commission and any final plan adopted by the com-~~
36 ~~mission which recommends consolidation shall be subject to approval by~~
37 ~~the qualified electors of the county. In addition, the petition also shall~~
38 ~~state that no city shall be consolidated with the county and no offices,~~
39 ~~functions, services and operations of a city shall be consolidated with the~~
40 ~~county unless such consolidation plan is approved by a majority of the~~
41 ~~qualified electors of such city voting at the election held on such plan.~~
42 ~~Such resolution shall be submitted to the qualified electors of the county~~

Definitions of terms.

How the process starts: ^{one} ~~two~~ alternatives
~~(a)~~ governing bodies actions

~~(b) 10% petition of county electors~~

~~Contents of initiative petition~~

1 ~~at an election called and held in the manner provided by the general bond~~
2 ~~law.~~

3 (c) Any resolution ~~or petition authorized to be adopted or submitted~~
4 ~~by subsection (a) or (b)~~ shall provide for the establishment of a consoli-
5 dation study commission and shall provide either that the members be
6 appointed or that the members be elected by the qualified electors of the
7 county on a nonpartisan basis. If the commission is to be elected, the
8 procedure for holding such election shall be determined by such reso-
9 lution or petition. The laws applicable to the procedure, manner and
10 method provided for the election of county officers shall apply to the
11 election of members of the commission except that such election shall be
12 called in the manner provided by the general bond law.

13 (d) If a majority of the qualified electors of the county voting on a
14 resolution submitted pursuant to ~~subsection (a) or (b)~~ vote in favor
15 thereof, the commission shall be elected or appointed as provided by the
16 resolution or petition. The number of members on a consolidation study
17 commission shall be determined by the resolution or petition. At least 1/3
18 of the membership of a consolidation study commission shall be residents
19 of the unincorporated area of the county.

20 New Sec. 3. (a) Within 30 days following the certification of the re-
21 sults of the election or appointment of members of the consolidation
22 study commission, the chairperson of the board of county commissioners,
23 acting as the temporary chairperson of the commission, shall call and hold
24 an organizational meeting of the commission. The commission shall elect
25 a chairperson, vice-chairperson and other officers deemed necessary. The
26 commission may adopt rules governing the conduct of its meetings.

27 (b) The commission shall be subject to the open meetings law and
28 the open records law.

29 (c) Members of the commission shall be reimbursed for the actual
30 and necessary expenses incurred in the performance of their official
31 duties.

32 (d) The commission may appoint an executive director of the com-
33 mission. The executive director shall receive compensation established by
34 the commission. The executive director shall employ other staff and may
35 contract with consultants, as the executive director deems necessary to
36 carry out the functions of the commission. Staff employed by the exec-
37 utive director shall receive compensation established by the executive
38 director and approved by the commission.

39 (e) The commission shall prepare and adopt a budget for the oper-
40 ation and functions of the commission and commission activities.

41 New Sec. 4. (a) The commission shall prepare and adopt a plan ad-
42 dressing the consolidation of the city or cities and county or certain city
43 and county offices, functions, services and operations. The commission

Contents required for either the resolution or petition—whether the consolidation study commission is appointed or elected on a nonpartisan basis is set here

The resolution ~~or petition~~ sets the number of commissioners—Note 1/3 of the membership must be from the unincorporated area

Commission startup

open meetings and open records

executive director

budget required

What the Commission is required to do