

Approved: 3-06-00
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by Chairperson Lisa Benlon at 3:35 p.m. on February 9, 2000 in Room 521-S of the Capitol.

All Committee members were present except: Melany Barnes
Gwen Welshimer

Committee staff present: Dennis Hodgins, Research
Mary Galligan, Research
Theresa Kiernan, Revisor
Dee Woodson, Committee Secretary

Conferees appearing before the committee: Brad Bryant, Secretary of States Office
Connie Schmidt, Johnson County Election Commissioner
Elizabeth Ensley, Shawnee County Elections

Others attending: See attached list.

HB 2844 - Elections, distribution of ballots to voters in emergencies

Chairperson Benlon opened hearings on **HB 2844**.

Brad Bryant, Deputy Assistant Secretary of State on Elections and Legislative Matters, appeared before the Committee to explain this proposed legislation sponsored by the Secretary of State as a way to provide into law flexibility to respond on election day to emergency situations. Occasions have arisen where there is no technical statutory authority that put us and the County Election Officers in uncomfortable situations sometimes where the normal voting procedures don't work. I have detailed two examples out of the last nine to ten years in my written testimony, i.e. Desert Shield/Desert Storm conflict and the 1998 flooding. There were a number of counties in Kansas the day before the election in which it became apparent the voters could not vote by normal procedures. These included Morris, Chase, Franklin, Cowley, Leavenworth, and some others actually had disasters declared. There were voters calling saying waters were rising, their houses and possessions were threatened, but they still wanted to vote. In that situation, it left us with a choice of weighing the technical requirements in the law for the prescribed ways of voting vs the constitutional right to vote. Should we take unusual measures in an emergency to allow someone to exercise their constitutional right even if it meant technically violating the provisions in the law about out distribution. They don't know when an emergency will arise, but the Secretary of State would like to have a statute in the law that gives them authority to act in an emergency. (Attachment 1)

General discussion and questions followed regarding how advance voting is handled in cases of war, combining voting precincts in cases of emergencies, not delaying elections, strengthening authority of the Secretary of State, bill covers groups of voters not individuals, and postponement of election due to mechanical failures of voting equipment. Mr. Bryant stated that delaying elections was not what County Election Officers want to do because of everyone's right to know the results as soon as possible. He also said that County Elections Officers have no statutory authority to postpone or delay elections, and only the Courts have that authority.

Representative Johnston told about an incident in Wichita a couple of years ago where the city annexed small parts of the county. A municipal election came up, and the city forgot to hold elections for those new areas of the city. The city had to go back the next day and hold an election in those little precincts. He asked Mr. Bryant what the statutory authority was covering that situation and would it fall under **HB 2627**. Mr. Bryant responded he did not know of any statutes that have such authority. He said in this instance the canvassers consulted with the Secretary of State, devised a plan that was workable and fair, implemented it, and knew that somebody could challenge it in court which nobody did. The court usually upholds the constitutional right to vote over the technical requirements of the law. He said his department

CONTINUATION SHEET

was under the directive of the Department of Defense.

Representative Johnston also had a question regarding the wording "in cases of war" which make it impossible for voters to obtain ballots. There was considerable discussion from Committee members regarding the correct verbiage that should be used to protect the rights of military personnel and others that are called to duty during an election year.

Chairperson Benlon closed the hearing on **HB 2844**.

HB 2854 - Elections; notice provided to voters; voting machines; advance ballots, application for

Chairperson Benlon opened the hearing on **HB 2854**, and called on Brad Bryant, Deputy Assistant Secretary of State on Elections and Legislative Matters, as the first proponent. He explained that this bill was proposed by the Secretary of State to assist County Election Officers in the administration of elections. He referred the Committee to Sections 1 and 4 which would eliminate the statutory requirements to provide mechanical models of voting machines in the precincts. He said this requirement dated back to years ago when the only machines we had in Kansas was the old style lever machines. He stated that currently the requirements for mechanical models affect only three counties in Kansas. It is expensive and increasingly difficult to obtain mechanical models as manufacturers are making electronic voting machines that work by touch screens or pressure sensitive buttons, not the lever machines. Mr. Bryant clarified that the law required a mechanical model which was an extra expenditure to have it there so voters could see how the machines worked. He said it is increasingly difficult to get the model machines as the manufacturers of electronic equipment do not make those models anymore. His department feels it is reasonable for the voters if they need instruction on voting in their county, they should get that through printed materials or go through demonstrations by the Board members who are trained to do that. Mr. Bryant stated this revision would eliminate the requirement of having mechanical models of voting machines and allow that to be replaced with printed materials like a poster or picture of it and/or instruction by Election Board workers.

The second point of Mr. Bryant's testimony involved Section 2 and would require an applicant for an advanced ballot to supply their birth date, and that is to help at deadline time when many applications for advance ballots are being received. He said it would also help identify the voters, and keep track if there were three people with the same name. This would insure that there would be one ballot and only one per voter, and he was sure it would be a good tool the County Elections Office could use.

Mr. Bryant explained in regard to Section 3 of the bill that it was a follow-up to a provision in SB 230 which eliminated the requirement to send official election mailings by first class mail. He said it would allow the County Election Officer to benefit from the use of the U.S. Postal Service's election logo which entitles the mailer to first class service without paying first class rates. He also recommended the Committee amend the bill to make it effective upon publication in the Kansas Register because of the time sensitive provisions relating to advance ballot applications and first class mailings. (Attachment 2)

Connie Schmidt, Johnson County Election Commissioner, spoke in favor of **HB 2854** as Johnson County owns 400 mechanical voting machines, of which 257 are the original 1987 version and requires a lot of expensive maintenance. She said Johnson County spends close to \$100,000 per year to replace and repair the outdated machines which is very poor use of the taxpayers' dollars. She explained that Johnson County currently provides two sample ballots in every polling location on Election Day, and these paper replications can be used to answer voters questions. She said her office supports the additional date of birth requirement on the application for an advance voting ballot, and this would assist in getting the ballot issued to the correct person when there is a duplication in names. (Attachment 3)

Elizabeth Ensley, Election Commissioner for Shawnee County, spoke in support of **HB 2854**. She particularly was interested in the revision on the mailing requirements and use of the election logo for a reduced mailing rate. She stressed the savings in mailing costs would be substantial. Also, she said that the U.S. Post Office is considering providing acceptance of the reduced rate on all election mailings instead of just on mass mailings, and if that happens, Kansas would be ready for it because of the removal of the "first class" requirement from the legislation. She spoke in favor of the birth date on advance voting applications as it would be very helpful in identifying voters with similar names. (Attachment 4)

CONTINUATION SHEET

General discussion followed, covering questions and answers related to the following issues: acquiring results of elections by precinct, use of the Federal elections logo, problems with keeping election records updated due to people moving too much, and disposition of outdated voting machines.

Chairperson Benlon closed the hearing on HR 2854, and announced the Committee would be working these bills next week.

The Chair adjourned the meeting at 4:25 p.m.

The next meeting is scheduled for Monday, February 14, at 3:30 p.m. in Room 521-S.

House Governmental Organization
and Elections
Guest List

2-c 10

Your Name	Representing
Annun Schmitt	Johnson Co. Elections
Elizabeth Purley	Shawnee Co. Elections
Brad Bryant	Sec. of State
3 did not sign in —	Total 6

Ron Thornburgh
Secretary of State



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STATE OF KANSAS

House Committee on Governmental Organization and Elections

Testimony on HB 2844

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

February 9, 2000

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of House Bill 2844. This bill was proposed by the Secretary of State to provide the authority and flexibility necessary to allow people to vote during extreme circumstances.

Sometimes situations arise on election day that threaten to disenfranchise certain groups of voters if they follow the normal voting procedures prescribed in law. In such situations, election officers face a choice: either enforce the letter of the law and disenfranchise some voters, or recognize that the constitutional right to vote may outweigh the letter of the law under extreme conditions. We believe that in such cases, when normal procedures are inadequate, the right to vote should be supreme and emergency measures should be allowed to get ballots to voters.

The Desert Shield/Desert Storm conflict in the early 1990s provided a notable example. Large numbers of military and National Guard personnel were called to the Persian Gulf, and as election day approached it became clear that they would be unable to cast their ballots in a timely way due to long transmission times. The Secretary of Defense requested the cooperation of election officers across the nation in a plan to fax ballots overseas. Our office approved the plan and the county election officers who had received federal services ballot applications participated. The Kansas Legislature passed a law in 1994 allowing federal services voters the option of faxing their ballots in any election.

The Federal Voting Assistance Program operates from the Pentagon as part of the Department of Defense and oversees federal services voting. The FVAP has recommended that states pass laws similar to HB 2844 to allow the flexibility needed and to remove any doubt that in certain cases, extreme measures are warranted.

In 1998, many areas of Kansas experienced flooding on election day. The Governor declared a disaster in a number of such areas, and at the request of the Secretary of State he authorized local National Guard units to assist in the delivery of ballots by boat and helicopter. We believe such

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Attachment 1

unusual actions are warranted in emergencies, when voters whose homes and property are threatened by floodwaters, and whose normal polling places are completely cut off by floods, take the time to call and ask if they will be allowed to vote. We think they should be allowed to vote if a true emergency exists.

Because a disaster or emergency can happen at any time in any area, and it may disenfranchise any group of voters, not just federal services voters, we think it is time to write into Kansas law a general provision that allows special, temporary ballot distribution measures during emergencies. For that reason, we ask the committee to recommend HB 2844 favorably for passage.

Thank you.

Ron Thornburgh
Secretary of State



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STATE OF KANSAS

House Committee on Governmental Organization and Elections

Testimony on HB 2854

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

February 9, 2000

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of House Bill 2854. This bill was proposed by the Secretary of State to assist county election officers in the administration of elections. It contains three provisions.

1. Sections 1 and 4 eliminate the statutory requirements to provide mechanical models of voting machines in the precincts. The bill still provides for voters to receive instruction on how to use the voting equipment if they so desire. They can receive printed materials or demonstration from election board workers upon request.

Currently, the requirements for mechanical models affect only three counties in Kansas. It is expensive and increasingly difficult to obtain mechanical models. Many manufactureres do not normally make models any more because most states do not require them. The requirements for mechanical models date back to the days when the term voting machine meant a lever machine. Modern equipment is computerized, and uses either touch screens or pressure-sensitive buttons. The face of the equipment more closely resembles a paper ballot than lever machines did. We believe voters should receive adequate instruction when needed, but counties should not be required to purchase mechanical models of their voting equipment.

2. Section 2 would require applicants for advance ballots to provide their birth dates on their ballot applications. The birth date would be used by county election officers to accurately identify each applicant and prevent duplicate applications and ballots. This is especially important during the days right before ballot application deadlines, during the busiest times, when it is most difficult to ensure that each advance voter receives one and only one ballot.

3. Section 3 of the bill is a follow-up to a provision in Senate Bill 230 that passed in 1999. The 1999 bill deleted several instances in the laws where county election officers were required to send official election mailings by first class mail. This year's bill eliminates one more such provision that was intended to be included last year but was inadvertently omitted.

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Eliminating the requirement for first class mail allows the county election officer to benefit from the use of the U.S. Postal Service's election logo (see copy attached). This is the first time the Postal Service has allowed a specialized logo, and it allows the user to receive first class service on official mailings without paying first class rates.

We would also recommend the committee amend the bill to make it effective upon publication in the Kansas Register because the provisions relating to advance ballot applications and first class mailings are time sensitive.

Thank you for your consideration.

Small and Large Use

Reproduction Sheet

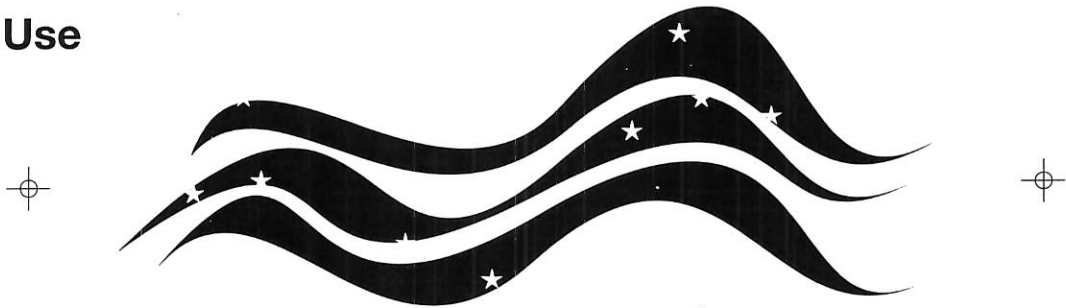
Important: Follow rules and regulations stated in the User Guide and this guideline manual

Small Use



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Large Use



DO NOT RESIZE DO NOT ALTER IN ANY WAY

Johnson County Election Office



Connie Schmidt
Election Commissioner

TESTIMONY BEFORE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION & ELECTIONS

Wednesday, February 9, 2000

Thank you for the opportunity to speak regarding House Bill No. 2854. On behalf of the Johnson County Election Office, I express support of this Bill.

This Bill (1) eliminates the requirement that an election office must provide a mechanically operated model of the face of a voting machine in every polling place; and (2) adds "date of birth" to the required wording on an application for an advance voting ballot.

Johnson County currently owns 400 mechanical voting machine models. A total of 257 of these are the original 1987 version, which require the replacement of rechargeable batteries during each election cycle. The remaining 143 are the newer model, which is equipped with an AC adapter.

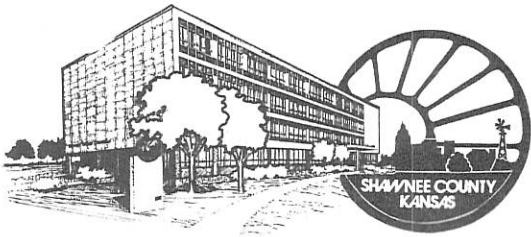
Our office spends approximately \$9,500 during each election cycle for batteries and labor to maintain the original 257 models. The newer AC adapter model sells for \$375 each. It would cost Johnson County \$96,375 to replace the old with the new.

Johnson County currently provides two sample ballots in every polling place on Election Day. These sample ballots are exact paper replications of the face of the voting machine, and can be used to answer voter questions.

Our office also supports the additional date of birth requirement on the application for an advance voting ballot. In Johnson County there are currently 34 voters with the exact same name and address. In these instances, a date of birth on the application would provide the necessary identification to assure issuance of the ballot to the correct person.

For these reasons, we express support of House Bill No. 2854. Thank you.

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Attachment 3



Shawnee County Commissioner of Elections

Elizabeth Ensley
Election Commissioner
Norine Staab
Asst. Election Commissioner

911 S.W. 37th, Suite A
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(785) 266-0285

DATE: February 8, 2000

TO: The Honorable Representative Lisa Benlon, Chairman
Governmental Organization and Elections Committee

FROM: Elizabeth Ensley
Shawnee County Election Commissioner

RE: HB 2854

Thank you for allowing me to appear for HB 2854. My principal interest in this bill is regarding the removal of the phrase "first class" from mailing requirements.

Shawnee County has been successful in our use of the new Postal election logo. In a recent mail ballot election the outgoing postage was cut from \$1,003.60 to \$ 318.45. This meant a savings of \$ 685.15 for the school district. In an up coming mail ballot election, we estimate the outgoing postage will be cut from \$ 8,840 to \$2,805 which will save \$6,035 for that school district.

The election logo is not first class postage, but is actually a nonprofit classification. The logo can only be used for mass mailings of over 200 items with at least 150 items to one zip code. However, when it is appropriate, the savings can be substantial.

Therefore, I do request that the requirement for first class postage be stricken from the election statutes.

Regarding the other aspects of this bill, I would also find the requirement for a birthdate on the advance voting application helpful in trying to determine the identity of voters with similar names.

Shawnee County used to have voting machines and therefore complied with the requirement for a model at each voting place. I did not notice that it was terribly helpful. The models were mostly used to entertain children who were waiting for their parents to vote.

Thank you for your time and consideration.

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Attachment 4