

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE.

The meeting was called to order by Chairperson Barbara P. Allen at 1:30 p.m. on January 30, 2001 in Room 245-N of the Capitol.

All members were present except: Senator Huelskamp - excused

Committee staff present: Mike Heim, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
Nancy Kirkwood, Committee Secretary

Conferees appearing before the committee:
Senator Praeger
Senator Jenkins
Brad Bryant, Deputy Assistant Secretary of State
Justin Holstin, Kansas University Law Student
Elizabeth Ensley, Shawnee County Election Commissioner

Others attending: See attached list.

Hearing on:

SB 125 - technical clean up amendments to election laws

Brad Bryant, Deputy Assistant Secretary of State, appeared before the committee in support of **SB125**. This bill was proposed by the Secretary of State's office as a technical clean up bill for elections. The bill has six provisions (Attachment 1).

SB 102 - election crimes; intimidation of voters

Senator Praeger testified before the committee in support of **SB102**. One of her districts received calls informing the voters they would need to show their voter cards in order to vote. With this legislation, you may not publish, telephone, fax or use any other means to try to prevent a person from casting a ballot or returning a voting ballot; that would be a violation. People should feel free to vote and should be encouraged to vote. (No written testimony).

Senator Jenkins submitted written testimony in support of **SB102** (Attachment 2).

Justin Holstin, Kansas University Law Student, representing fellow students appeared in support of **SB102** (Attachment 3).

Ken Wilke, Revisor of Statutes gave an explanation comparing **SB102** and **SB128**. **SB102** refers to intimidation under the existing law. Intimidation deals with coercion or taking other action to get someone to vote or not to vote. **SB128** would also make changes in election crime in the state

Brad Bryant, Deputy Assistant Secretary of State, gave a brief statement in support of **SB102** (Attachment 4).

There being no others wishing to testify on **SB102** the hearing was closed.

SB127 -relating to election procedures

Dennis Hodgins, Legislative Research Department, gave an overview of **SB127**, allowing the county election officer to remove a person from the voting list if the person has not voted in two consecutive general elections, and that person has been notified of the move from the county election officer, and all registered

CONTINUATION SHEET

voters would have their address concealed from the records for the voters safety.

Ken Wilke, Revisor of Statutes, supplied the copies of the relevant portions of the open records act that would allow this exemption. He explained the portions of the open record act that would pertain to SB127, relating to person's residence address be concealed from public inspection on the voter registration list.

Brad Bryant, Deputy Assistant Secretary of State, testified in support of SB127 (Attachment 5). Brad offered an amendment to SB127, allowing election officers to use lists of deceased persons available from the Social Security Administration to delete such persons' names from the voter registration database (Attachment 6).

Elizabeth Ensley, Shawnee County Election Commissioner, testified in support of SB127 stating 21% of persons on our voting list are not returning their ballots, possibly for reasons of health. Mailing to people who do not have the ability to vote becomes expensive and increases the risk of fraud. (Attachment 7).

There being no others wishing to testify on SB127 the hearing was closed.

The meeting adjourned at 2:30 p.m.

The next meeting is scheduled for January 31, 2001.



STATE OF KANSAS

Senate Committee on Elections and Local Government

Testimony on Senate Bill 125

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

January 30, 2001

Madam Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee in support of SB 125. This bill was proposed by the Secretary of State's office as a technical clean up bill for elections. The bill has six provisions.

1. Section 1 updates provisions in K.S.A. 25-205 that were passed ten years ago in preparation for the 1992 reapportionment. These provisions allow for easier petition requirements and later candidate filing deadlines if the Legislature is unable to complete its redistricting plan early enough to allow an adequate candidate filing period. This bill would update the 1992 provisions to be effective in any redistricting year.

In addition, we ask the committee to consider making a technical amendment in SB 125. In Section 1 on page 4, line 17, the word "is" should be "if". This is a typographical error that needs to be changed to make the language conform to the language in line 7 on the same page.

2. Sections 2 and 4 delete the office of county surveyor from the ballot preparation statutes because there are no elected surveyors in Kansas any more. Section 2 of the bill deletes the office of surveyor from K.S.A. 25-213, which is the primary election ballot statute, and Section 4 deletes the office from K.S.A. 25-611, which is the general election ballot statute.

3. Section 3 of the bill amends K.S.A. 25-413 by deleting a reference to K.S.A. 25-410, which was repealed in 1996 with passage of legislation implementing the National Voter Registration Act. The oath of challenged voters in K.S.A. 25-410 was repealed and replaced with the signing of the affidavit on the voter registration application form. Because K.S.A. 25-410 was repealed, the reference to that statute needs to be deleted from K.S.A. 25-413.

4. Sections 5 and 6 are Year 2000 provisions. They update two ballot preparation statutes by deleting references to "19__."

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Attachment 1

5. Section 7 amends language in K.S.A. 25-3102 dealing with replacing absent members on county boards of canvassers. Senate Bill 125 would update the language to accommodate counties that have five county commissioners instead of three.

6. Section 8 amends K.S.A. 25-3801 by deleting a reference to K.S.A. 25-3802, which was repealed in 1990. The statute deals with a county party chair's authority to fill vacancies in the positions of precinct committee men and women.

We recommend the committee pass SB 125 favorably. Thank you for your consideration.

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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
VICE-CHAIR: ASSESSMENT AND TAXATION
MEMBER: COMMERCE
EDUCATION
REAPPORTIONMENT
LEGISLATIVE POST AUDIT
JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT

DATE: January 30, 2001

TO: Senate Elections and Local Government Committee

FROM: Lynn Jenkins

RE: SB#102

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Madam Chair, members of the Committee, thank you for the opportunity to testify before you today in support of Senate Bill #102. The purpose of this proposed legislation is to prevent the use of false information to discourage persons from casting a ballot.

This issue was brought to my attention by news reports regarding election eve 2000, (See article attached.) As you may recall phone calls were made into Douglas County the evening before the election, which falsely informed voters that they would need to have their registration cards with them in order to vote. Many voters were confused by the calls, and unable to locate their cards, simply did not vote. An investigation followed, but no charges were filed due to the inadequacy of our law.

We work hard encouraging Kansans to get involved in the election process, it would be a shame to allow activities such as this to continue to be practiced here in the State of Kansas. Therefore, on behalf of the voters of the State of Kansas, I respectfully request that the committee pass SB #102 out favorable for passage.

Senate Elec + Loc Gov
1-30-01
Attachment 2

Prosecutors: Calls won't yield charges

Phone calls tried to
mislead voters in 3rd
Congressional District.

The Associated Press

No federal or state charges will be filed following an investigation into political phone calls made in Douglas County the night before voting in the 3rd Congressional District.

People receiving the calls were told they needed to have their voter registration cards with them to vote. Voters don't need their registration cards at the polls but sign a book to show they voted.

Attorney General Carla Stovall and U.S. Attorney Jackie Williams issued a joint statement Wednesday saying no charges will be filed and no further action will be taken by either state or federal officials.

The FBI first investigated the matter and turned its findings this week over to the attorney general's office.

"In our review of the investigation, we saw no evidence or indications that the person who was responsible for the telephone calls had any connection with the campaigns," Stovall said.

She said no state laws were broken, adding Kansas doesn't have a fair campaign practice act that would prohibit intentional false information.

"Although it was an extremely irresponsible act, we find no violation of federal statutes," Williams said.

The source of the phone calls was an organization calling itself the Democratic Action Committee. State Democratic leaders say the group isn't affiliated with them.

Democratic incumbent Dennis Moore, who was re-elected, and Republican challenger Phill Kline each denounced the calls.

Justin K. Holstin

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Lawrence KS, 66046

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January 30, 2001

Madam Chair and Members of the Committee;


I commend the Elections and Local Government Committee for your work on SB 102. It is unfortunate that this issue must be addressed, but your leadership and concern for voter's rights will help prevent the abuse and oppression of voters insuring open, honest, and equal access in future elections.

I appreciate the opportunity to speak to the committee and felt that I may be able to offer another view of the situation. I am a third year student at the University of Kansas School of Law and believe that any actions taken with an intent to mislead, impede, or restrain a person's right to participate in the electoral system is offensive and unethical. I speak only for a few close friends and myself and in no way represent the school or the student body. I believe that the right to vote is something integral to our government structure and that action should be taken to protect that right from infringement. We were proud to have a fellow student as a candidate for the Kansas House of Representatives, win or lose. However, that pride quickly changed to outrage and disbelief upon learning that a fellow student had initiated activities of intimidation on the night of the election. We felt that his actions had disgraced his fellow students, and those who worked as volunteers on his campaign.

My major concern is with the enforcement provisions of the bill. I agree that actions of intimidation or other misleading activities should be criminal. My concern stems from the fact that many law students, myself included, work on a variety of political campaigns. A volunteer is often not informed of the decisions made by a campaign team, and to be held criminally liable for an unknown action would be unfair. To say the candidate should be responsible at all times would be, in my opinion, inappropriate. A large campaign team may be making decisions that the candidate never intended, or an individual may set out with an intention of exposing a candidate to liability. I believe SB 102 should be narrowly tailored to clarify whom and what acts are punishable. The legislation's intent is noble, but the imposition of liability is unclear and may need clarification to place election teams on notice of what constitutes a crime and who would be held responsible.

We are well aware of the political environment and realize that this problem may be widespread in other areas of the country, but if Kansas can take steps to eliminate voter intimidation and other fraudulent acts it should do so. Again, I must thank the committee for its commitment to the issue and the furtherance of voter's rights in Kansas.

Respectfully submitted,


Justin K. Holstin

Senate Elec + Loc. Gov
1-30-01
Attachment 3

RON THORNBURGH
Secretary of State



First Floor, Memorial Hall
120 SW 10th Ave.
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STATE OF KANSAS

Senate Committee on Elections and Local Government

Testimony on Senate Bill 102

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

January 30, 2001

Madam Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of SB 102. This bill is nearly identical to a provision in SB 128, an election crimes bill proposed by the Secretary of State.

SB 102 would expand the definition of the crime of voter intimidation to include dissemination of false information by various means that is intended to keep voters from voting. There were reports of this type of activity in at least two races in the 2000 general election. The reports were referred to the Kansas Attorney General, and the U.S. Attorney's office directed the Federal Bureau of Investigation to review the incidents. As yet we have not been informed of the results of the investigation.

Our research and discussions with prosecutors indicate that the current language of K.S.A. 25-2415 is not adequate to justify prosecutions in these cases, and SB 102 would address that inadequacy.

We recommend the committee report SB 102 favorably for passage. Thank you for your consideration.

Senate Elec + Loc Gov
1-30-01
Attachment 4

RON THORNBURGH
Secretary of State



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STATE OF KANSAS

Senate Committee on Elections and Local Government

Proposed Amendment to Senate Bill 127

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

January 30, 2001

Madam Chairman and Members of the Committee:

The Secretary of State's office requests that the committee consider an amendment to SB 127. We are providing an attached draft of possible language to be added to K.S.A. 25-2316c(f).

This amendment would allow election officers to use lists of deceased persons available from the Social Security Administration to delete such persons' names from the voter registration database. This was part of Secretary of State Thornburgh's Six-Point Election Improvement Plan he discussed with the committee recently.

The law already allows county election officers to delete deceased persons' names if they appear in a newspaper obituary or on information provided by the state Office of Vital Statistics. We propose also using information from the Social Security Administration for the same purpose, and this amendment to SB 127 would provide the authority.

Thank you for your consideration.

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1-30-01
Attachment 5

25-2316c

Chapter 25.--ELECTIONS

Article 23.--REGISTRATION OF VOTERS

25-2316c. Registration of voters; change of name of registered voter; change of residence by registered voters; provisional ballots; advance voting ballot, application; removal of names of voters from registration lists; basis for removal of names.

(a) When a registered voter changes name by marriage, divorce or legal proceeding, if such voter is otherwise qualified to vote at such voting place such voter shall be allowed to vote a provisional ballot at any election, or apply for an advance voting ballot, on the condition that such voter first completes the application for registration prescribed by K.S.A. 25-2309, and amendments thereto. Completion of the application shall authorize the county election officer to update the registration records, if appropriate, for voting in future elections. The county election officer shall send, by nonforwardable mail, a notice of disposition to any voter completing such application.

(b) When a registered voter changes residence, such voter shall reregister in order to be eligible to vote, except that when a registrant has moved from an address on the registration book to another address within the county and has not reregistered, such registrant shall be allowed to vote a provisional ballot at any election, or to apply for an advance voting ballot, on the condition that such registrant first completes the application for registration prescribed by K.S.A. 25-2309, and amendments thereto. Completion of the application shall authorize the county election officer to update the registration record, if appropriate, for voting in future elections. The county election officer shall send, by nonforwardable first-class mail, a notice of disposition to any such voter. Whenever the county election officer receives from any other election officer a notice of registration of a voter in a different place than that shown in the records of the county election officer, such officer shall remove the name of such voter from the registration book and party affiliation list.

(c) Every application for registration completed under this section shall be returned to the county election officer with the registration books.

(d) A registrant shall not be removed from the registration list on the ground that the registrant has changed residence unless the registrant:

(1) Confirms in writing that the registrant has moved outside the county in which the registrant is registered, or registers to vote in any other jurisdiction; or

(2) has failed to respond to the notice described in subsection (e) and has not appeared to vote in an election during the period beginning on the date of the notice and ending on the day after the date of the second federal general election that occurs after the date of the notice.

(e) A county election officer shall send a confirmation notice upon which a registrant may state such registrant's current address, within 45 days of the following events:

(1) A notice of disposition of an application for voter registration is returned as undeliverable;

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Attachment 6

(2) change of address information supplied by the National Change of Address program identifies a registrant whose address may have changed;

(3) if it appears from information provided by the postal service that a registrant has moved to a different residence address in the county in which the registrant is currently registered; or

(4) if it appears from information provided by the postal service that a registrant has moved to a different residence address outside the county in which the registrant is currently registered.

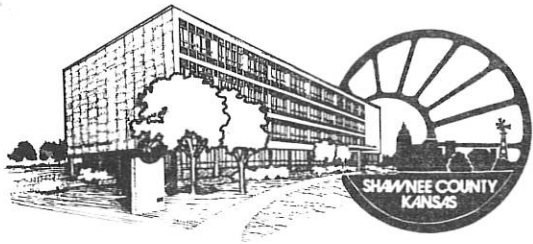
The confirmation notice shall be sent by forwardable mail and shall include a postage prepaid and preaddressed return card in a form prescribed by the chief state election official.

(f) Except as otherwise provided by law, when a voter dies or is disqualified for voting, the registration of the voter shall be void, and the county election officer shall remove such voter's name from the registration books and the party affiliation lists. Whenever (1) an obituary notice appears in a newspaper having general circulation in the county reports the death of a registered voter, or (2) a registered voter requests in writing that such voter's name be removed from registration, or (3) a court of competent jurisdiction orders removal of the name of a registered voter from registration lists, or (4) the name of a registered voter appears on a list of deceased residents compiled by the secretary of health and environment as provided in K.S.A. 65-2422, and amendments thereto, or appears on a copy of a death certificate provided by the secretary of health and environment, or appears on information provided by the social security administration, the county election officer shall remove from the registration books and the party affiliation lists in such officer's office the name of any person shown by such list or death certificate to be deceased. The county election officer shall not use or permit the use of such lists of deceased residents or copies for any other purpose than provided in this section.

(g) When the chief state election official receives written notice of a felony conviction in a United States district court, such official shall notify within five days the county election officer of the jurisdiction in which the offender resides. Upon notification of a felony conviction from the chief state election official, or from a county or district attorney or a Kansas district court, the county election officer shall remove the name of the offender from the registration records.

(h) Except as otherwise provided in this section, no person whose name has been removed from the registration books shall be entitled to vote until such person has registered again.

History: L. 1977, ch. 138, § 2; L. 1980, ch. 112, § 2; L. 1980, ch. 110, § 4; L. 1982, ch. 154, § 4; L. 1988, ch. 120, § 2; L. 1989, ch. 109, § 2; L. 1992, ch. 281, § 1; L. 1996, ch. 187, § 12; L. 1997, ch. 124, § 5; L. 1999, ch. 105, § 3; July 1.



Shawnee County Commissioner of Elections

Elizabeth Ensley
Election Commissioner
Norine Staab
Asst. Election Commissioner

911 S.W. 37th, Suite A
Topeka, Kansas 66611-2378
(785) 266-0285

M E M O R A N D U M

DATE: January 30, 2001

TO: Senator Barbara Allen, Chairman
Committee on Elections and Local Government

FROM: Elizabeth Ensley
Shawnee County Election Commissioner

RE: SB 127

Thank you for allowing me to appear in favor of SB 127. This bill addresses several issues in the statutes.

Of great concern to the County Clerks and Election Officials is the ability to remove names from the permanent advance voter lists. Currently the statutes only allow removing names for moving or death. Yet many names are on our lists of people who do not vote, possibly for reasons of health. Mailing to people who do not have the ability to vote becomes expensive and increases the risk of fraud.

Additionally, this bill clears up statutory language, which is at odds with recent court cases regarding the circulators of petitions. If this language is not cleared up, I fear lawsuits stemming from failed petitions could make for delays and added expenses during elections.

Thank you for your time and consideration.

Senate Elec. + Loc. Gov
1-30-01
Attachment 7