

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 31, 2001 in Room 245-N of the Capitol.

All members were present except:

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 Stan Clark
 Lester Haremza
 Steve Kearney, Kansas County and District Attorney Association
 Natalie Haag, Chief Legal Counsel/ Director of Governmental Affairs
 Brad Bryant, Deputy Assistant Secretary of State
 Carol Williams, Executive Director, Governmental Ethics Commission

Others attending: See attached list.

Bill Introductions

Senator Huelskamp requested a bill to require notice to the lien holder of a vehicle by units of government that impound vehicles of persons for any reason. Senator Huelskamp moved to request this bill be drafted, seconded by Senator Clark. The motion carried.

Trent LeDoux, Chairman 2nd Congressional District Republican Party, requested to introduce a bill concerning campaign finance; relating to district party committees. Senator O'Connor made a motion to introduce the bill, second by Senator Jackson. The motion carried.

On January 18, 2001, during the briefing on recounts and contests by Representative Jerry Williams, 8th House District race, Representative Williams submitted written testimony from Mr Ed Bideau III, former member of the Kansas House, regarding provisional ballots. The Chair requested Brad Bryant, Deputy Assistant Secretary of State, to review the letter and in turn the Secretary of State have recommended one change in statute with regard to provisional ballots and proposed language to clarify the statute to when the provisional ballots are opened (Attachment 1). Senator Clark moved to introduce this language as a bill, seconded by Senator Schmidt. The motion carried.

Woody Moses, Kansas Aggregate Producers, requested to introduce a bill for a public hearing held by County Commissioners prior to entering into a business or type of activity which essentially would compete with people who are already providing that service for goods in the county in which it is located (Attachment 2). Senator O'Connor moved to have this bill drafted, seconded by Senator Gilstrap. The motion carried

Senator Brownlee moved to request the committee have a bill drafted to address the Blue Valley Recreation system. Senator Clark seconded the request. The bill already drafted, the motion was amended to request introduction of the bill. The motion carried.

Hearing on: SB63- relating to registration of voters. Information on other states using the last four digits of the social security number was provided to the Chair at her request; by Brad Bryant, Deputy Secretary of State and distributed to the committee (Attachment 3).

CONTINUATION SHEET

SB107 - concerning elections; relating to petitions

Senator Clark testified in support of **SB107 (Attachment 4)**. He also submitted written testimony of Lester Harenza, resident of Colby, Kansas, (Attachment 5).

Steve Kearney, representing Kansas County and District Attorney Association testified in support of **SB107 (Attachment 6)**. Mr. Kearney stated the Association's position on this issue was made clear previously in 1999, when testimony was given on **SB 244**. County and District Attorneys specialize in the area of criminal law, not in the area of determining the legality of the form of the question on petitions.

There being no others to testify on **SB107** the hearing was closed.

SB 108 - elections; establishing requirements for electronic reporting of campaign contributions

Natalie Haag, Chief Legal Counsel and Director of Governmental Affairs, appeared on behalf of Governor Graves, testified in support of **SB 108**. **SB 108** promotes a more educated voting public by requiring statewide campaigns to file all campaign finance reports by electronic means and requiring daily reporting of campaign receipts during the 11 days immediately preceding the primary and general election (Attachment 7).

Since there were time limitations on the committee and other conferees still needing to testify on **SB 108** Chairperson Allen held the hearing open on **SB 108** and would continue tomorrow, February 1, 2001.

Brad Bryant, Deputy Assistant Secretary of State, provided information from the hearing on **SB 127** regarding the open records act (Attachment 8).

The meeting adjourned at 2:30 p.m.

The next meeting is scheduled for February 1, 2001.

Ron Thornburgh
Secretary of State



First Floor, Memorial Hall
120 SW 10th Ave.
Topeka, KS 66612-1594
(785) 296-4564

STATE OF KANSAS

January 25, 2001

The Honorable Barbara Allen, Chair
Senate Committee on Elections and Local Government
Room 120-South, State Capitol
Topeka, KS 66612

Dear Senator Allen:

Recently you provided a copy of a letter from Mr. Ed Bideau and invited us to reply. I offer the following comments in the hope that they will help clarify the situation and help the committee decide what actions, if any, it wishes to take.

When a registered voter moves within the county, the law requires him/her to re-register. But, state laws passed in 1996 to comply with fail-safe voting provisions in the National Voter Registration Act (NVRA) state that if a person moves within the county *at any time* before the election and fails to re-register, he/she may *re-register at the polls* and vote a provisional ballot *in the precinct of their new residence or at a central location designated by the county election officer* (see K.S.A. 25-2316c(b), K.S.A. 25-414(b)(1), and K.S.A. 25-2353). If these conditions are met, the ballot should count, and K.S.A. 25-2353 answers the question regarding which precinct provisional voters should vote in. Each county election officer is supposed to designate a central location, which is usually their office, and if they fail to do so they are in error.

If a member of my staff told a county clerk that provisional voters could vote at either their old precinct or their new precinct, that was incorrect. That is in conflict with all the printed materials we have provided to all Kansas county election officers during the past five years. If a provisional voter goes to the precinct of his/her former address, we instruct the county election officer to train their precinct election board workers to send the voter to the new precinct or the central location. If the voter refuses, however, we advise them to let them vote a provisional ballot in case it is determined after election day that an error was made by the election officer. If no error is discovered, that provisional ballot should not count.

If a person moves out of the county, in order to vote in the precinct of their new residence they must re-register in their new county before the deadline, which is fifteen days before the election.

I agree with Mr. Bideau that there is confusion arising from a procedure known as former precinct voting. This provision (see K.S.A. 25-3701 and -3702) allows a registered voter who moves *anywhere within the state* during the 30-day period before the election to return to the person's precinct of former residence and vote. When my office proposed legislation in 1996 to put our state into compliance with the NVRA, we anticipated that the former precinct voting provision would cause confusion. However, we could not propose repealing those laws because they are required by the Kansas Constitution (see Kansas Constitution, Article 5, Section 1). At the time the NVRA legislation was being considered, the House

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Attachment 1

The Honorable Barbara Allen
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and Senate committees requested that the bill include only whatever was necessary to minimally comply with the NVRA. They expressed no interest in any provisions that were not absolutely necessary. In my opinion it would take a state constitutional amendment or changes to the NVRA, a federal law, to eliminate this confusion.

Regarding the issue whether provisional ballots should be opened before the Friday canvass, we think the intent of the current law does not allow this. The system is organized in such a way that provisional ballots are sealed in individual envelopes (see K.S.A. 25-3008(c)) and returned to the county election office (see K.S.A. 25-3007) and presented to the county board of canvassers for determination of their validity (see K.S.A. 25-409(b) and K.S.A. 25-3107(a)).

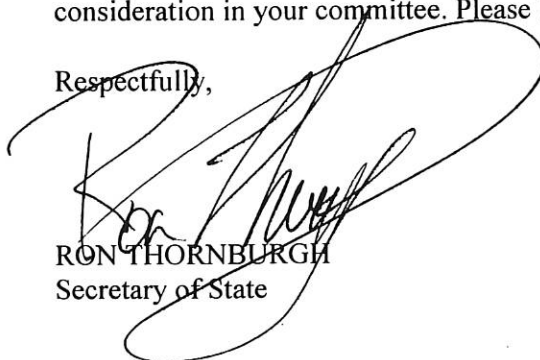
Current law assigns to the county board of canvassers the task of deciding which ballots are valid and which are invalid for their county. They do so with the advice of their county election officers and county attorneys or counselors as needed. To require them to open all provisional and challenged ballots, including those they have deemed invalid, before certifying the election results defeats the purpose of the challenged and provisional ballot procedures. There is no reason to open ballots that are invalid. However, if someone believes the canvassers erred in determining some ballots invalid, or erred in counting some invalid ballots, the statutory remedy is the election contest in district court.

The answers to the questions regarding ballot counting, provisional voting, and county canvassing are in existing statutes, but if a consensus emerges that statutory amendments could enhance the understanding of those concerned and promote uniform compliance with the law, my office would support such initiatives.

Through the years we have provided information and training to election officers to assist them in administering elections. Each year we send them training guides, implementation guides for new laws, and memoranda concerning current issues and trends in elections. Also, we appear at various statewide conventions and regional meetings to speak and answer questions. Based on our experiences in the 2000 election, however, we must increase those educational efforts, and this year I have included in my Six-Point Election Improvement Plan a series of steps I intend to take to that end.

I hope these comments are responsive to the issues raised in Mr. Bideau's letter and to those under consideration in your committee. Please let me or one of my staff know if you need further information.

Respectfully,



RON THORNBURGH
Secretary of State

Proposed Legislative Response to Bideau Letter

1/25/01

Clarify that the county canvassers should review the provisional ballots, decide which are valid, and open and count only the valid ones. They should not open provisional ballots they have deemed invalid.

K.S.A. 25-409

25-409. Challenged voters; rejection or acceptance of vote; procedure. (a) If any person challenged pursuant to K.S.A. 25-414, and amendments thereto, shall refuse to subscribe the application for registration pursuant to K.S.A. 25-2309, and amendments thereto, the judges shall reject such person's vote.

(b) If a person is challenged pursuant to K.S.A. 25-414, and amendments thereto, such person shall be permitted to subscribe the application for registration and mark a ballot. The ballot shall thereupon be sealed in an envelope. The judges shall write on the envelope the word "provisional" and a statement of the reason for the challenge, and that the ballot contained in the envelope is the same ballot which was challenged pursuant to K.S.A. 25-409 *et seq.* and amendments thereto. Such statement shall be attested by two of the judges. The judges shall attach the application for registration to the envelope containing the provisional ballot. The envelope shall be numbered to correspond to the number of the provisional voter's name in the registration or poll book, and the word "provisional" shall be written following the voter's name in the poll book. Such provisional ballots, together with objected to and void ballots packaged in accordance with K.S.A. 25-3008, and amendments thereto, shall be ~~opened and~~ reviewed by the county board of canvassers at the time prescribed for canvassing votes, and such board shall determine the acceptance or rejection of the same. The county board of canvassers shall open all ballots deemed to be valid and include such ballots in the final canvass of election returns.

History: G.S. 1868, ch. 36, § 11; R.S. 1923, 25-409; L. 1974, ch. 156, § 1; L. 1975, ch. 206, § 1; L. 1979, ch. 108, § 1; L. 1983, ch. 121, § 1; L. 1992, ch. 6, § 1; L. 1995, ch. 192, § 25; L. 1996, ch. 187, § 1; Apr. 25.

_____ **BILL No.** _____

By Committee on Elections and Local Government

10 AN ACT concerning counties; relating to public bids and purchases; amending
11 K.S.A. 19-214 and repealing the existing section
12

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

14 Section 1. K.S.A. 19-214 is hereby amended to read as follows: 19-214. (a)
15 Except as provided in subsection (b) and in K.S.A. 19-216a, *and amendments*
16 *thereto*, all contracts for the expenditure of county moneys for the construction of
17 any courthouse, jail or other county building, or the construction of any bridge in
18 excess of \$10,000, shall be awarded, on a public letting, to the lowest and best bid.
19 The person, firm or corporation to whom the contract may be awarded shall give and
20 file with the board of county commissioners a good and sufficient surety bond by a
21 surety company authorized to do business in the state of Kansas, to be approved by
22 the county attorney or county counselor, in the amount of the contract, and
23 conditioned for the faithful performance of the contract.
24

25 (b) The provisions of subsection (a) shall not apply: (1) To the expenditure of
26 county funds for professional services; (2) to the provisions contracts of insurance of
27 K.S.A. 68-521, and amendments thereto; or (3) to the purchase of contracts of
28 insurance.
29

30 (c) *All contracts or lease-purchase agreements for the expenditure of county*
31 *moneys for goods or services which can be acquired from and are customarily*
32 *provided by residents or taxpayers of such county and are for an aggregate amount*
33 *in excess of \$100,000 may be awarded provided the county complies with the*
34 *following: (1) Prior to awarding any such contract or lease-purchase agreement the*
35 *board of county commissioners shall convene a public hearing to consider the merits*
36 *of the proposed expenditure; (2) Notice of such hearing shall be published one time,*
37 *not less than 10 days prior to the hearing in a newspaper having general circulation*
38 *in the county and the Kansas Register; (3) The county shall notify any county*
39 *resident or taxpayer customarily providing goods or services under this section of*
40 *such hearing by mail not less than ten days prior to the hearing; and (4) Prior to*
41 *such hearing the board of county commissioners shall cause to have an independent*
42 *professional cost/benefit analysis prepared on the proposed expenditure and made*
43 *available for consideration by the county and the public in attendance at the hearing.*
44

45 Sec. 2. K.S.A. 19-214 is hereby repealed.
46

47 Sec. 3. This act shall take effect and be in force from and after its
48 publication in the statute book.

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Attachment 2

SB 63 Relating to registration of voters

REQUIRED	REQUESTED
Full Social Security Number Georgia Hawaii Kentucky New Mexico South Carolina Tennessee Virginia	Full Social Security Number Alabama Alaska Arkansas ¹ Colorado Connecticut Delaware District of Columbia Idaho Indiana Illinois ² Iowa Kansas Louisiana Mississippi Ohio Texas ³
Last Four Digits of the Social Security Number Florida Illinois Missouri Oklahoma ⁴	Last Four Digits of the Social Security Number Arizona ⁵ South Dakota ⁷ Utah ⁶ West Virginia
Drivers License Number None	Drivers License Number Arkansas ⁸ Oklahoma ⁹ South Dakota Texas ¹⁰ Utah ¹¹
One of List of Numbers Nevada (SSN, driver's license number, or ID card number)	One of List of Numbers California (driver's license or ID card number) Michigan (driver's license or state personal ID number) North Carolina (driver's license or DMV ID number)

Combinations

- Arizona (requests last 4 digits of SSN and, if applicant has one, Indian Census number)
- Arkansas (requests SSN and/or driver's license number)
- Oklahoma (requires last 4 digits of SSN and requests driver's license number)
- Texas (requests SSN and driver's license number or Dept. of Public Safety issued personal ID number)
- Utah (requests last 4 digits of SSN and driver's license or identification card number)

None

- | | |
|-----------------------|--------------|
| Maine | New York |
| Maryland | Oregon |
| Massachusetts | Pennsylvania |
| Minnesota | Rhode Island |
| Montana ¹² | Vermont |
| Nebraska | Washington |
| New Jersey | Wisconsin |

Unknown

- New Hampshire
- Wyoming

NOTES:

- North Dakota does not have voter registration and is exempt from implementing the provisions of the NVRA.
- Idaho, Minnesota, New Hampshire, Wisconsin, and Wyoming also are exempt from implementing the provisions of the NVRA.

In combination with other items --- see also "combinations" list.

¹ If full number not provided as requested, State requires last four digits.

² In combination with other items -- see also "combinations" list.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Requested if no drivers license number.

⁷ In combination with other items --- see also "combinations" list.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Local election administrator may request ID number at a later date.

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 Attachment 3



COMMITTEE ASSIGNMENTS
 CHAIR: INFORMATION TECHNOLOGY
 VICE CHAIR: UTILITIES
 MEMBER: AGRICULTURE
 FINANCIAL INSTITUTIONS
 & INSURANCE
 RULES & REGULATIONS

Stan Clark

**TESTIMONY BEFORE THE
 SENATE ELECTIONS & LOCAL GOVERNMENT COMMITTEE**

**SENATE BILL NO. 107
 January 31, 2001**

Chairman Allen and members of the committee:

This is an issue that is not new to you. It was interesting reading the testimony and minutes from the House committee in 1992 that last addressed this issue. The struggle is how best to balance protecting our citizen's constitutional right to petition with having a clearly stated question to place on the ballot for voter referendum.

In 1991 a State Senator, who also was an attorney, assisted some of his constituents by drafting a petition, which they circulated to bring a tax issue to a vote. The ladies that circulated the petition secured over 4000 names to bring the issue to a vote. The county officials determined that the petition was not in proper order and threw out the petition and refused to allow the citizens to vote on the issue.

The Legislature in 1992 hoped that by inserting the language requiring submittal to the county or district attorney for an opinion as to the legality of the form of the question before the petition is circulated would have solved the problem. We assumed that the County Attorney would also be helpful in correcting any shortcoming he might find. We have found that isn't always the case. The County Attorney declared that he couldn't represent both the County and the Citizens seeking to circulate the petition and instead of helping the citizens craft a correctly worded petition, would only render a judgement "yes" or "no". While I think the County Attorney is more an "officer of the people" instead of a "Judge" in this case, this bill will solve this issue.

Incidentally, I think this is the only election that I ever voted for a tax increase and was on the losing side.

The bill spells out exactly what the question on the petition shall include:

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Attachment 4
 STATE CAPITOL
 OFFICE - 128 SOUTH
 TOPEKA, KANSAS 66612-1504
 (785) 296-7399
 1-800-452-3924

1. The following statement: "Shall the following ordinance or resolution become effective?"
2. The title, number and exact language of the ordinance or resolution.

The bill also solves a second issue. On lines 24-31 was the requirement that all petitions be submitted to a county attorney before they are circulated. Even if a petition is in proper form now, the statute states that the petition has to be submitted before circulation. I have attached a copy of a newspaper article from the December 29, 1998 Hays Daily News (attachment 1). In the article the court found that the failure to have a prior review, even though the County Attorney stated before the Court that the petition was correct in form, invalidated the entire petition. The interrogative with the County Attorney's statement is my attachment 2.

While the District Court was overturned by the Court of Appeals in the summer of 1999, not everyone can, nor should they have to go the Court of Appeals. The form of the question should be the primary question or issue because we have the constitutional right to petition our government and jumping through the statutory and regulatory hoops should be secondary.

Madam Chairman, I will take questions whenever you like.
I know the next conferee will answer many questions with his testimony.

IN THE DISTRICT COURT OF THOMAS COUNTY, KANSAS

CONRAD REED, WILLIAM
ENGELHARDT, and LLOYD E.
THEIMER, Residents of Unified
School District No. 315, Thomas
County, Kansas, and Rawlins
County, Kansas,

Plaintiffs,

v.

Case No. 98-C-19

ROSALIE SEEMAN, Thomas
County Clerk and Election Officer,

Defendant,

and

UNIFIED SCHOOL DISTRICT NO.
315, Thomas County, Kansas, and
Rawlins County, Kansas,

Defendant.

REQUEST FOR ADMISSION

Plaintiffs, Conrad Reef, William Engelhardt and Lloyd E. Theimer, by and through their attorney, Tony A. Potter, proffer the following Request for Admission, pursuant to K.S.A. 60-236, for answering by Laurence A. Taylor, Thomas County Attorney. This request is to be answered by Mr. Taylor, under oath, and served upon Plaintiff's attorney within thirty (30) days of the receipt thereof. Said request shall be continuing in nature and, pursuant to K.S.A. 60-226(e), require timely additions or supplementation as further answers, information and/or documentation become available to Mr. Taylor.

EXHIBIT "D"

Attachment 2

REQUEST No. 1

a. Do you admit that the "Petition in Opposition" circulated by Plaintiffs and submitted to Rosalie Seemann, Thomas County Clerk and Election Officer, in one group, on February 2, 1998, conform to the statutory requirements set forth by the Kansas Statutes?

b. If you do not admit that said "Petition in Opposition" met said requirements, what requirement was not met? Please be specific with your answer and include each and every communication, fact and circumstance and each and every legal theory that you think evidence or supports such a contention.

a. Yes as to form.
No as to procedure.

b. The form of the petition appears to comply with K.S.A. 25-3602. The procedure for circulating said petition has not been met for failure to comply with K.S.A. 25-3601 which specifically states as follows:

"Before any petition other than a recall petition as described in K.S.A. 25-4301, et seq., and amendments thereto, requesting an election in any political or taxing subdivision of the state is circulated, a copy thereof containing the question to be submitted shall be filed in the office of the County Attorney of the county or District Attorney of the district in which all or the greater portion of the political or taxing subdivision is located for an opinion as to the legality of the form of such question."

A copy of the petition was not filed in or received by this office until after February 2, 1998.

Attachment 2

CERTIFICATE OF SERVICE

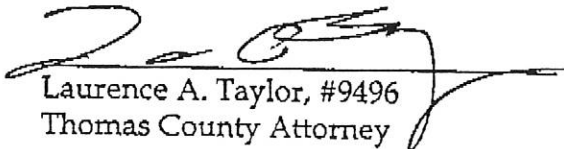
I do hereby certify that on the 27th day of May, 1998, a true and correct copy of answers to Request for Admissions submitted to Laurence A. Taylor, Thomas County Attorney, was mailed, postage prepaid and properly addressed to:

Tony A. Potter, #16907
Attorney at Law
P.O. Box 278
Hill City, KS 67642

Starkey & Gatz
Attn: John D. Gatz
P.O. Box 346
Colby, KS 67701

and the original to:

Clerk of District Court
P.O. Box 805
Colby, KS 67701


Laurence A. Taylor, #9496
Thomas County Attorney

CLERK OF DISTRICT COURT
THOMAS COUNTY, KS

JEANENE S. LEE

1998 OCT -1 A 11:01

FILED

Attachment 2

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Judge grants school district permission to collect funding

By PHYLLIS J. ZORN
HAYS DAILY NEWS

Ellis County District Judge Edward Bouker has given Colby USD 315 the go-ahead to collect capital outlay funding for 1999.

Bouker's decision in a case filed by Conrad Reed, William Engelhardt and Lloyd Theimer against Thomas County Clerk Rosalie Seemann and the school district ends a year of controversy over a capital outlay tax levy passed by the school board.

Not only did Bouker decide in favor

of the school district, he levied court costs against the three who filed the lawsuit.

The dispute surfaced in December 1997, when the school board adopted a resolution for a capital outlay levy, amounting to 4 mills.

A petition protesting the tax was circulated within the 40 days allowed by law.

The signatures were presented to Seeman on Feb. 2. She notified Reed that the petitions contained enough signatures to bring the tax levy to a vote.

But nine days later Seeman sent

another letter that ruled the petitions invalid because they had not been approved by the Thomas County attorney prior to circulation.

The protesters sued, alleging their protest petitions were valid, the school district's publication notice did not follow state law and that the amount of money to be raised by the levy exceeded a limit defined by law.

Both sides presented argument in Ellis County District Court Nov. 9. Bouker's decision, filed Monday, considered all three issues raised by the protesters and agreed with arguments

made by the school district's attorney, John Gatz.

Gatz argued that the protesters should have filed the petition with the county attorney's office.

The protesters, however, contended the statute did not apply to them.

"The plain language of (the statute) required plaintiffs to obtain the opinion of the Thomas County attorney concerning the legality of the question presented by the petitions prior to their circulation," Bouker wrote. "This was not done and the petitions are therefore invalid."

On the issue of whether the school district's publication of their intention to collect the tax levy constituted publication "once a week for two consecutive weeks," Bouker wrote, "there is nothing in the language of (the law) which would require same-day-each-week publication."

As to the protesters' argument that the school would be collecting more money than allowed by law, Bouker ruled that the term "statutorily prescribed mill rate," would not force the school district to collect the lesser amount of revenue.

TESTIMONY OF LESTER HAREMZA, COLBY, KANSAS

**BEFORE THE SENATE ELECTIONS &
LOCAL GOVERNMENT COMMITTEE**

SENATE BILL NO. 107

JANUARY 31, 2001

Chairman Allen and Members of the Committee:

In 1998 the Thomas County Commission **adopted** a resolution prepared by the County Attorney to increase the property tax for road and bridge improvements.

On July 8 and July 15, 1998, the resolution was published in the Colby Free Press. We called the County Attorney's office and found that he was on vacation and would not return until the 1st of August.

On July 27th, John Galli and I went to Stan Clark to ask him to write a petition so that we could present it to the County Attorney for his approval. Our materials for Senator Clark included a petition which our County Attorney previously said was in proper form (attachment 1) and it stated this question:

“Shall Tax Levy Resolution 97-1215, passed by the Board of Education of Unified School District #315, **be approved?**”

Senator Clark wrote out a petition (attachment 2), and we delivered it to the County Attorney's office. The question stated was:

“Shall the Thomas County Board of Commissioners be allowed to exempt the Thomas County Road and Bridge Fund in an amount not to exceed 2 mills over and above the current level of spending from the Kansas Property Tax Lid law?”

On August 3rd, we received a reply (attachment 3) that stated: “I conclude that the proposed petition does not comply with the provisions of

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Attachment 5

K.S.A. 25-620. The issue upon which you request an election is in the form of a question, but it does not appear as it should upon the ballot and fails to include the language set forth in K.S.A. 25-620.”

Later that day, we went to Senator Clark and we revised the question to read (attachment 4):

“Shall Charter Resolution No. 9 passed by the Thomas County Board of Commissioners which exempts the Thomas County Road and Bridge Fund in an amount not to exceed 2 mills over and above the current level of spending from the Kansas Property Tax Lid **be approved?**”

The County Attorney replied (attachment 5) on August 4th that, “Both the statute and the guide specifically state that each petition must state the proposition or question preceded by the following words: “Shall the following **be adopted.**”

On August 7th, after consulting with our attorney, Tony Potter, we submitted a third petition (attachment 6). Our question read:

“Shall Charter Resolution No. 9, passed by the Board of County Commissioners of Thomas County, Kansas, on July 6, 1998, **be adopted and take effect?**”

Our attorney, in a letter the same day, also wrote us (attachment 7) and stated: “You will notice that I have changed the language from the Petitions you sent to me, including the question to be submitted. The problem with the language as set forth by Mr. Taylor and K.S.A. 25-620 is that it does not exactly tract with K.S.A. 19-101b and that the resolution has already been “**adopted**” by the Board of County Commissioners. The issue in the election will be whether or not the resolution should be allowed to **take effect**. I have enclosed a copy of the latter statute for your review and have included language from both statutes and drafted the question to include whether or not the ordinance should **be adopted and take effect.**”

On August 11th, the County Attorney rejected the petition. The same day our 4th petition was faxed to the County Attorney, which he rejected (attachment 8) on August 14th.

The same day, another petition (attachment 9) was faxed along with a letter (attachment 10) about the phrases, “**take effect**” and “**be adopted.**” The attorneys finally agreed the next day with the final attachment (attachment 11):

“Shall the following **be adopted**?”

“Shall Charter Resolution No. 9, a charter resolution providing the Board of County Commissioner of Thomas County, Kansas, substitute and additional provisions to K.S.A. 79-5028, and amendments thereto, which charter resolution will remove the aggregate levy amount limitation from the Thomas County Road and Bridge Fund, as passed by the Board of County Commissioner of Thomas County, Kansas, on July 6, 1998, **take effect**?”

We passed the petition and were successful in the election but, members of the Committee, no one should experience the frustration that I experienced in getting a petition approved in order to begin the process of circulating it. As you can see, we lost 29 days in getting the County Attorney’s approval. This bill removes the county attorney from the process and assumes that the question in the petition which will be put on the ballot is valid unless proven otherwise.

With the changes provided in this bill the question shall be presumed to be valid if the petition states the title, number and exact language of the ordinance or resolution and the title of such petition states: “Shall the following ordinance or resolution become effective?”

I ask you to approve, **adopt** or allow this bill to **take effect**. I will stand for questions.

PETITION

TO: ROSALIE SEEMANN
COUNTY ELECTION OFFICER
THOMAS COUNTY, KANSAS

1. That the undersigned registered electors residing within the Unified School District #315 of Thomas County, Kansas, hereby express their opposition to the implementation of Tax Levy Resolution 97-1215 of the Board of Education of said School District which provides that an annual tax levy in an amount not to exceed four (4) mills may be assessed upon the taxable tangible property in said District for the purposes stated in said Resolution. Further, we petition, pursuant to K.S.A. 72-8801, et seq, that the County Election Officer call an election of the electors in said School District at the next general election, as specified by the Board of Education of the said School District, on the following question:

To vote in favor of any question submitted upon this ballot, make a cross or check mark in the square to the left of the word "Yes"; to vote against any question, make a cross or check mark in the square to the left of the word "No".

Shall Tax Levy Resolution 97-1215, passed by the Board of Education of Unified School District #315, be approved? YES NO

2. That the County Election Officer call an election, for submission of the above and foregoing question to the registered electors of said School District, to be held at the next succeeding primary or general election as defined by K.S.A. 25-2502, and amendments thereto, in which said School District is participating, all as provided by K.S.A. 25-3602(e).

I have personally signed this Petition. I am a registered elector of the State of Kansas and of Unified School District #315, Thomas County, Kansas, and my residence address is correctly written after my name.

Name	Residence Address	Date
<u>Bow Franz</u>	<u>1124 Flint Colby ks.</u>	<u>1-31-98</u> , 1998 <i>not reg</i>
<u>Donna K. Kump</u>	<u>1121 Flint Colby ks</u>	<u>1-31-</u> , 1998 <i>not reg</i>
<u>Kandice Hinson</u>	<u>1114 Flint Colby ks</u>	<u>1-31</u> , 1998 <i>not reg</i>
<u>Betty Nelson</u>	<u>955 E Heil</u>	<u>1-31</u> , 1998 <i>not reg</i>

PETITION

We, the legally qualified electors of Thomas County, State of Kansas, whose signatures appear below, hereby petition the Election Officer of Thomas County, Kansas to place a Resolution on a ballot to state, " Shall the Thomas County Board of Commissioners be allowed to exempt the Thomas County Road and Bridge Fund in an amount not to exceed 2 mills over and above the current level of spending from the Kansas Property Tax Lid law?" at the next General Election to be held in Thomas County, to determine the majority vote by election on this proposition all pursuant to K.S.A. 79-5028 and amendments.

I have personally signed this petition. I am a registered elector of the State of Kansas and of Thomas County and my residence address is correctly written after my name.

SIGNATURE	PRINTED NAME	RESIDENCE ADDRESS	DATE
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			

VERIFICATION

I, _____, the circulator of this petition, personally witnessed the signing by each person, whose name appears hereon. I further state that I am a resident of Thomas County, where the election is sought to be held.

NOTARY PUBLIC

The foregoing signature was witnessed by me on _____, 1998.
My commission expires: _____

Signed _____

Signed: _____ Date: _____

Attachment 2

Legal Notice

CHARTER RESOLUTION NO. 9

A CHARTER RESOLUTION PROVIDING THE BOARD OF COUNTY COMMISSIONERS OF THOMAS COUNTY, KANSAS, SUBSTITUTE AND ADDITIONAL PROVISIONS TO K.S.A. 79-5028 AND AMENDMENTS THERETO, WHICH CHARTER RESOLUTION WILL REMOVE THE AGGREGATE LEVY AMOUNT LIMITATION FROM THE THOMAS COUNTY ROAD AND BRIDGE FUND.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THOMAS COUNTY, KANSAS:

Section 1. The County of Thomas, by the power vested in it by K.S.A. 19-101a and as provided by K.S.A. 79-5036(b) and amendments thereto, hereby elects to add the Thomas County Road and Bridge Fund as an additional exemption from the aggregate levy amount set out in K.S.A. 79-5028. K.S.A. 79-5028 is part of an enactment commonly known as the Kansas Property tax lid law, which enactment applies to this county but does not apply uniformly to all counties.

Section 2. The following is hereby added to the provisions of K.S.A. 79-5028 and amendments thereto as it applies to Thomas County, Kansas: (i) expenses incurred for road and bridge fund, in an amount not to exceed 2 mills over and above the current level of spending for said fund.

Section 3. This Charter Resolution shall be published once each week for two consecutive weeks in the official county newspaper.

Section 4. This Charter Resolution shall take effect 60 days after final publication unless a sufficient petition for a referendum is filed, requiring a referendum to be held on the Resolution as provided in K.S.A. 19-101b in which this Charter Resolution shall become effective upon approval by a majority of the electors voting thereon.

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF THOMAS COUNTY, KANSAS this 6th day of July, 1998.

Glenn H. Kersenbrock, Chairman

Ronald G. Evans, Member

Duane Dawes, Member

Attest:
Rosalie Seemann, County Clerk

(Published in the Colby Free Press on July 8 & 15, 1998)

5-6

Laurence A. Taylor
Thomas County Attorney

1480 West Fourth, P.O. Box 509
Colby, KS 67701

Tele.: 785-462-4580

Fax.: 785-462-6738

August 3, 1998

Lester Haremza
P.O. Box 213
Colby, KS 67701

Re: Petition -- Exempting Thomas County Road and Bridge Fund from Aggregate Levy Amount Limitation

Dear Lester:

I am in receipt of the proposed Petition you filed with my office on July 29, 1998, and have reviewed the same. A copy of the filed proposed Petition is attached to this letter.

As Thomas County Attorney, pursuant to K.S.A. 25-3601, I am now required to furnish a written opinion as to the legality of the form of the question submitted and identified in that proposed petition. Please understand this opinion addresses only whether the question the petitioners seek to bring to an election is in the form of a question, appears as it should upon the ballot, and includes the language set forth in K.S.A. 25-620. Nothing in this opinion should be construed as advice concerning the content of the petition you have submitted, the validity of the signatures that may be attached to that petition or to advise you concerning the sufficiency of the petition.

Having offered those admonitions, I conclude that the attached proposed petition does not comply with the provisions of K.S.A. 25-620. The issue upon which you request an election is in the form of a question but it does not appear as it should upon the ballot and fails to include the language set forth in K.S.A. 25-620. I have attached a copy of K.S.A. 25-620 for your information.

Yours truly,


Laurence A. Taylor

LAT:cls

cc: Rosalie Seemann, Clerk ✓

Attachment 3

PETITION

We, the legally qualified electors of Thomas County, State of Kansas, whose signatures appear below, hereby petition the Election Officer of Thomas County, Kansas to place a Resolution on a ballot to state:

Shall Charter Resolution No. 9 passed by the Thomas County Board of Commissioners which exempts the Thomas County Road and Bridge Fund in an amount not to exceed 2 mills over and above the current level of spending from the Kansas Property Tax Lid be approved? YES NO

at the next General Election to be held in Thomas County, to determine the majority vote by election on this proposition all pursuant to K.S.A. 79-5028 and amendments. I have personally signed this petition. I am a registered elector of the State of Kansas and of Thomas County and my residence address is correctly written after my name.

SIGNATURE	PRINTED NAME	RESIDENCE ADDRESS	DATE
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

VERIFICATION

I, _____, the circulator of this petition, personally witnessed the signing by each person, whose name appears hereon. I further state that I am a resident of Thomas County, where the election is sought to be held.

NOTARY PUBLIC

The foregoing signature was witnessed by me on _____, 1998.
My commission expires: _____

Signed _____

Signed: _____ Date: _____

Attachment 4

Legal Notice

CHARTER RESOLUTION NO. 9

A CHARTER RESOLUTION PROVIDING THE BOARD OF COUNTY COMMISSIONERS OF THOMAS COUNTY, KANSAS, SUBSTITUTE AND ADDITIONAL PROVISIONS TO K.S.A. 79-5028 AND AMENDMENTS THERETO, WHICH CHARTER RESOLUTION WILL REMOVE THE AGGREGATE LEVY AMOUNT LIMITATION FROM THE THOMAS COUNTY ROAD AND BRIDGE FUND.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THOMAS COUNTY, KANSAS:

Section 1. The County of Thomas, by the power vested in it by K.S.A. 19-101a and as provided by K.S.A. 79-5036(b) and amendments thereto, hereby elects to add the Thomas County Road and Bridge Fund as an additional exemption from the aggregate levy amount set out in K.S.A. 79-5028. K.S.A. 79-5028 is part of an enactment commonly known as the Kansas Property tax lid law, which enactment applies to this county but does not apply uniformly to all counties.

Section 2. The following is hereby added to the provisions of K.S.A. 79-5028 and amendments thereto as it applies to Thomas County, Kansas: (i) expenses incurred for road and bridge fund, in an amount not to exceed 2 mills over and above the current level of spending for said fund.

Section 3. This Charter Resolution shall be published once each week for two consecutive weeks in the official county newspaper.

Section 4. This Charter Resolution shall take effect 60 days after final publication unless a sufficient petition for a referendum is filed, requiring a referendum to be held on the Resolution as provided in K.S.A. 19-101b in which this Charter Resolution shall become effective upon approval by a majority of the electors voting thereon.

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF THOMAS COUNTY, KANSAS this 6th day of July, 1998.

Glenn H. Kersenbrock, Chairman

Ronald G. Evans, Member

Duane Dawes, Member

Attest:

Rosalie Seemann, County Clerk

(Published in the Colby Free Press on July 8 & 15, 1998)

5-9

Laurence A. Taylor
Thomas County Attorney

1480 West Fourth, P.O. Box 509
Colby, KS 67701

Tele.: 785-462-4580
Fax.: 785-462-6738

August 4, 1998

John Galli, Jr.
2380 North Range Ave.
Colby, KS 67701

Lester Haremza
P.O. Box 213
Colby, KS 67701

Re: Proposed Petition -- Exempting Thomas County Road and Bridge Fund from
Aggregate Levy Amount Limitation

Dear John and Lester:

On Monday, August 3, 1998, you brought a proposed petition to my office and I have attached a copy of the same to this letter.

As Thomas County Attorney, pursuant to K.S.A. 25-3601, I am now required to furnish a written opinion as to the legality of the form of the question submitted and identified in that proposed petition. Please understand this opinion addresses only whether the question the petitioner seeks to bring to an election is in the form of a question, appears as it should upon the ballot, and includes the language set forth in K.S.A. 25-620. Nothing in this opinion should be construed as advice concerning the content of the petition you have submitted, the validity of the signatures that may be attached to that petition, or to advise you concerning the sufficiency of the petition.

Having offered those admonitions, I conclude that the attached proposed petition does not comply with the provisions of K.S.A. 25-620. The proposition or question is, in fact, in the form of a question and does appear as it should upon the ballot but it fails to include the language set forth in K.S.A. 25-620. I previously provided you with a copy of K.S.A. 25-620 and it is my understanding you picked up a guide to petition requirements from Rosalie Seemann. Both the statute and the guide specifically state that each petition must state the proposition or question preceded by the following words: "Shall the following be adopted?"

Attachment 5

5-10

PETITION

TO: ROSALIE SEEMANN
COUNTY ELECTION OFFICER
THOMAS COUNTY, KANSAS

1. That the undersigned, as registered electors residing within Thomas County, Kansas, hereby express their opposition to the implementation of Charter Resolution No. 9 as passed and adopted by the Board of County Commissioner of Thomas County, Kansas, on July 6, 1998. Further, we petition, pursuant to K.S.A. 19-101b, et seq, that the County Election Officer call an election of the electors in said County, on the following question:

To vote in favor of any question submitted upon this ballot, make a cross or check mark in the square to the left of the word "Yes"; to vote against any question, make a cross or check mark in the square to the left of the word "No".

Shall Charter Resolution No. 9, passed by the [] YES
Board of County Commissioners of Thomas County,
Kansas, on July 6, 1998, be adopted and take effect? [] NO

2. That the County Election Officer call an election, for submission of the above and foregoing question to the registered electors of Thomas County, to be held at the next succeeding primary or general election as defined by K.S.A. 25-2502, and amendments thereto, all as provided by K.S.A. 25-3602(e) and K.S.A. 19-101b.

I have personally signed this Petition. I am a registered elector of the State of Kansas, and of Thomas County, Kansas, and my residence address is correctly written after my name.

Name	Residence Address	Date
_____	_____	_____, 1998
_____	_____	_____, 1998
_____	_____	_____, 1998
_____	_____	_____, 1998
_____	_____	_____, 1998
_____	_____	_____, 1998
_____	_____	_____, 1998

Attachment 6

POTTER LAW OFFICE, P.A.

323 North Pomeroy Ave. P.O. Box 278
Hill City, Kansas 67642-0278

TONY A. POTTER
Attorney at Law

Telephone: (785) 421-2129
Facsimile: (785) 421-3603

August 7, 1998

Mr. Lester Haremza
P.O. Box 213
Colby, KS 67701

Re: Petition Opposing Charter Ordinance No. 9

Dear Mr. Haremza:

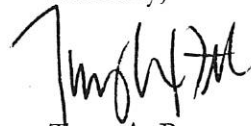
Enclosed you will find the Petition opposing the implementation of Charter Ordinance No. 9 as passed by the Thomas County Board of Commissioner on July 6, 1998.

You will notice that I have changed the language from the Petitions you sent to me, including the question to be submitted. The problem with the language as set forth by Mr. Taylor and K.S.A. 25-620 is that it does not exactly tract with K.S.A. 19-101b and that the resolution has already been "adopted" by the Board of County Commissioners. The issue in the election will be whether or not the resolution should be allowed to take effect. I have enclosed a copy of the latter statute for your review and have included language from both statutes and drafted the question to include whether or not the ordinance should be adopted and take effect.

Please remember to submit this Petition to Mr. Taylor for his review and approval before circulating the same. I have included two copies of the Petition, one for submission to Mr. Taylor and one for you to make copies from. Please note that you may make extra copies of the signature page, the second page, in order to obtain more signatures per Petition. However, each Petition must contain the first page and the last page and be properly executed by the circulator.

If you have any questions, please contact me before the Petition is circulated to save the effort that would be made.

Sincerely,



Tony A. Potter

TAP

Attachment 7

*9554 K.S. § 19-101b

**KANSAS STATUTES
CHAPTER 19. COUNTIES AND
COUNTY OFFICERS
ARTICLE 1. GENERAL
PROVISIONS**

Current through End of 1996 Reg. Sess.

**19-101b. Same; charter resolutions;
exemption of county from acts of
legislature; procedure; election.**

(a) Any county, by charter resolution, may elect in the manner prescribed in this section that the whole or any part of any act of the legislature applying to such county other than those acts concerned with those limitations, restrictions or prohibitions set forth in subsection (a) of K.S. 19-101a, and amendments thereto, shall not apply to such county.

(b) A charter resolution is a resolution which exempts a county from the whole or any part of an act of the legislature and which may provide substitute and additional provisions on the same subject. Such charter resolution shall be so titled, shall designate specifically the act of the legislature or part thereof made inapplicable to such county by the passage of the resolution and shall contain any substitute and additional provisions. Such charter resolution shall require the unanimous vote of all board members unless the board determines prior to passage it is to be submitted to a referendum in the manner hereinafter provided, in which event such resolution shall require a 2/3 vote of the board. In counties with five or seven county commissioners, such charter resolution shall require a 2/3 vote of all board members unless the board determines prior to passage it is to be submitted to a referendum in the manner hereinafter provided, in which event such resolution shall require a majority vote of the board. Every charter resolution shall be published once each week for two consecutive weeks in the official county

newspaper. A charter resolution shall take effect 60 days after final publication unless it is submitted to a referendum in which event it shall take effect when approved by a majority of the electors voting thereon.

(c) If within 60 days of the final publication of a charter resolution, a petition signed by a number of electors of a county equal to not less than 2% of the number of electors who voted at the last preceding November general election or 100 electors, whichever is the greater, shall be filed in the office of the county election officer demanding that such resolution be submitted to a vote of the electors, it shall not take effect until submitted to a referendum and approved by the electors. An election if called, shall be called within 30 days and held within 90 days after the filing of the petition. The board, by resolution, shall call the election and fix the date. Such resolution shall be published once each week for three consecutive weeks in the official county newspaper, and the election shall be conducted in the same manner as are elections for officers of such county. The proposition shall be: "Shall charter resolution No. _____, entitled (title of resolution) take effect?" The board may submit any charter resolution to a referendum without petition in the same manner as charter resolutions are submitted upon petition, except elections shall be called within 30 days and held within 90 days after the first publication of the charter resolution. Each charter resolution which becomes effective shall be recorded by the county election officer in a book maintained for that purpose with a statement of the manner of adoption, and a certified copy shall be filed with the secretary of state, who shall keep an index of the same.

*9555 (d) Each charter resolution passed shall control and prevail over any prior or subsequent act of the board and may be repealed or amended only by charter resolution or by an act of the legislature uniformly applicable to all counties.

History: L. 1974, ch. 110, § 3; L. 1987, ch. 100, § 1; July 1.

Search this disc for cases citing this section.

Laurence A. Taylor
Thomas County Attorney

1480 West Fourth, P.O. Box 509
Colby, KS 67701

Tele.: 785-462-4580
Fax.: 785-462-6738

August 14, 1998

Mr. Tony A. Potter
Potter Law Office, P.A.
P.O. Box 278
Hill City, KS 67642

Re: Proposed Petition -- Exempting Thomas County Road and Bridge Fund from
Aggregate Levy Amount Limitation

Dear Tony:

On Monday, August 10, 1998, Les Haremza delivered to the Thomas County Attorney's office a proposed petition relating to the above. In accordance with your letter to the Thomas County Attorney dated August 11, 1998, which was received via facsimile on that date, this proposed petition will be disregarded.

On Tuesday, August 11, 1998, a proposed petition was received from you via facsimile. A copy of the proposed petition is attached to this letter.

Pursuant to K.S.A. 25-3601, the Thomas County Attorney is required to furnish a written opinion as the legality of the form of the question submitted and identified in the petition. Please understand this opinion addresses only whether the question the petitioner seeks to bring to an election is in the form of a question, appears as it should on the ballot, and includes the language set forth in K.S.A. 25-620. Nothing in this opinion should be construed as advice concerning the content of the petition you have submitted, the validity of the signatures that may be attached to the petition, or to advise you concerning the sufficiency of the petition.

Having offered those admonitions, I conclude that the attached proposed petition does not comply with provisions of K.S.A. 25-620. The proposition or question is in the form of a question but it fails to set forth the language specifically required by K.S.A. 25-620. The statute specifically requires that the petition must state the proposition or question preceded by the following words: "Shall the following be adopted?" A copy of

Attachment 8

5-14

Mr. Potter
Page 2
August 13, 1998

the Thomas County Attorney's opinion letter dated August 4, 1998, is attached to this letter for further reference.

Yours truly,



Laurence A. Taylor

LAT:bkw

Enclosures

cc: Rosalie Seemann, County Clerk ✓

Attachment 8

5-15

AUG 11 1998 TUE 03:00 PM

PETITION

TO: ROSALIE SEEMANN
COUNTY ELECTION OFFICER
THOMAS COUNTY, KANSAS

1. That the undersigned, registered electors residing within Thomas County, Kansas, hereby demand that Charter Resolution No. 9, "A charter resolution providing the Board of County Commissioners of Thomas County, Kansas, substitute and additional provisions to K.S.A. 79-5028, and amendments thereto, which charter resolution will remove the aggregate levy amount limitation from the Thomas County Road and Bridge Fund", as passed by the Thomas County Board of County Commissioners on July 6, 1998, be submitted to a vote of the electors of Thomas County, Kansas, and that said resolution not take effect until submitted to a referendum and approved by the electors. The proposition shall be:

To vote in favor of any question submitted upon this ballot, make a cross or check mark in the square to the left of the word "Yes"; to vote against any question, make a cross or check mark in the square to the left of the word "No".

Shall Charter Resolution No. 9, "A charter resolution Providing the Board of County Commissioners of Thomas County, Kansas, substitute and additional provisions to K.S.A. 79-5028, and amendments thereto, which charter resolution will remove the aggregate levy amount limitation from the Thomas County Road and Bridge Fund", as passed by the Board of County Commissioners of Thomas County, Kansas, on July 6, 1998, take effect?

[] YES

[] NO

I have personally signed this Petition. I am a registered elector of Thomas County, Kansas and the State of Kansas, and my residence address is correctly written after my name.

Name	Residence Address	Date
_____	_____	_____, 1998
_____	_____	_____, 1998
_____	_____	_____, 1998
_____	_____	_____, 1998
_____	_____	_____, 1998

Attachment 9

RECEIVED FROM:

POTTER LAW OFFICE, P.A.323 North Pomeroy Ave. P.O. Box 278
Hill City, Kansas 67642-0278**TONYA A. POTTER**
Attorney at LawTelephone: (785) 421-2129
Facsimile: (785) 421-3603

August 14, 1998

Mr. Laurence A. Taylor
Thomas County Attorney
(785) 462-6738

VIA FACSIMILE

Re: Charter Ordinance No. 9 Petition

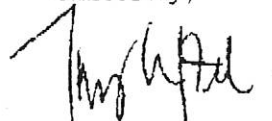
Dear Allen:

I have reviewed your letter dated August 14, 1998, regarding the Petition submitted to you for review, via facsimile, on August 11, 1998. I am requesting that you review the following Petition and approve the same for circulation.

Specifically, K.S.A. 19-101b(c) states that the language of the proposition shall be: "Shall charter resolution No. ____, entitled (title of resolution) take effect?". Obviously, we have a conflict between the language set forth in K.S.A. 25-620 and K.S.A. 19-101b. I chose to use the language in K.S.A. 19-101b because the language in K.S.A. 25-620, concerning the word "adopted" is not accurate in that the commissioner have already adopted the resolution. The question now is whether or not the resolution should take effect, as per K.S.A. 19-101b. In my mind, the charter resolution statute would govern, given the fact that the question is clearly set forth.

I have no strong objection to including the language that you request, and can change the phrase from "take effect?" to "be adopted?" if you so chose. The issue is circulating a petition that you have approved. I would suggest simply stating the question as I have proposed, changing the last words to "be adopted and take effect?". I have changed the Petition accordingly and ask that you review it and deliver an opinion to me forthwith.

Sincerely,


Tonya A. Potter

TAP

Attachment 10

PETITION

TO: ROSALIE SEEMANN
COUNTY ELECTION OFFICER
THOMAS COUNTY, KANSAS

1. That the undersigned, as registered electors residing within Thomas County, Kansas, hereby demand that Charter Resolution No. 9, a charter resolution providing the Board of County Commissioners of Thomas County, Kansas, substitute and additional provisions to K.S.A. 79-5028 and amendments thereto, which charter resolution will remove the aggregate levy amount limitation from the Thomas County Road and Bridge Fund, as passed and adopted by the Board of County Commissioner of Thomas County, Kansas, on July 6, 1998, be submitted to a vote of the electors of Thomas County, Kansas, and that said resolution not take effect until submitted to a referendum and approved by the electors. The proposition shall be:

To vote in favor of any question submitted upon this ballot, make a cross or check mark in the square to the left of the word "Yes"; to vote against any question, make a cross or check mark in the square to the left of the word "No".

Shall the following be adopted?

Shall Charter Resolution No. 9, a charter resolution providing the Board of County Commissioner of Thomas County, Kansas, substitute and additional provisions to K.S.A. 79-5028, and amendments thereto, which charter resolution will remove the aggregate levy amount limitation from the Thomas County Road and Bridge Fund, as passed by the Board of County Commissioner of Thomas County, Kansas, on July 6, 1998, take effect? YES NO

2. That the Board of County Commissioners of Thomas County, Kansas, pass a resolution directing that an election be called submitting the above proposal to the electors of Thomas County, Kansas.

I have personally signed this Petition. I am a registered elector of the State of Kansas, and of Thomas County, Kansas, and my residence address is correctly written after my name.

Name	Residence Address	Date
_____	_____	_____, 1998
_____	_____	_____, 1998

Attachment 11

OFFICERS

David L. Miller, President
Jerome A. Gorman, Vice-President
John M. Settle, Secretary-Treasurer
Julie McKenna, Past President
Steven F. Kearney, Executive Director



DIRECTORS

Edmond D. Brancart
Thomas J. Drees
Christine K. Tonkovich
Gerald W. Woolwine

Kansas County & District Attorneys Association

1200 W. 10th Street
Topeka, KS 66604
(785) 232-5822 • Fax: (785) 234-2433

January 31, 2001

To: Chairperson Allen and Members of Elections and Local Government Committee
From: Kansas County and District Attorneys Association
Re: SB 107


Madam Chair and members of the Committee,

The Kansas County and District Attorneys Association would like to thank the Committee for taking the time to hear our testimony on SB 107.

SB 107 would remove the county or district attorney from the process of determining the legality of the form of the question on any petition requesting an election on an ordinance or resolution adopted by the governing body of any county, city, school district, or other municipality. The bill places the burden on any person challenging the validity of the petition to prove in district court that the form is invalid.

Our Association's position on this issue was made clear previously in 1999 when we testified on SB 244. County and District Attorneys specialize in the area of criminal law, not in the area of determining the legality of the form of the question on petitions. Therefore, the KCDA's position remains the same in that we believe that this is not something the county and district attorneys should be involved in. The KCDA supports the changes that are made in this bill.

Thank You,


Steve Kearney

Executive Director, KCDA

Senate Elec + Loc Gov
1-31-01
Attachment 6

STATE OF KANSAS

BILL GRAVES, *Governor*
State Capitol, 2nd Floor
Topeka, Kansas 66612-1590



(785) 296-3232
1-800-748-4408
FAX: (785) 296-7973

OFFICE OF THE GOVERNOR

Before the Senate Elections and Local Government Committee

January 31, 2001

Testimony by Natalie G. Haag, Chief Legal Counsel and
Director of Governmental Affairs

Senate Bill 108

Madam Chair and members of the committee:

Thank you for the opportunity to testify on behalf of Governor Graves in support of Senate Bill 108. Senate Bill 108 promotes a more educated voting public by requiring statewide campaigns to file all campaign finance reports by electronic means and requiring daily reporting of campaign receipts during the 11 days immediately preceding the primary and general election.

As you know, one of the primary purposes for reporting campaign receipts and expenditures is public access to this information for purposes of making informed voting decisions. Currently, information reported in paper form has to be retyped before it can be posted on the internet for purposes of public consumption, thereby significantly delaying its accessibility to the general public. Submitting campaign receipts and expenditures electronically would more readily allow the immediate posting of the information on the internet for purposes of public consumption.

It is also important for the general public to have access to information regarding those people making contributions during the last days before both the primary and general elections. This information should be accessible at a time when it is significant and relevant to Kansas' citizens making voting decisions.

Under current law, the information for the last few days before the election is not accessible to the public until the next reporting deadline, several months later. Senate Bill 108 would require daily reporting of campaign contributions in statewide races for the eleven-day period prior to the primary and general elections. This information would also be filed by electronic means and could be immediately posted for general public consumption and use.

The intent of this bill is to promote a better and more informed voting public. The Governor requests your support of Senate Bill 108.

Senate Elec + Loc. Gov
1-31-01
Attachment 7

RON THORNBURGH
Secretary of State



First Floor, Memorial Hall
120 SW 10th Ave.
Topeka, KS 66612-1594
(785) 296-4564

STATE OF KANSAS
MEMO

TO: SENATOR BARBARA ALLEN, CHAIR
SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

FROM: BRAD BRYANT, DEPUTY ASSISTANT SECRETARY OF STATE
MELISSA WANGEMANN, LEGAL COUNSEL

DATE: 31 JANUARY 2001

During the hearing on SB 127 yesterday, Revisor Ken Wilke questioned the open records exception given in section five of the bill [K.S.A. 25-2309(i)].

Prior to drafting SB 127, our office consulted with Steve Phillips, the assistant attorney general who handles open records issues. Following yesterday's hearing, our office again consulted with Steve Phillips to discuss Ken Wilke's concerns.

It is our understanding, as confirmed by Steve Phillips, that section five of SB 127 does not create a new exception to the Kansas Open Records Act (KORA). The exception already exists in K.S.A. 45-221(a)(30). SB 127 simply clarifies that the exception of "unwarranted invasion of personal privacy" applies to an individual's residential address on voting records.

KORA allows county election officers (and any custodian of records) to close off records if the officer determines that the information would constitute an "unwarranted invasion of personal privacy." Steve Phillips opined that there is no requirement that the county election officer use a uniform standard, and the officer may use her discretion in determining whether the exception to KORA is met and whether the record should be sealed.

Although the current law allows this practice, we thought an express provision in the law would provide clarification to the county election officers and the public.

Given that section five does not create another exception to the KORA, section (j), which includes a sunset provision, should be omitted from the bill. This provision was not part of the Secretary of State's bill draft.

If you have any questions, please call.

*Senate Elec + Loc. Gov
1-31-01
Attachment 8*