

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Barbara P. Allen at 1:30 p.m. on February 6, 2003 in Room 245-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Senator Bunten  
Karen Hartenbower, Lyon County Clerk  
Brad Bryant, Deputy Assistant Secretary of State  
Senator Jackson  
Elizabeth Ensley, Shawnee County Election Commissioner  
Vic Miller, Shawnee County Commissioner  
Bill Yanek, Kansas Association of Realtors  
Whitney Damron, City of Topeka  
Lisa Stubbs, Topeka City Council  
Gary Price, Topeka City Council  
Kim Gully, League of Municipalities

Others attending: see attached list

Chairperson Allen noted the Committee members had been furnished with copies of the fiscal notes for the bills the committee is hearing today.

**SB 69 - Elections; changing the date of certain primary elections**

Chairperson Allen opened the hearing on **SB 69**.

Senator Bunten testified in support of **SB 69** to move the Primary Election closer to the General Election. He explained the change which is suggested by **SB 69** would give more people the opportunity to vote. The Primary is now the first Tuesday after the first Monday in August. **SB 69** would move the election to the first Tuesday after the fourth Monday in August. Families are back from vacations, children are back in school and believes there would be a larger turnout for the primary when the date is moved later. No written testimony was provided.

Brad Bryant appeared before the committee with neutral testimony, providing information and comments. He stated the primary date has been used since 1908 and has worked well. Voter turnout is enhanced more by close races, controversial ballot issues and attractive candidates than by moving the date of the election (Attachment 1).

Karen Hartenbower presented testimony in opposition to **SB 69**. Changing the date of the primary election would have a trickle down effect from the state to the local levels. In Lyon County approximately 30% of their voters are non-affiliated and choose not to vote in the primary. Currently advance voting begins 20 days before the General Election and believes anyone wanting to vote has time to do so (Attachment 2).

After a brief discussion, there being no others to testify on **SB 69**, Chairperson Allen closed the hearing.

**SB 79 - Cities; protest petitions, requirements on**

Chairperson recognized Senator Jackson, appearing before the committee in support of **SB 79**. Senator Jackson thanked Senator Bunten for his support on **SB 79**. Senator Jackson explained **SB 79** is to correct the by statute, the municipality may extend code enforcement 3 mile beyond the corporate city limits. The petition of 20% of the qualified electors in that area is necessary to provide the matter be decided by ballot at the regular primary/general county election. We believe 20% is excessive and **SB 79** corrects

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT at on February 6, 2003 in Room 245-N of the Capitol.

the 20% petition (Attachment 3).

Elizabeth Ensley presented neutral testimony on SB 79. Her concern is with the administrative duties outlined in K.S.A. 12-751. She asked the committee to consider her questions when discussing SB 79 (Attachment 4).

Vic Miller, Chair of the Shawnee County Commission appeared before the committee. He supports SB 79 and amendments to it that toll the 90 day time limitation until the Election Commissioner certifies who is eligible to sign the petition in question (Attachment 5).

Bill Yanek provided testimony in support of SB 79 (Attachment 6).

Whitney Damron appeared on behalf of The City of Topeka. He testified in opposition to SB 79, stating lack of building codes beyond the city limits will eventually lead to significant problems for cities to expand their boundaries when faced with properties that are out of compliance with previously adopted city building codes (Attachment 7).

Lisa Stubbs, Topeka City Council Member, testified in opposition of SB 79. Lisa stated 20% protest is consistent with other petition requirements in similar legislation. The Count's lack of regulation in issuing building permits causes costly problems that our cities will pay for in the future. The Chair requested Lisa to submit her testimony in writing to committee.

Gary Price, Topeka City Council, appeared in opposition to SB 79. He stated this is a single County/City issue and should not dictate policy for the entire State. The Chair requested Gary to submit written testimony.

Kim Gulley testified in opposition of SB 79 on behalf of League of Municipalities, listing concerns they have for the committee to consider when working SB 79 (Attachment 8).

Following a brief discussion, and no other Conferees to testify, the Chair closed the hearing on SB 79.

**SB 95 - Elections; names of political parties**

The Chair informed the committee SB 95 was scheduled for a hearing today. Due to the time limit of committee we will move the hearing of SB 95 next week. We have three other bills from the Secretary of State's office, and are hearing those next week

**Adjournment**

The meeting adjourned at 2:30 p.m. The next meeting is scheduled for Tuesday, February 11, 2003.



RON THORNBURGH  
Secretary of State



Memorial Hall, 1st Floor  
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## STATE OF KANSAS

### Senate Committee on Elections and Local Government

#### Testimony on Senate Bill 69

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

February 6, 2003

Madam Chairman and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 69. We are neither opposing nor supporting the bill; we wish to provide information and comments. Our thoughts on SB 69 can be summarized as follows:

- We recognize that it is a policy decision of the legislature to set the date of the state primary.
- The current date for the primary—the first Tuesday in August—has been the policy since at least 1908, and it has worked well. It provides adequate time for all the other events on the election calendar, and it is a system to which everyone is accustomed.
- The date of the primary should be changed only for good reason. In the past, legislation that would change the date of the primary has been offered in an attempt to increase voter turnout.
- The Secretary of State's office supports efforts to increase turnout as long as the secure and orderly election process is not threatened.
- If increasing turnout is the purpose behind SB 69, we question whether it will have the intended effect. We know of no evidence to strongly indicate turnout will increase with a later primary.

Compared to the other states, Kansas' current primary date in early August is approximately in the middle of the calendar. Turnout is not higher in states with later primaries. We have provided a chart showing the dates of state primaries and their turnout percentages. Research indicates that low voter turnout is caused by voters' feelings of apathy and inefficacy, that their individual votes don't matter, rather than by the date when the election is held. Turnout is enhanced more by close races, controversial ballot issues and attractive candidates than by moving the date of the election. Some voters do not vote because it is inconvenient. With our advance voting system, Kansas is among the nation's leaders in making voting convenient, but still voters find reasons not to vote. Some actually express contentment or satisfaction as their reasons for not getting involved.

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02-06-03  
Attachment 1

Moving the primary will leave less time for county and state canvasses, recounts, objections and ballot preparation, and it will make deadlines for federal services ballot distribution and advance voting impossible. There will be less opportunity for public debate, campaigning, the required post-primary procedures and preparation for the general election.

We have provided a time line showing the effect of SB 69 on the key dates in the election process.

If the committee wishes to report SB 69 favorably for passage, we would appreciate an opportunity to propose amendments to move certain deadlines, including the date of the state canvass, the deadline for candidate withdrawals and the deadline for distribution of federal services ballots.

Thank you for your consideration.



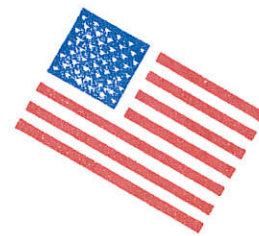
STATE	2002 PRIMARY ELECTION DATE	TURNOUT PERCENTAGE
HAWAII	SEPTEMBER 21	41.1%
MASSACHUSETTS	SEPTEMBER 17	NA
WASHINGTON	SEPTEMBER 17	34.2%
ARIZONA	SEPTEMBER 10	25.3%
CONNECTICUT	SEPTEMBER 10	NA
FLORIDA	SEPTEMBER 10	28.9%
MARYLAND	SEPTEMBER 10	30.8%
MINNESOTA	SEPTEMBER 10	14.4%
NEW HAMPSHIRE	SEPTEMBER 10	NA
NEW YORK	SEPTEMBER 10	NA
NORTH CAROLINA	SEPTEMBER 10	21.3%
RHODE ISLAND	SEPTEMBER 10	22.5%
VERMONT	SEPTEMBER 10	14.9%
WISCONSIN	SEPTEMBER 10	43.6%
DELAWARE	SEPTEMBER 7	15.4%
NEVADA	SEPTEMBER 3	NA
ALASKA	AUGUST 27	23%
OKLAHOMA	AUGUST 27	30.8%
GEORGIA	AUGUST 20	30.4%
WYOMING	AUGUST 20	59.3%
COLORADO	AUGUST 13	NA
KANSAS	AUGUST 6	25.8%
MICHIGAN	AUGUST 6	25.3%
MISSOURI	AUGUST 6	24.5%
TENNESSEE	AUGUST 1	36.2%
UTAH	JUNE 25	NA
MAINE	JUNE 11	NA
NORTH DAKOTA	JUNE 11	27.0%
SOUTH CAROLINA	JUNE 11	24.9%
VIRGINIA	JUNE 11	NA
ALABAMA	JUNE 4	35.0%
IOWA	JUNE 4	NA
MISSISSIPPI	JUNE 4	NA
MONTANA	JUNE 4	29.0%
NEW JERSEY	JUNE 4	11.0%
NEW MEXICO	JUNE 4	NA
IDAHO	MAY 28	32.3%
KENTUCKY	MAY 28	32.0%
ARKANSAS	MAY 21	NA
OREGON	MAY 21	46.7%
PENNSYLVANIA	MAY 21	NA
NEBRASKA	MAY 14	22.7%
WEST VIRGINIA	MAY 14	32.2%
INDIANA	MAY 7	22.0%
OHIO	MAY 7	19.4%
ILLINOIS	MARCH 19	32.8%
TEXAS	MARCH 12	13.5%
CALIFORNIA	MARCH 5	34.6%
LOUISIANA	NA	NA

2004 Election Dates  
SB 69

	Tuesday, August 3rd - Primary Election Day.
	Monday, August 9th - Deadline for county canvass to be finished.
	Friday, August 13th - Deadline for recounts to be completed.
	Tuesday, August 17th - Deadline for SOS to receive abstracts.
<i>Tuesday, August 24th - Primary Election Day.</i>	
Monday, August 30th - Deadline for county canvass to be finished.	
<i>Wednesday, September 1st - Deadline for state board of canvassers to meet.</i>	Wednesday, September 1st - Deadline for state board of canvassers to meet.
Friday, September 3rd - Deadline for recounts to be completed.	
Tuesday, September 7th - Deadline for SOS to receive abstracts.	
<i>Wednesday, September 8th - Deadline for candidates to withdraw after state canvass.</i>	Wednesday, September 8th - Deadline for candidates to withdraw after state canvass.
<i>Friday, September 17th - Deadline for federal service ballots to be mailed.</i>	Friday, September 17th - Deadline for federal service ballots to be mailed.
<i>Wednesday, September 29th - Deadline for withdrawal of candidate vacancy to be filled.</i>	Wednesday, September 29th - Deadline for withdrawal of candidate vacancy to be filled.
Wednesday, October 13th - Advance voting begins.	Wednesday, October 13th - Advance voting begins.
Tuesday, November 2nd - General Election Day.	Tuesday, November 2nd - General Election Day.



**KAREN K. HARTENBOWER**  
**LYON COUNTY CLERK**  
**ELECTION OFFICIAL**  
LYON COUNTY COURTHOUSE  
430 COMMERCIAL  
EMPORIA, KANSAS 66801-4013  
(620) 342-4950 ext 3243 Fax (620) 341-3415



February 6, 2003

Chair Allen and Committee Members:

If the date of the August Primary Election is changed then:

1. The date the State abstract is due (KSA 25-3203) will have to change. It is currently due by the second Tuesday after the election.
2. The date of the State canvass (KSA 25-3205) will have to change. It is currently scheduled for the first week in September.

If the date of the state Canvass is changed then:

1. It would cause a delay in counties receiving the lists of candidates to appear on General Election ballot and in receiving the rotation of the names.
2. The date of mailing federal service ballots (KSA 25-1220) would have to change. It is currently 45 days before the General Election.
3. Counties would have 3 weeks less time to prepare for the General Election.
4. Printers would have less time to print the ballots.
5. A delay in printing the ballots could cause a delay in being able to begin advance voting and mail permanent advance ballots. Currently the statutes allow advance voting to begin 20 days before the General Election and requires permanent advance ballots to be mailed 20 days before the said election.

The structure of the election cycle can be likened to a timetable, each action dependent on those that preceded it. Any change in the timeline can have

*Senate Elec & Loc Gov*  
*02-06-03*

*Attachment 2*



unforeseen and serious consequences. Then it can be likened to a house of cards.

Any change in the date of the State Primary Election would mean that all election statutes would have to be checked to see they do not conflict with the date change. Those that do would have to be checked to see they do not conflict with the date change. Those that do would have to be amended by the legislature.

County Clerks/Election Officials currently have barely enough time between the August Primary and the November General Election. There is not built in extra time. Any delay which causes the state canvass date to be pushed back causes a number of potential problems at the local level, only some of which are mentioned above.

Financially the proposed change in election dates would impact at both the state and county level. The State would have to take the time to amend all pertinent statutes affected by the date change and restructure their election timelines; and the counties, deprived of 3 weeks to prepare for the election, would have to hire extra personnel to rush to complete all needed tasks in a timely fashion. It should be noted that mistakes often result when pressed for time.

It was demonstrated just last year the difficulties which can arise when there is a delay in the election timeline. It is unwise and unnecessary to deliberately cause such problems when there is no reasonable or justifiable purpose to do so.

The argument that people are on vacation is why voter turnout is low is false. Anyone who really wants to vote can advance vote anytime during the 20 days before the election. Most people who go on vacation are usually only gone for a week. Voter statistics show that there are some people who do not vote any primaries. All primary turnout is lower than general elections.

The whole issue here is one of time. To use a well work phrase: time is money; and right now, that is in short supply.

DAVID D. JACKSON  
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COMMITTEE ASSIGNMENTS  
WAYS AND MEANS  
ELECTIONS AND LOCAL GOVERNMENT  
TRANSPORTATION  
JOINT COMMITTEE ON SPECIAL CLAIMS  
AGAINST THE STATE  
TOPEKA STATE HOSPITAL CEMETERY  
MEMORIAL ADVISORY COMMITTEE  
JOINT COMMITTEE ON CHILDREN'S ISSUES  
SPECIAL COMMITTEE ON KANSAS SECURITY

SENATE CHAMBER

Senate Bill--79  
By Senators Jackson, Bunten and Hensley

Senate Bill 79 has been introduced to allow a protest petition to be valid with 5% of the qualified electors instead of 20%. A 20% requirement is onerous and I am told that it is one of the highest percentage requirements in law.

The reason for language on page 2 line 10 regarding the January 1, 2003 effective date stems from a unilateral action taken by the City of Topeka City Council on January 14, 2003 on a 5-4 vote to enact building code compliance in the area 3 miles outside the city limits. This action was taken without consultation with the County Commission or any other local governing body. This language simply clarifies that petitioners protesting this action need meet the 5% requirement instead of the 20% requirement.

We feel that democracy is best served when the people are allowed opportunity to vote on proposed regulations enacted by a council of another jurisdiction. This bill provides that opportunity and the Shawnee County Senate Delegation requests the committee's support and favorable passage of the bill.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "David D. Jackson".

Senator David D. Jackson

Senate Elec & Loc Gov  
02-06-03  
Attachment 3



## 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  
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### M E M O R A N D U M

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

FROM: Elizabeth Ensley  
Shawnee County Election Commissioner

DATE: February 6, 2003

RE: SB 79

Thank you for allowing me to appear before your committee regarding Senate Bill 79 which addresses a protest petition for a three mile area outside the city limits. I am not appearing in favor of nor against the issue regarding building codes nor the ability to protest. My concern is merely with the administrative duties outlined in K.S.A. 12-751. I am not representing the Kansas County Clerk's Association, simply myself.

K.S.A. 12-751 has many vague and conflicting requirements.

I. The protest petition is not required to have the question to be voted on, printed on the petition. This could cause confusion as to exactly what the signer has agreed to, who writes the question, and how the question is to be worded.

II. There is no written statement for the signers so the recital would be that from the general petition statutes. K.S.A. 25-3602 requires "I am a registered elector of the state of Kansas and of (here insert name of political or taxing subdivision)". The difficulty is that the 3 mile area is not a political or a taxing subdivision.

III. The time frame currently required in the law is vague and conflicting.

A. The protest period begins "within 90 days after a city has adopted an ordinance...". Does this mean after the City Council has voted, the mayor has signed the ordinance or the ordinance was published (first or second time)?

B. Since the real estate area affected is constantly changing and is not a political or taxing subdivision, the election official does not have any statistics on the computer. Those passing the protest petition do not know how many electors need to sign the petition. The election official will not have any statistics until 30 days later when the City Clerk sends them the map and street addresses. Even so, these addresses will need to be compared to the voter file before the number can be given to those passing the protest petition. Data files may not be in the same format so this process could take time.

IV. Can the city annex land during or after any part of this process?

Senate Elec & Loc Gov  
02-06-03  
Attachment 4

V. I would like to recommend the following changes:

A. Word a clear and simple question as it is to be printed on the ballot and require it to be printed on the petition such as; 'Shall the City of \_\_\_\_ adopt ordinance No. \_\_\_\_\_ which provides for the enforcement of a building code outside the corporate limits of the city?' I do not recommend including the ordinance title, since some titles are long and confusing.

B. State the signer's recital to include the definition of "qualified elector" such as 'I have personally signed this petition. I am a registered elector of the state of Kansas and reside within the unincorporated area lying within three miles of the corporate limits of the city of \_\_\_\_\_'.

C. Change the time frame to: '

1. Within 30 days of the date of the final publication for the ordinance, the City Clerk shall certify to the county election officer....'

2. The County election officer shall then certify to the City Clerk, the total number of registered voters in the affected area and the number of signatures required for a protest petition. *Could this be upon request?*

3. If within \_\_ days after the date that the county election officer certifies to the City Clerk the number of signatures required for a protest petition, a petition signed by ...

Thank you for your time and consideration.





## Shawnee County Board of Commissioners

Rm. B-11, Courthouse Topeka, Kansas 66603-3933

Marice Kane, 1st district

Vic Miller, 2nd district

Theodore D. Ensley, 3rd district

(785) 233-8200 ext. 4040, Fax: 785-291-4914

E-Mail: [Commission@co.shawnee,ks.us](mailto:Commission@co.shawnee,ks.us)

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Senator Allen and members of the committee:

My name is Vic Miller and I am Chair of the Shawnee County Commission.

Thank you for the opportunity to appear before you and thank you to Senators Jackson, Hensley and Bunten for sponsoring SB 79.

Since the 5-4 vote of the Topeka City Council three weeks ago to extend the City's Building Codes to the 3 mile area surrounding the City, I have been inundated with calls and e-mails from constituents asking that the County Commission do something to prevent it.

Many are confused that this is a "County" vs. "City" issue. It is not.

The only issue presented today is what is a reasonable course of redress for aggrieved citizens to protest the actions of their elected officials. Having actively participated in petition drives in this community, I can attest that a 20 percent threshold is unduly onerous. This requirement is particularly repressive when one considers that the action protested here was taken by elected officials who were not elected by the citizens affected.

I support SB 79 and amendments to it that toll the 90 day time limitation until the Election Commissioner certifies who is eligible to sign the petition in question.

Senate Elec + Loc Gov  
02-06-03  
Attachment 5





TO: SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

FROM: BILL YANEK -- KAR, TOPEKA BUILDER-REALTOR COALITION  
DIRECTOR OF GOVERNMENTAL RELATIONS

DATE: February 6, 2003

SUBJECT: Senate Bill 79

City-county strife is nothing new to cities and counties across Kansas. Normally, Builders and Realtors® believe that this conflict is best dealt with by the city and county governments. However, when these conflicts impact the process through which cities and counties regulate growth and development, we believe citizens ought to have a strong voice in the matter. More importantly, when these conflicts enact regulation on citizens outside city corporate limits, the situation becomes "regulation without citizen representation".

Currently under K.S.A. 12-751, a protest petition against the enforcement of an ordinance outside the corporate limits of a city would require a petition "signed by at least 20% of the qualified electors protesting the enforcement of such an ordinance". By lowering the requirement to 5%, as does SB 79, the petition process is more manageable for citizens to navigate.

We believe that SB 79 is good public policy for the State of Kansas. First, the bill is narrowly tailored to situations where a city ordinance is impacting county residents outside the corporate limits of the city. Second, the petition process does not automatically void the city ordinance; the bill only removes enforcement provisions of the ordinance and submits the ordinance to the next regular primary or general county election.

Thank you for the opportunity to present testimony in this matter.

We urge that Senate Bill 79 be passed favorably.

*Senate Elec & Loc Gov*  
*02-06-03*  
*Attachment 6*



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**TESTIMONY**

TO: The Honorable Barbara Allen, Chair  
And Members Of The  
Senate Elections and Local Government Committee

FROM: Whitney Damron  
On Behalf Of The  
City of Topeka

RE: SB 79 – An Act concerning cities; relating to protest petitions

DATE: February 6, 2003

Good afternoon Madam Chair Allen and Members of the Senate Committee on Elections and Local Government:

My name is Whitney Damron and I appear before you today on behalf of the City of Topeka in opposition to the adoption of SB 79 that would lower the threshold for gathering signatures in opposition to the adoption of city building code standards outside the corporate limits of a city.

With me today are Topeka City Councilwoman Lisa Stubbs and Topeka Councilman Gary Price who will both speak briefly on this bill following my comments.

Current law allows for an election on the building code issue if 20 percent of the qualified electors sign a petition against the ordinance. SB 79 would lower that threshold to 5 percent and also extend the timeframe for gathering such signatures in the way the bill is enacted (at least for the City of Topeka).

Allowing cities to adopt building codes outside their corporate limits appears to have been adopted in 1991 (K.S.A. 12-751). The protest petition language appears to have been added in 1998, which included the current threshold amount of 20 percent (K.S.A. 12-751a). HB 2759 was ultimately adopted in 1998 by the Kansas Legislature by margins of 40-0 in the Senate and concurrence by the House on a vote of 101-22.

Senate Elec + Loc Gov  
02-06-03  
Attachment 7

The Legislature has recognized the need for cities to have some degree of influence beyond their corporate boundaries. Expansion and annexation are a natural occurrence for a growing municipal population. Allowing cities to adopt building codes within three miles of their corporate limits is necessary to provide for reasonable protections to the public, both within the city limits and beyond as allowed under current law. Lack of building codes beyond the city limits will eventually lead to significant problems for cities that seek to expand their boundaries when faced with properties that are significantly out of compliance with previously adopted city building codes.

- Current law allows for significant input from the public prior to the adoption of such ordinances.
- Elections allow for change in the promulgators of such ordinances.
- 20 percent threshold is a reasonable amount of qualified electors required to object to the adoption of such an act and should not be lowered to the level that would allow a relative few to disrupt and delay the adoption of an ordinance that has been thoroughly reviewed and properly adopted.
- As drafted, SB 79 would attempt to undue an ordinance that has already been adopted by the City of Topeka in full compliance with current law.

As you may have read in today's *Topeka Capital-Journal*, this issue is before the Kansas Legislature due to a disagreement between the City of Topeka and Shawnee County. I have attached the article for your review.

I would now like to call upon Councilwoman Stubbs and Councilman Price to offer their comments on SB 79.

Thank you.

Whitney Damron

Councilwoman Lisa Stubbs, District 7  
Councilman Gary Price, District 9  
Topeka City Council  
215 SE 7<sup>th</sup> Street, Room 255  
Topeka, Kansas 66603-3914

Website: [www.topeka.org](http://www.topeka.org)

# K A N S A S LEGISLATURE



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## Building code foes find help at Statehouse

**1:02 a.m.**  
**- 2/6/2003**

### The Capital-Journal

Shawnee County residents unhappy with the Topeka City Council's decision to extend city building codes beyond the city limits have allies at the Statehouse.

Sens. David Jackson, R-Topeka, Anthony Hensley, D-Topeka, and Bill Bunten, R-Topeka, are sponsoring a bill that would amend a state statute governing protest petitions. The bill would require fewer signatures for a protest petition and extend the time for gathering petition signatures.

"All we're trying to do is make it fair for people to have a voice in government," Jackson said Wednesday.

The Senate's Local Government Committee will conduct a hearing on the bill at 1:30 p.m. today in Room 245-N at the Statehouse.

The city council voted 5 to 4 on Jan. 13 to adopt an ordinance extending its building codes to that area within a three-mile radius of the city.

Those who want to protest the ordinance and force a public vote would have to collect signatures from 20 percent of the voters in the area on a petition. Petition organizers would have 90 days from adoption of the ordinance to collect the signatures.

The proposed bill would require signatures from only 5 percent of the voters in the area and wouldn't start the clock on the 90 days until petitioners know how many signatures they need.

Jackson said the current statute is unfair because some of the 90 days is eaten up in preliminary work.

The statute gives the city clerk 30 days after adoption of an ordinance to provide a legal description and a map of the area involved in the protest. That information then goes to the election officer, who must determine how many registered voters live in the area and how many signatures are needed to meet the 20 percent requirement.

Under the statute, the 90 days provided to the petitioners runs concurrently with the 30 days the

clerk has to provide information and the time it takes the election officer to compute the number of required signatures.

County Elections Commissioner Elizabeth Ensley said she would testify as a neutral party at today's hearing.

Ensley said she would suggest legislators give city and election officials 30 days to do their work before starting the 90-day period, or just start the 90 days once officials have certified the number of signatures required.

Councilwoman Lisa Stubbs, who voted in favor of the building codes, opposes the bill.

"In this case, I think the remedy is there. It's overkill," she said of the bill. "The state, in its infinite wisdom, has given the counties an out and that is to adopt their own building codes."

**Alicia Henrikson can be reached at (785) 295-1192 or ahenrikson@cjonline.com.**

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Home > Kansas Statutes > Session Laws > Kansas Session Law No. 128

## Kansas Session Law No. 128

CHAPTER 128

→ HOUSE BILL No. 2759\*

An Act concerning city elections; relating to qualified elector.

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

Section 1. (a) When used in this section:

(1) "City" means any city which has adopted an ordinance which provides for the enforcement of a building code outside the corporate limits of such city as authorized by K.S.A. 12-751, and amendments thereto.

(2) "Ordinance" means an ordinance adopted by a city which provides for the enforcement of a building code outside the corporate limits of a city as authorized by K.S.A. 12-751, and amendments thereto.

(3) "Qualified elector" means any registered voter required to comply with an ordinance, who resides within the unincorporated area lying within three miles of the corporate limits of a city.

(b) Within 30 days of the adoption of an ordinance, the city clerk shall certify to the county election officer a legal description and a map of the area outside the corporate limits of the city governed by the provisions of such ordinance and the street addresses of all real estate located therein.

(c) Within 90 days after the effective date of this act or within 90 days after a city has adopted an ordinance, a petition signed by at least 20% of the qualified electors protesting the enforcement of such ordinance outside the corporate limits of the city may be submitted to the county election officer. If a sufficient petition is filed, the county election officer shall notify the board of county commissioners of the county in which such city is located. Unless the governing body of the city modifies the ordinance to remove the provision from the ordinance relating to the enforcement of such building code outside the corporate limits of the city, the board of county commissioners shall submit the proposition of modifying the ordinance to remove the provisions from the ordinance relating to enforcement of such building code outside the corporate limits of the city. Such resolution shall be submitted to the qualified electors at the next regular primary or general county election. Such election shall be called and held in the manner provided by the general bond law. The county election officer shall certify the results of such election to the governing body of the city. If a majority of the qualified electors voting on the question vote in favor thereof, the governing body of the city shall modify such ordinance to remove the provisions from the ordinance relating to the enforcement of such building code outside the corporate limits of the city. Such ordinance shall be adopted within 30 days following

the canvass of such election. Such ordinance shall be adopted in the manner provided by K.S.A. 12-3001, and amendments thereto.

(d) If an election is held pursuant to subsection (c) and a majority of the qualified electors vote in favor of removing the building code, the governing body of the city shall not adopt any such ordinance for at least four years following the date of the election held pursuant to subsection (c).

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 23, 1998

Published in the *Kansas Registers* April 30, 1998

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teacher ratio classes, weighting. Ef-

1134

HJ 1134

Effective date: St Bk.

Commerce and Labor—HJ 1134

Business, Commerce and Labor—HJ

Passed as am.—HJ 1494

Yeas 0—HJ 1499

—SJ 1144

1165

ston, Compton, Dahl, Dean, Faber,  
John, Geringer, Gilbert, Gilmore, Ha-  
Howell, Humerickhouse, Hutchins,  
Mason, Mayans, Mays, McCreary,  
Nichols, O'Connor, O'Neal, Packer,  
Powers, Presta, Ruff, Sawyer,  
Shultz, Swenson, Tanner, Thi-  
Wilson, Osborne, Gregory, Cook  
n education expenses. Effective

34

me tax deduction. Effective date:

42

ve date: St Bk.

Affairs—HJ 1134

ent program, rescind limitation  
Effective date: 07/01/98.

1134

ropriations—HJ 1561

nt rule 4(k)—HJ 2048; EFA, amt.

21 Nays 1—HJ 2066

1333

—SJ 1659

Means—SJ 1680; Referred to

1 rule 4(k)—SJ 1703; EFA, amt.

104

—HJ 2327

H 2759 Bill by Mason

Qualified elector; registered voters residing in unincorporated areas gov-  
erned by city subdivision regulations. Effective date: 04/30/98.

01/30/98 House—Introduced—HJ 1133

02/02/98 House—Referred to Governmental Organization and Elections—HJ 1134

02/20/98 House—CR: Be passed as am. by Governmental Organization and Elec-  
tions—HJ 1312

02/24/98 House—COW: CR be adptd; be further am.; be passed as am.—HJ 1335

02/25/98 House—FA: Passed as am.; Yeas 79 Nays 41—HJ 1346

02/25/98 Senate—Received and introduced—SJ 1020

02/26/98 Senate—Referred to Elections & Local Government—SJ 1028

03/24/98 Senate—CR: Be passed as am. by Elections & Local Government—SJ  
1218

03/27/98 Senate—COW: CR be adptd; be passed as am.—SJ 1311; EFA: Passed  
as am.; Yeas 40 Nays 0—SJ 1341

04/01/98 House—Nonconcurrent; CC requested; apptd Glasscock, Packer, Wel-  
shimer—HJ 1729

04/01/98 Senate—Acceded; apptd Hardenburger, Becker, Gooch—SJ 1395

04/02/98 House—Motion to concur failed Yeas 48 Nays 72; Remains in conference  
committee—HJ 1750

04/10/98 House—Concurred; Yeas 101 Nays 22—HJ 1831; Requested senate to  
return

04/17/98 House—Enrolled and presented to gov.—HJ 2067

04/23/98 —Approved by gov.—HJ 2047

H 2760 Bill by Transportation

Authorizing secretary of transportation to pay for certain tools of employees.

Effective date: 07/01/98.

01/30/98 House—Introduced—HJ 1133

02/02/98 House—Referred to Transportation—HJ 1135

02/13/98 House—CR: Be passed by Transportation—HJ 1260

02/18/98 House—COW: Be passed—HJ 1296

02/19/98 House—FA: Passed; Yeas 102 Nays 21—HJ 1303

02/19/98 Senate—Received and introduced—SJ 997

02/20/98 Senate—Referred to Transportation & Tourism—SJ 1001

03/10/98 Senate—CR: Be passed by Transportation & Tourism—SJ 1093

03/24/98 Senate—COW: Be passed—SJ 1225

03/25/98 Senate—FA: Passed; Yeas 40 Nays 0—SJ 1237

03/27/98 House—Enrolled and presented to gov.—HJ 1678

04/02/98 —Approved by gov.—HJ 1766

H 2761 Bill by Agriculture

Public warehouse license for grain storage. Effective date: 07/01/98.

01/30/98 House—Introduced—HJ 1133

02/02/98 House—Referred to Agriculture—HJ 1134

02/11/98 House—CR: Be passed as am. by Agriculture—HJ 1232

02/16/98 House—COW: CR be adptd; be passed as am.—HJ 1266

02/17/98 House—FA: Passed as am.; Yeas 124 Nays 0—HJ 1273

02/17/98 Senate—Received and introduced—SJ 984

02/18/98 Senate—Referred to Agriculture—SJ 991

03/05/98 Senate—CR: Be passed by Agriculture—SJ 1056

03/12/98 Senate—COW: Be passed—SJ 1123; EFA: Passed; Yeas 39 Nays 0—  
SJ 1136

03/20/98 House—Enrolled and presented to gov.—HJ 1549

03/27/98 —Approved by gov.—HJ 1690

H 2762 Bill by Agriculture

Election of members of county extension councils. Effective date: St Bk.

01/30/98 House—Introduced—HJ 1133

02/02/98 House—Referred to Agriculture—HJ 1134

05/26/98 House—Died in committee

H 2763 Bill by Financial Institutions

Release of certain mortgages and deeds of trust. Effective date: 07/01/98.

01/30/98 House—Introduced—HJ 1133

02/02/98 House—Referred to Financial Institutions—HJ 1134

02/06/98 House—CR: Be passed as am. by Financial Institutions—HJ 1186



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Home > Kansas Statutes > Kansas Statute No. 12-751

12-751

Chapter 12.--CITIES AND MUNICIPALITIES

Article 7.--PLANNING AND ZONING

12-751. Same; building or zoning permits; building codes outside the city. (a) Compliance with subdivision regulations may be required as the condition of an issuance of a building or zoning permit when so specified in the subdivision regulations.

(b) In conjunction with subdivision or zoning regulations, the governing body of any city may adopt and enforce building codes outside the city limits.

(c) The provisions of this section shall become effective on and after January 1, 1992.

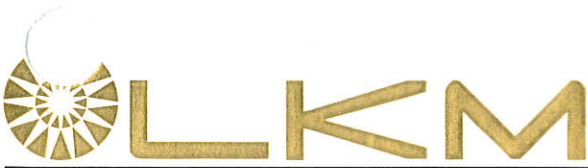
History: L. 1991, ch. 56, § 11; July 1.

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SB 23 1991  
Comprehensive Planning & Zoning legislation  
Final Bill / Conference Committee  
93-28  
40-0





League of Kansas Municipalities

To: Senate Elections and Local Government Committee  
From: Kim Gulley, Director of Policy Development & Communications  
Date: February 6, 2003  
Re: SB 79

Thank you for allowing me to appear today on behalf of the League of Kansas Municipalities (LKM) and our 556 member cities. K.S.A.12-751a applies statewide and any changes to the authority granted by this statute would affect all 626 cities in the state. We appear today in opposition to SB 79 and we offer the following concerns for your consideration.

Cities in Kansas have been granted extraterritorial jurisdiction to regulate certain activities in the 3-mile zone surrounding the corporate limits of the city. This authority includes zoning regulations, subdivision regulations, and building code enforcement. Whenever a city regulates in the 3-mile zone, at least two members of the planning commission must reside within that area. Furthermore, at any time, the county may take action to impose its own requirements, thereby superseding the city's requirements (K.S.A.12-715b). These two provisions ensure appropriate representation for the citizens living in the 3-mile zone.

In addition to the ensured representation by citizens living in the 3-mile zone, there is a petition and election requirement which provides yet another layer of protection. The current petition requirement provides that 20% of the qualified electors may protest the application of city building codes in the 3-mile zone. The same 20% requirement is found throughout the extraterritorial portion of the statutes, including the petition requirement for zoning and subdivision regulations. LKM opposes pulling out a single piece of this overall structure and reducing that petition requirement to 5%.

Extraterritorial jurisdiction has been granted to cities to help to ensure that individuals do not use the corporate boundaries of the city just to avoid zoning, subdivision, and building code requirements. There is a significant likelihood that those who live just outside the city limits may someday be included within the city limits and it is important that development be appropriately regulated in those areas. To that end, the Kansas Legislature has provided a comprehensive set of laws which authorizes zoning, subdivision, and building code enforcement in the 3-mile zone. Those laws are interrelated and offer several layers of protection for the citizens living within the area.

For these reasons, LKM opposes altering the building code portion of this jurisdiction and respectfully requests that you do not recommend SB 79 favorably for passage. Again, thank you for the opportunity to offer comment on this legislation. I would be happy to answer questions at the appropriate time.

*Senate Elec + Loc Gov*  
*02-06-03*

*Attachment 8*