

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Don Myers at 3:30 p.m. on February 9, 2004 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Legislative Research Department
Dennis Hodgins Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Shirley Weideman, Committee Secretary

Conferees appearing before the committee:

Karen Hartenbower, Lyons County Election Clerk and Election Official
Elizabeth Ensley, Shawnee County Election Commissioner
Pat Rahija, Wyandotte County Election Commissioner (written testimony)

Others attending: See Attached List.

Chairman Myers opened the hearing on **HB 2640 - Elections; limitation on the number of spring primary elections.**

Ken Wilke, Revisor, was asked by Chairman Myers to explain **HB 2640**. Ken said that this bill would eliminate some primary elections, especially if there were only 2 candidates. He said this would include school district, city officer and college district elections, so that only if there are more than 3 candidates, would be a primary election be held.

Karen Hartenbower, Lyons County Election Clerk, appeared before the committee as a proponent of **HB 2640**. She said that this is a bill requested by the Kansas County Clerks' and Election Officials' Association-Election Committee. Her concern with present law is that there have been times when a primary was held because there were 3 candidates for one position in city and school board elections, causing the city or school district to pay for the election. She told the committee that there is a provision in the statutes stating that if everyone in the county does not get to vote on any Election Day, then county money will not be spent on that election and the district with the 3 candidates is responsible for the cost of the election. Ms. Hartenbower indicated that larger cities would not be affected by this bill and it would only effect the 2nd and 3rd class cities and the school districts. (Attachment 1) Ms. Hartenbower answered questions asked by committee members.

Also appearing before the committee as a proponent of **HB 2640** was Elizabeth Ensley, Shawnee County Election Commissioner. She wanted to emphasize that voter turnout in the spring primary elections is very low, so that you could easily have fewer people voting as the majority in the spring primary election than as a plurality in the general election. Ms. Ensley said the average turnout in spring primaries in Shawnee County is 14%. She also told the committee that she would like to see the cost savings by having fewer primary elections as well as having the results of the election determined by a larger percentage of the voters voting at that time. Ms. Ensley responded affirmative to a question asked by a committee member regarding the need of 34% of the votes to win a general election with 3 candidates, and the need of over 50% of the votes to win with 2 candidates.

The hearing on **HB 2640** was closed by Chairman Myers.

Chairman Myers announced that he would wait until Wednesday to work **HB 2640** to resolved some of the problems with Section 3. in regard to having 2 or 3 candidates in a college district election.

The hearing on **HB 2641 - Drainage districts: Definition of taxpayer** was opened by Chairman Myers.

Ken Wilke, Revisor, was asked by the Chairman to explain **HB 2641**. He said that it defines 'taxpayers' for use in certain drainage ditch district elections. He said that Statute K.S.A. 24-414 dates back to 1905 and he indicated that this bill would determine who gets to vote to choose directors in that district.

CONTINUATION SHEET

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE at 3:30 p.m. on February 9, 2004 in Room 526-S of the Capitol.

Section 1 (c) defines 'taxpayer' as any person who owns real property within the district and who pays taxes on this property. He also said that Section 2. further defines 'taxpayer', 'owner', 'qualified person' and the 'time allowed for registering to vote'. Ken told the committee that there is some mention in Section 2. about oil, gas and mineral rights. Members asked questions of Ken about corporations, co-owners as husband and wife, and whether or not the owner must live in the district.

Elizabeth Ensley, Shawnee County Election Commissioner, appeared before the committee as a proponent for **HB 2641**. She said that some drainage district elections are run by county election officers, and it is difficult to determine the qualifications to vote in a drainage district election. Ms. Ensley indicated that the definition of a 'taxpayer' would be helpful (Attachment 2) She also called the committee's attention to the written testimony by Pat Rahija, Wyandotte County Election Commissioner, who requested that **HB 2641** be drafted, but who was unable to attend the meeting. Ms. Rahija says in her written testimony that in the counties with a population of more than 150,000, there are two additional requirements to be eligible to vote in those drainage district besides being a qualified elector: the voter must be a taxpayer and a resident of the district. Ms. Rahija's written testimony also said that there was a challenge in 1999 after a drainage district election, by an attorney for a candidate contending that since there was no definition of 'taxpayer', anyone who pays any type of taxes such as sales tax, should be eligible to vote. Also, in her testimony Ms. Rahija requests that individual land owners, whether an individual or a corporation, have the right to vote and serve on the board of directors. (Attachment 3) Ms. Ensley responded to questions asked by committee members.

The hearing on **HB 2641** was closed by Chairman Myers. He said the committee would work **HB 2641**.

Representative Toelkes moved to amend HB 2641 by striking all of Section 2, lines 4 through 36 on page 2. Representative Sawyer seconded the motion. The motion carried.

Representative Yonally moved and Representative Toelkes seconded the motion to pass HB 2641 as amended favorably from committee. The motion passed.

Committee Chairman Myers continued the hearing on **HB 2589 - Campaign finance act; electronic filing of reports.**

Ken Wilke, Revisor, gave the committee copies of an amendment for HB 2589 which would change the statement from "Any information required to be filed pursuant to this section, may be filed electronically with the commission in accordance with rules and regulations promulgated by the commission" to "Any information required to be filed pursuant to this section, may be filed electronically with the Secretary of State or county election officer as appropriate in accordance with rules and regulations promulgated by the Commission". This statement would be replaced in Sections 1. through 5. (Attachment 4)

Representative Sawyer suggested that the word 'Commission' be replaced with 'Secretary of State's Office', and also that the amendment would add a date in Section 7, so that it would read: "This act shall take effect and be in force from and after July 1, 2005 and it's publication in the statute book".

Representative Toelkes moved to amend HB 2589 as recommended by Representative Sawyer and Revisor Ken Wilke. Representative Miller seconded the motion. The motion carried.

Representative Wilson moved a substitute motion to amend HB 2520 - Campaign finance; allowing candidate to sign reports in lieu of treasurer, into HB 2589. Representative Gilbert seconded the motion. The motion passed with 9 votes in favor and 6 votes against the motion.

Representative Svaty moved and it was seconded by Representative Toelkes to pass HB 2589 favorable as amended from committee. The motion carried.

The meeting was adjourned at 4:50 p.m. The next scheduled meeting is February 11.

HOUSE ETHICS AND ELECTIONS COMMITTEE

GUEST LIST DATE: February 9, 2004

Your Name	Representing
Elizabeth Easley	Shawnee Co Election Commission
Karen L Hartenbroun	KCC & EOA
Mark Tomb	League of Kansas Municipalities
Bill Miller	Gov Ethics Com
Brad Bryant	Sec. of State
BRYAN CASKEY	Sec. of STATE
Ron Seiber	Hon Law Firm
Jesse Boyer	Sec. of State

**KAREN K. HARTENBOWER
LYON COUNTY CLERK
ELECTION OFFICIAL
LYON COUNTY COURTHOUSE
430 COMMERCIAL
EMPORIA, KANSAS 66801
620-341-3245
lyclerk@lyoncounty.org
FAX 620-341-3415**

February 9, 2004

Chairman Representative Don Myers and Committee:

Today I am testifying in favor of HB2640 a bill that the Kansas County Clerk's and Election Official's Association – Election Committee – has asked to be adopted. The bill is important to us because it takes more than 3 to trigger a primary election in city and school board elections. Many times a primary was held because there were 3 candidates for one of those positions. When this happens the city or school district must pay for the election because there is a provision in the statutes that states if everyone in the county does not get to vote on any Election Day then county money will not be spent on that election. Therefore the district that had 3 candidates for one position will foot the bill of that election. We know that the school districts are having a hard time financially anyway let alone 2nd and 3rd class cities.

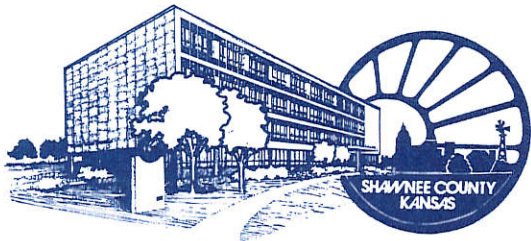
I took a survey last spring to see how much it cost school districts and 2nd and 3rd class cities for elections triggered by the 3rd candidate. The cost was \$75,497.75 to the cities and school districts. This bill would save the school districts and cities this money in the future.

It is my hope that you pass this bill.

Sincerely,



Karen K. Hartenbower



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
FAX (785) 266-0299

M E M O R A N D U M

DATE: February 9, 2004

TO: Representative Don Myers, Chairman
Committee on Ethics & Elections

FROM: Elizabeth Ensley
Shawnee County Election Commissioner

RE: HB 2641

Thank you for allowing me to appear in favor of HB 2641 that addresses the definition of taxpayer in drainage districts.

Some drainage district elections are run by county election officers. This is a difficult situation since the qualifications to vote in a drainage district are different from the qualifications to vote in the election being held at the same time.

One of the many challenges of holding the drainage district election is the lack of a definition of a taxpayer.

Shawnee County has 5 drainage districts under KSA 24-414 et seq. Any clarification of the definition of taxpayer would be helpful.

Thank you for your time and consideration.

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Attachment 2

TESTIMONY ON HOUSE BILL NO. 2641

Patricia Rahija, Wyandotte County Election Commissioner

I am testifying today on behalf of the Kansas County Clerks' & Election Officials Association.

The drainage district statutes are not specific about the definition of a taxpayer in two statutes. K.S.A. 24-414 addresses drainage districts created under the Drainage District Act of 1905 and K.S. A. 24-459 addresses drainage districts created under Acts Supplemental to Drainage Act of 1905

The first statute that we are requesting be amended is K.S.A. 24-414 imposes different qualifications to vote in an election of drainage district board of directors, based on the size of the county in which the drainage district is located. In counties with population more than 150,000, two additional requirements are imposed. In order to be eligible to vote, a person must be a qualified elector *and* be a taxpayer *and* be a resident of the district.

"Taxpayer" is not defined in the statute. In determining voter eligibility, we have always interpreted "taxpayer" to be a person who either owns land or owns tangible personal property. This assumption is based on K.S.A. 24-410 that says a "qualified elector" must own land or tangible personal property. However that statute does not speak to "taxpayer".

In 1999, we were challenged following a drainage district election. An attorney for a candidate contended that eligible voters may have been denied the right to vote. He suggested that since there is not a definition for "taxpayer", that anyone who pays any type of taxes, such as sales tax should be eligible to vote.

To avoid possible law suits in the future, we would like to have the definition of the term "taxpayer" set out in statute so there is no doubt what the Legislature intended by its use of the term.

The second statute we request be amended is K.S.A. 24-459. In 1911, Acts Supplemental to Drainage Act of 1905 was implemented to allow for the incorporation of districts where the owners of three-fifths of land are nonresidents (K.S.A. 24-458).

K.S.A. 24-459 defines the board of directors, elections, term, and eligible voters. The language in this statute has been interpreted various ways by various drainage districts and county election officials.

Today, the owners of land in these districts are primarily corporations, companies, trusts, and limited partnerships. The Fairfax Drainage District in Wyandotte County is an example of that type of ownership.

Fairfax Drainage District interprets the statutes to mean that an eligible voter is defined as a "person", and that only a person who owns land is eligible to file for the board of directors. Therefore, in order to have a "person" be able to file for board of director or vote, several corporations have deeded a small parcel of land to an individual in their corporation. There are over 100 companies that are considered ineligible to vote. Fairfax would like to see the statute amended so that all land owners that are taxpayers, whether an individual or a corporation have the right to vote and serve on the board of directors.

The amendments in this bill clearly define the criteria of a director and eligible voters. As county election officers, we do not want the statute left to individual interpretation.

We urge your support of this bill.

HOUSE BILL No. 2589

By Committee on Ethics and Elections

1-26

9 AN ACT concerning campaign finance; pertaining to electronic filing of
10 certain reports; amending K.S.A. 25-4144, 25-4148, 25-4157 and 25-
11 4186 and K.S.A. 2003 Supp. 25-4145 and repealing the existing
12 sections.
13

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

15 Section 1. K.S.A. 25-4144 is hereby amended to read as follows: 25-
16 4144. Not later than 10 days after becoming a candidate, every candidate
17 shall appoint a treasurer or in lieu thereof shall appoint a candidate com-
18 mittee. The treasurer so appointed may be the candidate making such
19 appointment. No candidate shall appoint more than one candidate com-
20 mittee to exist at the same time. If a candidate appoints a candidate
21 committee, such candidate shall appoint a chairperson and a treasurer
22 thereof, and the treasurer so appointed may be the candidate. No person
23 who is registered as a lobbyist in accordance with K.S.A. 46-265 and
24 amendments thereto shall be eligible for appointment as treasurer for any
25 candidate or candidate committee. The name and address of each trea-
26 surer and chairperson appointed under this section by a candidate for a
27 state office shall be reported to the secretary of state by the candidate
28 not later than 10 days after such appointment. The name and address of
29 each treasurer and chairperson appointed under this section by a candi-
30 date for a local office shall be reported to the county election officer by
31 the candidate not later than 10 days after such appointment. The candi-
32 date for governor shall carry out the requirements and responsibilities of
33 the candidate under the campaign finance act, for the pair of candidates
34 for governor and lieutenant governor, unless another specific provision
35 applies. *Any information required to be filed pursuant to this section, may*
36 *be filed electronically with the* [commission in accordance with rules and
37 regulations promulgated by the commission].

[secretary of state or county election officer as appropriate

38 Sec. 2. K.S.A. 2003 Supp. 25-4145 is hereby amended to read as
39 follows: 25-4145. (a) Each party committee and each political committee
40 which anticipates receiving contributions or making expenditures shall
41 appoint a chairperson and a treasurer. The chairperson of each party
42 committee and each political committee which anticipates receiving con-
43 tributions or making expenditures for a candidate for state office shall

Representative Sawyer

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1 contributions exceed such amount, an amended registration form which
2 shall be accompanied by an additional fee for such year equal to the
3 difference between \$240 and the amount of the fee that accompanied
4 the current registration.

5 (6) Any political committee which is currently registered under sub-
6 section (d)(4) and which receives contributions in excess of \$500 but
7 which are less than \$2,501, shall file, within three days of the date when
8 contributions exceed \$500, an amended registration form which shall be
9 accompanied by an additional fee of \$20 for such year.

10 (e) All such fees received by or for the commission shall be remitted
11 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
12 and amendments thereto. Upon receipt of each such remittance, the state
13 treasurer shall deposit the entire amount in the state treasury to the credit
14 of the governmental ethics commission fee fund.

15 (f) ~~Any information required to be filed pursuant to this section, may~~
16 ~~be filed electronically with the commission in accordance with rules and~~
17 ~~regulations promulgated by the commission.~~

secretary of state or county election officer as
appropriate

18 Sec. 3. K.S.A. 25-4148 is hereby amended to read as follows: 25-
19 4148. (a) Every treasurer shall file a report prescribed by this section.
20 Reports filed by treasurers for candidates for state office, other than of-
21 ficers elected on a state-wide basis, shall be filed in both the office of the
22 secretary of state and in the office of the county election officer of the
23 county in which the candidate is a resident. Reports filed by treasurers
24 for candidates for state-wide office shall be filed only with the secretary
25 of state. Reports filed by treasurers for candidates for local office shall be
26 filed in the office of the county election officer of the county in which
27 the name of the candidate is on the ballot. Except as otherwise provided
28 by subsection (h), all such reports shall be filed in time to be received in
29 the offices required on or before each of the following days:

30 (1) The eighth day preceding the primary election, which report shall
31 be for the period beginning on January 1 of the election year for the office
32 the candidate is seeking and ending 12 days before the primary election,
33 inclusive;

34 (2) the eighth day preceding a general election, which report shall be
35 for the period beginning 11 days before the primary election and ending
36 12 days before the general election, inclusive;

37 (3) January 10 of the year after an election year, which report shall
38 be for the period beginning 11 days before the general election and end-
39 ing on December 31, inclusive;

40 (4) for any calendar year when no election is held, a report shall be
41 filed on the next January 10 for the preceding calendar year;

42 (5) a treasurer shall file only the annual report required by subsection

43 (4) for those years when the candidate is not participating in a primary

1 required to be reported under subsection (b), the report shall include the
2 full name of the organization with which the political committee is con-
3 nected or affiliated or, name or description sufficiently describing the
4 affiliation or, if the committee is not connected or affiliated with any one
5 organization, the trade, profession or primary interest of the political com-
6 mittee as reflected by the statement of purpose of such organization.

7 (e) The commission may require any treasurer to file an amended
8 report for any period for which the original report filed by such treasurer
9 contains material errors or omissions, and notice of the errors or omissions
10 shall be part of the public record. The amended report shall be filed
11 within 30 days after notice by the commission.

12 (f) The commission may require any treasurer to file a report for any
13 period for which the required report is not on file, and notice of the failure
14 to file shall be part of the public record. Such report shall be filed within
15 five days after notice by the commission.

16 (g) For the purpose of any report required to be filed pursuant to
17 subsection (a) by the treasurer of any candidate seeking nomination by
18 convention or caucus or by the treasurer of the candidate's committee or
19 by the treasurer of any party committee or political committee, the date
20 of the convention or caucus shall be considered the date of the primary
21 election.

22 (h) If a report is sent by certified or registered mail on or before the
23 day it is due, the mailing shall constitute receipt by that office.

24 (i) *Any information required to be filed pursuant to this section, may*
25 *be filed electronically with the commission in accordance with rules and*
26 *regulations promulgated by the commission.*

secretary of state or county election officer as
appropriate

27 Sec. 4. K.S.A. 25-4157 is hereby amended to read as follows: 25-
28 4157. Before any candidate committee, party committee or political com-
29 mittee may be dissolved or the position of a candidate's treasurer termi-
30 nated, the treasurer of the candidate or such committee shall file a
31 termination report which shall include full information as to the dispo-
32 sition of residual funds. Any report required by K.S.A. 25-4148 and
33 amendments thereto may be a termination report. Reports of the disso-
34 lution of candidate committees of candidates for state office, the termi-
35 nation of the treasurer of a candidate for state office, the dissolution of a
36 political committee the major purpose of which is to support or oppose
37 any candidate for state office and the dissolution of party committees shall
38 be filed in the office of the secretary of state. Reports of the dissolution
39 of candidate committees of candidates for local office, the termination of
40 the treasurer of a candidate for local office and the dissolution of a polit-
41 ical committee the major purpose of which is to support or oppose any
42 candidate for local office shall be filed in the office of the county election
43 officer of the county. *Any information required to be filed pursuant to*

1 *this section, may be filed electronically with the* [commission in accordance
2 *with rules and regulations promulgated by the commission].*

} secretary of state or county election officer as
appropriate

3 Sec. 5. K.S.A. 25-4186 is hereby amended to read as follows: 25-
4 4186. (a) Not later than 10 days after receiving any contribution or making
5 any expenditure for a gubernatorial inauguration, the governor-elect shall
6 appoint an inaugural treasurer. The name and address of such treasurer
7 shall be reported to the secretary of state by the governor-elect not later
8 than 10 days after the appointment.

9 (b) No person shall make any expenditure or make or receive any
10 contribution or receipt, in kind or otherwise, for a gubernatorial inau-
11 guration except by or through the inaugural treasurer.

12 (c) The inaugural treasurer shall keep detailed accounts of all contri-
13 butions and other receipts received, in kind or otherwise, and all expend-
14 itures made for a gubernatorial inauguration. Accounts of the treasurer
15 may be inspected under conditions determined by the commission and
16 shall be preserved for a period to be designated by the commission. Every
17 person who receives a contribution or other receipt, in kind or otherwise,
18 for an inaugural treasurer more than five days before the ending date of
19 any period for which a report is required under this section, on demand
20 of the treasurer, or in any event on or before the ending date of the
21 reporting period, shall remit the same and render to the treasurer an
22 account thereof, including the name and address of the person, if known,
23 making the contribution or other receipt and the date received. No con-
24 tribution or other receipt received by the inaugural treasurer shall be
25 commingled with personal funds of the governor-elect or inaugural
26 treasurer.

27 (d) The inaugural treasurer shall file with the secretary of state a
28 report on March 10 and July 10 following the inauguration. The report
29 filed on March 10 shall be for the period ending on February 28 and the
30 report filed on July 10 shall be for the period beginning on March 1 and
31 ending on June 30. Each report shall contain the information required to
32 be stated in a report pursuant to K.S.A. 25-4148 and 25-4148a, and
33 amendments thereto, and a declaration as to the correctness of the report
34 in the form prescribed by K.S.A. 25-4151, and amendments thereto. The
35 July 10 report shall be a termination report which shall include full in-
36 formation as to the disposition of residual funds. If a report is sent by
37 certified mail on or before the day it is due, the mailing shall constitute
38 receipt by the secretary of state.

39 (e) The aggregate amount contributed, in kind or otherwise, by any
40 person for a gubernatorial inauguration shall not exceed \$2,000. No per-
41 son shall make a contribution in the name of another person, and no
42 person knowingly shall accept a contribution made by one person in the
43 name of another. No person shall give or accept any contribution in excess

1 fails to comply within the prescribed period, the treasurer shall pay to
2 the state a civil penalty of \$10 per day for each day that the report remains
3 unfiled, except that no such civil penalty shall exceed \$300. The com-
4 mission may waive, for good cause, payment of any civil penalty imposed
5 by this subsection.

6 (2) Civil penalties provided for by this subsection shall be paid to the
7 state treasurer, who shall deposit the entire amount in the state treasury
8 and credit it to the governmental ethics commission fee fund.

9 (3) If a person fails to pay a civil penalty provided for by this section,
10 it shall be the duty of the commission to bring an action to recover such
11 civil penalty in the district court of Shawnee county.

12 (k) Any violation of subsection (e), (f) or (h) or any intentional failure
13 to file any report required by this section is a class A misdemeanor.

14 (l) Nothing in this section shall be construed to apply to expenditures
15 of state moneys related to any inaugural activity.

16 (m) *Any information required to be filed pursuant to this section, may*
17 *be filed electronically with the commission in accordance with rules and*
18 *regulations promulgated by the commission*

} secretary of state

19 (n) This section shall be part of and supplemental to the campaign
20 finance act.

21 Sec. 6. K.S.A. 25-4144, 25-4148, 25-4157 and 25-4186 and K.S.A.
22 2003 Supp. 25-4145 are hereby repealed.

23 Sec. 7. This act shall take effect and be in force from and after its
24 publication in the statute book.