

MINUTES OF THE HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 P.M. on March 2, 2006 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Legislative Research Department
Martha Dorsey, Legislative Research Department
Theresa Kiernan, Revisor of Statutes Office
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Sen. Taddiken
Larry Brennan, Kaw Valley Drainage District
Steve Dailey, Fairfax Drainage District
Brad Bryant, Secretary of State's Office

Others attending:

See attached list.

Chairman Vickrey opened the hearing on:

SB 392 **Concerning the membership of the board of directors of drainage districts**

Sen. Taddiken testified in support of the bill (Attachment 1). He explained that the bill will enable more people to be eligible to serve as a board director.

Larry Brennan, Kaw Valley Drainage District and Steve Dailey, Fairfax Drainage District, both voiced their support for the bill. They provided no written testimony.

There were no opponents to the bill.

Chairman Vickrey closed the hearing on **SB 392**.

SB 392 **Concerning the membership of the board of directors of drainage districts**

Rep. Yonally made a motion for the favorable passage of SB 392 and asked that it be placed on the Consent Calendar. Rep. F. Miller seconded the motion. Motion carried.

SB 448 **Recall petitions; requiring court actions to be filed within 30 days of decision**

Brad Bryant, Deputy Assistant Secretary of State, testified in support of the bill (Attachment 2). He said the bill clarifies when mandamus or injunction proceedings must be filed to compel or restrain a recall election. He also explained that the bill mandates the officer sought to be recalled in a local recall effort must be notified by the county or district attorney of his/her determination of the sufficiency of the grounds for recall.

Chairman Vickrey closed the hearing on **SB 448**.

There were no opponents to the bill.

SB 448 **Recall petitions; requiring court actions to be filed within 30 days of decision**

Rep. F. Miller made a motion for the favorable passage of SB 448 and asked that it be placed on the Consent Calendar. Rep. Storm seconded the motion. Motion carried.

Approval of Minutes

CONTINUATION SHEET

MINUTES OF THE House Governmental Organization and Elections Committee at 3:30 P.M. on March 2, 2006 in Room 519-S of the Capitol.

Rep. Sawyer made a motion to approve the minutes of the February 16, 2006 and February 21, 2006 meetings. Rep. M. Miller seconded the motion. Motion carried.

Chairman Vickrey adjourned the meeting.

The next meeting is scheduled for Tuesday, March 7, 2006.

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

CHAIR: AGRICULTURE
MEMBER: NATURAL RESOURCES
UTILITIES
WAYS & MEANS
JOINT COMMITTEE ON SPECIAL
CLAIMS AGAINST THE STATE
LEGISLATIVE EDUCATIONAL
PLANNING

MARK W. TADDIKEN
SENATOR, 21ST DISTRICT
CLAY, CLOUD, JEWELL,
MARSHALL, NEMAHA, REPUBLIC, RILEY,
AND WASHINGTON COUNTIES
2614 HACKBERRY RD.
CLIFTON, KS 66937
(785) 926-3325

STATEHOUSE--ROOM 222-E
TOPEKA, KS 66612
(785) 296-7371 FAX 296-6718
taddiken@senate.state.ks.us

TESTIMONY IN SUPPORT OF SENATE BILL 392

March 2, 2006

Governmental Organization and Elections Committee

By Senator Mark Taddiken

Thank you Chairman Vickrey and Committee members for the opportunity to testify in support of Senate Bill 392 today.

Current law in Kansas requires that a member of the board of directors of a drainage district own land in the drainage district and reside in the county in which a portion of that district is located.

This system has served the districts well as it maintains control of the district and taxation authority with the affected landowners. In our more rural areas of the state we are experiencing the situation where we no longer have people who meet the qualifications or are able to serve as directors.

In some cases, the owners of the land live outside the county or in other states. In other cases the owners are now 80 or 90 years of age and are no longer physically able to carry out the duties of a director.

The intent of SB 392 is to enable more people be eligible to serve as a board director. I believe the control of the board should remain ultimately with the land owners. This bill would allow land owners to retain that control as they have the ability to determine who is a tenant. In addition, this bill would not alter current law that allows only landowners to actually vote in board member elections.

During the Senate hearing on SB 392 it was discovered that drainage districts in more populated areas may not have this same problem and thus might be hesitant to include tenants as board directors. Thus, this bill was amended to affect only those drainage districts located in counties having a population not exceeding 10,000.

In our situation, we just don't have enough landowners left to carry out the duties of the board and it is imperative that the drainage districts have proper oversight and management.

I respectfully encourage you to support making more people eligible to be directors of the board of drainage districts.

House Gov. Org. & Elections
Date: 3-2-2006
Attachment # 1

RON THORNBURGH
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785)296-4564

STATE OF KANSAS
House Committee on Governmental Organization and Elections

Testimony on SB 448

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

March 2, 2006

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 448. This bill was proposed by the Secretary of State to accomplish two things. First, it clarifies when mandamus or injunction proceedings must be filed to compel or restrain a recall election. This bill changes the words "not less than" to "within." The recall statutes are designed to promote an orderly and efficient process leading up to an election. There are statutes that give the county or district attorney five days to review the grounds for recall stated in the petition and the county election officer 30 days to review the sufficiency of the petition. By changing these words, the recall process will move to a speedier resolution. The current language was adopted in a 2003 bill that tightened the language surrounding the authority of the county attorney when reviewing the petition for sufficiency. I have included a copy of a supplemental note prepared by the Kansas Legislative Research Department on this bill. The supplemental note for 2003 Senate Bill 103, in describing this section, uses the phrase "no later than," which has an opposite meaning than "not less than".

Second, the bill mandates the officer sought to be recalled in a local recall effort must be notified by the county or district attorney of his / her determination of the sufficiency of the grounds for recall. Current law requires in local recall elections that the county or district attorney must make a determination regarding the sufficiency of the grounds stated in a petition before the petition is circulated for signatures. The attorney notifies the recall committee and the county election officer, but not the person who is the subject of the recall.

This makes it impossible to determine when the 30 day period should begin for mandamus actions by the person who is the subject of the recall. K.S.A. 25-4331 requires that any person aggrieved by the county attorney's decision may bring an action to have the determination reviewed by the district court of that county. The recall committee is informed of that decision, while the person who is the subject of the recall is not.

These issues are currently before the Kansas Court of Appeals in Collins v. Mitchell County.

Thank you for your consideration.

House Gov. Org. & Elections

Date: 3-2-2006

Attachment # 2

SESSION OF 2003

SUPPLEMENTAL NOTE ON SENATE BILL NO. 103

As Amended by House Committee on
Ethics and Elections

Brief

SB 103 amends the law dealing with recall elections and the ouster procedure. The bill clarifies which election results are used to calculate the percentage of electors needed to sign recall petition, alters statutes dealing with grounds for recall and for ouster, and deletes the requirement that statements of persons subject to recall petitions must be posted at polling places and provide instead that these statements shall be maintained in the county election office.

Under the bill, the Secretary of State or the county or district attorney's decision to approve the recall petition would be based on determining if the facts support the grounds for recall. In addition, other statutory requirements regarding the validity of petitions are listed for both state and local official recall proceedings. In addition, all mandamus proceedings to compel a recall and all injunction proceedings to restrain a recall would have to be commenced not later than 30 days after the decision at the state or local level.

The bill clarifies that the percentage of signatures required on a recall petition is calculated using the votes cast for all candidates for the office of the state or local officer sought to be recalled. Such percentage would be based upon the last general election for the current term of office of the officer being recalled.

The bill removes incompetence as one of the grounds for recall and defines misconduct in office as a violation of law by the officer that impacts the officer's ability to perform the official duties of the office. The bill also adds to the ouster statute the additional grounds for forfeiture of office to include any person who demonstrates mental

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/kldr>

impairment such that the person lacks the capacity to manage the office held.

The bill authorizes the county election officer to maintain a 200-word statement by the officer being recalled in defense of such officer's conduct in the county election office for public inspection instead of posting it at each polling place as required by current law.

Background

A representative of the Secretary of State's Office, the League of Kansas Municipalities, and the Kansas Association of School Boards testified in support of SB 103. All three representatives proposed amendments to the bill.

The Senate Committee of the Whole amended the bill by deleting the provisions which created a temporary recall board.

The House Committee on Ethics and Elections added language requested by the Secretary of State's Office which clarified that the percentage required for a recall petition would apply to "the votes cast for all candidates for the office of the state (or local) officer sought to be recalled." In addition, the local officer recall could not happen if the officer is within 180 days of the termination of the term of office. The bill as drafted had 200 days.

The Division of the Budget's fiscal note indicates that potential costs to the Secretary of State's Office and to counties to organize recall boards would be negligible. The fiscal note also states that there is anticipated a small amount of savings to the county election officers in photocopying and printing costs because they would not be required to make copies of recall statements for each of the 3,300 precincts in Kansas. The note states that the Attorney General's Office would not be fiscally impacted by the passage of the bill.