

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Tim Huelskamp at 1:30 P.M. on February 7, 2006 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department
Mike Heim, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes
Zoie Kern, Committee Secretary

Conferees appearing before the committee:

Bryan A. Caskey - Secretary of States office

Others attending:

See attached list.

Ken Wilke presented explanation of **SB 448** - Recall petitions requiring court action to be filed within 30 days of descision.

Bryan Caskey gave favorable testimony on **SB 448** (Attachment 1).

Motion made by Senator Wilson and seconded by Senator O'Connor to report **SB 392** favorably to the Senate. Motion carried.

Motion by Senator Betts and seconded by Senator O'Connor to except revision on **SB 392**. Motion carried.

Motion by Senator Betts and seconded by Senator O'Connor to send **SB 392** to Senate for acceptance. Morion carried.

Motion by Senator O'Connor and seconded by Senator Betts to send **SB 409** to Senate for acceptance. Motion carried.

Motion made by Senator Wilson and seconded by Senator Betts in favor of **SB 397** to Senate for acceptance. Motion carried.

Senator Huelskamp appointed a sub-committee on **SB 410**. Senator O'Connor was appointed chairman, and Senator Pyle and Senator Francisco as committee members.

Meeting adjourned.

Respectfully submitted,

Zoie C. Kern, Committee Secretary

RON THORNBURGH
Secretary of State



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

STATE OF KANSAS

Senate Committee on Elections and Local Government

Testimony on SB 448

Bryan A. Caskey, Administrative Assistant
Elections and Legislative Matters
Office of the Secretary of State

February 7, 2006

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 448. This bill does two things. First, it clarifies the time frame when mandamus or injunction proceedings to compel or restrain a recall election must begin. 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 attorney 5 days to review the petition and the county election officer 30 days to review the petition. By changing these words, we believe 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 of 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 sufficiency. Current law requires in local recall elections, that the county or district attorney must make a determination of the sufficiency of the grounds of a petition submitted, before it is circulated for signatures. The attorney notifies the recall committee and the county election office, 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 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*. A February 15th, hearing date has been scheduled.

Thank you and I stand for questions.