

Approved: 3-22-07
Date

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 1, 2007 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:
none

Others attending:
See attached list.

Ken Wilke of the Revisor of Statutes office clarified amendments to **SB 131 Authorized poll agents limitation on time for authorization** (Attachment 1).

Discussion.

Motion made to accept amendment to SB 131 by Senator Pyle and second by Senator Reitz.

Motion carried.

Motion was made to move out SB 131 as amended by Senator Wilson and second by Senator Reitz.

Ken Wilke of the Revisor of States office clarified amendments to **SB 135 Authorized poll agents; qualifications** (Attachment 2, 3, 4 & 5).

Discussion.

Motion made to accept amendments to SB 135 by Senator Betts and second by Senator Pyle.

Motion carried.

Motion was made to move out SB 135 with 4 amendments by Senator Pyle and second by Senator Lynn.

Motion was made by Senator Donovan and second by Senator Reitz to move out SB 158 Elections; optical scanning voting equipment (Attachment 6).

Motion carried.

Motion was made by Senator Wilson and second by Senator Pyle to accept amendment to SB160 Elections; direct recording electronic voting systems (Attachment 7).

Motion carried.

Motion was made by Senator Donovan and seconded by Senator Wilson to move out SB160 as amended.

Motion carried.

Senator Huelskamp began discussion on **SB 133 Election crimes; advance voting ballot suppression,**

Discussion.

Senator Pyle stated he believed language is fine considering that all delivery is a process.

Brad Bryant from Secretary of States office commented in questioning that the voter needs to take some responsibility in the process. SB 133, stated Bryant, will give clarification to those people working on the edge of the rules.

Senator Wilson moved we favorable move out SB 133. It was second by Senator Pyle.

Motion carried.

Respectfully submitted,

Zoie C. Kern, Committed Secretary

CONTINUATION SHEET

MINUTES OF THE Senate Elections and Local Government Committee at 1:30 P.M. on February 1, 2007 in Room 423-S of the Capitol.

SENATE BILL No. 131

By Committee on Elections and Local Government

1-19

9 AN ACT concerning authorized poll agents; pertaining to the time of
10 authorization; amending K.S.A. 25-3005a and repealing the existing
11 section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 25-3005a is hereby amended to read as follows: 25-
15 3005a. (a) As used in this act "authorized poll agent" means any one of
16 the following persons:

- 17 (1) Chairperson of county party committee;
- 18 (2) chairpersons of committees concerned with question submitted
19 elections;
- 20 (3) chairperson of state party committee;
- 21 (4) any candidate;
- 22 (5) any precinct committeeman or precinct committeewoman;
- 23 (6) any write-in candidate who has filed an affidavit of write-in pur-
24 suant to K.S.A. 25-305, and amendments thereto;
- 25 (7) any person appointed as provided in this section by any of the
26 persons specified in this subsection.

27 (b) Every person appointed to be an authorized poll agent under
28 authority of this act shall be so appointed in writing by the person making
29 such appointment. *No person shall be appointed to be an authorized poll*
30 *agent after 12:00 noon on the Friday preceding the election.* Such written
31 appointment shall be carried by the authorized poll agent at all times such
32 person is acting as such agent and shall be displayed upon demand of any
33 member of any election board or any other election officer. Every ap-
34 pointment of an authorized poll agent shall be made in such form as is
35 approved by the secretary of state. The number of authorized poll agents
36 in each voting place at any one time appointed by any of the following
37 shall be limited to the number indicated:

- 38 (1) State and county chairpersons, one;
- 39 (2) candidates, not to exceed one each;
- 40 (3) precinct committeemen and committeewomen, one each;
- 41 (4) the chairperson of each committee or organization concerned
42 with any election on a question submitted, one each;
- 43 (5) write-in candidates who have filed an affidavit or write-in pursuant

second business day

filed with the county election officer, and a copy of
such appointment shall be

1 (c) When any candidate or any precinct committeeman or precinct
 2 committeewoman is acting as an authorized poll agent, such person shall
 3 carry identification which shall be supplied by the county election officer.
 4 Such identification shall indicate the authority by which such person is
 5 an authorized poll agent, and the same shall be in such form as is approved
 6 by the secretary of state. Whenever an authorized poll agent is required
 7 to carry identification under the provisions of this subsection such agent
 8 shall display the same upon demand of any member of any election board
 9 or any other election officer.

10 (d) Each person appointed to be an authorized poll agent shall:

11 (1) Be a registered Kansas voter; and

12 (2) reside in:

13 (A) ~~The county in which such person will serve as an authorized poll~~
 14 ~~agent; or~~

15 (B) ~~a county contiguous to the county described in subparagraph (A)~~
 16 ~~unless otherwise prohibited by law.~~

Kansas

Kansas

17 The provisions of paragraph (2) shall not apply to any authorized poll
 18 agent.

19 ~~(d)~~ (e) The provisions of this section shall apply to all elections.

20 Sec. 2. K.S.A. 25-3005a is hereby repealed.

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

SENATE BILL No. 135

By Committee on Elections and Local Government

1-22

9 AN ACT concerning authorized poll agents; pertaining to the qualifica-
10 tions thereof; amending K.S.A. 25-3005a and repealing the existing
11 section.

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16 the following persons:

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19 elections;
- 20 (3) chairperson of state party committee;
- 21 (4) any candidate;
- 22 (5) any precinct committeeman or precinct committeewoman;
- 23 (6) any write-in candidate who has filed an affidavit of write-in pur-
24 suant to K.S.A. 25-305, and amendments thereto;
- 25 (7) any person appointed as provided in this section by any of the
26 persons specified in this subsection.

27 (b) Every person appointed to be an authorized poll agent under
28 authority of this act shall be so appointed in writing by the person making
29 such appointment. Such written appointment shall be carried by the au-
30 thorized poll agent at all times such person is acting as such agent and
31 shall be displayed upon demand of any member of any election board or
32 any other election officer. Every appointment of an authorized poll agent
33 shall be made in such form as is approved by the secretary of state. The
34 number of authorized poll agents in each voting place at any one time
35 appointed by any of the following shall be limited to the number
36 indicated:

- 37 (1) State and county chairpersons, one;
- 38 (2) candidates, not to exceed one each;
- 39 (3) precinct committeemen and committeewomen, one each;
- 40 (4) the chairperson of each committee or organization concerned
41 with any election on a question submitted, one each;
- 42 (5) write-in candidates who have filed an affidavit or write-in pursuant
43 to K.S.A. 25-305, and amendments thereto, one each.

Each authorized poll agent shall wear a badge clearly identifying the wearer as an authorized poll agent. The badge shall contain the word "observer" in 10-point or larger type. The badge shall be issued by the county election officer.

SENATE BILL No. 135

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- 20 (3) chairperson of state party committee;
- 21 (4) any candidate;
- 22 (5) any precinct committeeman or precinct committeewoman;
- 23 (6) any write-in candidate who has filed an affidavit of write-in pur-
24 suant to K.S.A. 25-305, and amendments thereto;
- 25 (7) any person appointed as provided in this section by any of the
26 persons specified in this subsection.

27 (b) Every person appointed to be an authorized poll agent under
28 authority of this act shall be so appointed in writing by the person making
29 such appointment. Such written appointment shall be carried by the au-
30 thorized poll agent at all times such person is acting as such agent and
31 shall be displayed upon demand of any member of any election board or
32 any other election officer. Every appointment of an authorized poll agent
33 shall be made in such form as is approved by the secretary of state. The
34 number of authorized poll agents in each voting place at any one time
35 appointed by any of the following shall be limited to the number
36 indicated:

- 37 (1) State and county chairpersons, one;
- 38 (2) candidates, not to exceed one each;
- 39 (3) precinct committeemen and committeewomen, one each;
- 40 (4) the chairperson of each committee or organization concerned
41 with any election on a question submitted, one each;
- 42 (5) write-in candidates who have filed an affidavit or write-in pursuant
43 to K.S.A. 25-305, and amendments thereto, one each.

Any person listed in subsection (a) may appoint persons who are at least 16 years of age to serve as authorized poll agents if the persons appointed meet all other requirements for qualification of an elector.

1 (c) When any candidate or any precinct committeeman or precinct
 2 committeewoman is acting as an authorized poll agent, such person shall
 3 carry identification which shall be supplied by the county election officer.
 4 Such identification shall indicate the authority by which such person is
 5 an authorized poll agent, and the same shall be in such form as is approved
 6 by the secretary of state. Whenever an authorized poll agent is required
 7 to carry identification under the provisions of this subsection such agent
 8 shall display the same upon demand of any member of any election board
 9 or any other election officer.

10 (d) *Each person appointed to be an authorized poll agent shall:*

11 (1) *Be a registered Kansas voter; and*

12 (2) *reside in:*

13 (A) *The county in which such person will serve as an authorized poll*
 14 *agent; or*

15 (B) *a county contiguous to the county described in subparagraph (A)*
 16 *unless otherwise prohibited by law.*

17 ~~The provisions of paragraph (2) shall not apply to any authorized poll~~
 18 ~~agent.~~

19 ~~(e)~~ (e) The provisions of this section shall apply to all elections.

20 Sec. 2. K.S.A. 25-3005a is hereby repealed.

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

described in paragraphs (1), (2), (3), (4), (5) and (6)
 of subsection (a)

1 the optical scanning equipment is approved. ~~The test shall be repeated~~
2 ~~immediately before the start of the official count of the ballots, and at the~~
3 ~~conclusion of the official count in the same manner as set forth above.~~

4 ~~After *The test shall be repeated after the completion of the count, the*~~
5 ~~*canvass.* The programs used and ballots and ballot stubs and ballots shall~~
6 ~~be sealed, retained and disposed of in the same manner as paper ballots.~~

} canvass

7 Sec. 8. K.S.A. 25-4611 is hereby amended to read as follows: 25-
8 4611. (a) As soon as the polls are closed, ~~an election~~ *the supervising judge*
9 shall ~~open the ballot box and~~ count the number of ballots or envelopes
10 containing ballots that have been cast to determine that the number of
11 ballots ~~does not exceed~~ *equals* the number of voters shown on the poll
12 book. If there is ~~an excess~~ *a discrepancy*, this fact shall be reported in
13 writing to the county election officer with the reasons therefor if known.
14 ~~The total number of voters shall be entered on the tally sheets.~~

15 (b) The election judge shall place all ballots that have been cast in
16 the container provided for the purpose, which shall be sealed and deliver-
17 ed by two election ~~judges~~ *board members* who shall not be of the same
18 political party, to the counting location together with the *provisional*,
19 unused, void and defective ballots and returns.

20 (c) All proceedings at the counting location shall be under the direc-
21 tion of the county election officer and under the observation of two elec-
22 tion ~~judges~~ *board members* who shall not be of the same political party
23 and shall be open to the public, but no persons except those employed
24 and authorized for the purpose shall touch any ballot, ballot container or
25 return. If any ballot is damaged or defective so that it cannot properly be
26 counted by the optical scanning equipment, it shall be counted manually.

27 (d) Advance voting ballots may be counted by the optical scanning
28 equipment if they have been marked in a manner which will enable them
29 to be properly counted by such equipment.

30 (e) The return printed by the optical scanning equipment, to which
31 has been added the return of write-in and advance voting votes and man-
32 ually counted votes, shall constitute the official return of each precinct or
33 voting area. Upon completion of the count the returns shall be open to
34 the public. A copy of the returns shall be posted at the office of the county
35 election officer.

36 (f) If for any reason it becomes impracticable to count all or a part
37 of the ballots with optical scanning equipment, the county election officer
38 may direct that they be counted manually, following as far as practicable
39 the provisions governing the counting of paper ballots.

40 Sec. 9. K.S.A. 25-4612 is hereby amended to read as follows: 25-
41 4612. Optical scanning equipment fraud is:

42 (a) Being in unlawful or unauthorized possession of ballots ~~or programs,~~
43 *optical scanning equipment, computer programs, operating systems, firm-*

1 ~~—(g) Where ballot cards are used, after the voter has marked his or her~~
2 ~~ballot card, such voter shall place it inside the envelope provided for this~~
3 ~~purpose and return it to the judge. The judge shall remove the ballot stub~~
4 ~~and deposit such stub and the envelope with the ballot card inside in the~~
5 ~~ballot box.~~

6 Sec. 9. K.S.A. 25-4411 is hereby amended to read as follows: 25-
7 4411. (a) The vote tabulation equipment may be located at any place
8 within the county approved by the county election officer.

9 (b) Within five ~~(5)~~ days prior to the date of the election, the county
10 election officer shall have the automatic tabulating equipment tested to
11 ascertain that the equipment will correctly count the votes cast for all
12 offices and on all ~~measures~~ *questions submitted*. Public notice of the time
13 and place of the test shall be given at least ~~forty-eight (48)~~ 48 hours prior
14 thereto by publication once in a newspaper of general circulation in the
15 county or city where such equipment is to be used. The test shall be
16 ~~observed by at least two (2) election inspectors, who shall not be of the~~
17 ~~same political party, and shall be open to representatives of the political~~
18 ~~parties, candidates, the press and the public. The test shall be conducted~~
19 ~~by processing a preaudited group of ballots and punched or marked as~~
20 ~~marked to record a predetermined number of valid votes for each candi-~~
21 ~~date and on each measure, and shall include for each office one or more~~
22 ~~ballots which have votes in excess of the number allowed by law in order~~
23 ~~to test the ability of the automatic tabulating equipment to reject such~~
24 ~~votes. If any error is detected, the cause therefor shall be ascertained and~~
25 ~~corrected and an errorless count shall be made before the automatic~~
26 ~~tabulating equipment is approved. The test shall be repeated immediately~~
27 ~~before the start of the official count of the ballots, and at the conclusion~~
28 ~~of the official count in the same manner as set forth above. After the~~
29 ~~completion of the count~~ *The test shall be repeated after the completion*
30 *of the* ~~canvass, the~~ *equipment, programs used and ballots shall be sealed,*
31 *[retained and disposed of in the same manner as paper ballots] secured*
32 *and retained by the county election officer.*

canvass. The

33 Sec. 10. K.S.A. 25-4412 is hereby amended to read as follows: 25-
34 4412. (a) In voting areas where electronic or electromechanical voting
35 systems are used, as soon as the polls are closed, the ~~election supervising~~
36 ~~judge shall secure the marking devices against voting equipment to pre-~~
37 ~~vent further voting. The judge shall thereafter open the ballot box and~~
38 ~~count the number of ballots or envelopes containing ballots that have~~
39 ~~been cast to determine that the number of ballots does not exceed equals~~
40 ~~the number of voters shown on the poll book. If there is an excess a~~
41 ~~discrepancy, this fact shall be reported in writing to the county election~~
42 ~~officer with the reasons therefor if known. The total number of voters~~
43 ~~shall be entered on the tally sheets. The write-in votes shall then be~~