

Approved: 3/25/08
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 19, 2008 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
Jerry Donaldson, Legislative Assistant
Zoie Kern, Committee Assistant

Conferees appearing before the committee:

Cindy Luxen, Brad Bryant, Elizabeth Ensley, Bruce Newby, Brian Newby, JoAnn Cotpstein, Gilbert Cruz

Others attending:

See attached list.

Ken Wilke gave brief summary on **SB 562**.

Cindy Luxene of KHCA gave testimony as a proponent to **SB 562 (Attachment 1)**.

Brad Bryant- Deputy Assistant to Secretary of States Office gave testimony as a proponent to **SB 562 (Attachment 2)**.

Elizabeth Ensley - Shawnee County Commissioner gave testimony as a proponent to **SB 562 (Attachment 3)**.

Bruce Newby - Wyandotte County Election Commissioner gave testimony as a proponent to **SB 562 (Attachment 4)**.

Brian Newby - Johnson County Election Commissioner gave testimony as a proponent to **SB 562 (Attachment 5)**.

Joann E. Corpstein - Chief Counsel Department on Aging gave testimony as a proponent to **SB 562 (Attachment 6)**.

Gilbert Cruz - Kansas Long-Term Care Ombudsman gave testimony as a proponent to **SB 562 (Attachment 7)**

Closed hearing on **SB 562**.

Opened hearing on **HB 2464**.

No proponents nor opponents.

Hearing closed.

Meeting adjourned.

Respectfully submitted,

Zoie C. Kern Committee Assistant



117 SW 6th Avenue, Suite 200
Topeka, Kansas 66603
(785) 267-6003 Phone
(785) 267-0833 Fax
www.khca.org Website
khca@khca.org E-mail

kcal

ahca

February 18, 2008

Mr. Chairman and Committee Members:

On behalf of the Kansas Health Care Association and Kansas Center for Assisted Living membership and residents, I appreciate the opportunity to provide favorable testimony for SB 562-mobile polling for nursing homes.

First of all, we commend the Secretary of State's office for putting forth an idea to make voting easier for the seniors of Kansas who reside in congregate settings. I believe this will be an opportunity for the residents and the staff to be a part of this very important process. Some homes across the state of Kansas currently open their homes as polling locations in their communities.

I hope through the education that will take place as this project is rolled out, we can avoid situations such as in Florida where a nursing home worker was fined for improperly assisting residents in registering and voting.

The Kansas Health Care Association and the Kansas Center for Assisted Living stand ready to help the Secretary of State's office and the county election boards to make this a successful project.

Thanks for the opportunity to offer support.

Cindy Luxem

CEO, Kansas Health Care Association/Kansas Center for Assisted Living.

*Elections and Local
Government 2-19-08
attachment 1*



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The Florida Times-Union

February 15, 2008

Elections panel fines nursing home worker

By **Walter C. Jones**,
The Times-Union

ATLANTA - The State Election Board fined a Valdosta nursing home activity director Thursday for improperly assisting residents in registering and voting.

The board also learned that 71 percent of people casting a provisional ballot because they had no photo ID with them did not return to prove their identity so their votes could count.

The nursing home employee, Courtney Griener of Lakehaven Nursing Home in Valdosta, acknowledged to the board that she had completed the paperwork for two residents to register to vote and completed absentee ballots for three residents. If convicted of intentionally trying to sway an election, her actions could have amounted to a felony.

But Griener was trying to be helpful and carry out the wishes of the aging residents, including many who don't follow politics closely.

"You can have a voter who's completely unaware of anything about politics, and they can vote. They can say, 'I'm a Democrat. Put me down,' and they don't know anything," Griener said, choking up as she spoke.

She recounted how she tries to keep residents current on events in the news so they'll be prepared to vote, though she doesn't have much experience herself.

"I voted one time in my life. And I admit that I was wrong ... but I do apologize. But I was just trying to do the right thing," she said.

Board members individually complimented her for being concerned about helping people vote, but still decided to fine her \$1,000. They suggested she get the nursing home to pay it and said they would let her apply that to training fees so she can learn how to legally assist voters.

The fine was to send a message, they said.

"Nursing homes know that this is something that comes before them," said Secretary of State Karen Handel, who chairs the Election Board.

The panel staff also announced Thursday that in the Feb. 5 presidential primary, 416 people cast provisional ballots because they didn't have a photo ID with them, and only 120 returned with an ID within two days so that their ballots could be counted. That means that 296 ballots, or 71 percent of those without IDs, weren't counted.

Board member David Worley, who has opposed the state's voter ID law from the beginning, said that the mailings the state sent to registered voters who don't have driver's licenses could have discouraged them from going to the polls instead of prompting them to get a free ID from their local voter registrar.

"One of my concerns was that we were in fact engaging in taxpayer-funded voter suppression," he said.

But Deputy Secretary of State Rob Simms said the three mailings before the primary were designed to urge voters to get the needed IDs.

"We took great care in how we designed it and worded it to make sure that we were encouraging them to be part of the process," Simms said.

This story can be found on Jacksonville.com at http://www.jacksonville.com/tu-online/stories/021508/geo_247118310.shtml.

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1-3

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 Senate Bill 562

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

February 19, 2008

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 562. This bill will increase voting opportunities for residents of nursing homes and assisted living facilities. This is a segment of the population that often finds it difficult to get to the polling place to vote using traditional methods. The voters who will benefit from this legislation face many barriers, many of which can be overcome by taking the polling place to the voters. A further advantage is that these ballots will be cast in a controlled setting, reducing the opportunity for coercion or intimidation of these vulnerable voters.

As of 2004, twenty-three states had adopted procedures similar to those outlined in Senate Bill 562. Last year Secretary of State Ron Thornburgh appointed a task force of county election officers to study the issue and recommend an approach. The task force's plan is incorporated into this legislation.

The major features of the mobile polling plan are:

- The county election officer contacts each nursing home, assisted living and long term care unit before each election, offering the facility the option of participating in the mobile polls voting program.
- For each facility that agrees to participate, the county election officer and the administrator of the facility agree on a date for voting.
- The county election officer appoints, trains, swears in, and provides supplies to a special election board. Board members have the same qualifications as members of regular election boards.
- Voting at the facility is limited to residents of the facility. Residents still have their regular voting options—at the polling place on election day, advance voting, or permanent advance voting.
- If needed, a voter may receive assistance as provided in statute.

Implementation Date

We have discussed the mobile poll plan with county election officers during the past year, and especially recently in developing an estimate of the fiscal impact of the legislation. Although we have heard no strong opposition to the bill, some counties have expressed concerns that 2008 might be too soon to implement it due to the fact that they have not budgeted for it and they need more time to develop mobile polling procedures. Therefore, the Secretary of State will support amending Senate Bill 562 to delay its effective date until the 2010 elections if the committee wishes to consider such an amendment.

We recommend the committee report Senate Bill 562 favorably for passage. Thank you for your consideration.



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

T E S T I M O N Y

DATE: February 19, 2008
TO: Senator Tim Huelskamp, Chairman
Committee on Elections and Local Government
Capitol, Room 423-S, 1:30 *p.m.*
FROM: Elizabeth Ensley
Shawnee County Election Commissioner

RE: **SB 562**

Thank you for allowing me to appear for SB 562 in regards to providing assistance to the elderly.

Shawnee County has at times received a significant number of phone calls expressing concern over voting in nursing homes. In one place in particular, we could guarantee multiple calls at each election for a several year period. In each case, we could never prove any misconduct at all. However, the perception of voter fraud was certainly common in the area and there was no doubt that the concerns of fraud were working to undermine the integrity of the election. We worked with the staff of the home and sent two people of opposite political parties from the League of Women Voters to offer their services if anyone needed assistance. Eventually, the phone calls stopped.

SB 562 would also send election board workers of opposite political party to certain care facilities. This would accomplish three things.

- ✓ First, it would protect our most venerable citizens from voter fraud.
- ✓ Secondly, it would protect the integrity of the election by limiting the ability for abuse and discouraging the rumor mill from false accusations.
- ✓ Thirdly, provide a needed service (assistance) that is not always available from the facility or family.

It is important that there be separate statutes regarding this assistance. The mobile voting laws would allow anyone in the precinct to show up to vote. Many of the care facilities would have security concerns about leaving the facility open to anyone. Additionally, if the location had to be open to everyone, then additional staff would be needed. Election workers would need to be at the table to help voters who walking in, and workers would be needed to walk to rooms where people are unable to get out.

Thank you for your time and consideration.

*Elections and Local
Government 2-19-08
Attachment 3*



WYANDOTTE COUNTY ELECTION OFFICE

Bruce L. Newby, Election Commissioner
Frances D. Sheppard, Assistant Election Commissioner

TESTIMONY BEFORE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT

Tuesday, February 19, 2008

Thank you for the opportunity to speak briefly in support of Senate Bill No. 562.

The intent of the proposed legislation is simple, effective and affordable. We have the capacity in this year's budget to do this – any additional cost this will generate will be under \$12,000 for the 40 facilities we have identified that are eligible to participate.

This is a minor modification to the advance voting procedures we are already doing with assisted living residents. We make sure that residents who want to vote are registered. We obtain an advance ballot application (regular or permanent) from every resident who wants to vote. We mail advance ballots to residents. Residents, assisted as needed by staff, family or other residents, vote their ballots and return them to us by mail.

This bill modifies our advance voting process only to the extent that instead of mailing ballots to residents, we will bring advance ballots to the residents on a set day and time. Our workers will provide assistance to residents as needed; their voted ballots will be sealed in an advance ballot envelope, then signed, and the sealed envelopes containing individual voted ballots will be brought to the Election Office. Many elderly voters are vocally opposed to the touch screen. So, I doubt that we will have any use it. But, to comply with HAVA, we will have it available for any voters who choose to use the touch screen.

Advance ballots returned from assisted living facilities are handled the same as we handle every other advance ballot. We check it in and secure it until we open and count ballots on Election Day. Advance voters who have voted on the touch screen have their votes tabulated when we end the election after 7:00 PM on Election Day.

We will not be managing the ballots of other counties. If, for example, we have a resident in a facility who has retained their voting residence in Leavenworth County, that voter will still obtain an advance ballot from Leavenworth County by mail, vote it, and return it by mail to Leavenworth County. We will offer to assist that voter to apply for an advance ballot with their county of residence or to mark their ballot when we visit the facility.

I support Senate Bill No. 562 and stand for questions.

Bruce L. Newby

*Elections and Local
Government 2-19-08
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Johnson County Election Office



Brian D. Newby
Election Commissioner

TESTIMONY BEFORE THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT

Tuesday, February 19, 2007

Thank you for the opportunity to provide comments in related to Senate Bill Number 562.

Generally, Johnson County supports the approach taken in the bill, although we would prefer an implementation period later than 2008.

I believe that there will be considerable up-front work educating facilities regarding this new law and a much longer planning period than can be reasonably accommodated for the 2008 fall election cycle. Further, there is equally little time before the spring election cycle in 2009, so our recommendation is to make this effective in 2009, rather than 2008.

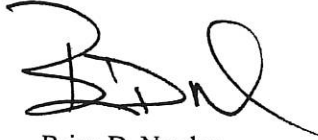
Beyond that recommendation, I would like to raise some points in the bill that I believe should be further defined. These will seem inconsequential, perhaps, or nit-picky, but from experience I have learned that it is better if these things are hammered out now as opposed to leaving something open to interpretation later.

Specifically:

1. Line 13 includes the phrase "any election." Will this apply to mail ballot elections? Will this apply to recall elections or any other election that is called with less than the 60-day notice mentioned in this bill?
2. Line 19 lists "establish a date" that I believe should be amended as "establish a date and time period" to allow us to operate at a site for a window for time, say, 10 to noon, or 1 p.m. to 3 p.m. The large number of locations in Johnson County will dictate that we operate at more than one polling location per day.
3. Further, I think that the date must be further defined in the bill, along the lines of "Such date and time will be no more than 20 days before an election date or 96 hours before an election," to be consistent with advance voting statutes and also ensure that all advance voting is recorded properly in poll books that will be sent to traditional polling locations.
4. Please keep in mind that just because a person is at one of these facilities, the person may not be registered to vote at the facility. In other words, some persons may have a Missouri or out-of-county address and would be in-eligible to participate. They may use this address only as a mailing address and still be registered elsewhere. Further, because that is possible, we will have to take all of our more than 1,000 ballot styles to each location. If we use voting machines, we need to lock them down for 30 days after their use, essentially taking them out of commission. This will require that we increase our voting machine fleet.

5. We anticipate concerns where persons say their agency met the definitions in this bill but were either not notified or determined to not be eligible for this program. To clear any confusion, I believe there must be a list of eligible facilities published by some official organization "x" days before each election.
6. Finally, I stress that the anticipated costs are not insignificant and not required under statutes today, so I ask that any legislation passed include funding to pay for the new requirements.

Thank you.

A handwritten signature in black ink, appearing to read "B. D. Newby", with a large, stylized flourish at the end.

Brian D. Newby

SB 562
The Senate Committee on Elections and Local Government

by Joann E. Corpstein
Chief Counsel

Kansas Department on Aging

February 19, 2008

Senator Huelskamp and members of the Senate Elections and Local Government Committee, thank you for the opportunity to appear before you today. I am Joann Corpstein, chief counsel for the Kansas Department on Aging. KDOA appears in support of SB 562.

KDOA is responsible for the regulation of adult care homes in Kansas. State licensure regulations require adult care homes to afford residents the right to exercise their rights as citizens. Voting is one of those rights. The current practice is for adult care home staff to assist residents to go to polling sites or to assist them in obtaining advance ballots.

Adult care homes include nursing facilities, nursing facilities for mental health, intermediate care facilities for the mentally retarded, assisted living facilities, residential health care facilities, home plus, and boarding care homes. All these various types of adult care home facilities are the home or residence of the people who live in them. Providing residents with the opportunity to vote at their place of residence through mobile polling would enhance the residents' ability to exercise their right to vote.

This bill limits the opportunity for mobile polling to residents of nursing facilities, long-term care units, and assisted lived living facilities. However, the residents living in the other adult care homes would also benefit from having mobile polling available. These include the adult care homes of residential health care, boarding care, homes plus, intermediate care facilities for the mentally retarded, and nursing facilities for mental health. These citizens share similar issues in exercising their right to vote. There are a total of 610 adult care homes and 49 long term care units in the state of Kansas.

Secondly, we request the revision of the language identifying the administrator as the facility person of contact. An administrator is required only for nursing facilities, long term care units, and intermediate care facilities for the mentally retarded. Depending on the number of licensed beds an administrator or "operator" may be the contact person in an assisted living facility and the other adult care homes.

TESTIMONY

**Elections and Local Government Committee
Chairman Huelskamp**

**Presented by Gilbert Cruz
Kansas State Long-Term Care Ombudsman
February 19, 2008**

Chairman and members of the Committee:

Thank you for allowing me to testify in support of Senate Bill 562. The State Long-Term Care (LTC) Ombudsman Program represents the rights of nearly 28,000 individuals located in Adult Care Homes throughout Kansas. This includes nursing facilities, assisted living facilities, home plus facilities and long-term care units (LTCU). We are a state agency specifically designed to provide FREE advocacy assistance to LTC residents.

We are asking for your support of SB 562, which would enable residents:

- To have one more voting option (mobile voting booths)
- To increase their participation in the electorate process
- To have choice of the voting process
(advance ballot, existing outside polling center, mobile polling)
- To have voting assistance from the Democratic and Republican parties.
- To reduce foreseeable advocacy cases due to lack of accessibility of a voting booth
- To bring relief to families who currently assist the resident to the voting booth outside the LTC facility

However, the committee should strike section 1(a), line 17-18, *if the administrator of the facility agrees*. The ombudsman program feels that this should not be a choice of the administrator, but an option available to eligible registered residents.

Advocating for resident choice is paramount to the LTC ombudsman program. SB 562 is consistent with the Older Americans Act to maintain resident choice even when admitted to a LTC facility. The ombudsman program strongly encourages the committee to approve SB 562.