

MINUTES OF THE HOUSE ELECTIONS COMMITTEE

The meeting was called to order by Chairman Steve Huebert at 3:30 p.m. on March 4, 2009, in Room 446-N of the Capitol.

All members were present except:

Representative Mike Peterson- excused

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Florence Deeter, Committee Assistant

Conferees appearing before the Committee:

Brad Bryant, Deputy Assistant Secretary of State
Mick Urban, Manager, Governmental Affairs, Kansas Gas Service
Wes Ashton, Black Hills Energy
Mike Reeht, Atmos Energy
Kimberley Gensur-Svaty, Kansas Municipal Utilities

Others attending:

See attached list.

SB 55 - Concerning ballots by uniformed and overseas citizens and federal services voters.

Ken Wilke, Office of the Revisor of Statutes, outlined the proposed changes in **SB 55**, saying that each of the three sections contain language to make the bill more uniform in content. He said the inclusion of local questions, state constitutional amendments, and election of party precinct committee positions are to be included in overseas absentee ballots for federal service voters. Mr. Wilke explained the reporting procedures for campaign finance records and the current rulings for transfer of campaign funds from a state or local office position to another campaign.

Brad Bryant, Deputy Assistant Secretary of State, addressed the committee in support of **SB 55**. He said the bill is designed to expand voting opportunities to include local issues and precinct committee positions on the advanced overseas ballot (Attachment 1). Mr. Bryant explained that ballot preparation would be the same for both federal services and local voters for the August election process.

Commenting on other sections of the bill, Mr. Bryant indicated the Secretary of State's office and the Governmental Ethics Commission are working to promote the use of electronic campaign finance reporting. He said the Secretary of State's office is neutral on the sections pertaining to transfers of campaign funds.

There being no opponents to **SB 55**, the hearing was closed.

SB 80 - Certain cities; sale of utility systems; elections.

Mick Urban, Manager, Governmental Affairs, Kansas Gas Service, spoke as a proponent for **SB 80**. He said the bill was originally proposed to provide assistance for third-class cities to divest itself of the responsibility for operating certain utility services (Attachment 2). Mr. Urban indicated that this bill changes the vote requirement from "qualified electors" to a majority of electoral votes by citizens of the community.

Wes Ashton, Black Hills Energy, spoke as a proponent for **SB 80**. He testified that the low voter turnout in conjunction with the sale of a utility system does not always reflect the majority viewpoint. Mr. Ashton said this bill eliminates the calling of a special election and allows voting on the issue at the time of the general election (Attachment 3).

Mike Reeht, representing Atmos Energy, said the company is the second largest natural gas utility in Kansas. He indicated the company supports the efforts of the Kansas Gas Service Company in changing the voting process for the sale of utility systems and equipment (Attachment 4).

CONTINUATION SHEET

Minutes of the House Elections Committee at 3:30 p.m. on March 4, 2009, in Room 446-N of the Capitol.

Kimberly Gensur-Svaty, representing Kansas Municipal Utilities (KMU), provided oral comments on testimony submitted by Colin Hansen, Executive Director, KMU (Attachment 5). She indicated that KMU is the statewide association for electric, natural gas, water and wastewater systems. Ms. Gensur-Svaty said the KMU opposes the inclusion of electric and water utilities in **SB 80**, but holds a neutral position on the natural gas systems in operation in third class cities.

Written testimony holding a neutral position was submitted by Dave Holthaus, Kansas Electric Cooperatives, Inc. (Attachment 6).

There being no opponents to **SB 80**, the hearing was closed.

The meeting was adjourned at 4:20 p.m. The next meeting is scheduled for March 9, 2009.

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 Elections

Testimony on Senate Bill 55

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

March 4, 2009

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 55. This bill contains two bills that were originally introduced separately and a floor amendment. Senate Bill 55 and Senate Bill 57 were proposed by the Secretary of State, so we support passage. We are neutral on the provisions amended onto the bill on the Senate floor.

Senate Bill 55 was proposed by the Secretary of State's office as an expansion of voting opportunities for federal services voters. This is in Section 1 of the current version of Senate Bill 55. Federal services voters are individuals who vote under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), including military personnel and their dependents and nonmilitary citizens living overseas. Article 12 of Chapter 25 of the Kansas Statutes Annotated consists of the state laws implementing UOCAVA in Kansas.

Since 1976, federal services voters' ballots have excluded two races: (1) local question submitted elections and (2) political party precinct committee positions, which are elected in the August primary each even-numbered year. Before 1976, dating back to 1943, these ballots excluded even more races. The only reason for these exclusions that we know of was that, at the time the law was passed, many overseas voters received little information about local races and thus may have been uninformed about these issues. With recent improvements in the availability of political information, especially through the Internet, we assert that federal services voters are no longer limited by this factor and thus should be allowed to vote on all issues that other voters have on their ballots. Senate Bill 55 therefore would expand voting opportunities and promote fairness and equality.

Another benefit of Senate Bill 55 would be to simplify the ballot preparation process for county election officers. They would no longer need to prepare a separate and different ballot for federal services voters. This would allow them to issue the same ballots to federal services voters as are issued to all other voters.

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Attachment #1

Amendments by Senate Committee on Ethics and Elections

1. Sections 2, 3 and 4 of Senate Bill 55 are from the original Senate Bill 57 that was proposed by the Secretary of State as an improvement in the process of filing last-minute campaign finance reports during the eleven-day "blackout" period before an election when contributions or expenditures reach the cumulative level of \$300 or more. The bill would require such last-minute reports to be filed either by fax or electronically. Current law, passed in 2008 in the form of Senate Bill 196, allows the reports to be filed by hand delivery, express delivery service, fax or electronically.

These last-minute reports were not required before 2008, so in anticipation of the filing of reports by hand delivery or express delivery, the Secretary of State's office and, by extension, the Governmental Ethics Commission were required to be open on Saturday and Sunday preceding both the August primary and the November general election in 2008. Although a few reports were received by fax and electronic means, none were received by hand delivery or express delivery service. Senate Bill 57 proposes to eliminate the unnecessary office hours for two state agencies by requiring last-minute reports to be filed by fax or electronic means.

This legislation also brings into play a law passed in 2007 which required the Secretary of State's office to design and implement an electronic campaign finance reporting system. No one who files campaign finance reports is required by law to file electronically, but the Secretary of State and the Governmental Ethics Commission are working to encourage its use. Senate Bill 57 would encourage expanded use of the electronic reporting system.

2. Sections 5, 6, 7 and 8 deal with transfers of campaign funds. These sections were amended into Senate Bill 55 by the Senate Committee on Ethics and Elections. The Secretary of State is neutral on these provisions.

Amendments by Senate Committee of the Whole

A floor amendment in the Senate deleted parts of Section 7 and all of Section 8 of the bill dealing with transfers of campaign funds. The Secretary of State is neutral on these amendments.

We encourage the committee to, at minimum, report sections 1, 2, 3 and 4 of Senate Bill 55 favorably for passage. Thank you for your consideration.



KANSAS GAS SERVICE

A DIVISION OF ONEOK

Mick Urban
Manager, Governmental Affairs

Before the House Committee on Elections
SENATE BILL 80
Testimony of Mick Urban, Manager Governmental Affairs
March 4, 2009

Good afternoon Chairman Huebert and members of the committee. My name is Mick Urban and I represent Kansas Gas Service. Kansas Gas Service is the largest natural gas distribution company in the state serving more than 642,000 customers in approximately 342 communities. I am testifying in support of Senate Bill 80.

SB 80 addresses a situation that occurs when a City of the Third Class wants to divest itself of its ownership and responsibility for operating certain utility services (electric light or waterworks plant, electric transmission line, or water, gas or electric distribution system). A city of the third class has 2,000 residents or less.

K.S.A. 15-809 requires a majority vote of the qualified electors of the city before a sale can be made. Qualified electors include people who vote at an election, people who don't vote at an election, and people who have moved away or have died and have not been removed from the voter registration rolls. Given generally low voter turnout in most jurisdictions, especially for city elections, achieving this vote requirement can be difficult, if not impossible even with strong community support for a sale.

SB 80 would change the vote requirement to that of all other elections, that is, the vote of a majority of those voting.

In recent years there has been growing interest by smaller cities to sell their natural gas distribution systems. Kansas Gas Service has received several requests regarding the potential sale of small municipal natural gas distribution systems.

7421 West 129th Street • Overland Park, KS 66213-2634

P.O. Box 25957 • Shawnee Mission KS 66225-5957

(913) 344-8801 • Fax (913) 319-8606

murban@oneok.com

www.oneok.com

House Elections
3-4-09
Attachment # 2

Small cities are finding it more and more challenging to operate their natural gas distribution systems, which are often aging and in need of ongoing maintenance and repair. Federal and state safety requirements can add significant financial and technical burdens upon municipal systems and increase operational costs, which may or may not be able to be economically spread across a declining customer base.

In many cases a larger utility, such as Kansas Gas Service, can operate a local distribution system more safely and efficiently than a small city, due to the depth of expertise within the company, operational capabilities and comprehensive safety programs.

Passage of this bill will facilitate the sale and purchase of utilities owned and operated by cities of the third class. Citizens of the community will continue to have the right to vote on the question of whether the utility should be sold to a third party. The proposed change makes such elections the same as the vote on other elections, namely, the vote of the majority of people voting at the election.

I thank you for the opportunity to be here today and will gladly stand for questions.



**Legislative Testimony of Wes Ashton
Government Affairs, Black Hills Energy
Before House Elections Committee
March 4, 2009**

110 East 9th Street
Lawrence, KS 66044
F: 785.832.3901

Good afternoon, Mr. Chairman and members of the Committee. I am Wes Ashton, Government Affairs for Black Hills Energy for Kansas and Colorado. I appreciate the opportunity to offer legislative testimony in support of SB 80.

Black Hills Energy recently began serving communities across Kansas. Last July the Black Hills Corporation, headquartered in Rapid City, South Dakota, in cooperation with Kansas City Power & Light purchased and divided all of the assets of Aquila. Black Hills purchased all of Aquila's natural gas assets in Kansas, Iowa, Nebraska and Colorado, as well as the electric assets in Colorado. KCP&L acquired all of the assets in Missouri. Black Hills Energy now serves more than 750,000 gas and electric customers across seven states and more than 110,000 customers across the state of Kansas.

Black Hills Energy would like to offer our support to SB 80, which would amend Kansas statutes to allow cities of the third class to allow a majority vote on the purchase of gas and electric assets of the votes cast in a special election. The issue this bill addresses is a straightforward policy decision for the committee, and the bill would allow for such a public policy that is in the best interests of the customers at issue.

When discussing the sale of municipal assets in cities of the third class, any sale must be approved by a special election. These special elections are often dealing with a small number of voters, and low voter turnout is often a concern. By the time an election is extended to the citizens of a city, it must have already been approved by the city council. Public notice is required, and the current requirement essentially counts all those who do not vote as a vote against the sale. Those citizens who are strongly in favor or strongly opposed to such a sale are the most likely to show up to vote. Those citizens who are neutral or don't care are most likely not to vote, and low voter turnout in a special election makes any election more difficult.

Black Hills Energy works closely with our communities and will assist any municipality that is interested or looking at options of getting out of the natural gas business. Any city of the third class will have gone through an extensive negotiation and bid process, a favorable vote of its elected representatives on the council and finally a public vote of its citizens to ultimately decide the issue. That decision should be determined by those citizens that vote on the issue, not by those who stay at home.

Thank you for the opportunity to offer testimony today and offer our support for SB 80. I will be happy to stand for any questions on this bill at the appropriate time.



GACHES, BRADEN & ASSOCIATES
Government Relations & Association Management

825 S. Kansas Avenue, Suite 500 ♦ Topeka, Kansas 66612 ♦ Phone: (785) 233-4512 ♦ Fax: (785) 233-2206

Testimony before the House Elections Committee
On behalf of Atmos Energy
Regarding SB 80
Presented by Mike Reece
Wednesday, March 4, 2009

Thank you Chairman Huebert and members of the Committee:

My name is Mike Reece and I am appearing today on behalf of Atmos Energy in support of SB 80. Atmos Energy is the second largest natural gas utility, serving Kansans throughout the greater Kansas City market, southeast Kansas, central Kansas and extending into the southwest corner of the State.

Atmos supports Kansas Gas Service Company in its efforts to change the threshold regarding the number of votes necessary to approve the sale of utility systems and equipment to a public utility by a city of the third class.

In most elections the general public is accustomed to outcomes being determined by those who vote, not to a percentage of all registered voters. We do not require the Governor to be elected by a majority of all registered voters. Nor do we require that 50% of all registered voters support election of their state representatives. It seems reasonable that the same standard used to elect our public officials should be adequate to protect the public's interest in the circumstance of transferring ownership of utilities assets as described in Senate Bill 80.

Thanks for your consideration and I would be glad to answer any questions the committee might have regarding this matter.

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Attachment # 4



kansas municipal utilities

*Submitted testimony provided the
House Elections Committee
March 4, 2009*

*Colin Hansen, Executive Director
Kansas Municipal Utilities*

Senate Bill 80

Senate Bill 80 pertains to the municipal electric, natural gas and water utility systems operated by cities of the third class. Kansas Municipal Utilities (KMU) is the statewide association for electric, natural gas, water and wastewater systems. Currently, KMU's membership includes 176 cities that operate one or more of these customer-owned and operated utilities.

Municipal Electric Utilities in Kansas

- 119 Municipal Electric Utilities in Kansas (4th most of any state in the U.S.)
- Median Size: 882 Customers (examples of this size utility include Moundridge, Arma, Greensburg, St. John and LaCrosse)
- Only 8 of 119 public power systems serve in excess of 5,000 customers
- Largest: Kansas City Board of Public Utilities (65,000+ meters)
- Smallest: City of Radium (23 meters)

Natural Gas

- 65 municipal gas systems in Kansas
- 85% serve less than 1,000 customers
- Municipal gas utilities formed because gas service to these communities was historically deemed unprofitable to private companies

Following SB 80's introduction, Kansas Gas Service reached out to KMU and an agreement was swiftly reached on an amendment making this bill applicable to just natural gas systems operating in a city of the third class. KMU believes this is an appropriate amendment as it ensures that the change in election law is for the purpose of public safety rather than business development.


As more rules and regulations are placed on cities operating a natural gas system, maintaining the gas system properly can become an onerous burden on the smallest cities' and their finances. On the gas system side, it is true that some small cities have approached private utilities to take over their system for safety purposes. On the electric side, this is not the case. By allowing electric systems to remain in the bill, the measure is instead a business development opportunity designed to simplify long-standing requirements that cooperatives and investor-owned utilities must meet to buyout municipal electric systems.

KMU respectfully submits that this could be the first, albeit very small, step towards the active pursuit of acquiring and taking over municipal utilities during historically difficult times for small and primarily rural communities.

KMU opposes the inclusion of electric and water utilities in SB 80.

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Attachment # 5



A Touchstone Energy® Cooperative 

P.O. Box 4267, Topeka, Kansas 66604-0267
7332 SW 21st Street, Topeka, Kansas 66615

785-478-4554 • (Fax) 785-478-4852
www.kec.org

**House Elections Committee
Written Testimony on Senate Bill 80**

March 4, 2009

The Kansas Electric Cooperatives support SB 80 **as written**. **Electric distribution systems** are included in the bill and we want them to **remain included in the bill**.

SB 80 amends K.S.A. 15-80 to allow for the majority of votes cast in a city election to determine the outcome, rather than the majority of the registered voters of the city.

Occasionally a cooperative may be approached by a city seeking to sell its electric system. The most recent example, was the City of Oakley approaching Midwest Energy, Inc., of Hays, Kansas, to purchase their electric system. The sale took place, Midwest Energy made immediate improvements and both parties are pleased. SB 80's change in K.S.A. 15-80, to simplify the election process will assist the City Council to more easily achieve their desired outcome.

I am sorry I could not be present at this hearing on SB 80.

KEC urges your support for SB 80 with the inclusion of electric distribution systems.

Thank You

Dave Holthaus
228-4603

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