

MINUTES OF THE HOUSE ELECTIONS COMMITTEE

The meeting was called to order by Chairman Steve Huebert at 3:30 p.m. on March 3, 2010, in Room 144-S of the Capitol.

All members were present except:

Representative Bob Bethell- excused
Representative Steve Brunk- excused
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
Elizabeth Ensley, Shawnee County Election Commissioner

Others attending:

See attached list.

Hearing On: SB 421 - Election crimes; increase in penalty for voting when voter unqualified.

Martha Dorsey, Kansas Legislative Research Department, briefed the committee by stating that, the bill for consideration pertains to penalties for persons unqualified to vote. She noted the change in the penalty would move a conviction from a class A misdemeanor to a level 9 non-person felony.

Brad Bryant, Deputy Assistant Secretary of State, speaking as a proponent of **SB 421**, reported that the proposed change is consistent with other changes the Legislature has made in years past. He noted that the act of casting a ballot does not have comparable oversight and protection as other facets have in the voting process (Attachment 1). Included in his testimony is a list of election crimes that carry the penalty of level, seven, eight, nine or ten non-person felonies.

Responding to members' questions, Mr. Bryant said:

A Class A misdemeanor conviction does not remove a person's right to vote;
A Level 9 conviction can carry a \$2,500 fine, mandates presumptive probation, removes the person's right to vote for one year, and requires the person to re-register to vote; and
Signs are posted at voting sites giving the laws of Kansas and voting instructions.

Elizabeth Ensley, Shawnee County Election Commissioner, spoke as a proponent of **SB 421**. She said that raising the level of conviction would help discourage attempts to vote illegally (Attachment 2). She noted that anyone using a fraudulent signature on a ballot or petition is a felony, while at this time, voting twice is not.

Following discussion, Ms. Ensley and Brad Bryant agreed to provide information to the committee on the name and number of states that have a Level 9 policy in place regarding election crimes.

The hearing on **SB 421** was closed.

The meeting was adjourned at 4:10 p.m. The next meeting is scheduled for March 8, 2010.

RON THORNBURGH
Secretary of State



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STATE OF KANSAS
House Committee on Elections
Testimony on Senate Bill 421

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

March 3, 2010

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 421. This bill was proposed by the Secretary of State to increase the penalty for illegal voting from a class A misdemeanor to a level 9, nonperson felony.

This proposed change is consistent with a number of other actions taken by the Legislature during the past ten years to raise the penalty for election-related offenses. This proposal is especially important because it deals with the act of casting the ballot, which is the fundamental event in the electoral process.

We are vigilant about election crimes, and we work with county election officers across the state to identify instances of illegal activity and to report them when they are found. We have improved our procedures for working with local, state and federal officials who have the authority to investigate and prosecute election crimes. We are pleased that we have not found large-scale election crime or rampant corruption in our system, but we believe those cases that are discovered should be prosecuted.

We have seen some individuals prosecuted and convicted in recent years, but in some cases when there is no prosecution it is because prosecutors are reluctant to commit the time and resources to prosecute misdemeanors.

Attached to this testimony is a list of election-related felonies dealing with various parts of the electoral process. But the key act in the process, the act of casting a ballot, is not protected at the same level.

We urge the committee to report Senate Bill 421 favorably for passage to raise the crime of illegal voting to the severity level it warrants.

*Hs. Elections
3-3-10 Attach # 1*

Following is a list of election crimes that carry the penalty of a level 7, 8, 9 or 10 nonperson felony:

- Bribery 25-2409
Offering, conferring, soliciting or accepting a benefit for voting, not voting or voting a certain way
- Election perjury 25-2411
Falsely swearing in response to
- questions asked of a challenged voter,
- questions asked of a witness,
- statements in an affidavit prescribed by Chapter 25 or the SOS or county election officer,
- questions asked by a county election officer related to voter registration,
- questions asked by an election board member related to physical or language disability,
- statements by a witness in an election contest.
- Election forgery 25-2412
Knowingly signing another person's name to a certificate, nomination paper or petition
Marking a person's ballot without consent
Marking a person's ballot contrary to their direction.
- Possessing false or forged election supplies 25-2414
Possessing altered or counterfeit poll books, tally lists or election returns
- Intimidation of voters 25-2415
Intimidating, threatening or coercing a voter to induce them to vote a particular way or to not vote
Mailing, publishing, broadcasting, telephoning false information to keep voters from voting
- Bribery of an election official 25-2417
Offering or conferring a benefit to an election official to influence them to perform duties improperly
- Bribe acceptance by an election official 25-2418
Election official's acceptance of a benefit for improper performance of duties
- Election fraud by an election officer 25-2420
Receiving a vote from an unregistered or unqualified voter
Receiving a vote from a person who has previously voted
Possessing altered or counterfeit poll books, registration books, party affiliation lists, election abstracts or election paper
Receiving or counting fraudulent, counterfeit or illegal ballots
Issuing a fraudulent or false certificate of nomination or election
Declaring a false election result
Declaring election results based on fraudulent or illegal votes
Entering the name of a person not qualified to vote on a poll book, registration book or party affiliation list
Entering the name of a person who has not voted on a poll book, registration book or party affiliation list
- Election suppression 25-2421
Suppressing a duly filed nomination certificate or petition
Possessing a nomination certificate or petition and neglecting to file at proper time
- Voter registration suppression 25-2421a
Destroying a voter registration application
Obstructing delivery of a voter registration application to election office
Failure to deliver a voter registration application to the election office

Unauthorized voting disclosure	25-2422
Disclosing the contents of a ballot	
Inducing a voter to show how he/she has voted	
Election tampering	25-2423
Making or changing an election record when not charged with official duties	
Voting machine fraud	25-2425
Unauthorized possession of a key	
Tampering with, altering or destroying a machine, ballot or record	
Printing and circulating imitation ballots	25-2426
Printing and circulating sample ballots other than official sample ballots	
Destruction of election supplies	25-2428
Destroying or defacing candidate lists, sample ballots or election supplies	
Destruction of election papers	25-2429
Destroying nomination certificates, papers or candidate withdrawal letters	
False impersonation of a voter	25-2431
Representing oneself as another and attempting to vote	
Advance voting suppression	25-2433
Knowingly attempting to destroy or alter a voter's advance ballot	
Obstructing delivery of ballot to voter or to election office	
Failure to deliver ballot within 2 business days	
Exercising undue influence on an advance voter	
Opening a ballot envelope to examine or disclose the ballot's contents	
Marking advance ballot for voter	25-1124(a)
Failure to sign advance voting affidavit of assistance	25-1124(c)
Exercising undue influence on assisted advance voter	25-1124(c)
False statement on voter registration application	25-2309(a), (b)(11)
Electronic voting machine fraud	25-4414
Unauthorized possession of voting equipment, computer programs, software or ballots	
Tampering with, altering, destroying a voting system or ballot	
Optical scan equipment fraud	25-4612
Unauthorized possession of ballots, optical scan equipment, computer programs, software	
Tampering with, altering, destroying optical scan equipment, software or ballots	



Shawnee County Commissioner of Elections

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TESTIMONY

TO: House Elections Committee

FROM: Elizabeth Ensley
Shawnee County Election Commissioner

DATE: March 3, 2010

RE: SB 421 – Felony Voting

Thank you for hearing me on SB 421. This bill changes the crime of voting twice to a level 9 non-person felony. It is important that the statutes protect the integrity of the election and actually discourage any attempt to vote illegally. Raising this election crime to a felony will help to do that.

Recently I provided evidence in the successful conviction of a person who voted in two counties in the 2006 November general election. In 2005, we also found a voter who voted in the township and in the city in a mail ballot election. At various times over the years, I have worked with law enforcement to provide evidence in investigations that have resulted in 13 convictions. I am amazed that a fraudulent signature on a petition is a felony, but voting twice is not. Knowingly attempting to vote twice is to purposely try to negate someone else's vote. Surely, that is a crime worthy of a felony.

Please vote in favor of SB 421. Thank you for your time and consideration.