

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE:

The meeting was called to order by Chairperson Representative Tony Powell at 3:30 p.m. on March 5, 2001 in Room 521-S of the Capitol.

All members were present.

Committee staff present: Theresa Kiernan, Revisor
Dennis Hodgins, Research
Shirley Weideman, Secretary

Conferees appearing before the committee:

SB 107 - Proponent: Senator Stan Clark
Opponents: Karen Hartenbower, Lyons County Clerk
Brad Bryant, Deputy Assistant Secretary of State
Neutral: Susan Bechard, Kansas County & District Attorneys Assoc.
SB 63 - Proponent: Brad Bryant, Deputy Assistant Secretary of State
SB 125 - Proponents: Karen Hartenbower, Lyons County Clerk
Brad Bryant, Deputy Assistant Secretary of State

Others attending: See attached.

Without objection, the minutes for the January 31, February 5, 12, and 14 meetings of the Ethics and Elections Committee were approved as received by the members.

Chairman Powell announced that he would not be working any bills at this meeting.

Chair Powell opened the hearing on **SB 107 - Petition sufficiency; duty of county or district attorney.**

Senator Stan Clark appeared before the committee as a proponent for **SB 107**. He states that he is trying to protect our citizen's constitutional right to petition with having a clearly stated question to place on the ballot for voter referendum. Senator Clark gave examples of petitions circulated in 1991 and 1992 in which the former was thrown out by the county officials because they determined that it was not in proper order and the latter was given a "no" by the County Attorney before it was circulated because he had declared that he couldn't represent both the County and the Citizens. Senator Clark gave another example from the December 29, 1998 Hays Daily News which indicated that a petition was declared invalid because it did not have the approval of the County Attorney prior to circulation. (attachment #1)

Senator Clark also presented the testimony of Lester Haremza, Colby, Kansas as a proponent of **SB 107**. He related the information in the testimony about the five attempts Mr. Haremza made to have a petition approved by the County Attorney. He said the final question was considerably changed by the time it was rewritten the five times as well as taking 29 days for the approval. (attachment #2) Senator Clark commented on the concern for a "gatekeeper" in making sure that the question that is placed on the ballot is correctly worded. He also said that there have been concerns about the time allowed for circulating a petition and he suggested a choice between SB 107 and SB 244 from 1999. (attachment #3)

Senator Clark told the committee that **SB 107** removes the County Attorney from the process and assumes that the question in the petition as it is put on the ballot is valid unless proven otherwise. He said with the changes provided in this bill, the question shall be presumed to be valid if it states the title, number and exact language of the ordinance or resolution and the title of such petition states: "Shall the following ordinance or resolution

become effective?” Senator Clark answered questions asked by committee members.

Karen Hartenbower, Lyon County Clerk/Election Officer, testified as an opponent of **SB 107**. She is

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particularly interested in two areas of the bill. She said that in Section 1 (b) any person challenging the validity of the form of a question shall have the burden of proving in district court that the form of the question is valid. Ms. Hartenbower also indicated that there is no time line as to the last day the challenge can be made. She believes that with the crowded court schedules and the 6-week printing time for ballots, it would not be possible to have the ballots ready in time for the election. Ms. Hartenbower said her second area of concern was with Section 1 (c) which states that providing the “exact language of the ordinance, resolution and title” could possibly make the ballots in readable form very long. She answered questions asked by committee members. ([attachment #4](#))

Brad Bryant, Deputy Assistant Secretary of State, appeared before the committee in opposition to **SB 107**. He indicated that the bill in trying to solve one or a few isolated incidents may create new and greater problems. He said that the petition circulation process and the voting process are grounded in state statutes and are thus legal issues for the county, and as such need the involvement of the county’s chief legal authority. Mr. Bryant said that the intent of current law is to designate the county attorney as the “gatekeeper” to review and ensure the legality of petitions. He also said that by relieving the county attorney of the duty of reviewing petitions, the county clerks would be expected to perform that duty or it may not be done at all, with the possibility of confusing or biased language being placed on the petitions and ballots. Mr. Bryant stated that another problem could arise if SB 107 is passed and that is of having petitions and elections on issues that have no legal basis under Kansas law. Mr. Bryant stood for questions from the committee. ([attachment #5](#))

The committee’s concerns are for how to solve the problem with the county attorney busy with other county business and citizens that are frustrated with trying to get their petitions on the ballot.

Susan Bechard, Kansas County and District Attorneys Association, was neutral concerning **SB 107**. She said her office did testify in support of this bill before the Senate committee, but since that time several KCDA members have raised concerns about the lack of a gatekeeper to determine if the petition would be enforceable by law. ([attachment #6](#))

The hearing was closed on **SB 107**.

Chairman Powell opened the hearing on **SB 63**.

Brad Bryant, Deputy Assistant Secretary of State, appeared before the committee in support of **SB 63**. He said this bill is identical to a provision in a bill proposed by the Secretary of State in 1999 in an attempt to acquire the means for their office and the county election officers to clean up the voter registration list. The bill would amend K.S.A. 25-2309(b) to require voter registration applicants to provide the last four digits of their Social Security numbers on their application forms. Mr. Bryant indicated that using these digits along with a person’s name and birth date would allow election officers to ascertain when they have a duplicate registration. Also with this added data, he said it may be possible to identify duplicates across state lines as more states begin using the last four digits of the Social Security number. Mr. Bryant said an added bonus of removing the duplicates and ineligible voters from the registration list is that candidates, consultants and political parties who purchase voter registration data will have fewer mailings returned to them as undeliverable due to expired addresses. Mr. Bryant answered questions asked by committee members. He indicated that with the amendment that the Senate added, the last four digits of the Social Security number will not be on the published list. ([attachment #7](#))

Connie Schmidt, Johnson County Election Commissioner, gave testimony in support of **SB 63**. She said that their county has problems with determining voter eligibility when people complete a voter registration application at the DMV without understanding that they are registering to vote. Also she indicated that they have a problem maintaining the voter list file especially when a woman changes her last name by marriage or divorce and when people move between counties and states. ([attachment #8](#)) She provided the committee members with comments she received from interested County Clerks/Election Officials across the state. ([attachment #9](#))

CONTINUATION SHEET

Chairman Powell closed the hearing on **SB 63**.

Chair Powell open the hearing on **SB 125**.

Karen Hartenbower, Lyon County Clerk/Election Officer, testified before the committee in favor of **SB 125**. She proposed an amendment to the bill (page 7 of the bill) regarding simplifying the headings on the general ballot form for national and state offices. At the present time they must print "FOR PRESIDENTIAL ELECTORS" above each set of candidates for president and vice-president, which take up space and increase the amount of printing needed. (attachment #10)

Brad Bryant, Deputy Assistant Secretary of State, gave testimony in favor of **SB 125**. He said that it is a technical clean up bill for elections. Mr. Bryant said that SB 125 has six provisions 1)Section 1 deals with candidate filing deadlines in reapportionment years , 2)Sections 2 and 4 delete the office of county surveyor since there are no elected county surveyors anymore, 3)Section 3 deletes a reference to K.S.A. 25-410 which was repealed in 1996 with passage of legislation implementing the National Voter Registration Act, 4)updates two ballot preparation statutes by deleting references to "19__" in sections 5 and 6, 5)Section 7 amends language in K.S.A. 25-3102 dealing with replacing absent members on county boards of canvassers, and 6)Section 8 amends K.S.A. 25-3801 by deleting a reference to K.S.A. 25-3802 which was repealed in 1990. (attachment #11) He added that he has no objection to the amendment proposed by the clerks.

Chairman Powell closed the hearing on **SB 125**.

Meeting was adjourned at 4:45 p.m. The next scheduled meeting is March 7 at 3:30 p.m.