

Opponent Testimony on House Bill 2183

House Committee on Elections

Davis Hammet

Loud Light Civic Action

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Chair Carpenter, Members of the Committee,

Sec. 1 (b): Separation of Powers Concern – Judicial Review

What does this section intend to do that is not already established by the separation of powers doctrine? What does “authority to alter the state election laws” mean? Specifically, what does “alter” encompass? If this means the judicial branch is unable to review election laws then this appears to be an unconstitutional encroachment. If this does not somehow encroach on a separate branch then why is the clause necessary?

Sec. 1 (c): Separation of Powers Concern – Executive Enforcement

Article 1 Section 3 of the Kansas Constitution states “The supreme executive power of this state shall be vested in a governor, who shall be responsible for the enforcement of the laws of this state.” Again, this bill appears to further encroach on the separation of powers, but this time it prevents the judiciary from interacting with the executive unless the legislative branch approves (through the legislative coordinating council). An additional concern is how this bill would interact with the National Voter Registration Act which designates the Secretary of State as the chief election officer of Kansas. Does the Secretary of State need Kansas legislative approval to enter a consent decree for compliance with federal law?

Sec. 2: Crisis Management Concern

KSA 25-622 exists so the state is able to handle a crisis that makes it “impossible for voters in a voting area to obtain ballots as provided by law.” Without this statute, how will the state protect voters who face a natural disaster such as a tornado that renders normal election operations obsolete. This could lead to disenfranchising entire communities and result in corresponding legal actions.

This bill limits the state's ability to protect our democratic republic during a crisis and opens up a wide range of questions related to the separation of powers – all of which could result in litigation.

I recommend this committee oppose HB 2183. I’m happy to stand for any questions when appropriate. Thank you.

Davis Hammet