

Opponent Oral Testimony on House Bill 2086

House Committee on Elections

Davis Hammet – Loud Light Civic Action

February 7, 2023

Chair Proctor, Members of the Committee,

Massive Overhaul With Little Time for Input and Review

There are nearly 100 changes impacting more than 50 Kansas statutes within this single bill. Several changes appear uncontroversial; however, given the major scope of the changes and limited time of review it is hard to feel confident. In my limited review, I found several provisions that raise a range of concerns such as broad unclear language, unchecked discretionary powers, and timeline overlap issues.

Sec. 08 – State Census Estimates Instead of U.S. Census for Restructuring Election Administration

The State Legislature has worked over the last few years to move Kansas away from state census estimates and to rely instead on the Federal Census. Why is this moving the opposite direction? What's the impact of restructuring election administration based on these estimates and what if the state gets it wrong immediately preceding the Federal Census?

Sec. 16 & 25 – Ballot Name Rotation at Discretion of Secretary of State

These sections appear to give the Secretary complete discretion to determine how name rotation works across the state opening up the potential for favoritism. Why isn't a standard process developed to address any specific concern?

Sec. 18 – Independent Petition Validity Timing Crunch

Independent candidates not knowing the Secretary's determination of petition validity until the state canvass not only undermines a variety of things like their ability to fundraise, but it exacerbates the timing crunch issues caused within section 20.

Sec. 20 – Mandamus Proceedings Cut Off from 45 to 60 Days Overlaps with Objections

Moving the time to file a mandamus proceeding from 45 to 60 days before an election means in some years there will be only a couple days between the state canvass and the mandamus deadline. This overlaps with the time to file an election objection meaning candidates may have to immediately begin court proceedings instead of utilizing the election objection procedures.

Sec. 27 – Expedited Removal of Permanent Advanced Voters

Does this mean a disabled or elderly person who is hospitalized or otherwise away from home for only 14 months (covering two Novembers) would be purged from the permanent advance voting list?

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Sec. 39 – No Limits on Supervising Judge Restricting Access

This appears to give the supervising judge unlimited and unquestioned authority to restrict access around a voting site to any distance they desire.

Sec. 46 – Partial Count Primary Provisionals Conflicts with Voter Intent

What scenarios does this apply to and how does it not interfere with the likelihood of an unaffiliated voter declaring intent to affiliate with a party through casting such a partisan ballot?

Sec. 51 – Recount Bond Must Be Filed Before Secretary Knows Cost

How is the bond amount filed in such a small window of time if the Secretary has not yet determined the bond amount?

Sec. 56 – Party State and County Chairs Unchecked Power

Does this mean any state or county chair could block anyone they do not like from becoming a precedent committee person or remove them from being a committee person at any time?

Sec. 64 – HAVA Complaint Dismissal

This does not include a requirement to notify the person filing the complaint that their complaint is being dismissed or why. How much discretion for dismissal does this give the Secretary of State? Does this only apply to scenarios where the complaint is completely unrelated to HAVA title III or is the Secretary making their own fact determination before a hearing?

Given the massive scope of the bill, I recommend the committee oppose the current version of HB2086 and deliberate a more narrowly focused cleanup bill that does not raise new concerns while trying to resolve old ones. Thank you. I'm happy to stand for any questions when appropriate.