

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by Chairperson Lisa Benlon at 3:35 p.m. on February 9, 2000 in Room 521-S of the Capitol.

All Committee members were present except: Melany Barnes
Gwen Welshimer

Committee staff present: Dennis Hodgins, Research
Mary Galligan, Research
Theresa Kiernan, Revisor
Dee Woodson, Committee Secretary

Conferees appearing before the committee: Brad Bryant, Secretary of States Office
Connie Schmidt, Johnson County Election Commissioner
Elizabeth Ensley, Shawnee County Elections

Others attending: See attached list.

HB 2844 - Elections, distribution of ballots to voters in emergencies

Chairperson Benlon opened hearings on **HB 2844**.

Brad Bryant, Deputy Assistant Secretary of State on Elections and Legislative Matters, appeared before the Committee to explain this proposed legislation sponsored by the Secretary of State as a way to provide into law flexibility to respond on election day to emergency situations. Occasions have arisen where there is no technical statutory authority that put us and the County Election Officers in uncomfortable situations sometimes where the normal voting procedures don't work. I have detailed two examples out of the last nine to ten years in my written testimony, i.e. Desert Shield/Desert Storm conflict and the 1998 flooding. There were a number of counties in Kansas the day before the election in which it became apparent the voters could not vote by normal procedures. These included Morris, Chase, Franklin, Cowley, Leavenworth, and some others actually had disasters declared. There were voters calling saying waters were rising, their houses and possessions were threatened, but they still wanted to vote. In that situation, it left us with a choice of weighing the technical requirements in the law for the prescribed ways of voting vs the constitutional right to vote. Should be take unusual measures in an emergency to allow someone to exercise their constitutional right even if it meant technically violating the provisions in the law about out distribution. They don't know when an emergency will arise, but the Secretary of State would like to have a statute in the law that gives them authority to act in an emergency. (Attachment 1)

General discussion and questions followed regarding how advance voting is handled in cases of war, combining voting precincts in cases of emergencies, not delaying elections, strengthening authority of the Secretary of State, bill covers groups of voters not individuals, and postponement of election due to mechanical failures of voting equipment. Mr. Bryant stated that delaying elections was not what County Election Officers want to do because of everyone's right to know the results as soon as possible. He also said that County Elections Officers have no statutory authority to postpone or delay elections, and only the Courts have that authority.

Representative Johnston told about an incident in Wichita a couple of years ago where the city annexed small parts of the county. A municipal election came up, and the city forgot to hold elections for those new areas of the city. The city had to go back the next day and hold an election in those little precincts. He asked Mr. Bryant what the statutory authority was covering that situation and would it fall under **HB 2627**. Mr. Bryant responded he did not know of any statutes that have such authority. He said in this instance the canvassers consulted with the Secretary of State, devised a plan that was workable and fair, implemented it, and knew that somebody could challenge it in court which nobody did. The court usually upholds the constitutional right to vote over the technical requirements of the law. He said his department was under the directive of the Department of Defense.

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Representative Johnston also had a question regarding the wording “in cases of war” which make it impossible for voters to obtain ballots. There was considerable discussion from Committee members regarding the correct verbiage that should be used to protect the rights of military personnel and others that are called to duty during an election year.

Chairperson Benlon closed the hearing on **HB 2844**.

HB 2854 - Elections; notice provided to voters; voting machines; advance ballots, application for

Chairperson Benlon opened the hearing on **HB 2854**, and called on Brad Bryant, Deputy Assistant Secretary of State on Elections and Legislative Matters, as the first proponent. He explained that this bill was proposed by the Secretary of State to assist County Election Officers in the administration of elections. He referred the Committee to Sections 1 and 4 which would eliminate the statutory requirements to provide mechanical models of voting machines in the precincts. He said this requirement dated back to years ago when the only machines we had in Kansas was the old style lever machines. He stated that currently the requirements for mechanical models affect only three counties in Kansas. It is expensive and increasingly difficult to obtain mechanical models as manufacturers are making electronic voting machines that work by touch screens or pressure sensitive buttons, not the lever machines. Mr. Bryant clarified that the law required a mechanical model which was an extra expenditure to have it there so voters could see how the machines worked. He said it is increasingly difficult to get the model machines as the manufacturers of electronic equipment do not make those models anymore. His department feels it is reasonable for the voters if they need instruction on voting in their county, they should get that through printed materials or go through demonstrations by the Board members who are trained to do that. Mr. Bryant stated this revision would eliminate the requirement of having mechanical models of voting machines and allow that to be replaced with printed materials like a poster or picture of it and/or instruction by Election Board workers.

The second point of Mr. Bryant’s testimony involved Section 2 and would require an applicant for an advanced ballot to supply their birth date, and that is to help at deadline time when many applications for advance ballots are being received. He said it would also help identify the voters, and keep track if there were three people with the same name. This would insure that there would be one ballot and only one per voter, and he was sure it would be a good tool the County Elections Office could use.

Mr. Bryant explained in regard to Section 3 of the bill that it was a follow-up to a provision in SB 230 which eliminated the requirement to send official election mailings by first class mail. He said it would allow the County Election Officer to benefit from the use of the U.S. Postal Service’s election logo which entitles the mailer to first class service without paying first class rates. He also recommended the Committee amend the bill to make it effective upon publication in the Kansas Register because of the time sensitive provisions relating to advance ballot applications and first class mailings. ([Attachment 2](#))

Connie Schmidt, Johnson County Election Commissioner, spoke in favor of **HB 2854** as Johnson County owns 400 mechanical voting machines, of which 257 are the original 1987 version and requires a lot of expensive maintenance. She said Johnson County spends close to \$100,000 per year to replace and repair the outdated machines which is very poor use of the taxpayers’ dollars. She explained that Johnson County currently provides two sample ballots in every polling location on Election Day, and these paper replications can be used to answer voters questions. She said her office supports the additional date of birth requirement on the application for an advance voting ballot, and this would assist in getting the ballot issued to the correct person when there is a duplication in names. ([Attachment 3](#))

Elizabeth Ensley, Election Commissioner for Shawnee County, spoke in support of **HB 2854**. She particularly was interested in the revision on the mailing requirements and use of the election logo for a reduced mailing rate. She stressed the savings in mailing costs would be substantial. Also, she said that the U.S. Post Office is considering providing acceptance of the reduced rate on all election mailings instead of just on mass mailings, and if that happens, Kansas would be ready for it because of the removal of the “first class” requirement from the legislation. She spoke in favor of the birth date on advance voting applications as it would be very helpful in identifying voters with similar names. ([Attachment 4](#))

General discussion followed, covering questions and answers related to the following issues: acquiring results of elections by precinct, use of the Federal elections logo, problems with keeping election records

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updated due to people moving too much, and disposition of outdated voting machines.

Chairperson Benlon closed the hearing on **HR 2854**, and announced the Committee would be working these bills next week.

The Chair adjourned the meeting at 4:25 p.m.

The next meeting is scheduled for Monday, February 14, at 3:30 p.m. in Room 521-S.