

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE.

The meeting was called to order by Chairperson Representative Don Myers at 3:30 p.m. on March 10, 2003 in Room 521-S of the Capitol.

All members were present.

Committee staff present: Ken Wilke, Revisor  
Dennis Hodgins, Research  
Kathie Sparks, Research  
Shirley Weideman, Secretary

Conferees appearing before the committee: Brad Bryant, Deputy Assistant Secretary of State

Others attending: See attached list.

Chairman Myers opened the hearing on **SB 95 - Elections; names of political parties.**

Chairman Myers asked Revisor of Statutes Ken Wilke to explain **SB 95.** He said that the first part of the bill deals with the names of political parties. The Secretary of State will have the right to determine if a name is too lengthy or if the name is too confusing to the voters. Ken also explained that the bill's second part would repeal K.S.A. 25-116, 25-117, and 25-304 as well as K.S.A. 2002 Supp. 25-301a. He said that K.S.A. 25-116 bars political parties such as the Communist party or any other organization which directly or indirectly advocates the overthrow of the government (national or state) by force or violence, and also prohibits such a party or organization from placing names of its candidates on the ballot in any election in the state. Ken indicated that K.S.A. 25-117 requires that the officers of a newly organized political party must file an affidavit in the state assuring that it is not affiliated with the Communist party or any other government or organization that advocates, teaches, justifies, aides or abets the overthrow by force or violence or by any unlawful means, of the government of the United States or this state.

Brad Bryant, Deputy Assistant Secretary of State, appeared before the committee as a proponent of **SB 95.** He said the first part of the bill removes unnecessary restrictions on the number of words in the names of the parties. Mr. Bryant indicated that the Secretary of State could make a determination whether the name of the party is too lengthy or similar to that of an existing party. As the law states now, the name of the party can only have 2 words and one of those words is "party". Mr. Bryant told the committee that the second part of the bill repeals the unconstitutional laws banning seditious political parties. He said that the U.S. Supreme Court ruled in a 1974 case, *Communist Party of Indiana vs. Whitcomb*, that states may not require parties to file affidavits affirming that they do not advocate overthrow of the local, state or national government. (Attachment 1) Mr. Bryant answered questions the committee asked about whether groups or organizations that have a history of violence could be required to sign an affidavit, if the A.C.L.U. would pursue a case against the state if this bill passed, and how many signatures are needed on a petition in order to form a new party.

Chairman Myers closed the hearing on **SB 95.**

Chair Myers opened the hearing on **SB 102 - Elections; counting of ballots.**

CONTINUATION SHEET

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The Deputy Assistant Secretary of State, Brad Bryant, appeared before the committee as a proponent of **SB 102**. He said that this bill has two concepts. The first is to close a loophole in existing law that could allow a voter to cast two ballots—one before the election and one on election day, and have them both count. If a voter requests an advance ballot by mail, receives it and then goes to the election office and claims that it was lost, requests another advanced ballot and votes twice, one of those is voided. If the voter instead takes the second advanced ballot to the polls on election day and surrenders it there, his vote at the polls is counted and well as the vote on the first advanced ballot that he received. Mr. Bryant's suggestion to close this loophole is to have both the replaced advanced ballot and the vote at the polling place upon surrender of the advanced ballot, be provisional ballots. In the final tally only one of the votes would be counted. The second concept of the bill is to require the counting of partial provisional ballots if a voter casts a ballot in the wrong precinct, as long as it is in the same county. He said that this bill would require the canvassers to count those races on the provisional ballot that are common to both precincts in question—the precinct where the voter resides and the precinct where the provisional ballot was cast in error. Mr. Bryant indicated that this would provide consistency of ballot counting procedures among the counties in Kansas. Also, he brought the committee's attention to the amendments added by the Senate: 1) on page 3, lines 7 & 8, replacing "at" with "*intended for*" and 2) on page 2, line 21, striking out "regular" and replacing with "*provisional*" ballot. (Attachment 2)

Mr. Bryant recommends an **amendment to SB 102** in Section 2( c ) on page 2, striking out on lines 22-24: "if the voter first returns the advance voting ballot to a judge or clerk at the precinct polling place. The judge or clerk shall void such advance voting ballot". Section 2 ( c ) would read "*A voter who has received an advance voting ballot may vote a provisional ballot on election day at the precinct polling place where the voter resides. If the voter returns the advance voting ballot to a judge or clerk at the precinct polling place, the judge or clerk shall void such advance voting ballot. Any such provisional ballot, shall be counted only if the county board of canvassers determines that the provisional ballot was properly cast and the voter has not otherwise voted at such election.*" (Attachment 3)

Chair Myers closed the hearing on **SB 102**.

Chairman Myers said the committee will work **SB 102**.

Representative Yonally moved that **SB 102 be amended** in Section 2 ( c ) to "A voter who has received an advance voting ballot may vote a provisional ballot on election day at the precinct polling place where the voter resides. If the voter returns the advance voting ballot to a judge or clerk at the precinct polling place, the judge or clerk shall void such advance voting ballot. Any such provisional ballot shall be counted only if the county board of canvassers determines that the provisional ballot was properly cast and the voter has not otherwise voted at such election." Representative Sharp seconded the motion and the motion passed.

Representative Sawyer moved that **SB 102 as amended** be favorably moved from committee. The motion was seconded by Representative Miller. Motion passed.

The meeting was adjourned at 4:40 p.m. The next scheduled meeting is March 12 at 3:30 p.m.

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