



Wyandotte County Election Office

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SENATE STANDING COMMITTEE ON ETHICS, ELECTIONS AND LOCAL GOVERNMENT

Testimony on Senate Bill 37

Tuesday, February 7, 2017

Thank you for the opportunity to testify in favor of Senate Bill No. 37. This bill does not constitute a departure from standards and procedures already common to the conduct of elections.

Counting partial ballots. This is a common task for provisional ballots cast when a voter does not go to the correct polling place and fails to vote the ballot for his precinct. K.S.A. 25-3002 states in part –

When a registered voter has cast a provisional ballot intended for a precinct other than the precinct in which the voter resides but located within the same county, the canvassers shall count the votes for those offices or issues which are identical in both precincts.

- In the 2016 general election, there were 638 such wrong-precinct provisional ballots in the total of 1,181 provisional ballots approved for counting by the County Board of Canvassers (54%).
- In the 2014 general election, there were 255 partial-count provisional ballots in the total 526 ballots approved for counting (48.5%).
- In the 2012 general election, there were 608 partial count provisional ballots in the total of 1,280 ballots approved for counting (47.5%).

Proof of citizenship. The right to vote is a constitutional right of all citizens. However, this right is rendered meaningless if there is no requirement that non-citizens must provide evidence of citizenship. Prior to requiring such proof, election officers were asked to trust that no one would check the box on the application saying they were a citizen if they were not. The argument that there is little evidence of anyone falsifying the application, ignores the fact that prior to the proof of citizenship requirement, no county election official had any access to evidence that might be used to prove that an applicant is not a citizen.

Without proof of citizenship, it is impossible for an election officer to ensure that all votes are cast by citizens only.

For the 2016 primary and general elections, county election officers were required to allow applicants who had not proven their citizenship to vote anyway. For the 2016 general election, 49,516 persons voted out of 79,087 who could have voted (62.6%) Of the 577 DMV/Federal voters who could have voted, just 107 voted (18.5%). The number of persons who voted without providing proof of citizenship creates the danger that close elections could be and likely will be decided by non-citizens.

Close elections. On the 2016 primary election ballot, the elected precinct committeemen and committeewomen are often decided by less than 10 votes, and fewer than six votes if there is no candidate. After a primary election, at least 50% of the precinct committee positions in both parties remain unfilled. In the same primary election, the Democratic Party candidate for State Board of Education was decided by three votes. Only three votes were cast. There was one Republican Party SBOE candidate on the ballot who received one vote. Only one vote was cast.

In another primary election, there were multiple candidates for mayor. The primary election determined the top two candidates who advanced to the general election ballot. A margin of one vote existed between the second place candidate who would advance and the third place candidate who would not. The third place candidate expectedly asked for a recount. The recount had the same result as the election. But it is easy to see that a vote cast by one or two non-citizens could easily change the election result.

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There have been other elections, especially for school board, where the result was a tie and the winner was decided by the flip of a coin. One non-citizen vote would have changed any tied election result.

Senate Bill No. 37 preserves the authority of the Kansas Secretary of State to set rules and regulations consistent with the proper conduct and management of elections. The Kansas Secretary of State and his staff are uniquely positioned to provide clarifying rules and regulations. Kansas law as enacted by the legislature and approved by the governor mandate what county election officers must do. Rules and regulations are used to describe how to do it.

I support Senate Bill No. 37. I stand for questions.
