

Approved: March 9, 1993
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL & LEGISLATIVE
APPORTIONMENT AND GOVERNMENTAL STANDARDS

The meeting was called to order by Chairperson Barbara Lawrence at 1:30 p.m. on February 9, 1993 in Room 529-S of the Capitol.

All members were present

Committee staff present: Dennis Hodgins, Legislative Research Department
~~Mary Galligan, Legislative Research Department~~
~~Raney Gilliland, Legislative Research Department~~
Arden Ensley, Revisor of Statutes
Pat Brunton, Committee Secretary

Conferees appearing before the committee: Representative Carl D. Holmes, 125th District
Joe de la Torre, Office of the Secretary of State
Carol Williams, Kansas Commission on Governmental
Standards and Conduct

Others attending: See attached list

Senator Parkinson moved to approve committee minutes of January 21, 1993. Senator Wisdom seconded. Motion carried.

A request was made by Joe de la Torre, representing the Secretary of State's Office for legislation that would handle the issue of vacancy after the primary.

Senator Bond made a motion to introduce such legislation. Senator Parkinson seconded. Motion carried.

Hearings were opened on **SB 103**-county commissioners; vacancies in offices; assumption of office by successors, when.

Representative Carl D. Holmes appeared before the committee recommending passage of **SB 103**. He stated he supports this legislation as a result of an incident occurring in Seward County. (Attachment I)

Hearings were closed on **SB 103**.

Discussion followed.

Senator Sallee moved to pass and put on Consent Calendar **SB 103**. Senator Martin seconded. Motion carried.

Hearings were opened on **SB 113**-elections; location of voting squares on ballot.

Joe de la Torre, Office of the Secretary of State, testified in favor of **SB 113**. Mr. de la Torre stated this legislation would bring into uniformity the ballot format.

Linda Schreppel, Labette County Clerk, testified in favor of **SB 113**. She stated this bill would conform the centrally tabulated ballots and county clerks would appreciate passage of this bill.

Senator Parkinson moved to pass **SB 113** and put on Consent Calendar. Senator Hardenburger seconded the motion. Motion carried.

Hearings were opened on **HB 2038**-qualifications of members of Kansas commission on governmental

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL & LEGISLATIVE APPORTIONMENT AND GOVERNMENTAL STANDARDS, Room 529-S Statehouse, at 1:30 p.m. on February 9, 1993.

standards and conduct.

Dennis Hodgins, Legislative Research, gave a briefing on **HB 2038**.

Carol Williams, Kansas Commission on Governmental Standards & Conduct, testified in favor of **HB 2038**. She stated it has become quite difficult for appointing authorities to find individuals who qualify to serve on the Commission. (Attachment 2)

Discussion followed.

Hearings on **HB 2038** will be continued on Thursday, February 11.

Meeting adjourned at 2:20 p.m.

The next meeting is scheduled for February 11, 1993.

GUEST LIST

SENATE ELECTIONS COMMITTEE

DATE Tuesday, February 9, 1993

(PLEASE PRINT)

NAME AND ADDRESS

ORGANIZATION

G. Delatone

SOS

Carol Hensch - OTTAWA

Ottawa Co Clerk

Shirley Schuppel Oswego KS 67356

Salvatore

Rebecca Bossemeyer TOPEKA

SOS

Richelle Turner Topeka

AP

Trent Brown Holton

Senator Portman

STATE OF KANSAS
HOUSE OF REPRESENTATIVES



TOPEKA

CARL D. HOLMES
REPRESENTATIVE, 125TH DISTRICT
P.O. BOX 2288
LIBERAL, KANSAS 67905
(316) 624-7361

COMMITTEE ASSIGNMENTS
CHAIRMAN: ENERGY AND NATURAL RESOURCES
MEMBER: LOCAL GOVERNMENT
JOINT COMMITTEE ON ADMINISTRATIVE
RULES AND REGULATIONS
NATIONAL CONFERENCE OF STATE
LEGISLATURES—ENERGY COMMITTEE

TOPEKA ADDRESS
STATE CAPITOL, RM. 115-S
TOPEKA, KANSAS 66612-1504
(913) 296-7670

LEGISLATIVE HOTLINE
1-800-432-3924

SB 103

Chairperson Lawrence and members of the committee:

I support SB 103 as a result of an incident occurring in Seward County. The county attorney questioned line 22 of this bill "until a successor is elected and qualified at the next general election." He contended that the newly elected county commissioners who defeated 2 appointed commissioners should take office immediately after election. An AG's opinion stated what this bill will accomplish and what the legislature had intended. Not wanting to see another county go through what Seward County had with decisions being questioned and a bond issue at stake, I recommend SB 103 be passed.

I stand for questions.

SENATE ELECTIONS
2-9-93
ATTACHMENT 1



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

November 18, 1992

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 92- 146

Rex A. Sharp
Liberal City Attorney
419 North Kansas
P.O. Box 2619
Liberal, Kansas 67905-2619

Re: Counties and County Officers--County
Commissioners--Elections to Fill Positions Created
by Increase in Number of Commissioner Districts;
Commencement of Term

Synopsis: County commissioners elected to positions created
by an increase in the number of commissioner
districts pursuant to K.S.A. 1991 Supp. 19-203(c),
as amended by L. 1992, ch. 38, § 3, are to take
office on the second Monday in January following
their election. Cited herein: K.S.A. 19-202, as
amended by L. 1992, ch. 38, § 2; K.S.A. 1991 Supp.
19-203, as amended by L. 1992, ch. 38, § 3; K.S.A.
25-313.

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Dear Mr. Sharp:

On behalf of the city of Liberal you request our opinion
regarding the term of office of two newly elected Seward
county commissioners. The two positions in question are those
which were created when Seward county increased the number of
county commissioner districts. The positions are currently
held by governor appointees pursuant to K.S.A. 1991 Supp.
19-203(c), as amended by L. 1992, ch. 38, § 3. You question
whether, under subsection (c), the two newly elected
commissioners should take office immediately rather than on

the second Monday in January as provided in K.S.A. 19-202(d), as amended by L. 1992, ch. 38, § 2. You explain that the city of Liberal is concerned that procedural problems regarding who should be seated may jeopardize joint actions taken by the city and county.

K.S.A. 1991 Supp. 19-203(c), as amended by L. 1992, ch. 38, § 3, provides as follows:

"Vacancies created by an increase in the number of county commissioner districts in a county pursuant to K.S.A. 19-204, and amendments thereto, shall be filled by appointment of the governor. The governor shall make such appointments within 30 days of the date of the adoption of the resolution dividing the county into commissioner districts or within 30 days of the date of the order of the district court dividing the county into commissioner districts as required by section 1. Such appointees shall serve until successors are elected and qualified at the next general election. If at the next general election following such appointments, more than a simple majority of commissioners are elected, persons elected to the positions created by an increase in the number of districts shall be elected for two year terms and until their successors are qualified. Thereafter such members shall be elected to four year terms and until their successors are qualified. The provisions of this subsection shall apply to positions created by an increase in the number of districts at the election held in November 1990 and all such elections thereafter." (Emphasis added).

If a simply majority or fewer commissioners are elected, all would hold office for a term of four years pursuant to K.S.A. 19-202(d), as amended by L. 1992, ch. 38, § 2. Thus, whether the commissioners are to serve two or four years, they are to serve regular terms as opposed to filling a vacancy for an unexpired term. The commencement of a regular term of office is provided for in K.S.A. 25-313:

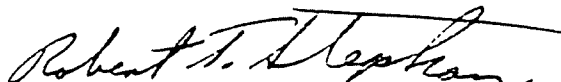
"The regular term of office of all state, district, county and township officers shall begin on the second Monday in January next after the election, except as otherwise provided by law."

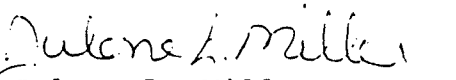
K.S.A. 1991 Supp. 19-203(c), as amended, does not "otherwise provide" for a commencement date of the term of the commissioner positions in question. See Stawitz v. Nelson, 188 Kan. 430, 432 (1961); Goodin v. Thoman, 10 Kan. *191, *198 (1872). Further, K.S.A. 19-202(d), as amended, states:

"Except as proved by K.S.A. 19-203, and amendments thereto, all county commissioners shall hold office for a term of four years from the second Monday of January next after their election and until their successors are qualified."

The exception to this provision refers to the length of the term for certain newly elected commissioners under K.S.A. 1991 Supp. 19-203, as amended, not the commencement date of the term. Thus, in our opinion, county commissioners elected to positions created by an increase in the number of commissioner districts are to take office on the second Monday in January following their election. This will allow for the smooth transition period contemplated by K.S.A. 25-313 and 19-202(d), as amended, without unduly violating the policy of preferring elected over appointed representation.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Julene L. Miller
Deputy Attorney General

RTS:JLM:jm

**KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT****Testimony before Senate Elections, Congressional and Legislative
Apportionment and Governmental Standards on House Bill 2038****By Carol Williams, Kansas Commission on Governmental Standards & Conduct**

House Bill 2038 which is before you this afternoon would amend K.S.A. 25-4119d. This bill is a recommendation made by the Kansas Commission on Governmental Standards and Conduct in its 1992 Annual Report and Recommendations. The Commission has had a vacant seat since March 1, 1992. Due to the stringent criteria of the current statute, it has become quite difficult for appointing authorities to find individuals who qualify to serve on the Commission. Senate President Bud Burke considered 23 individuals before he found a person who met the criteria to serve. House Speaker R.H. Miller has been working since March of 1992 to find an individual who qualifies to serve on the Commission.

The Commission feels that the two amendments it made in HB 2038 would make it easier for appointing authorities to appoint individuals to the Commission without compromising the premise behind this legislation.

The first amendment to HB 2038 can be found in line 20. The Commission recommends that the lifetime prohibition of precluding an individual from serving as a Commissioner if he or she has been a chairperson, vice-chairperson, or treasurer, of a county central, district or state party committee, should be reduced to five years. When this provision became law on July 1, 1991, four members of the nine member commission had to resign because of this provision. Former Congressman Larry Winn, Jr., had to resign because he held the position of chairperson for his district committee more than forty years ago. The Commission does not see the relevance of a lifetime ban for being involved in party politics.

Every other criteria set forth in K.S.A. 25-4119d has a three or five

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ATTACHMENT 2

year time limit. It is the Commission's position that, five years is a more realistic criteria for this provision.

Subsection (a)(4) on line 28 has proved to be the biggest stumbling block for individuals wishing to be appointed to the Commission. The current language states: "had a substantial interest in or been an officer of any vendor of goods or services to the state of Kansas or any agency thereof". This means that any individual or his or her spouse who works for a company, organization, firm, etc., which provides any goods or services to the state of Kansas or any state agency would be precluded from serving on the Commission. The Commission recommends that the phrase "holds a substantial interest in" be deleted from this section. This would allow an individual who works for any company, organization, etc. who is merely an employee of such, to meet the guidelines for serving on the Commission.

The House Committee made an amendment to strike the same language "holds a substantial interest in" from the prohibitions section of "while serving on the Commission" on line 40. The Commission concurs this section should be amended to correspond with the amended language on line 28.

The House Committee of the Whole further amended the bill by striking all of subsection four thus deleting the prohibition that a individual can not be an officer of a vendor of any goods or services to the state of Kansas. The Commission takes no position on this amendment.

The Commission does, though, urge your support of HB 2038.