

MINUTES OF THE HOUSE ELECTIONS AND GOVERNMENTAL ORGANIZATION COMMITTEE

The meeting was called to order by Chairman Mike Burgess at 3:30 P.M. on January 25, 2007 in Room 231-N of the Capitol.

All members were present except:

Representative Mike Peterson- excused

Committee staff present:

Martha Dorsey, Legislative Research Department

Matt Spurgin, Legislative Research Department

Mike Heim, Revisor of Statutes Office

Maureen Stinson, Committee Assistant

Conferees appearing before the committee:

Stuart Little

Brad Bryant

Randall Allen

Alan Cobb

Wayne Flaharty

Don Moler

Eric Sartorius

Others attending:

See attached list.

**Bill Requests**

Chairman Burgess requested a committee bill concerning elections.

Rep. Vickrey requested a committee bill concerning elections.

Rep. Kay Wolf requested a committee bill concerning campaign finance.

Alan Cobb, Americans for Prosperity, requested a committee bill prohibiting taxpayer funded lobbying.

Rep. Huebert requested a committee bill concerning cities and benefit fees for certain services.

The Committee approved the requests.

**HB 2128** Elections; petitions; time frame for advisory opinion

Chairman Burgess opened the hearing on **HB 2128**.

Stuart Little, Johnson County Government, presented testimony in support of the bill by Mary Buhl, Assistant Johnson County Counselor (Attachment 1).

Brad Bryant, Deputy Assistant Secretary of State, testified in support of the bill (Attachment 2).

Randall Allen, Kansas Association of Counties, testified in support of the bill (Attachment 3).

Chairman Burgess closed the hearing on **HB 2128**.

Rep. Sawyer made a motion for the favorable passage of **HB 2128** and asked that it be placed on the Consent Calendar. Rep. Brunk seconded the motion. The motion carried.

**HB 2082** Initiative and referendum; extended to counties

Chairman Burgess opened the hearing on **HB 2082**.

CONTINUATION SHEET

MINUTES OF THE House Elections and Governmental Organization Committee at 3:30 P.M. on January 25, 2007 in Room 231-N of the Capitol.

Alan Cobb, Americans for Prosperity, testified in support of the bill (Attachment 4).

Wayne Flaharty testified in support of the bill (Attachment 5).

Don Moler, League of Kansas Municipalities, testified in opposition to the bill (Attachment 6).

Randall Allen, Kansas Association of Counties, testified in opposition to the bill (Attachment 7).

Eric Sartorius, City of Overland Park, testified in opposition to the bill (Attachment 8).

Written testimony in opposition to the bill was submitted by Tracey Osborne, Overland Park Chamber of Commerce (Attachment 9).

Written testimony in opposition to the bill was submitted by Ashley Sherard, Lenexa Chamber of Commerce, (Attachment 10).

Chairman Burgess closed the hearing on **HB 2082**.

**HB 2080** Governmental ethics, acceptance of meals, when

Rep. Lane made a motion to adopt a balloon amendment (Attachment 11). Rep. Brunk seconded the motion. The motion carried. Rep. Brunk made a motion for the favorable passage of **HB 2080** as amended. Rep. Horst seconded the motion. The motion carried.

The meeting was adjourned.

The next meeting is scheduled for Monday, January 29, 2007.

**House Elections and  
Governmental Organization Committee**

Date 1-25-2007

1-25-2007

[illegible]

Testimony in support of House Bill 2128

presented to the

**House Committee on Elections and Governmental Organization**

by

Mary Buhl

Assistant Johnson County Counselor

January 25, 2007

Testimony  
presented  
by :  
Stuart Little  
Johnson County  
Govt.

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present written testimony in support of House Bill 2128, regarding the time permitted for the statutory review, by a county attorney or county counselor, of the form of a petition question.

Kansas statutes contain many provisions for petitioning a governmental body. Some examples or topics which are subject to petition are: charter ordinances, certain tax levy statutes, hours of cereal malt beverage and alcohol sales, and method of election of school board members.

K.S.A. 25-3601 requires that anyone who wishes to circulate a petition must submit the petition form to the office of the county attorney or, in some counties, the office of the county counselor, for a review of the form of the question. The statute requires that the legal opinion be given within 5 **calendar** days. An opinion that approves the form of a question conveys the presumption of validity as to that issue. If no opinion is issued within five **calendar** days, the petition question form is presumed to be valid, even without the opinion. This provision includes weekends and holidays in the count and, therefore, sometimes only permits one or two days for the review and opinion.

House Bill 2128 would amend K.S.A. 25-3601 to permit 5 **business** days for the attorney review of the form of the question. We believe that five **business** days would allow a more reasonable time for the counties' attorneys to provide a complete and thorough review of the applicable law and to issue an opinion, yet not cause undue delay for the petitioners, who are preparing to circulate the petition for signatures.

(Note that recall petitions are, in general, governed by a separate section of Chapter 25, which does not have the restrictive reference to five "calendar" days. K.S.A. 25-4301, et seq.)

We appreciate your consideration of this bill. Thank you.

**RON THORNBURGH**  
Secretary of State



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**STATE OF KANSAS**  
**House Committee on Elections and Governmental Organization**

**Testimony on House Bill 2128**

Brad Bryant, Deputy Assistant Secretary of State  
Elections and Legislative Matters

January 25, 2007

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of House Bill 2128. This bill was proposed by the Secretary of State and others to allow a county or district attorney, or the county counselor, more time to review proposed petitions to determine their validity. The bill would lengthen the review period from five *calendar* days to five *business* days.

The law requires petitions to be reviewed by the county's legal authority before the petitions may be circulated for signatures. The purpose of the review is to determine if the format of the petition meets statutory requirements. Depending on the timing of the submission of the petition, in some cases it is difficult to review applicable statutes and issue an opinion in five calendar days, especially when the petition is submitted before a three-day weekend.

Our office hears from county attorneys and counselors who are involved in reviewing petitions that the current law does not allow enough time to thoroughly and carefully review petitions. In counties where one county attorney handles all the county legal concerns, that attorney may be in court during those five calendar days. Without holidays and weekends excluded from the time period, the five-day period may be reduced to three. Occasionally the petition contains an issue unfamiliar to the attorney such as a tax question or even a constitutional issue, which requires thoughtful research and careful consideration. Extending the time period from five calendar days to five business days would allow for a more careful review of the petition.

Based on our experience with petitions, we believe this legislation will benefit county and district attorneys without delaying the petition process unnecessarily.

Thank you for your consideration.

House Elections & Gov. Org.  
Date: 1-25-2007  
Attachment # 2



**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

## **Written Testimony**

concerning House Bill No. 2128

**Re: concerning elections and petitions amending K.S.A. 25-3601**

House Elections and Governmental Organization Committee

Submitted by Randall Allen, Executive Director

Kansas Association of Counties

January 25, 2007

Chairperson Burgess and members of the committee, thank you for the opportunity to submit written testimony *in support of HB 2128* on behalf of the Kansas Association of Counties and its 98 member counties.

We appreciate the legislature addressing this issue, which could have a negative impact on county employees. This issue caused by the current statutory language has been a problem on long weekends. For example, if someone submitted a petition the week of Thanksgiving, county staff would have to work over the Thanksgiving holiday in order to meet the deadline for furnishing the written advisory opinion required by this statute. Changing the language from "calendar days" to "business days" would eliminate this potential problem.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randall Allen or Judy Moler by calling (785) 272-2585.

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House Elections & Gov. Org.

Date: 1-25-2007

Attachment # 3





# AMERICANS FOR PROSPERITY

K A N S A S

Chairman Burgess and members of this committee,

I am Alan Cobb, State Director for AFP Kansas, here to support HB 2082. Current law permits citizens to enact city ordinances through a petition and referendum process that is initiated by obtaining signatures totaling between 25 and 40% (depending on city size) of the electors in the city who voted at the last regular election.

House Bill 2082 makes two changes to this existing general local petition and referendum statute.

First, it extends the petition and referendum process to counties so that county citizens may likewise enact county resolutions through the same petition and referendum process. With the increasing presence of county government in the lives of all Kansans, it simply makes sense as a matter of equity and fairness to extend the same petition and referendum process that is enjoyed by citizens of Kansas's cities to counties as well. All of the well founded reasons for having the local petition and referendum process in Kansas—that it encourages local citizen democracy at the most basic level; that it makes local government increasingly responsive and accountable to the citizens it serves; and that it allows another democratic outlet for citizen participation, especially participation by those who do not have the resources to impact local government at a higher level—all of these reasons are equally present with respect to county government as they are with respect to city government. Thus, it only makes sense to equalize the rules as they concern local government petition and referendum procedures.

The second change HB 2082 would make to the existing local petition and referendum statute would be to reduce the number of signatures required on an initiating petition from the current 25 to 40% depending on city size to a flat 15% for all city and county jurisdictions.

At the outset, it must be affirmed that creating a percentage requirement for initiating petitions is certainly good, as it performs a very necessary gatekeeping function that restricts entry to the referendum process to only those proposed ordinances which have significant support. The question of how wide or narrow to make the gate is one of prudential judgment for lawmakers who must evaluate the facts concerning how the process actually works and the available precedents in making that decision. You don't want your gate to be too wide or you will enable virtually everyone with a proposed ordinance access to the referendum process and you don't want your gate to be too narrow or you will defeat and undermine the overriding purpose of the local petition and referendum statute by eliminating ordinary citizen's access to the process and privilege only those special interests with significantly more resources than the average citizen.

The latter is the situation we currently have. The high signature requirements on initiating petitions is such that the gate is now so narrow that only those citizens with access to significant financial resources can realistically meet the requirements. Valid, important citizen initiatives with widespread support are simply not making it through the very narrow gate as the law now stands due, almost exclusively, to a lack of financial resources on the part of these concerned and active citizens.

Reducing the percentage requirements to 15% widens the gate enough to permit concerned, ordinary citizens access to local government—which is the entire intent of the law in the first place—without flinging open the gate too wide to mischievous and frivolous abuses of the system.

As a matter of precedent, you do not need to take my word for the prudence of the 15% marker. Current Kansas law includes a multitude of other petition and referendum procedures applying to specific kinds of local governmental acts. A review of the law indicates that most of these statutes currently set the signature threshold at 5 to 10%. Please see Appendix A attached to my testimony for a sampling of these other statutes. While it is appropriate to set the threshold even lower when the petition concerns a specific issue (usually taxation issues), these laws provide ample precedent for the 15% threshold contained in HB 2082.

Thus, I urge you to support HB 2082 as a matter of equity, fairness, and restoring the law to its original intent which is to permit grassroots citizen participation in local government.

## Appendix A - Testimony in Support of HB 2082 by Alan Cobb

### *For tax levies by a city:*

- K.S.A § 12-110b – The governing body of any city may make an annual tax levy (not greater than 2 mills) on all taxable tangible property in the city for creating a special fund for law enforcement purposes, ambulance equipment, and/or fire-fighting equipment. However, if a petition signed by at least 5% of the qualified electors of the city is filed against the proposition, the proposition must be submitted to the next primary, general, or special election.
- K.S.A. § 12-137 – “Where, under the power of cities granted by paragraph (b) of section 5 of article 12 of the constitution of Kansas, the governing body of any city by ordinance proposes to levy for revenue purposes any tax, excise, fee, charge or other exaction other than permit fees or license fees for regulatory purposes, which is not limited or prohibited or a procedure for the levy of which is not otherwise prescribed by enactment of the legislature as provided by said paragraph (b), such ordinance shall require a two-thirds (2/3) vote of the members-elect of the governing body and shall be published once each week for two (2) consecutive weeks in the official city newspaper.” The ordinance will take effect 60 days after its final publication unless a petition signed by a number of electors of the city equal to not less than 10% of the number of electors who voted at the last preceding regular city election is filed demanding that such ordinance be submitted to a vote of the electors.
- K.S.A. § 12-138a – “The governing body of any city shall be required to submit to a referendum the question of levying any tax or other revenue measure, authorized by the provisions of this act or other enactment referring to this act, upon the receipt of a petition signed by a number of electors of the city equal to not less than ten percent (10%) of the number of electors who voted at the last preceding regular city election. If a majority of the electors voting thereon at such election shall approve the proposed tax or other revenue measure, the governing body of such city shall then provide by ordinance for the levy of such tax or revenue measure.”
- K.S.A. § 12-1215 - Topeka, Salina, and Hutchinson have an annually tax levy (not greater than 2.5 mills) on assessed tangible valuation of property for maintenance and support of a free public library. If the board of directors determines the tax is insufficient, the board can adopt a resolution for an increase in the tax levy subject to certain restrictions. The tax levy shall be made unless a petition requesting an election on the tax levy signed by at least 5% of electors who voted in the last regular city election if filed within 60 days.
- K.S.A. § 12-1684 - “Before a community historical museum may be established and operated, a petition signed by at least 5% of the qualified and registered voters of the city or school district shall be filed with the clerk thereof, requesting the governing body of the city or school district to provide, establish, maintain and conduct a community historical museum and to levy an annual tax therefore not to exceed one mill, whereupon it shall be the duty of the governing body of the city or school district to cause such question to be submitted to the qualified voters thereof to be voted upon at the next regular or special election of the city or school district to be held more than 30 days after the filing of such petition.”
- K.S.A. § 12-1737 – The governing body of a city can pass a resolution to levy taxes for a building fund. If a petition is signed by 10% of electors who voted at the last regular city election if filed within 60 days of the last publication of the resolution, the question of the tax levy should be put to the voters in the next regular city election or at a special election.
- K.S.A. § 12-1680 - If a petition is filed containing the signatures of not less than 5% of the registered voters of any city or county requesting an election on the question of whether a tax levy (not greater than one mill depending on the size of the county) shall be made on all of the taxable tangible property in the city or county for the purpose of creating or continuing a service program for the elderly operated by municipalities or nonprofit organizations, such proposition shall be submitted to the voters of the city or county at a question submitted election.



- K.S.A. § 12-1925 – If a petition signed by at least 5% of the qualified voters of the city or school district is filed, requesting the governing body of the city or school district to establish a recreation system and to levy an annual tax not to exceed one mill for such recreation system and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, the governing body of the city or school district shall submit the question of establishing a recreation system to the qualified voters.
- K.S.A. § 68-51c – The township board in a county not operating under the county road unit system may make an annual tax levy (not greater than 5 mills) for road purposes. The board may adopt a resolution authorizing such level and publish it for 3 weeks. If within 30 days after last publication, a petition of not less than 10% of qualified voters (who voted for office of governor at the last general election) is filed in the office of county election officer no such levy shall be made without a majority of electors of township voting at an election to be called based on K.S.A. § 10-120.

*Tax levies by a county:*

- K.S.A. § 12-17,103 – The board of county commissioners of any county in which there is a fair association or society, upon request of the fair association or society, is authorized to make an annual tax levy (not greater than 5/10 of one mill) upon all taxable property of the county. The levy may be made unless a petition in opposition is signed by not less than 5% of the qualified electors of the county, as determined by the vote for secretary of state at the last election, if filed within 60 days. The question shall be submitted to the voters at the next general election.
- K.S.A. § 2-121b – The board of county commissioners of any county is authorized to adopt a resolution and ordinance imposing a tax on the gross earnings derived from money, notes, and other evidence of debt having tax situs in the county subject to limitations in the statute. However, if 5% of qualified electors of a county, city or township submit a petition the governing body of such taxing subdivision shall be required to submit to the electors at the next state general election the question of if the city/county/township should eliminate the tax on gross earnings and be authorized to impose and levy property taxes as necessary to offset the lost revenue from the tax on gross earnings.
- K.S.A. § 12-11a01 – When a board of county commissioners (of a county with population > 21,000 and tax valuation < \$50 million) determines for the protection of the people and property for the county to provide additional law enforcement officers, the board can levy a tax (not greater than ½ mill) on all taxable tangible property in the county. The resolution must be published for 3 weeks. If within 30 days of the last publication, a petition of 5% of the qualified electors in the county is filed, no levy can be made without the question of the levy being approved by a majority of the electors at an election called and held for such purpose.
- K.S.A. § 80-938 – In a county (population 16,000 to 18,000) in which there is a city of the first class and a township cemetery district in which there are at least 9 cemeteries, the board of the county commissioners is authorized to make an annual tax levy not greater than 1 mill on all taxable tangible property within the township cemetery district to provide funds for the care and maintenance of the cemeteries. No tax levy shall be made if prior to the levy of the tax, a petition signed by 5% of the qualified electors in the township cemetery district, is filed with the county election officer. No levy shall be made unless a majority of the qualified electors approve the levy in the next general election

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Representative Burgess and members of this committee,

I am here in support of HB 2082. As a long time grass roots activist, I am acutely aware of local petition processes. Arguments for maintaining high levels of signature requirements fail to recognize that they do nothing to enhance the legislative process or to encourage citizen involvement. Petitions that are frivolous, complicated, or lengthy still make their way to the ballot. The only thing achieved by high signature requirements is to discourage participation by those without the financial or manpower resources to gather signatures. If I had the money, I could make one phone call, and for a dollar a signature, have petitions with thousands of signatures ready to submit to a government in less than a month – all without getting out of my recliner. If a group, or even an individual, does not have these resources, it does not lessen their right to participate in his government.

The argument has been made that high requirements keep non-relevant issues off the ballot. Do any of you really believe that someone has a right to decide what is relevant? That decision rightfully belongs to the voter and those he can persuade. An economic yardstick should not be the determining factor for citizen participation in government affairs. Petitions go through the most rigorous of all relevancy tests – far more than even the law you are considering today. Every signer can grill the petitioner at length about his petition. He can read the petition and question it line by line and word for word. He can eliminate any and all doubts about the petition and its effects on him and his government before he signs the document. If he does not agree with any aspect of the petition, or even if he doesn't like the way the petitioner parts his hair, he can refuse to sign. It is government participation at the most fundamental level.

Laws do not exist for the convenience of public servants and neither should petitions. Petitions should not be restricted because they may be inconvenient for those same public servants. Beyond the requirement that their actions be legal and moral, governments should no place undue impediments in the path of citizen participation – and high petition signature requirements do just that.

As a personal observation, I have been in several ballot issue fights since 2002. A Kansas City, Missouri light rail plan would have seen hundreds of acres of land taken under eminent domain. Bi-State II for sports and arts in Missouri would have seen \$400 million of Johnson County tax money go to Missouri. Last year's "regional funding" plan for transit would have seen Kansas taxes delivered to an unelected body. That bill, HB 2751, is the worst piece of legislation I have seen in my 40 years of political activism. These schemes were all the product of the establishment and its friends – and they were all bad.

Petitions do not have the force of law. In fact, they have no force at all. They simply require the government to invite its citizens to help govern by deciding on an issue recently sprung from the governed and determined by the governed to be relevant. If the people decide an issue is relevant, who is government to say otherwise? I personally revere the founding fathers of this nation because they knew the tyranny of government and they created a government designed with citizen participation in mind.

There is no magic number of petitioners that will guarantee good ballot issues. I urge this committee to take a step for increased citizen participation and vote in favor of HB 2082.

Thank you for hearing me.

Wayne Flaherty

House Elections & Gov. Org.  
Date: 1-25-2007  
Attachment # 5



League of Kansas Municipalities

300 SW 8th Avenue, Suite 100  
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Phone: (785) 354-9565  
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**To:** House Elections & Governmental Election Commission  
**From:** Don Moler, Executive Director  
**Subject:** Opposition to HB 2082  
**Date:** January 25, 2007

First I would like to thank the Committee for allowing the League to testify today in opposition to HB 2082. This bill is a solution in search of a problem. Quite frankly, K.S.A. 12-3013, which this legislation wishes to amend, was originally passed in 1959 and was last amended in 1981. As far as we know at the League, there have been no substantive problems with this statutory structure and it has worked well for many years.

The reasons for allowing a local initiative and referendum were considered almost 50 years ago by this legislature and it was thought that providing citizens the opportunity to propose, through a petition process, local government legislation, was something that was beneficial. As a component of this, however, the legislature realized that there must be enough signatures required so that we do not constantly have initiative and referendums being proposed to cities in Kansas. As a result, the formulation, which is currently found in statute, provided that for cities of the first class 40% of the electors who voted at the last preceding regular city election must sign the petition for a initiative and referendum ordinance, and in cities of the second and third class that no fewer than 25% of the electors who voted at the last preceding city election must sign the petition.

Now on first blush these numbers sound very high, but I assure you they are not. They are, in fact, very low and do not represent much of a hill for a potential petition drive. To demonstrate this point, I have attached a sheet to this testimony which is entitled "Initiative and Referendum Petition Requirements." The top group of numbers stand for the current statutory provisions. The lower grouping of numbers provides the number of signatures required based on HB 2082. It is the League's position that to lower the petition requirements, as contemplated in HB 2082, would make the petition requirement ridiculously low, and would by its nature allow for numerous frivolous petitions to be passed with a corresponding significant burden placed on the taxpayers of these cities who would then have to call an election everytime a handful of people, especially in small communities, got the urge to propose something. We would strongly urge this committee to reject this proposal and to allow a statute which has successfully operated for almost 50 years to continue to operate. I will be happy to answer any questions the committee may have concerning our position on HB 2082.

House Elections & Gov. Org.  
Date: 1-25-2007  
Attachment # 6

## Initiative and Referendum Petition Requirements

2-9

City Population	City Electors	City Election Turnout @ 30%	K.S.A. 12-3013 Requirement	Signatures Currently Required	Percentage of Total Population
80,000	48,000	14400	25%	3,600	4.50%
10,000	6,000	1800	40%	720	7.20%
1,000	600	180	40%	72	7.20%
500	300	90	40%	36	7.20%

City Population	City Electors	City Election Turnout @ 30%	HB 2082 Provisions	Signatures Required Under HB 2082	Percentage of Total Population
80,000	48,000	14400	15%	2,160	2.70%
10,000	6,000	1800	15%	270	2.70%
1,000	600	180	15%	27	2.70%
500	300	90	15%	14	2.70%



**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

## TESTIMONY

concerning House Bill No. 2082

### re. Initiative and Referendum

House Elections and Governmental Organization Committee

Presented by Randall Allen, Executive Director

Kansas Association of Counties

January 25, 2007

Mr. Chairman and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. I am here today to express our opposition to HB 2082, because it fundamentally erodes the power of the boards of county commissioners in Kansas to do their job within our system of representative government. HB 2082 would establish, for the first time, a process by which citizens, through a petition process, would be empowered to force a board of county commissioners to enact a resolution without alteration, or submit such resolution to the electorate within 90 days. This would fundamentally alter the policymaking process for counties, and dilute the power of a board of county commissioners to set the public agenda and attend to the needs of the counties.

After reviewing the proposed legislation, our question is: *why is this measure being offered and to what end is it directed?* What is broken? What is not happening at the county level that could happen or should happen without the board of county commissioners, who are all elected by the public?

Is not the voting box the remedy to a board of county commissioners, city council, state legislature, or Congress not perceived as fulfilling the policy desires of the electorate? If not, when and how did the voting box cease to be effective in adjusting the policy direction of our communities, the state, or a nation? And, if administrative ordinances or resolutions cannot be forward to the electorate through the process described in HB 2082, what is left to be decided directly by the public that cannot be considered and dealt with by the board of county commissioners?

In 1974, the Kansas Legislature granted statutory home rule to counties. In doing so, it excluded certain policy areas in which county policymakers (i.e. the boards of county commissioners) cannot legislate. This list of forbidden topics for local legislation is enumerated in K.S.A. 19-101 (1) and includes approximately 36 topics for county boards to steer away from in making county policy through resolutions. This is a further check on counties from the state government which created counties in the first place. What else could possibly be on a policy agenda for the electorate to promote at the county level? We are highly skeptical of this proposal and urge the committee to kill this bill.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randall Allen or Judy Moler by calling (785) 272-2585.

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House Elections & Gov. Org.  
Date: 1-25-2007  
Attachment # 7





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www.opkansas.org

Submitted by:  
Eric Sartorius

Testimony Before The  
House Elections & Governmental Organization Committee  
Regarding  
House Bill 2082

January 25, 2007

The City of Overland Park appreciates the opportunity to appear before the committee and present testimony in opposition to House Bill 2082.

Current law enables certain kinds of ordinances to be initiated if a petition proposing such an ordinance is signed by at least 25% of the voters in the last regular city election for cities of the first class. If presented with a petition to initiate an ordinance signed by the requisite number of electors, current statute provides that the governing body must either pass the ordinance or place it on the ballot in a special election or the next regular city election. For cities of the second or third class, a petition must have signatures equal to 40% of the voters in the last regular city election.

This bill does something much more significant than extending initiative and referendum to counties. Namely, the bill creates a massive reduction in the number of signatures required to bring an issue before a city or county and possibly to a public vote. As written, HB 2082 would reduce the signature threshold to 15% for any city or county. For cities of the first class, that is a 40% reduction in the number of required signatures. Petitions for cities of the second or third class would require an unbelievable 62.5% fewer signatures than under current law. Combined with the historically lower voter turnout for municipal elections, the 15% threshold in HB 2082 would give significant power to a very small minority.

Allow us to illustrate the effect of this change using elections in the City of Overland Park. Our council members serve four-year terms, with half being elected every other odd-numbered year. In our most recent municipal election in April 2005, 32,929 city residents cast ballots.

Under current law, a petition would then require 8,233 signatures of registered voters in Overland Park. House Bill 2082 would require only 4,940 signatures, a different of 3,293 signatures for a petition. As you can see, the changes contained within HB 2082 would have a significant impact on the process of initiative and referendum. Given the reduced threshold, the City of Overland Park would expect to see attempts to use initiative petitions become more frequent.

House Elections & Gov. Org.  
Date: 1-25-2007  
Attachment # 8

Once a question is placed on the ballot, its success or failure will largely be decided by the public relations campaign surrounding it. Individuals who signed the petition will likely support the issue on the ballot due to their heightened interest in the issue. The rest of the electorate may not have a reason to be concerned with the initiative, making engaging them in the issue a challenge. Historical data shows that individual questions on a ballot generally receive fewer votes than do candidates on the same ballot, sometimes significantly so. With state law not requiring a minimum percentage of voters to vote on a ballot issue in order for the result to be valid, a ballot initiative could become law with an extremely small part of the electorate supporting it.

Most people think of initiative and referendum being used primarily to limit taxes or spending, or to direct resources to a particular cause. Two examples would be Proposition 13 in California, which limits property taxes, and an initiative in Colorado requiring a certain level of funding for K-12 education. However, initiative and referendum is not limited to fiscal issues, and can in fact be used to target businesses.

A project in Johnson County serves as a good example. As many of you know, the Burlington Northern Santa Fe Railroad is planning an intermodal hub near the City of Gardner. As Gardner moved to annex the land where the hub will be located (a move supported by BNSF), some citizens near the site raised objections and sought to put the question on the ballot. In this instance, the annexation was supported.

As the project moves forward, however, efforts via ballot initiatives to stymie its progress could be repeated, particularly if the threshold for signatures on a petition is lowered to 15%. Various ordinances could continue to be sought via petition that could hamstring a business. The last election in Gardner saw 4,174 voters, meaning initiatives could be placed on the ballot with 627 signatures should HB 2082 be passed. If a business is repeatedly targeted with ballot initiatives, at what point does the business decide it's had enough? House Bill 2082 does not assist the state in demonstrating a "business friendly" environment.

With this in mind, the City of Overland Park asks this committee not recommend House Bill 2082.



Submitted by:  
Tracey Osborne

"Written Only"

Testimony before the  
House Elections & Governmental Organization Committee  
Re: House Bill 2082

January 25, 2007

The Overland Park Chamber of Commerce appreciates the opportunity to submit written testimony in opposition to House Bill 2082.

The Overland Park Chamber has long held a position opposing initiative and referendum in its legislative agenda, believing our current form of representative government serves best, allowing for debate, analysis, amendment and input from citizens throughout the legislative process. HB 2082 is of particular concern as it extends initiative and referendum to counties while reducing the current requirement for petition signatures from 25% to 15% of voters in the previous election.

If the petition process is timed to follow elections with low voter turnout, this gives dangerous power to a small minority. To use a recent Overland Park municipal election as an example, the 2005 municipal turnout results of 32,929 voters would by current law require 8,233 signatures to successfully petition an issue, but HB 2082 would require only 4,940, a significant difference of 3,293. We do not believe the interests of the people are best served by reducing the number of signatures required to place issues before the electorate, triggering expensive and sometimes special-interest elections representing the interests of a relatively small number of people. We also acknowledge that there can be great cost to businesses when they are asked to fund these campaigns. We look to the states surrounding us as examples of these costly initiatives.

We respectfully request you not recommend HB 2082 and ask your continued support of our representative form of government which allows for the input, accountability and checks and balances of the current system.

House Elections & Gov. Org.  
Date: 1-25-2007  
Attachment # 9





*The Historic Lackman-Thompson Estate*

11180 Lackman Road  
Lenexa, KS 66219-1236  
913.888.1414  
Fax 913.888.3770

TO: Representative Mike Burgess, Chairperson  
Members, House Elections and Governmental Org.

FROM: Ashley Sherard, Vice-President  
Lenexa Chamber of Commerce

DATE: January 25, 2007

RE: **HB 2082—Expansion of Initiative and Referendum**

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The Lenexa Chamber of Commerce would like to express its strong concerns regarding House Bill (HB) 2082, which would extend initiative and referendum to counties in addition to cities and reduce the required percentage of petition signatures from at least 25% down to 15%.

We believe HB 2082 is unnecessary because appropriate avenues for consideration of public policy are already in place. The making of laws has an immense impact, both today and for future generations, and should be a very deliberate and cautious process. To that end, we feel the overall existing legislative framework strikes a very careful and equitable balance in inviting citizens to participate in government – a balance that should continue to be respected.

Further, based on the experience of states that have it (and the problems that have arisen from it), we are concerned the costs of initiative and referendum outweigh any benefit. Although most issues proposed through initiative and referendum fail at the ballot box, both sides of an issue typically must wage expensive campaigns, diverting significant financial and human resources that could otherwise be invested in other community or business needs. This problem is only compounded when unsound or controversial proposals are repeatedly submitted. As a result, we believe this process represents a waste of resources when such issues could more wisely be addressed through existing legislative channels.

Lastly, although many other states may have broader authority for initiative and referendum, it is unclear that Kansas has suffered from its continued focus on representative government. Issues with broad public support can and do get addressed -- albeit sometimes not as quickly as some would hope -- by thoughtfully building a favorable case that ultimately persuades both citizens and elected officials alike. Accordingly, absent compelling reasons to do so, we would encourage you not to amend current law to provide a substitute for the existing legislative process.

For these reasons, the Lenexa Chamber of Commerce strongly urges the committee not to recommend HB 2082 favorably for passage. Thank you for your time and attention to this important issue.

House Elections & Gov. Org.  
Date: 1-25-2007  
Attachment # 10

Submitted by:  
Rep. Mike Burgess

House Elections & Gov. Org.  
Date: 1-25-2007  
Attachment # 11

1 that the reason for providing the meal is not a pretext for exclusive or  
2 nearly exclusive access to the person;

3 (2) meals provided at public events in which the person is attending  
4 in an official capacity;

5 (3) meals provided to a person subject to this act when it is obvious  
6 such meals are not being provided because of the person's official posi-  
7 tion; and

8 (4) food such as soft drinks, coffee or snack foods not offered as part  
9 of a meal; and

10 (5) ~~meals the value of which are \$25 or less.~~

11 (d) No person subject to the provisions of this section shall solicit or  
12 accept free or special discount travel or related expenses from a source  
13 outside state government, except:

14 (1) When it is obvious to the person accepting the same that the free  
15 or special discount travel and related expenses are not being provided  
16 because of the person's official position; or

17 (2) when the person's presence at a meeting, seminar or event serves  
18 a legitimate state purpose or interest and the person's agency authorizes  
19 or would authorize payment for such travel and expenses.

20 (e) No person subject to the provisions of this section shall solicit or  
21 accept free or special discount tickets or access to entertainment or sport-  
22 ing events or activities such as plays, concerts, games, golf, exclusive swim-  
23 ming, hunting or fishing or other recreational activities when the free or  
24 special discount tickets or access are provided because of the person's  
25 official position. The provisions of this subsection shall not apply to per-  
26 sons whose official position requires or obliges them to be present at such  
27 events or activities.

28 (f) (1) Violations of the provisions of this section by any classified  
29 employee in the civil service of the state of Kansas shall be considered  
30 personal conduct detrimental to the state service and shall be a basis for  
31 suspension, demotion or dismissal, subject to applicable state law.

32 (2) Violations of the provisions of this section by any unclassified em-  
33 ployee shall subject such employee to discipline up to and including  
34 termination.

35 (3) In addition to the penalty prescribed under paragraphs (1) and  
36 (2), the commission may assess a civil fine, after proper notice and an  
37 opportunity to be heard, against any person for a violation of this section,  
38 in an amount not to exceed \$5,000 for the first violation, not to exceed  
39 \$10,000 for the second violation and not to exceed \$15,000 for the third  
40 violation and for each subsequent violation. All fines assessed and col-  
41 lected under this section shall be remitted to the state treasurer in ac-  
42 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.  
43 Upon receipt of each such remittance, the state treasurer shall deposit

any meal the value of which is \$25 or less

(6) meals provided to the governor's spouse when the presence  
of the governor's spouse at the event or meeting at which the  
meal is provided serves a legitimate state purpose or interest; and  
(7) meals provided to a person when the person's presence at  
the event or meeting at which the meal is provided serves a  
legitimate state purpose or interest and the agency of which such  
person is an officer or employee authorizes such person's  
attendance at such event or meeting.



- 1 the entire amount in the state treasury to the credit of the governmental
- 2 ethics fee fund established by K.S.A. 25-4119e, and amendments thereto.
- 3 Sec. 2. K.S.A. 2006 Supp. 46-237a is hereby repealed.
- 4 Sec. 3. This act shall take effect and be in force from and after its
- 5 publication in the statute book.

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