


Canvassing Kansas

An update on election news in Kansas

Published by Secretary of State Ron Thornburgh

March 1997

1997 Midwest Election Officials Conference set for December

Mark your calendars now for this fun and informative event

The third Midwest Election Officials Conference (MEOC) will be held December 7-10 at the Hyatt Regency Crown Center in Kansas City, Missouri. Previous MEOCs were held in Kansas City in 1989 and 1991. The conference is being organized jointly by the secretaries of state in the four-state region: Ron Thornburgh of Kansas, Scott Moore of Nebraska, Bekki Cook of Missouri, and Paul Pate of Iowa.

More information will be forthcoming about topics for seminars, speakers, entertainment, transportation, registration and lodging costs. If you are a new county clerk or just haven't heard about this yet, talk to someone who attended one of the previous MEOCs. We're excited about the opportunities the conference presents for education and networking among election officials.

Some readers of this

newsletter might remember that there was a tentative plan to conduct this conference in the early 1990s, but with everyone being preoccupied with implementing the NVRA and advance voting, plus the 1994 and 1996 elections and all the other duties county clerks have, it was not possible.

Some county clerks who attended one or both of the previous MEOCs might

See **MEOC**, page 7



Canvassing Kansas

IN THIS ISSUE

- 2 - *Election officials adapting to NVRA*
 - Reminders
 - City/School Election Calendar
- 3 - *A note from the Secretary*
- 4 - *Legislative Update*
- 5 - *Legislative Update*
- 6 - *County clerks learn the nuts and bolts of public service*
 - Don't forget to report election results!
 - Advance voting forms available
- 7 - *Court of Appeals hands down decision on petition verification*
- 8 - *Exploring the Hatch Act*
 - Hatch Act dos and don'ts
 - Kansas State Fair rapidly approaching

Thornburgh sends check to scholarship fund

Secretary of State Ron Thornburgh is pleased to announce he recently mailed a check for \$7,500 to County Clerks Association treasurer Jolene Walker of Mitchell County.

Every two years, during the primary and general elections for state and national offices, the Secretary of State collects unofficial election night results from all the county election officials. The information is received by phone and fax and entered into a computer. A computer program tabulates the vote totals by district for

dissemination to the public through the press. The Secretary of State's office charges newspapers, television and radio stations and other members of the media a fee for a direct hookup to the computer system for instant results. After covering the data processing costs, the Secretary of State's office donates the remaining funds to the Kansas County Clerks Association scholarship fund.

Revenue collected for the 1996 elections was greater than in the past, partly due to

See **Scholarship**, page 7

Election officials adapting to NVRA

The State of Kansas is now ten months past the date for full implementation of the National Voter Registration Act. One statewide primary election, one statewide general election, and one city/school primary have been conducted under NVRA, as well as numerous local question-submitted elections. While the education process has been long and problems recur from time to time, the NVRA is now a regular program in Kansas.

One provision of the NVRA requires reporting of results. The Federal Election Commission is required to report to Congress in June of each odd-numbered year and the chief state election officer in each state (in Kansas, that's the Secretary of State) reports to the Federal Election Commission in March of each odd-numbered year. In order to make the report, the Secretary of

State collects quarterly NVRA reports from each county election officer.

Our office has been compiling data from reports submitted by all the counties since January 1, 1995, which was the official implementation date for NVRA according to the law. As we prepare the report for submission this month, we are working with various county election officers to resolve questions about their reports. Throughout the reporting process we have asked only for the information needed to satisfy the requirements, trying to simplify the process as much as possible.

While much progress has been made the past few years, questions remain, and the NVRA will continue to be a topic of discussion in the foreseeable future.

Canvassing Kansas

Published by the office of
Secretary of State Ron Thornburgh
State Capitol, 2nd Floor
300 SW 10th Street
Topeka, KS 66612-1594
(913) 296-4564

EDITOR
Chuck Knapp

LAYOUT AND DESIGN
Mindy Miller

COPY EDITORS
Barb Nemec
Nancy Reddy

CONTRIBUTING WRITERS
Brad Bryant
Jim Gardner
Randy Foster
Kevin Gregg

If you have any suggestions or comments about this or future issues, please call (913) 296-1864.

Copyright © 1997 Kansas Secretary of State

This publication may be duplicated for informational purposes only. No written permission is required with the exception of articles or information attributed to a source other than the office of the Kansas Secretary of State.



Reminders

✓The city/school general election is April 1!

✓The next report of the central voter registration database is April 1. Each CEO must send a complete copy of the county voter registration file to the Secretary of State as soon as possible after April 1. Data should include any additions or changes to the file up to and including March 31, 1997. The regulation, K.A.R. 7-23-13, allows the CEO until April 15 to get the database to the Secretary of State. Call if you have questions.

✓The next county NVRA report is due as soon as possible after April 1, covering the period from January 1 through March 31, 1997. In 1997 the NVRA reports are quarterly: January 1, April 1, July 1, and October 1. See K.A.R. 7-38-2.

City/School Election Calendar

- **Wednesday, March 20**
Begin mailing advance voting ballots.
- **Monday, March 17**
Last day to register or change party affiliation.
- **Tuesday, March 25**
Advance voting in person must begin.
- **Tuesday, April 1**
General Election Day



RON THORNBURGH
SECRETARY OF STATE

Dear Friends:

"Should we eliminate the city/school primaries?" That was the question posed to me by a reporter after another primary with embarrassingly low voter turnout. Although I do not support the elimination of the primary, there are legitimate reasons for at least discussing how we can address the problem.

Within the next few months, I hope to bring together the county election officials, League of Kansas Municipalities, state legislators, local officials and other interested parties to begin a dialogue about the possibilities and ramifications of the elimination of the city/school primaries. Your input in the interim would be welcome and will help shape the agenda for debate.

The National Voter Registration Act is still a hot topic nationally for secretaries of state. Last month, I attended the National Association of Secretaries of State (NASS) conference in Washington, DC, and the NVRA still causes some spirited debate. It is generally accepted that the president would veto a repeal of the NVRA. Thus, the most realistic goal to make the NVRA more manageable and allow election officials to ensure the sanctity and security of elections is to amend current law. The NVRA subcommittee of NASS broached the subject of reforming the NVRA, including allowing for the purging of voter lists, requiring the Social Security Number on voter registration cards and allowing states to include a question on registration cards about citizenship. Needless to say, a consensus was not reached.

I did have a chance to speak to members of the Kansas congressional delegation about reforming the NVRA. While there does appear to be some interest in amending the NVRA, members of our delegation acknowledged that there are more pressing matters on the federal agenda at this time.

While in DC, I also had an opportunity to meet with former Senator Bob Dole to discuss the presidential nomination process. Senator Dole shared some of his thoughts about campaign finance, the timing of the primaries and how candidates are affected by the current process. Regional primaries were again suggested as a component of changing the system. I am actively working with other Midwestern secretaries of state to establish a regional primary.

Keep watching *Canvassing Kansas* for new developments.

Sincerely,

RON THORNBURGH
Secretary of State

Legislative Update

1997 bills encompass elections, campaign finance and ethics

The Secretary of State's office is tracking a number of elections-related bills that, if passed into law, could have impact on the administration of elections. There are a number of such bills this year, and they fall into three categories: elections, campaign finance, and ethics. We report to county election officers mostly on elections bills; many of the campaign finance and ethics bills do not directly affect them.

The Secretary of State's office sends a weekly fax to each of the members of the Kansas County Clerks Association elections committee showing the bills being tracked and the current status of each bill in the Legislature. Other county election officers who wish to receive the fax may get on the list by contacting our office. At the end of the legislative session we will summarize the bills that have passed into law and issue guidelines for implementation of the new laws.

Following is a list of bills being considered in the 1997 legislative session that have impact on state and county election officers in Kansas. Much of this information is available by computer through the Information Network of Kansas in the Lobbyist in a Box service. Significant changes in bills are indicated in italics.

■ **HB 2023**—Repeals KSA 80-504 which requires township clerks to file \$300 bond with county clerk before taking office.

■ **HB 2061**—Requires members of drainage district boards of directors to be landowners in the district and residents of any county in which a portion of the district lies.

■ **HB 2065**—Requires treasurers for candidates for local office to file finance reports with the county election officer in each county containing a portion of the district.

■ **HB 2102**—Repeals KSA 13-2903 which prohibits relatives by blood or marriage from being mayors and commissioners in first class cities.

■ **HB 2114**—Proposed by the Secretary of State, this is a voter registration bill that would: (1) specify that a person who applies for voter registration is considered officially registered when the county election officer puts the applicant's name on the registration list (the old rule that a person was registered upon receiving a certificate of registration from the county election officer was repealed because of the National Voter Registration Act), and (2) make late registration hours optional rather than mandatory before the pre-election cut-off in county offices and first and second class city offices.

■ **HB 2133**—Proposed by the Secretary of State, this is an election administration bill that would: (1) clarify that independent district attorney candidates may file on the day before the primary rather than June 10, (2) end the requirement that the county election officer send a copy of the newspaper publication of candidates' names to presidential/vice presidential candidates, (3) prohibit national, state, county and township candidate withdrawals after the primary, (4) allow the Secretary of State the authority to determine the validity of certificates of nomination filed by minor parties, (5) require the printing of "Vote for One Pair" on presidential/vice presidential ballots, and (6) clarify that independent state board of education candidates may file on the day before the primary rather than June 10.

■ **HB 2372**—Amends KSA 25-308 to increase the time for filing objections to candidates' nominations. Objections could be filed (a) within 10 days (instead of the current 3 days) after the June 10 candidate filing deadline, or (b) within 3 days of the final canvass of the primary election.

■ **HB 2372**—Establishes a run-off primary in national and state elections on the 4th Tuesday of August if there were 3 or more candidates for an office and none got a majority of the vote.



■ **HB 2388**—Requires “None of the above” on the ballot after the candidates’ names for federal and state offices. If “None” got more votes than any of the regular candidates, a special election would be held within 30 days.

■ **HB 2494**—Changes the date local school board members take office from July 1 following the election to the first regular meeting of the board after certification of the election.

■ **HCR 5005**—Proposed by the Secretary of State, this concurrent resolution would, if passed by 2/3 of both houses of the legislature, put to a statewide vote in 1998 the question of whether to end the state’s practice of adjusting the federal census data to account for college students and military personnel at their permanent residences. Under current law the adjusted figures are used to redraw state House and Senate districts. The next federal census is in 2000; the next redistricting is in 2002.

■ **HCR 5019**—This concurrent resolution would, if passed by 2/3 of both houses of the legislature, put to a statewide vote in 1998 the question of whether to amend the state constitution to allow voters to initiate state laws by petition.

■ **SB 24**—Changes the date county treasurers take office from the second Tuesday in October to the second Monday in January after the election.

Amended by Senate committee: (1) removed provision changing date treasurers take office, (2) removed requirement in current law that persons appointed to fill vacancies in county treasurer be qualified electors and residents of the county.

■ **SB 145**—Proposed by the Secretary of State, this is an advance voting bill that would: (1) end the requirement of printing candidates’ cities of residence on advance ballots, (2) allow applicants to fax their advance ballot applications to the county election officer, (3) limit the choices of where advance voters can have their ballots sent to

prevent bundling of ballots by private entities, (4) allow advance ballots to be turned in at the poll on election day instead of requiring them to go to the county election office, (5) allow sick/disabled voters to request advance ballots on election day, (6) allow provisional voting during advance voting, and (7) allow unaffiliated voters to affiliate with parties when applying for advance ballots. *Amended by Senate committee to delete (1), (3), (5), (7), and changed (4) to say voter may vote regular ballot at precinct poll if voter first returns advance ballot to election board worker, who voids the advance ballot.*

■ **SB 194**—Creates the office of county district attorney and abolishes the county attorney office in 12 counties: Butler, Cowley, Crawford, Finney, Ford, Geary, Leavenworth, Lyon, Montgomery, Reno, Riley and Saline.

■ **SB 323**—Prohibit county clerks and election commissioners from being party officers or chairs or treasurers of political campaigns. *Amended by Senate committee to also prohibit the secretary of state from such political activity.*

■ **SB 327**—Eliminates “placeholder” candidates by prohibiting candidate withdrawals after the primary election. See also HB 2133.

■ **SB 351**—Prohibits the secretary of state from engaging in political activity or fund raising for any candidates or issues except races for secretary of state in which the secretary is a candidate.

Fax Request

County election officials who wish to receive the weekly legislative fax may get on the list by contacting Jan Sachs at (913) 296-4561.

County clerks learn the nuts and bolts of public service at KCCA workshop

The Kansas County Clerks Association held a “Nuts and Bolts Workshop for New or Experienced County Clerks” at the Ramada Inn at the Plaza in Topeka February 6 and 7. The workshop was well attended by 94 persons representing 72 counties. Some of those in attendance were not new to their jobs, and it reflects well on the county clerks as a group that they are interested in furthering their knowledge by attending such seminars. Secretary of State Ron Thornburgh and members of his staff were invited to make presentations to the group on February 6.

Secretary Thornburgh addressed the gathering first, explaining how his office can assist county clerks in carrying out their elections duties. Brad Bryant of the elections division and Melissa Wangemann, legal counsel, coordinated a presentation on Kansas statutes—what they are, how to read them and what they mean. Also attending from the Secretary of State’s office were Randy Foster, elections cartographer, and Chuck Knapp, communications director.

The county clerks spent the rest of that day and the next hearing presentations on open records and open meetings, handling elections, dealing with the public, establishing budgets, homestead exemptions, property valuation, and the advantages of

membership in the Kansas County Clerks Association.

The agenda was packed, as was the meeting room, and a lot of good information was disseminated to county clerks and their staffs who had taken office only weeks before and immediately faced primary and general city/school elections and many other duties associated with various aspects of their jobs. The Clerks Association and its president, Rosalie Seemann of Thomas County, are to be commended for arranging the meeting. The office of the Secretary of State appreciated the opportunity to attend, and we look forward to other opportunities later this year, including the annual convention of the county clerks in Topeka in early May, the Kansas Association of Counties convention in November, and the Midwest Election Officials Conference in December. See the article elsewhere in this newsletter for more information on the December conference.

The Secretary of State also is considering offering a statewide videoconference training session as an update on the National Voter Registration Act, advance voting, election administration, and issues raised by county election officers. The video conference session would probably be similar to the March, 1996 NVRA training and would occur sometime in the middle of 1997.

Don't forget to report election results!

County election officers are required to report to the office of the Secretary of State the results of any corporate dairy or swine production elections. The law also specifies that our office then publish those results in the *Kansas Register*. So, if you’ve had such an election (or have one coming up in April) don’t forget to send us the results.



Advance voting forms available on Internet

Beginning this month the Secretary of State’s office will offer voter registration and advance voting forms via the Secretary of State’s home page on the world wide web. The forms can be printed and returned to the appropriate county election officer. Secretary Thornburgh believes this will eliminate an extra step for many voters. No longer will voters have to contact the CEO to request these forms; they can be downloaded off the internet. The address of the Secretary of State’s home page is: <http://www.ink.org/public/sos>

Court of Appeals hands down decision on petition verification

Many Kansas county election officers have encountered uncertainty in verifying signatures on petitions and determining the sufficiency of petitions. We have seen an overall increase in petition activity of various types in the past few years, as well as an increase in litigation arising from the petition review process.

One of the more important cases in the past few years was Cline v. Meis (1996), which involved a recall petition in Ness County. The state district court had upheld County Clerk Ramona Meis' rejection of the petition due to inaccurate addresses provided by some petition signers. The Kansas Court of Appeals reversed the district court, saying that in cases of fundamental rights such as recall, a more liberal construction of the applicable statutes should be used, and minor discrepancies should be overlooked. Minor discrepancies included addresses on petitions that did not match the registration records; the Court of Appeals said they should be counted as long as the petition signers are qualified electors of the district of the officer being recalled. (See other articles in earlier issues of this newsletter: "Recall Petition Process Reviewed," *Canvassing Kansas*, March 1996, page 6; and "Petition Verification," *Canvassing Kansas*, September 1996, page 8.)

The Court of Appeals recently handed down another decision dealing with a petition verification in a case arising in Graham County, Dusin v.

Riggs (1996). County Clerk Darlene Riggs rejected a recall petition because the circulator's affidavit stated that the grounds for recall were "true to the best of my knowledge and ability." The statute, K.S.A. 25-4325, requires the petition circulator to sign the affidavit attesting that the grounds for recall are "true". The district court ruled that the affidavit satisfied the requirements of K.S.A. 25-4325. In the appeal, the petition circulators cited the Cline v. Meis ruling that did not require strict construction of statutes, allowing minor discrepancies. The Court of Appeals noted the significance of Cline v. Meis, but ruled that another case, Sheehy v. Ferda (Montana, 1988) was factually closer to Dusin v. Riggs. Relying on Sheehy, the court ruled that the statute is intended to hold the affiant responsible, at risk of perjury, for statements on the petition concerning the grounds for recall. A strict construction of the statute should be applied, and the county clerk was correct in rejecting the petition because the affidavit did not satisfy the requirements of K.S.A. 25-4325. The district court decision was reversed.

County election officers facing such petition situations should consult their county attorneys or counselors to determine if there are relevant court cases or Attorney General opinions to guide them. The Secretary of State's office also may have information to help.

MEOC continued from page 1

remember participating in a chartered bus tour from western Kansas that got everyone to the conference and home again without worrying about parking and driving (or being lonely on the road). Once in Kansas City, there were receptions at local businesses, sightseeing tours, holiday lights at the Plaza, and shopping.

As of this writing the dates and location are all that we have finalized, but we encourage county election officers to watch for more information and consider reserving places for this conference. The tentative plans include an opening reception the Sunday evening, December 7, general sessions and

breakout seminars Monday and Tuesday, a banquet and keynote speaker Tuesday evening, and a general session and breakout seminars Wednesday morning. The conference is scheduled to end by noon on Wednesday, December 10.

Scholarship continued from page 1

increased access to election results by the press via the Internet.

Secretary of State Thornburgh intends to make an official presentation at the statewide convention of the County Clerks Association in early May 1997.

Exploring the Hatch Act

Under the 1939 Hatch Act, federal employees and certain state and local government employees faced significant restrictions on their ability to participate in political activities. Congress amended the Hatch Act in 1993 to permit most federal employees to take an active part in political management and political campaigns. A few federal agencies--such as the FBI, CIA and the FEC--continue to be subject to the Hatch Act provisions in effect before the 1993 amendments.

The Hatch Act also applies to the political activity of certain state and local government employees. Covered employees under the act are persons principally employed by state or local executive agencies in connection with programs financed in whole or in part by federal loans or grants. The act does not apply to the political activity of persons employed by educational or research institutions or agencies supported in whole or part by (a) states or their political subdivisions, or (b) religious, philanthropic or cultural organizations.

Kansas State Fair rapidly approaching

Although it isn't until September, the Kansas State Fair is approaching. This year the Secretary of State's office will provide many of the same services that we have in the past, including voter registration and advance voting information. The dates of the fair this year are September 6-14.

This year, as in the past, county clerks and their staffs are welcome to attend the fair and assist at the Secretary of State's booth. Between shifts at the booth, volunteers are encouraged to see the sights and shows at the fair, including a carnival and midway games, stock car races, concerts by popular entertainers, and many displays by craftsmen and business people located in Kansas.

The Secretary of State will provide volunteers with tickets to the fair. Make plans now to attend and contact the elections division with any questions. Hope to see you there!

HATCH ACT DOS AND DON'TS

FEDERAL EMPLOYEES COVERED MAY:

- be candidates for public office in nonpartisan elections
- register and vote as they choose
- assist in voter registration drives
- express opinions about candidates and issues
- contribute money to political organizations
- attend political fundraising functions
- attend and be active at political rallies and meetings
- join and be an active member of a political party or club
- sign nominating petitions
- campaign for or against referendum questions, constitutional amendments, and municipal ordinances
- campaign for or against candidates in partisan elections
- make campaign speeches for candidates in partisan elections
- distribute campaign literature in partisan elections
- hold office in political clubs or parties

FEDERAL EMPLOYEES COVERED MAY NOT:

- use official authority or influence to interfere with an election
- solicit or discourage political activity of anyone with business before their agency
- solicit or receive political contributions (may be done in certain limited situations by federal labor or other employee organizations)
- be candidates for public office in partisan elections
- engage in political activity (including wearing political buttons) while:
 - on duty
 - in a government office
 - wearing an official uniform
 - using a government vehicle