

CANVASSING KANSAS

An update on election news from Kansas Secretary of State Ron Thornburgh

June 2007

Legislature passes election-related bills

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Spring elections: ELVIS worked well

City/school general elections were held April 3 throughout the state. Each county held elections for mayors and city council members, local school board members, community college trustees, drainage district board members and a host of local question-submitted elections.

Although reports of voter turnout percentages varied throughout the state, overall it was generally lower in 2007 compared to 2005, most likely due to the constitutional amendment that appeared on ballots during the 2005 election. Counties

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The 2007 Kansas Legislature passed two major pieces of legislation dealing with elections, campaign finance and ethics. The two bills, House Bill 2081 and House Bill 2128, were actually large conference committee reports comprised of a number of smaller bills that were amended together, and in many cases modified, by the conference committee during the latter days of the legislative session.

Some of the bills were HAVA implementation bills, some were held over from the 2005 and 2006 sessions when no legislation passed and some were bills introduced this year.

A legislative implementation guide was distributed to all CEOs during the SOS presentation at the KCCEOA conference in Manhattan May 3.

The following is a brief summary of the legislation:

House Bill 2081—Campaign Finance, Petitions, Voting Equipment

This bill is effective upon publication in the session laws July 1, 2007.

Elections—County attorney review of petitions

A county attorney, district attorney or county counselor is allowed five *business* days, instead of five calendar days, to review a petition before the petition is circulated for signatures. This applies to all petitions provided for in state law except recall petitions.

Recall petitions

This bill changes two aspects of the process after a recall petition has been submitted to a county or district attorney for review or, in the case of recalls of state officers, when the petition is submitted to the Secretary of State:

- The county/district attorney is required to notify the person who is the subject of the recall if the petition form is valid, in addition to notifying the recall committee and the CEO.
- Court actions to compel or prohibit action in the recall must be filed within 30 days of determination of the sufficiency of the petition (current language says “not less than” rather than “within” 30 days).

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Johnson County wins award

Johnson County Election Commissioner Brian Newby was notified in May that his office was the recipient of an Outstanding Achievement in Local Government Innovation Award from the Innovation Groups (IG).

The awards were presented at the Transforming Local Government Conference in Bellevue, Washington. The award was given to Johnson County for its Mobile Election Notification program that provides updated election information to voters via Podcasts, e-mail and text messaging.

Approximately 500 voters have signed up on the county's Web site to receive the notifications. The election office's Web site is the most visited in Johnson County government, and the Mobile Election Notification pages have become the most viewed pages on the site.

The Innovation Group works to create and sustain innovation in the public sector, specifically local government. It attempts to capture the collective knowledge of local government personnel to create resources for personal networking, exchange of ideas and the use of technology to make a difference in communities.

The county manager's office in Johnson County is a member of IG and selected the election office's Mobile Election Notification program to represent the county in this year's awards program. When notified of the award, Election Commissioner Newby said, "The award is gratifying to us because it represents creativity and innovation, two characteristics election officials often must possess. No part of government has changed as much in the last five years as elections, and we're proud to continue to be recognized as an innovation leader in an industry that is always innovating."

This is the second award received by the Mobile Election Notification program. In 2006 it won the Election Center's Best Practice Award.

CEOs resign positions

Three county clerks have recently resigned. In April, Barbara Schmid in Hodgeman County, Simone Ginther in Russell County, and Wayne B. Gibson, Jr. of Neosho County resigned their positions as county clerk. As of this writing, the Secretary of State's office has not received word of appointments to fill the vacancies.

Members of KCCEO and all of us in the Kansas elections community will miss Barbara, Simone and Wayne. We have worked with them for many years. They are among the many fine public servants with whom we have had the honor of performing election duties. We wish them all the best.

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RON THORNBURGH
Kansas Secretary of State

Dear Friends:

Last month, I had the opportunity to experience the democratic process from a new vantage point – Armenia. Accompanied by members of the Kansas National Guard, I visited the former Soviet-Bloc country in early May to observe the elections process. A democracy for only a handful of years, their citizens were selecting new members of parliament – the National Assembly of Armenia.

Since the fall of the Soviet Union, the Armenian government has struggled to come into its own; the country's elections often included violence and alleged fraud. Because of our Guard's relationship with the country, we have been asked to provide guidance in creating a more accurate, secure national voter database in the hopes of reversing this trend. Though they are very early in the process, I am confident that the lessons we have learned in creating and utilizing ELVIS will prove valuable to Armenia's election administrators.

Tragically, at the same time I was watching a country grow and evolve, a town much closer to home was dealt a devastating blow. On May 4, 2007, Greensburg was hit by one of the most powerful tornadoes in our state's history, destroying 95 percent of the town and taking the lives of 13 Kansans.

One of the only buildings spared by the EF-5 storm was the Kiowa County courthouse, the seat of government in the area. Because of the quick work of local officials and volunteers, the county was able to salvage much of their necessary paperwork.

Unfortunately, this will not always be the case. The Greensburg tornado should serve as a reminder to all of us of how important it is to create a redundant records system (with input from local emergency management officials) to ensure that you will be prepared in the event of disaster. To that end, we are planning to offer a training session on this topic in the future; our office will provide more information as it becomes available.

As always, I encourage you to contact our office should you have any questions or concerns. I also want to join my staff in offering condolences to the residents of Greensburg and those in neighboring communities affected by the storm.

Best,

A handwritten signature in black ink that reads "Ron".

RON THORNBURGH
Secretary of State

Split shifts for poll workers

The CEO has the option of splitting shifts for poll workers at a given polling place. If split shifts are used, the supervising judge and at least one other poll worker must be present throughout the day.

Only those poll workers on duty at a given polling place at the time the polls close are required to certify the election results.

The Secretary of State is required to adopt rules and regulations prescribing the process.

Direct recording electronic voting equipment requirements

In general, this bill does two things:

- Updates the laws governing the requirements and certification of direct recording electronic voting systems.
- Brings the laws into compliance with HAVA.

Optical scan voting equipment requirements

In general, this bill does two things:

- Updates and modernizes laws governing optical scan systems, many of which had not been amended since 1982.
- Brings the laws into compliance with HAVA.

Campaign finance—**Solicitation of contributions during legislative session**

Before passage of this bill, the law prohibited state officers, legislators and candidates from accepting or soliciting contributions during the legislative session. This bill amends the prohibition to say no one may accept or *knowingly* solicit contributions during that time.

Telephonic campaign messages

Telephone calls expressly advocating the nomination, election or defeat of a clearly identified candidate must be preceded by a “paid for by” or “sponsored by” attribution.

Electronic campaign finance reporting system

The Secretary of State is required to design a system for state and local candidates, as defined in the Campaign Finance Act, to file their campaign finance reports electronically.

- Candidates are not required to file electronically; they may choose to continue to file on paper.
- The electronic system is required to be in place after January 10, 2008, which effectively means it applies to reports filed eight days before the August 2008 primary.

The Governmental Ethics Commission still prescribes the forms used in the reporting process.

Candidates may sign own campaign finance reports

Any candidate subject to the Campaign Finance Act may sign his/her own campaign finance report in lieu of the candidate’s treasurer.

Also, campaign finance reports are required to include in-kind contributions in excess of \$100, which replaces the previous \$50 threshold.

House Bill 2128—Advance Voting, Poll Agents, Write-In Candidates, Ethics

This bill changes the number of days for a county attorney to review petitions from five calendar days to five business days. It was effective upon publication in the *Kansas Register* May 24, 2007.

Elections—

Advance voting suppression crime

This bill would create a new crime of advance voting suppression similar to the existing law on voter registration suppression. It would make it a level 9, nonperson felony to knowingly, with intent to impede, obstruct or exert undue influence on the election process, commit any of the following acts:

- Destroy or alter another person’s advance ballot without written consent of the voter.
- Obstruct the delivery of an advance ballot to the voter or obstruct the return of the voted ballot to the county election officer.
- Fail to deliver or mail an advance ballot to the county election officer within two days or before the close of polls on election day, whichever occurs first.
- Exercise undue influence on an advance voter in applying for, delivering or marking a ballot.
- Open an advance ballot envelope sealed by the voter, examine or disclose its contents except as required in performing official election duties.

Write-in candidate requirements

This bill would change the requirement for write-in candidates in a primary election to qualify for the general election. Current law requires the write-in candidate to receive write-in votes equal to 10 percent of the votes cast for the office of Secretary of State in the last general election in the candidate’s election district. The new rule is for the write-in candidate to receive write-in votes equal to 5 percent of the total number of registered voters in the district.

Poll agent appointment and qualifications

This bill would:

- Require written appointments of poll agents to be filed with the county election office.
- Require poll agents to carry a copy of the appointment form while acting as poll agents and to display it upon demand by any poll worker or election officer.
- Require poll agents to wear badges, issued by the CEO, that say “observer” in 32-point type or larger.
- Require poll agents to be registered Kansas voters, or members of a candidate’s immediate family, or 14 to 18 years old if otherwise possessing the qualifications of Kansas electors.

Ethics—

Corrupt political advertising

This bill would amend the corrupt political advertising crime statute in the election crimes (KSA 25-2407) to more closely resemble the provisions in the Campaign Finance Act. It would require any publication, broadcast, brochure, flier or other campaign materials that expressly advocate the nomination, election or defeat of a candidate or in a question-submitted election to contain a “paid for by” or “sponsored by” attribution. This applies to all official elections, not just those covered by the Campaign Finance Act.

Constitutional Amendments—

There were no concurrent resolutions passed in 2007 that would create statewide elections on constitutional amendments in 2007 or 2008.

Congress considers MAJOR elections legislation

Although the dust has not completely settled after implementation of HAVA, there is a possibility of major new reforms being passed by Congress in the coming months. There are always bills in Congress affecting elections, but one in particular has gained more momentum than the others and reportedly has a chance of passage before the 2008 presidential election.

The bill is HR 811, titled the Voter Confidence and Increased Accessibility Act. Its principal author is Rep. Rush Holt (D-NJ), and it has more than 200 sponsors in the U.S. House of Representatives. HR 811 deals with a number of issues related to HAVA, and for that reason it has been referred to as "HAVA II."

The House Administration Committee conducted a makeup session on HR 811 May 8, 2007, and passed the bill on a party-line vote of 6-3. During the makeup session the committee rejected at least a dozen amendments but accepted several that alter the bill significantly. The bill goes next to the House floor for consideration, probably by summer this year.

The rejected amendments would have delayed implementation of requirements in the bill affecting voting systems, allowed voter veri-

fication using non-paper options, made the mandates of the bill more manageable for election officials, and required government-issued photo ID for all voters at the polls. The amendments that were adopted are included in the provisions listed below.

Some of the major provisions of the bill are:

- Voter verifiable paper audit trails (VVPATs) would be required on all direct recording electronic voting machines (DREs).
- VVPATs would be used for all recounts and audits, and all recounts and audits would be done by hand.
- Each state would be required to establish an audit board to oversee random public audits of election returns beginning within 24 hours after the election.
- Accessibility requirements of HAVA would be modified and expanded.
- Each polling place would be required to offer paper ballots as an alternative to electronic voting, and poll workers would be required to offer each voter this option.
- The chief state election official (in Kansas, the SOS) would be required to ensure

that all poll workers are trained, and specifically trained on the paper ballot option.

- \$1 billion in federal funding in fiscal year 2007 (but fiscal year 2007 ends September 30, and funding bills are no longer available).
- \$300 million in repayments to states for 2008 audits.

If the House passes HR 811, it moves to the Senate for consideration. Reports are that support for HR 811 is not as strong in the Senate and a number of Senators may tie their support for the bill to a demand for a voter ID requirement. The Senate also has its own list of election reform bills, some resembling HR 811, but most containing significant differences.

There are groups actively supporting HR 811, but others are lobbying against it, including some groups representing government officials, election officials and disabilities rights organizations. Some who support further election reform in general have told Congress to at least delay implementation of HR 811 until after the 2008 elections, saying there is inadequate time to completely and effectively plan for and implement its provisions.

Spring elections

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have now completed a full set of elections using the ELVIS system and, on the whole, have done an excellent job in implementing the new system into existing procedures.

With this election completed, election officers can take a little breather from election activities as the next scheduled statewide election is the Kansas primary election for national/state/county township offices set for Tuesday, August 5, 2008.

County clerk gets married!

Kearny County Clerk Jana Swank was married to John Jenkinson April 27 in a private backyard ceremony at her parents' house in Garden City. Jana's two children, Ryan and Kayla, and John's two daughters, Kymberly and Stephanie, stood with the couple during the ceremony.

A reception for family and friends was held following the ceremony at the Plaza Hotel in Garden City. The couple's honeymoon was like no other – the bride attended the Kansas County Clerks' and Election Officials' Conference while the groom participated in the Wheat Quality Tour across the state of Kansas.

Congratulations, Mr. and Mrs. Jenkinson, on your wedding and best wishes for the future!

KCCEOA training a success

The annual HAVA training session was held at the KCCEOA Conference May 3 - 4, in Manhattan. There was a make-up session on May 9 in Salina at the KSU-Salina campus. Approximately 175 CEOs and staff members attended the training in Manhattan and 31 attended the makeup session in Salina. Both sessions went very well. We would like to thank everyone who participated and for those who helped us make this year's training a success.

This training session became a requirement for CEOs in 2004 when the HAVA - implementing legislation was passed by the Kansas Legislature. For the first couple of years, most of the training focused on HAVA issues, but many other topics were covered as well. This year's session was organized into four workshops:

Workshop 1—General Issues

This session included remarks by Secretary of State Ron Thornburgh and discussions of legislation, rising postal rates, census and redistricting. It also included information on the Kansas Safe at Home program.

Workshop 2—HAVA Issues

This session covered upcoming federal audits and recent and future activities by the U.S. Department of Justice. It also included discussions about issues involving the new voting equipment and usage during the 2006 elections.

Workshop 3—Election Management

This session discussed areas of election administration that the Secretary of State is emphasizing in 2008 and beyond, including polling place management, authorized poll agents, county canvasses, voter registration

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list maintenance, post election reporting, election crimes, and administering ballots to nursing homes and incapacitated voters.

Workshop 4—ELVIS

This session provided CEOs with a glimpse of scheduled upgrades to the statewide voter registration system, an announcement of a decrease in counties' workstation fees from \$1,100 to \$825 per workstation, and issues related to agency central and district maintenance in the system.

During the conference, CEOs had the opportunity to submit questions to SOS staff for response during scheduled question/answer periods. Also, many CEOs submitted best practices and innovative solutions that were shared with all conference attendees. There was even a CEO Trivia contest which gave attendees an opportunity to find out little-known facts about their colleagues.

The SOS office distributed HAVA manual inserts for 2006 and 2007. There are a handful of training packets left that are available upon request. Please contact our office at 785-296-0080 or craigb@kssos.org with your request.

Please remember to return your completed ELVIS 2008 Workstation Form to our office before August 1, 2007. A copy of the form should be included in your packet. Also, as we continue to put together a training plan with ES&S for some regional ELVIS training courses, we would like to know who is interested and how many you would be sending from your county.

Please contact our office if you have any questions regarding any of the other material covered during the training session.

Thank you again for your time and efforts during the 2007 KCCEOA Conference!