

MINUTES OF THE SELECT COMMITTEE ON CONTESTED ELECTIONS

The meeting was called to order by Chairman Mike O'Neal at 7:30 A.M. on February 5, 2007 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research
Jerry Ann Donaldson, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes
Gordon Self, Assistant Revisor of Statutes
Cindy O'Neal, Committee Assistant

Mrs. Janet Jones reported back to the committee that she had received the sealed portions of the transcript but that Mr. Newby denied the request to provide the sealed ballot to the Committee. The Chairman requested, and the committee agreed, to issue a subpoena *duces tecum*, requiring Mr. Newby to hand deliver the ballot to the committee, along with being prepared to inform the committee of the Johnson County written policy as to addressing the board of canvassers.

Staff provided an overview of several issues that arose in the contested election: (Attachment 1)

1. What consequences result from the failure of election officials to follow statutory election procedures;
2. What are acceptable forms of voter identification; and
3. When may a voter's rights to vote be challenged.

The contestant suggested in his written argument that because the Election Commissioner and the Board of Canvassers did not comply with K.S.A. 205-2908(e) the election should be invalidated. However, Kansas case law holds that a court's authority to invalidate an election is granted only in certain statutorily prescribed circumstances. The four grounds for declaring an election void is:

1. When an elected individual is ineligible to hold office.
2. When a citizen has been deprived of the right to vote which would have changed the outcome of the election.
3. Illegal votes are received or rejected.
4. If election officials are bribed by an individual.

Staff stated that a first time voter is supposed to show some type of identification. The acceptable forms of voter identification include:

- Drivers License
- Identification Cards
- Utility Bills
- Bank statements
- Paycheck, government check or other type of government document

The statute allows for a challenge of a voter's right to vote. It can only be done at the time the vote is cast. However, courts are split on this issue.

The committee turned its attention to Mrs. Blickhan's ballot. It was the understanding of the committee that Mr. & Mrs. Blickhan received absentee ballots. Each voted on their correct ballot assigned to them but Mr. Blickhan put his ballot in Mrs. Blickhan's envelope and visa versa. The Board of Canvassers did not notice Mr. Blickhan's ballot was in the wrong signed envelope and counted it. However, it did catch Mrs. Blickhan and did not count her ballot. During the court hearing, Judge Tatum talked with Mrs. Blickhan and asked her who she thought she voted for and then counted her vote, without actually opening her ballot.

The committee meeting was adjourned at 12:45. The next meeting was scheduled for February 6, 2007.