

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Senator Eleanor Vaughn, on February 16, 1993,
at 10:00 a.m.

ROLL CALL

Members Present:

Sen. Eleanor Vaughn, Chair (D)
Sen. Jeff Weldon, Vice Chair (D)
Sen. Jim Burnett (R)
Sen. Harry Fritz (D)
Sen. John Hertel (R)
Sen. Bob Hockett (D)
Sen. Bob Pipinich (D)
Sen. Bernie Swift (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)

Members Excused: Sen. Fritz, Sen. Tveit

Members Absent: Sen. Burnett

Staff Present: David Niss, Legislative Council
Deborah Stanton, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 318, SB 287
Executive Action: SB 176,

HEARING ON SB 287

Opening Statement by Sponsor:

Sen. Doherty, Senate District #20, presented SB 287. SB 287 is a bill which will help citizen initiatives remain citizen initiatives. During the last election cycle Sen. Doherty discovered that people were being paid to gather signatures on petitions to get certain issues on the ballot. He stated he thought that was fine but in Montana gathering signatures has always had the earmark of "the citizens are doing this. This is a voluntary effort for one reason or another." This bill would require that if you pay people to gather signatures they have to be licensed and when they gather the signatures they have to

display the license. That will tell people who are approached by someone asking for signatures what this is about. It will tell the people that this is not a voluntary effort, and it is not being done by Montanans who care deeply about an issue. It is being done by people who can't find anyone who cares deeply enough about the issue, or can't find enough people that are going to put together a pot of money and go out and buy those signatures to get whatever initiative they're pushing on the ballot. The way the bill is set up it would require the people to be licensed with a local county election administrator, a \$10 license per signature gatherer, and would require reporting requirements for the individuals or entity that is sponsoring the petition. It would allow people to know who is being paid and how much they're being paid. The \$10 fee would go to the local county election administrator for the cost of administering the program. It's a truth in advertising bill.

Proponents' Testimony:

Amy Kelly, Director of Common Cause/Montana, spoke in favor of SB 287. Common Cause works to promote openness in government at all levels. To the extent that Sen. Doherty's bill provides citizens with more information on ballot issues regarding whether a petition signature gatherer is being paid and who is funding that effort, Common Cause supports the spirit and intent of this bill.

Opponents' Testimony:

Don Byrd, Montana Association of Clerk and Recorders, spoke against SB 287. As far as the spirit and intent of the bill we have no opposition. To that fact that these people who are getting paid should be licensed, as a matter of public record to let people know that they are being paid. We feel this bill falls under the purview of the Commissioner of Political Practices where they could get one license to allow them to operate in all counties. We feel the county Clerk and Recorders are overwhelmed with their own duties and part of this bill would require reporting the activities of the signature gatherers. It would expedite the process if the Commissioner of Political Practices was the person who issued the licenses and issued the reports. As far as purpose and need of the bill we have to argument with that.

Questions From Committee Members and Responses:

Sen. Pipinich asked if the people who need the license are the people who actually go out to solicit signatures and Sen. Doherty said that was right. If people want to go door to door, to their neighbors, to the Chamber of Commerce, the Lions' Club, or the Union Hall, they can go out to get those signatures and they don't need a license. Sen. Doherty said it was the people who are being paid to gather signatures that need the license.

Sen. Hockett asked Sen. Doherty what his response to the Association of Clerk and Recorders was in regard to the 56 licenses for each county. Sen. Doherty said he did not think there would be 56 different sets of regulations. There will be 56 counties that will be administering them. There may be some argument for the Commissioner of Political Practices but since most of the activities occur at the county level, that is why it should be with the county administrators. Sen. Doherty said all the money from the licenses will go to the counties.

Sen. McClernan stated the Commissioner of Political Practices was already administering these kinds of laws and he asked Sen. Doherty if it was being fragmented by having the Clerks and Recorders do this. Sen. Doherty said another reason for putting it at the county level instead of the state level is that if there are any complaints they can be tracked down to the person who is known and that person can go to the County Attorney. They're the people who are on sight and closer to the situation so that's part of the rationale. There are some arguments for the Commissioner of political Practices, but given, the local election administrators are the people who administer the local election laws, they are the one who get the complaints about anything that is happening or not happening. The County Attorney is the enforcement mechanism so why not give it to the County Election Administrators.

Sen. Hockett said maybe the Clerk and Recorders should do everything relating to campaign problems and maybe we don't need the Office of the Commissioner of Political Practices. Sen. Doherty said maybe but that isn't this bill.

Sen. Vaughn stated she was contacted by several county election administrators and they felt it should not be their responsibility. She asked Sen. Doherty if these people who are sponsoring the petition drives are the ones who need the license or is it the person who is actually getting the signatures who are required to have the license. Sen. Doherty said it was the person gathering signatures who would need the license and need to have it displayed when he or she is gathering those signatures. The principle will have to register. Each of those people will have to have the \$10 license if they are being paid. Sen. Vaughn asked if it was strictly with the election administrators or is the Commissioner of Political Practices going to be aware of this. If it was a state issue would a license be required in each of the 56 counties. Sen. Doherty said yes, if they are paid to gather signatures in each of those counties, they will have to be licensed in each of those counties. The record keeping will be kept at the county level. The information will be kept at the county level so we will know how much is being spent in each county to collect signatures.

Sen. Pipinich asked if one individual would have to pay up to \$560 if they wanted to go to each county to gather signatures. Sen. Doherty answered yes, or their principal would. It's a

lucrative business because people are getting paid and are involved in doing it. If that's how they want to do business that's great.

Sen. Swift asked if everyone who solicits signatures has to be licensed. Sen. Doherty said yes. The explanation is on page 3, subsection 8, in the definition of what signature gathering for hire is.

Sen. Vaughn commented if a person goes around to gather signatures without being paid he does not have to be licensed. Sen. Doherty said that was right.

Sen. Swift asked if the election administrator from each county would have to file a report for every Representative and every Senator in the Legislature under section 11. It says on the Tuesday following the regular session of the Legislature, the election administrator shall report to each member of each house of the Legislature the names of each signature gatherer registered and the names of the principals whom they represent. Sen. Doherty said he wanted one report to the Legislature. There was a drafting error, saying to each member, and that's silly. Sen. Swift asked if it does mean each county election administrator will make a report to the Legislature. Sen. Doherty said yes.

Sen. McClernan asked Sen. Doherty if there was a requirement for the clerk and recorder to report to the Commissioner of Political Practices. Sen. Doherty said no. It was at the county level.

Sen. Hockett asked Mr. Byrd if the clerk and recorders were not enthused because of the cost and time involved. Mr. Byrd said through statute, the clerk and recorders have 42 duties they have to take care of and the Clerks are in no position to make more reports. It is overwhelming and it also distorts the position as election administrators. These issues are nearly always statewide and there is already an office in place, the Commissioner of Political Practices. It makes sense to get their license in Helena and they can go out and operate throughout the state. He stated he has no opposition at all to the bill, he just think it belongs at the state level.

Sen. Weldon stated he would work with Sen. Doherty on this bill. He likes the principle behind this bill and there is a need for it. There have been a lot of times when professional people come in and manipulate state policy. This is a good way to get a handle on it.

Sen. Pipinich said he didn't want to see one individual go out and buy a license in each county. That would be 56 different licenses.

Closing by Sponsor:

Sen. Doherty said on page 8, if you take out each member, instead of each house of the Legislature, it would make sense. This is a worthwhile idea. There is a long history of citizen initiatives in Montana and we should keep that. If signatures are bought, the people should be made aware of it.

HEARING ON SB 318**Opening Statement by Sponsor:**

Sen. Weldon, Senate District #27, stated this was a happy bill. SB 318 was brought on behalf of the Secretary of State. Each election shakes out some issues that need to be settled. Generally, there are nine different things this bill does. It is a housekeeping bill that will clarify a number of sections of election laws. It will not result in extra cost to the state nor will it pass on any cost to the counties. If anything the provisions on voter registration, ballot stamps and verification of presidential preference primary petitions, it will actually save counties money. The bill also addresses how many counties experience finding election judges to work the polls by allowing for one election judge in a precinct to be a youth election judge. The bill also makes voter registration more accessible to Montanans especially those in rural areas, and ensures that any constitutional initiative is placed on a general election ballot where a greater number of Montanans will have an opportunity to cast their ballot on the measure. It also ensures accountability in the petition gathering of candidates making this process the same as ballot issue petitions. The nine things are: 1) It includes the word "regular" in the definition of general election so that it means a constitutional initiative can only be put on the ballot of a statewide election called in November of every even numbered year. 2) It removes the witness provision which is an initiative discussed in the context of Sen. Lynch's voter registration and hunting license bill. It allows a person to register him or herself without having another voter from the county or a deputy registrar witness the voter registration. 3) It deals with the qualification of election judges and allows the Secretary of State to draft administrative rules with the intent of allowing youth election judges. Specifically, we would allow one sixteen or seventeen year old person to work as an election judge in each precinct. The rationale is in some counties it is difficult for the clerk and recorder to find enough people to act as precinct people. This would broaden the pool. It would get young people involved in the election process. 4) It requires affidavits for petition circulators of presidential preference primary petitions, independent candidates and petitions to qualify a political party for ballot. 5) It moves the deadline for submitting presidential preference primary petitions up a week. 6) It removes the requirement for the date of the ballot

stamps. This is a cost saving measure. 7) It prescribes a form for presidential electors. 8) It prescribes rules for the voter information pamphlet. 9) It requires the voter information pamphlets must be delivered no later than two weeks before the election. There is a fiscal note attached to the bill. There is no fiscal impact to the state. The local governments may experience some savings because of these measures. Implementing these procedures may cost some but the fiscal impact is minimal if anything.

Proponents' Testimony:

Joe Kerwin, Election Administrator, Secretary of State's Office, spoke in favor of SB 318 and gave written testimony (EXHIBIT #1, 2 and 3).

Tootie Welker, Montana Alliance for Progressive Policy, spoke in support of SB 318. There are three parts that MAPP likes: the witness provision, the youth election judges, the part about being able to turn the cards in three days after the close of registration. MAPP does a lot of voter registration projects on the reservations and in the urban areas and the problems we run into is the projects don't get going until summer and then it's too late to be trained as a deputy registrar. Getting rid of that provision will help us out a lot. As far as turning in the cards three days after that would have helped in Missoula where some cards were put on a volunteer's desk late in the date, they did not know there was a deadline, the cards were turned in late. Those people did not get to vote in that election. Letting the young people be election judges is a good idea also. She urged the committee to pass SB 318.

Julie Weddle, Common Cause/Montana, spoke in favor of SB 318 and gave written testimony (EXHIBIT #4).

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. McClernan asked Mr. Kerwin when the effective date of this bill would be if it were to pass. Mr. Kerwin said the effective date would be July 1. Sen. McClernan asked if it would affect the sales tax. Mr. Kerwin said not as it stands.

Sen. Hockett asked Mr. Kerwin who makes the format of the voter registration card. Mr. Kerwin said there was a prescribed form that the counties generally follow. There has to be certain elements included on the card but generally the county can adapt its own form. Sen. Hockett asked if a card from Lewis and Clark county be used in Flathead County. Mr. Kerwin said yes it could. Sen. Hockett asked why the card is not standardized. Mr. Kerwin said the state was generally moving in that direction.

Sen. Swift asked Sen. Weldon about the section on page 2 relating to the youth voting act which permits a mature person under the age of 18 years to participate. He asked Sen. Weldon who was going to make the decision, and how do you find a mature 18 year old. Sen. Weldon said the local election officials will make the decision. Sen. Swift asked who sets the rules for that. Sen. Weldon said the rules are set by the Secretary of State's office but it is an option available to the local election officials, meaning if they want to seek out someone 16 or 17 years old to be an election judge, they may do so. He referred to Mr. Kerwin to explain how this will actually work in the rules making process. Mr. Kerwin said the rules are set by working with the election advisory councils. The rules would be optional in that if they wanted to have a youth election judge they could. If they want to have just adult election judges they can do that too.

Sen. Vaughn asked Mr. Kerwin if it was optional for parties to suggest youth judges on the lists submitted to the election administrator for judge selection. Mr. Kerwin said that would have to be addressed with the rules.

Closing by Sponsor:

Sen. Weldon said most of the points are housekeeping issues. One of the two issues that the committee will want to focus its attention on is the removal of the witness provision. That is an unnecessary step. Sen. Weldon stated he was a deputy registrar and his district encompasses two counties. He never understood why he had to put his signature on the registration cards because every person he has ever registered fills it out and signs the affirmation that they are the person who is signing the card and he simply puts his name on it. He has never asked for drivers license, birth certificate or any other form of identification so he would argue that it is an unnecessary step that in some way restricts voter registration. By removing that, the voter registration process could be cleared up. The second issue is allowing young people to be election judges. He said that we have all known 15, 16 or 17 year-olds that are more mature than 30-year olds that would participate in the process and would serve very effectively as election judges. The option is there for the local election official. Missoula County does have difficulty in finding people that are willing to take a day off work to serve as election judges. This would be a valuable thing to let a student out of school for one day. That is the most significant part of this bill and is a significant step forward. He urged the committee to give this bill a DO PASS.

EXECUTIVE ACTION ON SB 176

Motion: Sen. Weldon moved that SB 176 be moved from the table for consideration.

Discussion: Sen. McClernan stated that this was the bill that was tabled for the reason that there were so many amendments. The bill was tabled to give someone a chance to get those amendments in shape and simplify the bill. Sen. Vaughn said there was an amendment prepared for SB 176. Sen. Hockett said we should probably take it off the table before we discuss it.

Vote: Motion to remove SB 176 from the table CARRIED with Sen. Swift and Sen. Tveit voting no.

MOTION: Sen. Weldon moved to amend SB 176 as reflected in the amendment marked sb017601.adn dated Feb. 9. Sen. Weldon withdrew his motion to amend SB 176.

MOTION: Sen. Weldon moved to strip the amendments of Feb. 2 numbered sb017602.adn.

Discussion: The reason he moved to do that is that was when we first dived into this thing there were a lot amendments. They were conflicting and confusing. It ended up passing and then we said just to table it. Sen. McClernan asked if this motion left the bill as it was printed. Sen. Weldon said it did.

VOTE: Motion to remove amendments CARRIED UNANIMOUSLY.

MOTION: Sen. Weldon moved to amend SB 176 (sb017605.adn).

Discussion: Sen. Weldon said these were the amendments that would eliminate section 1 dealing with false publication, section 2, that election materials announced be anonymous, section 5, which is the random audits required and section 7 which is the codification structure. This amendment leaves in section 3, the adoption of the code of fair campaign practices; section 4, that candidates and officers of the political committee be given to sign the campaign practices code; and section 6, the limitations on contributions accepted for ballot measures which puts a cap of 49% on that. Sen. McClernan asked if this amendment takes section 2 totally out or just the changes to Section 2. Sen. Weldon stated it was just the changes to section 2. Sen. McClernan asked if campaign material would still need a disclaimer as it does now. Sen. Weldon said that was right. Current law will not change. Sen. Weldon will asked Sen. Bianchi to request a new fiscal note. The consequences are that there will be no fiscal impact to this bill.

VOTE: Motion to amend SB 176 CARRIED UNANIMOUSLY.

MOTION/VOTE: Sen. Weldon moved SB 176 DO PASS AS AMENDED. Motion SB 176 DO PASS AS AMENDED CARRIED with Sen. Swift and Sen. Tveit voting no.

ADJOURNMENT

Adjournment: 12:00 p.m.



SENATOR ELEANOR VAUGHN, Chair



DEBORAH STANTON, Secretary

EV/ds

ROLL CALL

SENATE COMMITTEE STATE ADMINISTRATION DATE 2-16-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Eleanor Vaughn	✓		
Sen. Jeff Weldon	✓		
Sen. Jim Burnett		✓	
Sen. Harry Fritz	✓		✓
Sen. John Hertel	✓		
Sen. Bob Hockett	✓		
Sen. Henry McClernan	✓		
Sen. Bob Pipinich	✓		
Sen. Bernie Swift	✓		
Sen. Larry Tveit	✓		✓
David Niss	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 16, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 176 (first reading copy -- white), respectfully report that Senate Bill No. 176 be amended as follows and as so amended do pass.

Signed: Senator Eleanor Vaughn
Senator Eleanor Vaughn, Chair

That such amendments read:

1. Title, lines 5 through 8.

Strike: "SPECIFICALLY" on line 5 through "ISSUES;" on line 8

2. Title, lines 11 through 13.

Strike: "PROVIDING" on line 11 through "MEASURES;" on line 13

3. Title, line 13.

Strike: "13-35-225,"

4. Title, line 14.

Strike: "13-37-209,"

5. Page 1, line 17 through page 3, line 9.

Strike: sections 1 and 2 in their entirety

Renumber: subsequent sections

6. Page 6, line 6 through page 7, line 21.

Strike: section 5 in its entirety

Renumber: subsequent sections

7. Page 9, lines 21 through 24.

Strike: section 7 in its entirety

Renumber: subsequent section

-END-

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OVERVIEW: This is a housekeeping bill that will clarify a number of sections of the election laws. It will not result in extra costs to the state nor will it pass on any costs to the counties. If anything the provisions on voter registration, ballot stamps, and verification of presidential preference primary petitions will save counties money. This bill also addresses the problems that many counties experience in finding enough election judges to work the polls by allowing for one election judge in a precinct to a youth election judge.

The bill makes voter registration more accessible to Montanans, especially those in rural areas, and ensures that any constitutional initiative is placed on a general election ballot where a greater number of Montanans will have an opportunity to cast their ballot on the measure. It also ensures accountability in the petition gathering for candidates, making this process the same as for ballot issue petitions.

- 1. Amend 13-1-101(8): Includes "regular" in the definition of general election, so that it means a constitutional initiative could only be put on the ballot of the statewide elections held in November of every even-numbered year.**

Rationale: The intent of the constitution of restricting when a constitutional amendment could be voted on was so that it would take place at a regular election which guaranteed a high turnout, but the current definition allows for an amendment to be placed on the primary election ballot. For example, had CI-63, an amendment concerning the right game animals, qualified for the ballot, it would have been voted at the June 2, 1992, primary election. Primary elections have lower turnout rates than general elections.

- 2. Removal of the witness provision: Allows a person to register without having another voter from the county or a deputy registrar.**

Rationale: Makes registering easier and does not increase administrative burden of election administrators.

This would be of especial benefit to voters in more rural areas where a trip to the county courthouse can take a lot of time.

This also would allow cards signed on or before the close of registration three days to be sent into the election administrator's office. This is currently allowed for deputy registrars and necessary for programs like "motor voter" where people may register from out of county and the staff may not be able to deliver the cards to the appropriate courthouse on the last day.

Arguments against: **1. More administrative work.** It will increase administrative work, because without deputy registrars to explain how to register people, election administrators will have to spend more time contacting registrants to correct their errors.

Rebuttal: Registration is simple, but the burden is still on the voter to correctly complete the card. Note the recommended changes on the voter registration card concerning the ten step instructions for registering. Cards do have phone numbers or addresses to help the election administrator notify person if there is a problem.

2. Voter fraud. Without a witness to "keep a registrant honest," fraud will occur.

Rebuttal: **1. The same penalties still apply.** Under state law, a person committing a false registration is subject to a fine of up to \$500 and up to six months in jail. Voter fraud also is a federal crime.

2. A witness is restricted in what they can do. Under a Feb. 18, 1988 AG opinion (42 AG Op. No. 67), an election administrator may ask a registrant if they meet the legal requirements, but may NOT require proof. This is based on the constitution and case law. So I could go up to Betty Lund and register as John Smith, she could question me, but she would have to accept my registration.

3. Registrant still signs oath. A voter swears that they meet legal requirements.

4. Voter still must sign precinct register. Every voter when they go to the polls must sign the precinct register. If a witness requirement would dissuade someone from committing fraud, then they are not likely to go to the polls in front of all their neighbors and commit fraud.

5. If someone is determined to commit fraud, they can do it with the witness provision. Any person can go to the election administrator and register under an assumed name or wrong address since they do not have to prove it. Similarly, a person could forge the signature of a deputy registrar from another county and register to vote that way (election administrators can check the signature of a witness if that person is registered in the county, but can't do that if the witness is a deputy registrar from another county.)

6. The challenge system is still in place. Any voter can be challenged if another voter believes that the voter should not be allowed to vote. Considering that both parties regularly check on new registrants, this policing system works for registrants in general and late registrants as well.

7. Anticipating federal legislation. The federal "motor voter" bill, which is expected to be signed into law in March, will do away with the witness provision for mail-in registration cards. This would be effective January 1, 1995, if signed into law in its current form.

8. Twelve other states have no witness provision and have not had problems of fraud. The Secretary of State confirmed with the twelve states that do not require a witness and did not find that it caused an increase in fraud. The states are: California, Delaware, Iowa, Kansas, Kentucky, Maryland, Minnesota, New York, Ohio, Oregon, Pennsylvania, and Texas. In addition, North Carolina has adopted a similar law which will go into effect this year.

Quotes from letters submitted to the committee:

"Please assure your legislative members, that voter fraud will not occur simply because a second signature is removed from voter registration cards." Tim Waddell, Deputy Secretary of State, Iowa.

"I am not aware of any Kentucky cases involving fraud due to not having a witness to a signature on a voter registration card." George Russell, Executive Director, Kentucky State Board of Elections.

"To my knowledge, fewer than ten persons have been charged with voter registration violations in the past ten years. During this period, I estimate that over 3,500,000 voter registration cards have been submitted and processed statewide." Joan Anderson Growe, Minnesota Secretary of State (dropped witness provision in 1973).

"For the six years that I have now been with the Elections Division, I am unaware of any major allegations of fraud in the application process." Tom Harrison, Deputy Assistant Secretary of State, Texas.

[Of these states many do not have centralized voter files (California, Kansas, New York, and Oregon).]

9. Makes registration easier for organizations and agencies. SB 268 (sponsored by Lynch, Franklin, Clark, B. Brown, Doherty, Rye, D. Brown, Endy, Feland, and Tveit) would require the Department of Fish, Wildlife, and Parks to provide voter registration when someone applies for a license or permit. Current law would require that all staff receive formal training and become deputy registrars. This can be expensive and confusing. Without a witness provision, the staff would still be trained of course, but would not need to official deputy registrars. Being a deputy registrar means that the

election administrators must train each staff member, which can be time consuming and as there is staff turnover, new people must be trained and deputy registrar lists will be continuously updated. The Department could just as easily provide the necessary training.

3. Why allow cards to be received three days after the close? Won't people just backdate cards?

Rebuttal: This is necessary to allow people who register by "motor voter" or some other program the opportunity to get their cards in on time. Currently, cards completed by deputy registrars can be submitted three days after the close. Similarly, a person who changes the date he or she signed the card is violating the law and subject to a fine up to \$500 and up to six months in jail, which is a strong incentive NOT to backdate.

3. Qualification of election judges: Allows the Secretary of State to draft administrative rules with the intent of allowing for youth election judges.

Rationale: Many counties have a difficult time getting election judges to work and often rely on the same people year after year. This would allow for one 16- or 17-year old to work as an election in a precinct and would expand the pool from which election judges are chosen. Not only would this increase youth interest and involvement in elections, the younger judges would bring enthusiasm and energy to the job. Based on law from Oregon, which has had good experience with this.

Arguments against: **1. They would be too immature.**

Rebuttal: Each youth election judge would have to go through the same training as other election judges. Rules for youth judges are not mandatory, so a county would not have to hire youth judges if they were not comfortable with it. Only one youth judge per precinct would be allowed so you would still have two adult judges. Also the youth judge could not be the chief election judge.

2. They will not be able to work on school days.

Rebuttal: Scheduling is a problem for each election judge, whether they are a student, retired, or work somewhere else as well. Many government teachers give time off and credit for students to work on campaigns, they would probably do the same for youth judges who would be able to actually participate in the conduct of an election.

4. Requiring affidavits for petition circulators of presidential preference primary petitions, independent candidates, and petitions to qualify a political party for the ballot.

Rationale: Petitions for ballot issues require these affidavits, but an oversight in the law does not require them for these particular petitions. Note the problem that arose in Cascade County when petitions for Lenora Fulani, independent candidate for president, were submitted with hundreds of apparently forged signatures. An affidavit would allow an election administrator to "tie" a petition with a circulator if any question about the signatures arose.

Arguments against: 1. More work for election administrators.

Rebuttal: This would not increase the work load for election administrators. They merely have to check to make sure that a petition that is submitted to them has the affidavit and forward that along with petitions, once verified, to the Secretary of State.

2. Why require an affidavit for these petitions while you are doing away with the witness clause for registration?

Rebuttal: Registration is an individual act that allows a person to exercise their constitutional right to vote. A petition often involves proposed ballot measures that are not so clear, increasing the likelihood of confusion. The affidavit attests that the people signing the petition are who they say they are and understood the ballot measure.

5. Moves the deadline for submitting presidential preference primary petitions up one week.

Rationale: Currently the deadline for filing a presidential preference primary petition to the Secretary of State and the deadline for submitting the petition for verification by the election administrators are the same date. For example, last year the deadline for getting presidential preference primary petitions in was March 19, so each petition for Pat Buchanan, Bill Clinton, Jerry Brown, or whoever, that they received on March 19 they had to verify each signature and get that into the Secretary of State's office by 5:00 p.m.. Petitions with over 6,000 signatures were verified and faxed into the Secretary of State on the last day. This gives the election administrators one week to verify and forward them to us.

Arguments against: **1. Election administrators have four weeks to verify ballot issues petitions, but only one for these?**

Rebuttal: This is consistent with the timeframe for independent candidates. Election administrators have one week to verify those. Ballot issues require more time, because more signatures are required and usually submitted for those. For example, in 1996, the amount of signatures needed for a presidential preference primary petition will be 2,000, but for an initiative, 20,389 signatures are needed, and for a constitutional initiative 40,778.

6. Removing the requirement for date on ballot stamps. (Done at request of election administrators.)

Rationale: Now most election administrators have to buy a new stamp for each precinct for each election (unless they have a stamp where you set the date). The stamp is put on each ballot to prove it is official, but most ballots already have the date on the ballot so it is not necessary to have it repeated on the stamp. Election administrators still may have a date on the stamp if they wish.

7. Prescribing a form for presidential electors.

Rationale: Now the law states that each party or candidate notify the Secretary of State who their electors are, which works fine for the political parties which have established party structures recognized by the state. However, an independent candidate must personally notify us, but this does not have to be notarized. Note example of Perot who sent us a letter which we received a day after he announced he was withdrawing, but the letter was not notarized and not on official letterhead, so we could not determine if he had sent it or someone else had forged it. A standardized form could avoid a legal challenge to the credentials of Montana's electors.

8. Prescribing rules for the VIP.

Rationale: Ensures that arguments are submitted in a standardized format. The VIP is usually done in a two-column format to make it easier to read. However, if an argument is submitted that has comparison columns this could cause problems as if left in that same format the columns would be ridiculously short. To change this format, would be in essence changing the argument and could cause legal problems. Also would not allow graphics or charts.

Arguments against: **1. Would this restrict committees writing arguments?**

Rebuttal: No, this would only clarify that arguments must be type-written and explain the format in which they would be published. Committees would actually have a clearer idea of how their arguments would appear in the VIP and could prepare statements that would catch the reader's eye more.

9. VIPs must be delivered no later than two weeks out.

Rationale: This would change the requirement that VIPs be mailed by election administrators within two weeks of receipt from the printer to no later than two weeks before the election. The law still requires the printer to get the VIPs to election administrators no later than 30 days before the election, but this year some counties received their VIPs weeks before this date. Since voter registration had not closed, this would have required at least two mailings by the counties at their expense. They can still mail them out before the two week deadline, but no later.



SENATE STATE ADMIN.

EXHIBIT NO. 2DATE 2-16-93BILL NO. SB 318

SECRETARY OF STATE

John Hannah, Jr.

January 22, 1993

The Honorable Mike Cooney
Secretary of State
State of Montana
Montana State Capitol
Helena, Montana 59620

Dear Secretary Cooney:

In response to your inquiry concerning the requirement for a witness to the signature of an applicant on a voter registration application, you are correct in that Texas does not have such a requirement. We do allow an agent to sign on behalf of an applicant under certain circumstances and also provide for signing by a witness if the applicant is unable to sign his or her name. For the six years that I have now been with the Elections Division, I am unaware of any major allegations of fraud in the application process. It is a Class B misdemeanor under Texas law to make a false statement on the application with conviction punishable by a fine not to exceed \$1,500 and/or confinement in jail for a term not to exceed 180 days. As I mentioned to Joe Kerwin in our telephone conversation, we have had successful prosecutions under this section in some counties and we try to see that reports of these convictions are widespread.

I have attached a copy of our application. You will note that it has to be printed in both English and Spanish as Texas is covered by the Federal Voting Rights Act. I have also attached copies of the pertinent sections of the Texas Election Code. Please do not hesitate to contact me if you have any other questions on this or any other matter.

Respectfully,

A handwritten signature in black ink that reads "Tom H." followed by a horizontal line.

Tom Harrison
Deputy Assistant Secretary of State

TH:ket

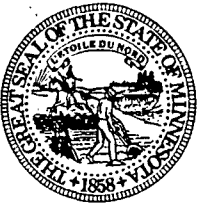
Attachments

ELECTIONS DIVISION

Post Office Box 12060, Austin, Texas 78711-2060

(512) 463-5650 FAX (512) 475-2811 TDD (800) 735-2989

(800) 252-VOTE (8683)



JOAN ANDERSON GROWE
Secretary of State
ELAINE VOSS
Deputy Secretary of State

State of Minnesota
OFFICE OF THE SECRETARY OF STATE
Saint Paul 55155

January 13, 1993

RECEIVED
HELENA
180 STATE OFFICE BUILDING
Corporation Division: 612/296-2803
UCC Division: 612/296-2434
Election Division: 612/296-2805
Office of the Secretary: 612/296-3266
Office of Deputy Secretary: 612/296-2309
JAN 16 1993
SECRETARY OF STATE

Joe Kerwin
Elections Bureau
Office of the Secretary of State
State Capitol
Helena, MT 59620

Dear Mr. Kerwin,

As you noted in your recent letter, Minnesota does not require a witness for voter registration purposes. As an alternative, the residency of each new registrant is verified by mailing the registrant a nonforwardable notice. If this notice is returned to the county auditor as undeliverable, the auditor attempts to determine the registrant's residence. If this attempt is unsuccessful, the county auditor makes a report to the county attorney, who conducts an investigation and, if needed, begins prosecution of the registrant.

Each person who registers to vote in Minnesota signs an oath stating that they meet all the legal requirements to vote. Violation of this oath is a felony punishable by a \$10,000 fine or up to five years imprisonment, or both.

This process has been used in Minnesota since mail registration was adopted by the legislature in 1973. Our experience with this process has been very positive. We have no indication that any concerted attempt has ever been made to violate our voter registration laws. To my knowledge, fewer than ten persons have been charged with voter registration violations in the past ten years. During this period, I estimate that over 3,500,000 voter registration cards have been submitted and processed statewide.

We also find the postal verification process useful since it offers us the opportunity to let the voters know the location of their polling place and the election districts (congressional, legislative, county commissioner, school) in which they reside.

Based on our track record, I have no doubt that the mail verification process does work. I suspect that such a process could be implemented successfully in Montana as well.

"AN EQUAL OPPORTUNITY EMPLOYER"

Exhibit # 2
2-16-93
SB-318

If you have any additional questions concerning this matter,
please let me know.

Sincerely,

Joan A. Growe
Joan Anderson Growe
Secretary of State

01930056



RECEIVED
HELENA MONTANA

JAN 26 9 18 AM '93

MICHAEL B. JONES
SECRETARY OF STATE

COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS

Bob Babbage
Chairman

George Russell
Executive Director

ROOM 71 STATE CAPITOL
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601-3493
(502) 564-7100
FAX: (502) 564-4369

January 20, 1993

Mr. Joe Kerwin
Elections and Legislative Bureau Chief
Montana State Capitol
Room 225
Helena, MT 59620

RE: Witness Requirement on
Voter Registration Card

Dear Mr. Kerwin:

In response to your letter of January 7, Kentucky does not require a witness to a signature on a voter registration card, except in cases where the applicant must sign by "his or her mark". In those cases, there must be 2 witnesses signatures.

I am not aware of any Kentucky cases involving fraud due to not having a witness to a signature on a voter registration card. When a voter go to the polls to vote, precinct workers are to check their identification (social number, personal acquaintance, credit card, drivers license, etc.) with the name listed on the precinct roster.

Please don't hesitate to contact me if I may be of further assistance to you.

Sincerely,

George Russell

GR/jt

Encl.

cc





SECRETARY OF STATE
STATEHOUSE
STATE OF IOWA
DES MOINES 50319

RECEIVED
HELENA, MONTANA

JAN 28 11 22 AM '93
MIAE BUCKLEY
SECRETARY OF STATE

Exhibit # 2
2-16-93
SB-318

ELAINE BAXTER
SECRETARY OF STATE

515-281-8993
FAX: 515-242-5952

Joe Kerwin
Elections and Legislative Bureau Chief
Office of the Secretary of State
State Of Montana
State Capitol
Helena, MT 59620

Dear Mr. Kerwin:

Thank you for your recent letter concerning pending legislation which would remove the witness requirement for Montana's voter registration cards.

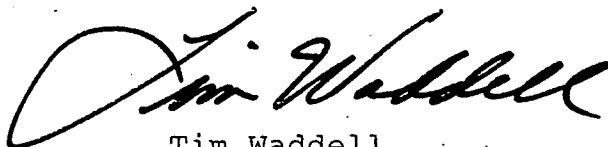
Iowa's voter registration cards and postcards have been evolving since their inception in 1974. The postcards and regular voter registration cards both required two signatures until 1986 when the requirement was removed. The issue was noncontroversial in the Iowa Legislature, so there was little or no discussion of the issue at the time. The abolition of the requirement was supported by the Iowa Association of County Auditors who felt that it was difficult to administer since many postcards were coming into the courthouses with only one signature and would have to be returned to the voter for a second signature. Since the Secretary of State and the county auditor's both supported the change, the legislature did not feel this was terribly controversial.

Iowa voter registration postcards are now available in all government offices, drivers license forms, Iowa tax booklets and all telephone directories in the state. This wide dispersion of voter registration forms is only possible because of the changes in voter registration procedures, including deleting the second signature.

We are pleased to note, that although we are occasionally faced with the cry of fraud in the Iowa legislature over changes in voter registration procedures, we have only had one instance of voter fraud in the history of elections in Iowa. Please assure your legislative members, that voter fraud will not occur simply because a second signature is removed from voter registration postcards.

I hope this information is helpful to you. If I can be of any further service to you, please do not hesitate to let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Waddell". The signature is fluid and cursive, with a large initial "T" and "W".

Tim Waddell
Deputy Secretary of State

Exhibit #2

2-16-93

SB-318



Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

ELECTIONS DIVISION
(916) 445-0820

For Hearing and Speech Impaired
Only:
(800) 833-8683

January 28, 1993

Joe Kerwin
Elections and Legislative Bureau Chief
Office of the Secretary of State
Montana State Capitol
Helena, Montana 59620

Dear Mr. Kerwin:

We have received your letter requesting information on our experience with mail registration in California.

You are correct that no "witness" is required to verify information on another person's affidavit of registration in this state. However, each voter must attest, under penalty of perjury, that he or she is eligible to register and vote.

Most of the allegations of voter registration fraud in California typically involve the use of "bounty hunters" --- persons paid, either by a candidate or a political party, to register voters. These persons are usually paid on a "per affidavit" basis, and thereby have an incentive to turn in as many affidavits as possible, even if they have to create fictitious persons or copy names out of a phone book in order to do so.

We are unaware of any substantial incident in which these attempts at fraudulent registration have resulted in any actual voting fraud. The fraudulent affidavits are more of a pain in the neck for elections officials than an actual threat to the integrity of the process.

The disadvantages of the mail registration system are, however, more than outweighed by the advantages in terms of providing a simple and convenient opportunity to register to vote.

I hope this information is of use to you. If you need further information, please call me directly at 916/445-0859.

Sincerely,

CAREN DANIELS-MEADE
Chief, Elections Division

A handwritten signature in cursive script that reads "John Mott-Smith".

JOHN MOTT-SMITH
Elections Specialist

A:\kerwin

(3)

MADAM CHAIR AND MEMBERS OF THE COMMITTEE, FOR THE RECORD, MY NAME IS JOE KERWIN, ELECTIONS AND LEGISLATIVE BUREAU CHIEF FOR THE SECRETARY OF STATE.

EACH ELECTION BRINGS NEW SITUATIONS WITH WHICH THE SECRETARY OF STATE AND COUNTY ELECTION ADMINISTRATORS MUST DEAL. SOME ARE ALREADY ANTICIPATED BY STATE LAW, BUT SOMETIMES THE ELECTION LAWS DOES NOT SPECIFICALLY ADDRESS THE QUESTION. USUALLY, THESE NEW SITUATIONS CAN BE HANDLED ADMINISTRATIVELY, BUT IN ORDER TO AVOID SIMILAR PROBLEMS FROM ARISING AGAIN IN THE FUTURE, IT IS NECESSARY TO CONSTANTLY REVISIT THE ELECTIONS LAWS TO MAKE THE NEEDED CHANGES. THAT IS WHAT THIS BILL IS INTENDED TO DO.

BASICALLY THIS BILL DOES NINE DIFFERENT THINGS. THE FIRST IS TO MAKE SURE THAT A CONSTITUTIONAL INITIATIVE IS PLACED ONLY ON A GENERAL ELECTION IN AN EVEN-NUMBERED YEAR, THE SAME AS CONSTITUTIONAL AMENDMENTS REFERRED BY THE LEGISLATURE. BECAUSE OF AN INCONSISTENCY IN THE LANGUAGE OF THE STATUTES, A CONSTITUTIONAL INITIATIVE MUST BE PUT ON A "REGULAR" ELECTION BALLOT, BUT THE ATTORNEY GENERAL HAS DETERMINED THAT THIS PRESENT DEFINITION INCLUDES THE PRIMARY. BY REFINING THE DEFINITION OF "REGULAR," THIS BILL ENSURES THAT A CONSTITUTIONAL INITIATIVE WOULD GO ON THE NOVEMBER BALLOT, WHEN MORE PEOPLE TURN OUT AND WOULD BE ABLE TO HAVE A SAY ON ANY CHANGE OF THE STATE CONSTITUTION.

AS YOU HAVE HEARD IN THE HEARING FOR S.B. 268, THIS BILL WOULD DO AWAY WITH THE WITNESS FOR REGISTRATION. ONE PROBLEM THAT HAS ARISEN WITH VOTER REGISTRATION HAS BEEN THIS PROVISION OF THE LAW WHICH REQUIRES THAT ANY PERSON REGISTERING TO VOTE HAVE THEIR CARD WITNESSED EITHER BY A REGISTERED VOTER FROM THAT COUNTY OR A DEPUTY REGISTRAR. TO A PERSON WHO IS UNFAMILIAR WITH ELECTION LAW OR HAS JUST MOVED TO A NEW COUNTY, THIS CAN PROVE QUITE AN OBSTACLE. IN PARTICULAR, I THINK THIS IS ESPECIALLY HARD ON SENIOR CITIZENS, HOME-BOUND MONTANANS, AND THOSE LIVING IN RURAL AREAS. FINDING A WITNESS MIGHT NOT BE A HUGE PROBLEM TO A PERSON LIVING IN MISSOULA, BUT TO A PERSON LIVING IN AN ISOLATED RURAL AREA THIS OFTEN MEANS A LONG DRIVE TO THE COUNTY SEAT.

ONE OF THE TASKS OF A DEPUTY REGISTRAR IS HELP A PERSON CORRECTLY COMPLTE THE FORM. FILLING OUT A VOTER REGISTRATION CARD IS NOT A DIFFICULT TASK AND OUR OFFICE HAS PROPOSED SOME RECOMMENDED CHANGES TO THE CARD TO MAKE IT MORE "USER-FRIENDLY," IF YOU WILL. BEYOND HELPING THE PERSON FILL OUT THE CARD PROPERLY, THE WITNESS IS RATHER LIMITED IN WHAT THEY CAN DO.

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P.O. Box 623
Helena, MT
59624
406/442-9251

SENATE STATE ADMIN.
EXHIBIT NO. 4
DATE 2-16-93
BILL NO. SB 318

COMMON CAUSE TESTIMONY
IN SUPPORT OF SB 318
FEBRUARY 16, 1993

Madame Chair, members of the Senate State Administration Committee, for the record my name is Julie Weddle, Assistant to the Director of Common Cause/Montana. On behalf of more than 800 Montanans who are members of Common Cause to help promote more open and accessible government in Montana, I register our support for SB 318.

This Committee has heard much testimony regarding so called "housekeeping" bills, but we feel that several measures in this bill are more than dust under the rug. This bill deals with the important issues of voter education, registration and participation. It has a potential for increasing the public confidence in the electoral system.

We feel that certain provisions in this bill will break down barriers to voting and encourage greater voter participation in Montana.

1. Allowing for youth election judges.

By including youth in the election procedures we would not only lessen the burden on counties to recruit election judges, we would be opening the doors of the election process to interested and valuable future voters. In return, the youth will benefit the electoral system in two important ways.

First, as they become involved and acclimated to the election process they will most likely encourage their peers to become involved and to value the right to vote. Secondly, the presence of young faces in the election judge lineup will create a more hospitable voting environment for younger voters. They will feel invited into the process not alienated by it.

2. Secretary of State to prescribe the rules for the format of the Voter Information Pamphlet.

The VIP must be a source of easily accessible information about ballot initiatives. The Secretary of State must prescribe a standard format which presents arguments in a form that creates an accurate, easy to read comparison. Allowing the manipulation of this format either by moving columns around or adding graphs and charts could cause unnecessary confusion of the voters. This guarantees that the VIP would always serve its purpose of being a useful tool to the voter.

3. A Constitutional Initiative can only be placed on a "regular" or general election ballot.

General elections have the largest voter turnout. When present on a general election ballot, an initiative for constitutional change will be deliberated by the largest possible voter population. Thus, a vote for or against the initiative will truly represent the popular opinion.

To include constitutional initiatives on primary ballots would put an important decision in the hands of a much smaller percentage of Montanans. Generally, only those voters belonging to either the Democratic or Republican party voice their opinion in the primary election. Constitutional initiatives are issues concerning all Montanans, not just active party members.

4. MOST IMPORTANT: Removal of Witness provision in voter registration.

Eliminating the witness requirement will make voter registration easier for everyone. For rural people, it may make registration possible in ways not possible before. The instructions that would be added to the actual registration card make the card self-explanatory and anticipate questions that the person registering may have. Numbering the questions would direct the citizen step-by-step through the registration process.

The current witness requirement serves no legal purpose for it has been determined that a witness does not have the authority to verify voter information. Furthermore, it creates barriers to well-intentioned organizations in Montana which work to increase voter registration. Eliminating the requirement of a (witness) middleman frees up the registration process and makes it more flexible to new and creative methods of voter registration, such as SB 268 allowing registration when obtaining a hunting or fishing license.

* * *

In closing, Common Cause believes that to have meaningful citizen participation in government we must make every effort to break down any obstacles to voting, whether actual or perceived. This bill is not just a "housekeeping" measure, it chips away at voting barriers to the public where doors should be opened instead. Because public confidence in our government is based on meaningful citizen participation, voting must be as easy as possible. People must feel at home in their participation to feel at home in their government.

For these reasons we wholeheartedly encourage this committee and the legislature to pass SB 318.

53rd LEGISLATIVE SESSION
STATE ADMINISTRATION COMMITTEE

I, Senator FRITZ do hereby submit my
vote to Chairman Vaughn as follows:

BILL NUMBER SB176

MOTION

Do Pass *as Amended*
Yes ✓ No _____

Do Not Pass
Yes _____ No _____

Indefinitely Postponed
Yes _____ No _____

Tabled
Yes _____ No _____

Untable - YES

Amend - YES

DATE _____

SIGNATURE *H. Fritz*

53rd LEGISLATIVE SESSION

STATE ADMINISTRATION COMMITTEE

I, Senator Truitt do hereby submit my
vote to Chairman Vaughn as follows:

BILL NUMBER SB 176

MOTION

leave on table
~~Do Pass~~
Yes X No _____

Do Not Pass
Yes _____ No _____

Indefinitely Postponed
Yes _____ No _____

Tabled
Yes _____ No _____

DATE

Sen Truitt
SIGNATURE

Amendments to Senate Bill No. 176
First Reading Copy

Requested by Senator Bianchi
For the Committee on State Administration

Prepared by Greg Petesch
February 4, 1993

1. Title, line 5.
Following: "TO"
Insert: "STATEWIDE"

2. Title, line 6.
Following: "A"
Insert: "STATEWIDE"

3. Title, line 8.
Following: "TO"
Insert: "STATEWIDE"

4. Title, line 11.
Following: "TO"
Insert: "STATEWIDE"

5. Title, line 12.
Following: "ON"
Insert: "STATEWIDE"

6. Page 1, line 20.
Following: "a"
Insert: "statewide"

7. Page 2, line 22.
Following: "a"
Insert: "statewide"

8. Page 6, line 20.
Following: line 19
Insert: "statewide"

9. Page 9, line 15.
Following: "a"
Insert: "statewide"

Amendments to Senate Bill No. 176
First Reading Copy

Requested by Sen. Weldon
For the Committee on State Administration

Prepared by David S. Niss
February 9, 1993

1. Title, lines 5 through 8.

Strike: "SPECIFICALLY" on line 5 through "ISSUES;" on line 8

2. Title, lines 11 through 13.

Strike: "PROVIDING" on line 11 through "MEASURES;" on line 13

3. Title, line 13.

Strike: "13-35-225,"

4. Title, line 14.

Strike: "13-37-209,"

5. Page 1, line 17 through page 3, line 9.

Strike: sections 1 and 2 in their entirety

Renumber: subsequent sections

6. Page 6, line 6 through page 7, line 21.

Strike: section 5 in its entirety

Renumber: subsequent sections

7. Page 9, lines 21 through 24.

Strike: section 7 in its entirety

Renumber: subsequent section

DATE 2-16-93

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: SB 318, SB 287

Name	Representing	Bill No.	Check One Support Oppose	
Tootie Welker	MAPA	318	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DAN BYRD	NIT ASSOC COUNTY CLERK & RECORDER	S.B. 287	<input type="checkbox"/>	<input checked="" type="checkbox"/>
AMY KELLEY	COMMON CAUSE	287	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JULIE WEDDLE	COMMON CAUSE	318	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Joe Kerwin	Sec of State	318	<input checked="" type="checkbox"/>	<input type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY