

# Report of the Special Committee on Ethics, Elections and Local Government to the 2015 Kansas Legislature

**CHAIRPERSON:** Senator Mitch Holmes

**VICE-CHAIRPERSON:** Representative Steve Huebert

**OTHER MEMBERS:** Senators Oletha Faust-Goudeau, Steve Fitzgerald, and Michael O'Donnell; and Representatives John Barker, Keith Esau, Mike Kiegerl, and Tom Sawyer

## STUDY TOPICS

- Review Issues Pertaining to Abandoned Properties. The study will include the following:
  - Review current statutes related to abandoned property;
  - Review economic and potential public safety issues for local communities; and
  - Review potential impact on state and local government revenues.
- Study Moving Elections to Fall and Consider 2014 SB 436 Concerning Consolidation of Law Enforcement Agencies
  - Study the subject of moving spring elections to the fall in order to increase voter turnout for local elections; and
  - Review 2014 SB 436 which addresses statutes that authorize Riley County to consolidate its law enforcement agencies and establish a Law Enforcement Director.

# Special Committee on Ethics, Elections and Local Government

## ABANDONED PROPERTIES

### Conclusions and Recommendations

The Committee makes no conclusions or recommendations.

*Proposed Legislation:* None.

### BACKGROUND

The Legislative Coordinating Council (LCC) in 2014 created the Special Committee on Ethics, Elections and Local Government, which was composed of nine members. The LCC charge to the Committee included the following:

- Review issues pertaining to abandoned properties. The study is to include reviewing current relevant statutes, economic and potential public safety issues for local communities, and potential impact on state and local government revenues;
- Review 2014 SB 436 which addresses statutes that authorize Riley County to consolidate its law enforcement agencies and establish a Law Enforcement Director; and
- Study moving spring elections to the fall.

The Committee was granted three meeting days by the LCC. It met on October 10, November 21, and December 12, 2014. The issue of abandoned properties was addressed during the first and second Committee meetings.

KSA 12-1750 through 12-1756g govern cities' powers and duties regarding abandoned or dangerous properties. KSA 2014 Supp. 12-1750, subsection (c), defines "abandoned property" as:

(1) Any residential real estate for which taxes are delinquent for the preceding two years and which has been unoccupied continuously by persons legally in possession for the preceding 90 days; or

(2) commercial real estate for which the taxes are delinquent for the preceding two years and which has a blighting influence on surrounding properties. "Commercial real estate" means any real estate for which the present use is other than one to four residential units or for agricultural purposes.

KSA 12-1751 grants cities the authority to do either of the following:

- Cause the repair or removal of, or to remove any structure located within the city, which may have become unsafe or dangerous; or
- Cause the rehabilitation of or to rehabilitate any abandoned property located within the city.

The remaining statutes prescribe the hearing process and response and remediation action process to be implemented and the time line of that process in the instance of a city's finding of unsafe or dangerous or abandoned property.

## COMMITTEE ACTIVITIES

The Committee toured vacant or abandoned properties in Topeka and discussed with conferees several issues with respect to the problem of vacant, unsafe, and abandoned property. Among the issues are the following:

- Property rights, both of the owners of the vacant or abandoned property and of the neighbors;
- Neighborhood safety, with respect to both police and fire protection;
- Property values; and
- The definition of “abandoned” in statutes.

Led by a representative for the City of Topeka, the Committee visited two abandoned properties and also heard about issues regarding a third. The Topeka city representative explained each of the properties was an example of the kinds of problems abandoned housing represents.

The first property was located in a moderate-income neighborhood considered “healthy” by the city in terms of poverty, crime, and property values. However, the owner is deceased, there is a reverse mortgage on the property, and the property was foreclosed upon and sold in 2013.

The first property did not meet the legal definition of “abandoned property” because a minimal amount of taxes had been paid. Topeka city officials indicated the property is not inhabited, lighting around it is poor, vegetation overgrowth makes it difficult to watch the property, and police have no legal grounds to question trespassers because the property is not posted for no trespassing. Officials stated homeless persons look for places to get out of the weather, and, if someone were to light a fire inside this vacant home, the fire could spread. They explained firefighters must fight a house fire assuming the structure is occupied. As of 2013, the appraised value had dropped by nearly 46 percent, and the condition of the house depreciates surrounding property values.

The second property, located in a low-income neighborhood ranking as “needing intensive care” in terms of neighborhood health, is vacant, has been boarded up, and has been cited for 21 violations since 2010. The house has been in foreclosure several times and the current mortgage owner is in California and has not responded when contact attempts have been made. A neighbor indicated the property had been stripped of assets such as copper pipe, two doors were open, the cellar is not secure, and people have been seen entering and leaving. City officials said there is a large homeless population in the area due to the proximity of the Rescue Mission, the house has been used by people consuming alcohol and drugs, children might frequent the house in the summer, and the property is unsafe for young children to walk by on their way home from school in large part due to danger of sexual assault. Also, the second story is not structurally sound, the dilapidated structure hinders and endangers firefighters, and neighboring structures are close enough to be in danger if the property were to catch fire.

After the tour, Topeka city officials and citizens emphasized the above-mentioned, as well as additional issues. For example, vacant and abandoned properties involve the issue of private property rights—of the owner, as well as of the owners of neighboring properties—and the protection of neighbors. One official noted vacant and abandoned properties fall into several categories related to ownership and safety. For example, some, as indicated by the first property visited, do not meet the statutory definition of “abandoned.” The question of how to address the issues posed by such properties becomes complicated, and a property can be vacant for five or six years before a city can take action. A Topeka neighborhood association representative stated, among other things, members of his association estimated three or four abandoned properties exist on each street in that Topeka area. A police representative discussed crime prevention issues, such as partnering with neighbors and “environmental design” plans such as boarding up windows and perhaps painting over such boarding to indicate the property is under care and make use of such a structure by unauthorized people easier to detect.

A representative of the Topeka Police Department noted a Florida study indicates blocks with abandoned properties have 3.2 times as many drug calls, 1.8 times as many theft calls, and twice the number of violence calls than neighborhood blocks without abandoned buildings. Each police call means fewer resources available for other parts of the city.

With respect to fires, a Topeka Fire Department representative stated in the past three years, there had been 41 fires in vacant structures in Topeka—20 percent of all fires investigated. Code violations are frequently sent after investigation of such fires; what happens after that depends on the extent of damage to the structure.

A City of Wichita representative echoed the concerns explicated by the Topeka officials when he distributed a map of an area within Wichita with high incidence of delinquent property tax; the map was color coded to show the varying amounts of taxes owed and time of delinquency status. He said there are some intense areas of blight.

A League of Kansas Municipalities (LKM) representative summarized the findings of a survey LKM distributed to Kansas municipalities. Forty-eight cities responded about the number of abandoned properties. The LKM representative said the respondent cities represented cities from the smallest to the largest. The survey results constitute evidence abandoned properties appear to be a problem with cities of all sizes but particularly in cities with declining populations. The median time of the respondent cities' properties being abandoned was four years. Survey respondents indicated the most common type of owner was an individual who has moved away. Other owners were banks and mortgage companies, landlords, and non-local investors.

The LKM representative testified this topic is a priority with LKM, and organization representatives plan to meet with concerned

individuals to address the issue. Usually the city's inability to find the property owner is the biggest problem. The LKM representative reiterated an earlier observation that owners will pay enough of the delinquent tax bill so the property is not legally abandoned, so no action can be taken, and stated a change in the definition of "abandoned property" could help the cities.

A Kansas Association of Realtors representative testified from the perspective of property owners. In reference to KSA 12-1750, subsection (c), paragraph (1), he stated there should always be two factors used to determine whether a home is abandoned. He indicated support for continuing two years of delinquent *ad valorem* taxes as one factor; however, he questioned the part of the "abandoned property" definition stating the property must be vacant for 90 days, noting an owner could be absent for that period of time on a work assignment, for example. While agreeing the issues presented by city officials were problematic, the representative requested the Committee weigh carefully the need for an additional tool to address the issues related to deteriorating properties against the potential erosion of private property rights.

Representative Stan Frownfelter distributed a copy of the aforementioned statutes (with language from proposed 2013 HB 2075 inserted) and concluded the October hearing on this issue by quoting from a *Kansas City Star* editorial that stated vacant properties had become a major problem in Kansas City that "can create a chronic downdraft in property values," as well as creating other issues of safety and sanitation.

## CONCLUSIONS AND RECOMMENDATIONS

The Committee makes no conclusions or recommendations.

# Special Committee on Ethics, Elections and Local Government

## COMBINING ELECTIONS

### Conclusions and Recommendations

The Committee spent two of its three assigned days on the topic of combining elections. Presentations were received from experts from around the nation. The Committee heard directly from three other states' experts on the challenges and benefits of combining elections, either completely or partially, in those states. The Committee also received a presentation from a staff representative of the National Conference of State Legislatures, regarding the history and current practice of election scheduling in the nation, and from Kansas election officials.

Following this review and Committee discussion, the Committee did not make any conclusions or recommendations.

*Proposed Legislation:* None.

### BACKGROUND

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- Review issues pertaining to abandoned properties. The study is to include reviewing current relevant statutes, economic and potential public safety issues for local communities, and potential impact on state and local government revenues;
- Review 2014 SB 436 which addresses statutes that authorize Riley County to consolidate its law enforcement agencies and establish a Law Enforcement Director; and
- Study moving spring elections to the fall.

The Committee was allowed three meeting days by the LCC. It met on October 10, November

21, and December 12, 2014. The issue of combining elections was addressed during the second and third Committee meetings.

Article 4, Section 2 of the *Kansas Constitution* states, "General elections shall be held biennially on the Tuesday succeeding the first Monday in November in even-numbered years. Not less than three county commissioners shall be elected in each organized county in the state, as provided by law." No further constitutional direction is given regarding specific types of elections or their timing.

Kansas statutes require federal, state, and county elections be held in the fall of even-numbered years. Elections for officials of cities, school districts, and all additional political subdivisions are held in the spring of odd-numbered years. Special elections may be held at other times.

The first bill proposing moving spring elections to the fall was introduced in the 2010 Legislative Session. The debate has continued. At least ten bills have been introduced on or amended to include the topic, with seven of those offered in

the 2013-2014 biennium. At the end of the 2014 Legislative Session, a study was requested on the topic.

## COMMITTEE ACTIVITIES

The Committee heard from several experts in the field of elections. For a broad, out-of-state perspective, three individual conferees and two panels made presentations on the timing of elections. A staff representative of the National Conference of State Legislatures (NCSL) presented information on election timing history as well as summarized several other states' laws and practices. The former local election administrator in Maricopa County, Arizona, (now a senior advisor to the Democracy Project of the Bipartisan Policy Center in Washington, D.C.) provided extensive detail on Arizona's experience with combining elections and the issues it presented. Panels of state and local election officials from two other states with some level of combined elections (Utah and Nebraska) addressed questions and discussed the issues in detail. Finally, the author of the only published book on the topic of election timing and its effect on voter turnout made a presentation.

With respect to Kansas-specific information, Kansas Legislative Research Department (KLRD) staff presented information summarizing testimony received during the 2013-2014 biennium. In addition, the Special Committee Chairperson also arranged for testimony from Kansas state and local election officials, including the Secretary of State and election officials from Johnson, Douglas, and Hodgeman counties.

### Historical Background and Information on Other States

The NCSL staff representative stated, through the 19<sup>th</sup> century, local government decisions as to whether to hold elections together with or separate from state elections varied. Generally speaking, over three decades beginning in the 1890s, local elections were separated from state and federal elections. Over approximately the past generation, when changes have occurred, the change has been to combine election dates. The goals have been to save money by running fewer elections and

increase voter turnout by combining local with higher visibility elections.

The NCSL staff representative presented information on election timing and voter turnout for the 2012 election, which information was obtained from the book *Timing and Turnout: How Off-Cycle Elections Favor Organized Groups* by Dr. Sarah Anzia. (Note: Dr. Anzia provided direct testimony, which is summarized later in this report.) The NCSL representative noted the following:

- Twelve states hold their school board elections in November of even-numbered years, along with the general election; and
- Turnout in 2012 in states with November even-year municipal elections was as follows: Oregon – 64 percent; Nebraska – 61 percent; Rhode Island – 58 percent; Kentucky – 56 percent; and Arkansas – 51 percent. (Information came from the 2012 Elections Performance Index, created by the Pew Charitable Trusts. The Index listed Kansas' rate as 58 percent.)

The NCSL representative then summarized nationwide election-date-related legislation. From 2010 through 2014, 125 bills were introduced in 31 states. Of these, 13 bills (or 10 percent of the total) were enacted in 11 states. The passage rate for election-date bills is about half of that for all bills regardless of subject matter (20 percent). Variations in the 125 proposed bills included setting uniform election dates; consolidating elections in November of even-numbered years; combining school and municipal elections in the spring, or in November of odd-numbered years; changing the schedule for specific classes of cities; and permitting (rather than requiring) jurisdictions to consolidate elections. The 13 enacted bills consolidated elections or created uniform dates, and most addressed school district elections.

The NCSL representative indicated no state has revisited its decision to consolidate elections. She then provided greater detail about recent changes made in several states, including the following:

- New Jersey (made it optional to move the annual school election to November in odd-or even-numbered years; New Jersey elections for legislative and statewide offices are held in odd-numbered years);
- Michigan (took an incremental approach to consolidate elections over several years; cost savings have been reported);
- Idaho (limited elections to two dates in each calendar year, allowed school districts two additional election dates, and allowed a portion of state sales tax to be used to reimburse counties);
- Texas (reduced the number of election dates from four every two years to three, and a proposal to reduce the number to two might be offered in the 2015 Legislative Session);
- Kentucky (while November of even-numbered years is the norm, local entities may choose another date if they pay the cost); and
- New Mexico (an unsuccessful ballot measure would have permitted school elections to be held at the same time as partisan elections).

Regarding voter drop-off, she reported studies are few but a study of California elections by the Greenlining Institute compared turnout for elections in cities that consolidated elections with turnout in cities that did not choose to consolidate elections. The study found some drop-off but higher turnout for the last measure on the ballot in the cities with consolidated elections.

The NCSL representative then provided several consolidation options, based on other states' laws:

- Move all or some of the municipal, school, or other small elections to the fall of even years (most dramatic change);
- Move smaller elections to November of odd-numbered years, which perhaps

would increase turnout based on fall being the customary voting season;

- Allow (instead of require) jurisdictions the choice of consolidating their elections; and
- Reduce the number of special elections.

If the decision is made to consolidate election dates, the NCSL representative suggested the following items to consider:

- Whether the change would be workable in rural communities;
- Who would pay the initial costs of changing;
- Whether constitutional or statutory changes need to be made;
- Whether municipal charters have rules that align with state rules;
- How much transition time election officials would need to work out new plans and train poll workers;
- The fact voter education would be required; and
- The possibility data about how the change is working are unreliable until the new procedure becomes the norm.

The NCSL representative also provided suggestions to make transition to a new system easier, such as reducing the number of ballot styles required. Finally, she provided the following list of possible options to consolidating elections that might increase voter turnout:

- Using voting centers, where any voter in the county could vote at any voting center;
- Conducting some or all elections entirely by mail; and
- Increasing the availability of good voter information (such as providing

information via direct mail from a public office and making that official information available also through newspapers and political parties' websites). She indicated some states have requirements for voter information, which is delivered for every ballot, and a California political scientist has shown a correlation between states with robust statutes requiring voter information and high turnout.

### **Election Consolidation Challenges and Mitigations**

The former Maricopa County Election Administrator, who served in 2013 on the Presidential Commission on Election Administration and now is a senior advisor to the Democracy Project of the Bipartisan Policy Center, gave a detailed presentation on Arizona election timing and turnout, with emphasis on the challenges and benefits of consolidating elections.

For a background on Arizona elections, she said Arizona has four consolidated election dates: in March, May, August, and November. All elections must fall on one of those dates. However, municipalities' requirements historically were based on population: any municipalities over 175,000 in population were designated to have November elections while all others could choose any of the four sanctioned dates. Municipalities increasingly have conducted their elections all by mail. The primary is semi-open; voters registered to a recognized party get that party's ballot and unaffiliated voters may select a party ballot for each primary election (except for Republican and Democrat precinct committee persons). Arizona being an initiative and referendum state, there is a statutory requirement to mail voters a sample ballot and publicity pamphlet of voting information; in addition, pollworkers are trained for each election. Voters may vote in person at an early voting location, by mail (either for each election or as a permanent early voter), or at the polls on Election Day. As in Kansas, Arizona has a mix of partisan and nonpartisan office races.

Maricopa County alone has 6,000-7,000 ballot styles, due to candidate position rotation within each race for each voting precinct, the existence of many districts, and voter eligibility in a primary

election. Some actions have been undertaken to mitigate this problem. For example, there are officials, such as precinct committee people, who have no opponent and therefore are "elected outright." In Maricopa County recently, there were 639 uncontested races for which 724 ballot styles otherwise would have been printed had it not been for the practice of electing outright. The addition of each added ballot style costs approximately \$45.

Another example was given of a decision made to mitigate the number of ballot styles. In one Maricopa County area's ballot, 24 precinct committee persons were to be elected out of 54 candidates. Space also was needed on the ballot for a write-in candidate for each of the 24 positions. However, it was decided write-in lines would not be added because adding the lines would have split the race between the front and back of the ballot and dramatically increased the length of the ballot, and there were no official write-in candidates.

The conferee stated a review was conducted on voter fatigue, or voter drop-off to determine whether voters did finish ballot voting by comparing the top race and propositions at the bottom of the ballot by position. Graphs presented indicated the highest voter drop-off occurred in 2004; she provided some detail regarding variances in drop-off by type of precinct.

The conferee noted a long ballot will cause voting issues for a large number of voters. Longer ballots take voters more time to read. For example, one Arizona constitutional amendment was 600 words long.

Sometimes it is difficult to find polling places, and at least one state is now using a school in-service day for election day, she said. During these days, teachers are attending workshops and there is ample parking at the schools.

The conferee also noted election consolidation also raises a question as to whether terms of those elected should change in length.

According to the conferee, the cities of Tucson and Phoenix, each chartered under home rule authority, filed a lawsuit taking the position they

were not required to hold elections in the fall of even-numbered years. The appeals court upheld the lower court ruling the Legislature could not tell charter home rule cities when to hold elections; thus, these cities were not required to hold their city elections in the fall of even-numbered years. Incidentally, the ruling came out 6 days before the primary election date, 20 days after early voting started, and 39 days after mailing military and overseas ballots. The Arizona Attorney General is challenging the ruling, she said, but as of the conferee's presentation there had been no decision. The conferee added other home rule cities would need to seek court approval individually to be granted similar status.

### **Election Timing and Its Effect on Voter Turnout**

Sarah Anzia, Ph.D., Assistant Professor of Public Policy of the University of California Berkeley, gave a presentation on election timing. Her presentation was based in large part on her book, *Timing and Turnout: How Off-Cycle Elections Favor Organized Groups* (The University of Chicago Press, 2014), which, she said, is the first and only book published on this subject. She also has published numerous articles.

Data were collected on laws governing elections in the states. Dr. Anzia noted there are more than 500,000 elected officials and most represent local government. Most are elected not on "Election Day" (November of even-numbered years) but on other days. A table presented in her slides listed the timing for state, county, municipal, and school elections in each state. For most state governments and counties, elections are held on Election Day. Municipal and school board elections mostly are held at other times. The conferee stated for many cities, elections are held when they are because American citizens want it that way. Some people favor having local elections on different days than national elections because it allows voters to focus on a shorter list of candidates and issues. Other people favor having local elections on the same day as national elections because combining the elections boosts voter turnout for local elections.

Dr. Anzia stated information has been gathered indicating voter turnout is lower in off-cycle (other

than Election Day) than on-cycle (Election Day) elections. Turnout also depends on whether the election includes presidential candidates. Of 57 cities across the country, turnout was 29 percent lower off-cycle than in cities that held elections on Election Day.

The main argument of Dr. Anzia's book is that shifting from on-cycle to off-cycle elections increases the electoral presence of "the organized." That is, many people are members of organized groups that have a large stake in an election turn out to vote regardless of timing, and off-cycle election timing enhances the effectiveness of mobilization efforts by organized groups (such as teacher unions, employee unions, and political parties). The impact of election timing on policy outcome is due largely to mathematics—with lower turnout, fewer votes are needed to sway an election one way or the other. Hence, less effort is needed by organized groups to change the outcome of an election.

Dr. Anzia stated officials elected in an off-cycle election should be more responsive to those organized groups. In support of this, she summarized conclusions from an eight-state study (2003-2004 data), reported also on 2006 and 2007 school board election turnout data from Minnesota, and reported on her study based on a recent change in Texas election timing law. In both the Minnesota and the eight-state study, Dr. Anzia examined the effect of voter turnout on average teacher salary. She concluded school districts with off-cycle elections pay higher teacher salaries and such salary premium is associated with lower voter turnout. Dr. Anzia reported questions remain regarding this study, such as whether all bias had been omitted when the study was conducted and whether school officials might choose election timing on the basis of anticipated outcomes. The summary of the Texas study was school trustees forced to switch to on-cycle elections gave smaller salary raises to teachers, and the response was greater in districts in which teachers were more highly organized.

Her study of the effect of election timing on turnout in California city elections found the higher turnout of on-cycle elections is not eliminated by ballot drop-off. The effect of on-cycle election timing on turnout dwarfs the effects

of many other factors people consider to be important.

Dr. Anzia noted much more study is needed on the effect of election timing on turnout as many questions still are unanswered.

### **Consolidated Elections in Utah and Nebraska**

The following Utah and Nebraska election officials provided information to the Committee regarding their experiences with consolidated elections:

- Utah—The Deputy Director of Elections for Utah, located in the Lieutenant Governor’s Office, and the county election officers for Tooele and Davis counties; and
- Nebraska—The Deputy Secretary of State for Elections and the county election officers for Lancaster, Wayne, and Hooker counties.

According to the Utah panelists, Utah has been on a cycle of odd- (municipal) and even-numbered year (all other, including school board) elections for a very long time. Voter turnout is better in even-numbered years. The largest numbers of voters turn out for presidential (70 to 80 percent) and congressional elections. The municipal elections in odd-numbered years have about 20 percent turnout, and 5 or 6 percent turn out for the primaries. There is no desire to move municipal elections to even-numbered years. Special elections are held on either the primary or general election dates.

The Utah officials said the state has held even-numbered-year elections for school districts for so long, taking school boards off the ballots of even-numbered years would not make the task easier. Local and state school board members have staggered terms, so not all are up for election in the same year. When the state redrew legislative and related district boundaries, school districts were asked to match the precinct lines wherever possible for school board elections. The 2014 ballot was four pages, front and back, on 11-inch by 17-inch paper. Given voters may choose a straight-party vote option, there is risk that

nonpartisan offices will be missed on the paper ballot but not electronically, because the system prompts voters to continue down the ballot. This issue does not affect primaries. Time constraints are the biggest hurdle to the combined elections, according to the officials.

According to its participants, nearly all of Nebraska’s elections are held in November of even-numbered years. This has been done for approximately 20 years statewide, and longer in several cities.

As with Utah, the Nebraska officials saw no problem with its combined elections, again, largely because elections have been combined for a long time. Panelists saw no issues since Nebraska has a good voter registration system which helps with ballot styles, poll worker training for election day regarding matching precincts to boundary lines, and other provisions in place. The addition of a school district or city election is not the cause for voter fatigue, but rather amendments, bond issues, sales tax increases, and other special races.

Finally, many Nebraska elections, such as those for water, irrigation, and other small districts, are conducted at annual meetings. Nebraska does allow special elections to be conducted, but they cannot be near other election dates.

### **Ballots on Demand**

Representatives of Election Systems and Software (ES&S) presented information on and then demonstrated the company’s ballot on demand (BOD) product.

According to the conferees, several issues related to election consolidation include the time and effort it takes to get all the information placed on the electronic ballot and the related high level of complexity. Some of the issues follow:

- Combining elections requires a longer ballot and, in many cases, a second page. Longer ballots might cause voter drop-off; and

- Having more ballot styles adds to the complexity of ballot distribution, creates a larger potential for error, and increases the cost.

BOD originally was designed not only to eliminate printing waste, but also to automate the ballot selection process. BOD is connected to a polling place, the voter is checked in, and the address of the voter determines the elections to be voted (which ballot style the voter receives). A bar code obtained through an online program, ExpressPass, can be used to further speed voting. ExpressPass provides a sample ballot to the voter prior to the election on which the voter may make his or her selections. At the polling place, a bar code identifies the ballot and the ballot can be produced onto which the voter enters his or her choices from the sample ballot rather than thinking through the ballot and then filling it out for the first time at the polling place. This process reduces the time spent in the voting booth. BOD is most useful where many ballot styles are voted, such as advanced voting and consolidated polling places, resulting in savings by using fewer machines, fewer polling places, and fewer poll workers.

### **Kansas Election Official Issues and Cost Perspectives**

**Secretary of State.** Secretary of State Kris Kobach stated he believes moving spring elections to the fall of even-numbered years will increase voter turnout. He supports such a move only if the complexities of the resulting elections are reduced. Secretary Kobach called attention to examples of multiple ballot styles. With the addition of precinct, city, and school elections, complexity and polling error potential increase.

The Secretary indicated his support of election consolidation legislation is conditional upon its inclusion of four concepts:

- Making nonpartisan elections partisan, and having a partisan primary and a separate ballot for people who are not affiliated with major parties;
- Simplifying ballots by reducing the number of different ballot rotations;

- Requiring certain elections to be conducted at-large rather than by member district; and
- Reducing the cost of the election of political party precinct committeemen and committeewomen at the August primary election by extending their terms from two to four years and setting their elections in gubernatorial election years.

Election turnout results by Kansas county for elections in 2008 through 2014 were included in the Secretary’s presentation. Local spring election turnout (for 2009, 2011, and 2013) ranged from 6.2 percent (Sedgwick – 2013) to 56.0 percent (Sherman – 2011). Fall general election turnout (for 2008, 2010, and 2012) ranged from 37.3 percent (2010, a nonpresidential election year – Cherokee) to 85.8 percent (2008, a presidential election year – Logan). The average fall election turnout rate is lower in nonpresidential election years than in presidential election years. Turnout rates vary due to many factors even for a single county, such as the specific election content.

Urging an increase in advance voting was given as a way to reduce polling place issues when combining elections. The Secretary noted some states mail in advance to every voter a pamphlet describing each voting issue. Voter drop-off does occur, he said, but at a fraction of a percent.

**County election officers.** The county election officers for Johnson, Douglas, and Hodgeman counties presented their perspectives on possible consolidation of elections. The Chairperson invited them not to opine on whether to combine elections, but instead to discuss issues related to combining elections.

The Johnson County Election Commissioner said several points should be considered in discussing consolidating elections. They included the following:

- Each election is unique;
- Each election varies in complexity as there were more than 1,500 ballot types, or styles, in the August election in Johnson County;

- Citizens have high expectations; Johnson County has been one of the top five most highly regarded counties with regard to citizen services;
- Growth provides scale issues; elections are expensive and in Johnson County, there are 370,000 participants;
- Of 60 elections in the past 10 years, 40 have been special elections (mainly mail ballots) and spring primaries;
- Voter turnout for special elections is greater than for regular spring elections; the worst turnout for mail ballot special elections was better than the best turnout in April;
- Privacy and identity theft are voter concerns;
- Finding polling places and recruiting election workers is becoming more difficult; and
- Advance voting brings cost efficiencies (such as not renting polling places) and introduces other costs, such as BOD machines.

The Douglas County Clerk, who currently serves as president of the Kansas County Clerks and Election Officials Association, provided a mid-sized county perspective. Douglas County has 76,000 registered voters, 125 precincts (the largest with more than 2,700 voters and the smallest with only one), 59 polling places, and all sizes of cities. The largest number of ballot styles at one polling place is 14, and the county averages three elections a year. E-poll books are being added slowly; color coding on poll books and ballots is used to help with ballot accuracy. School district elections present the biggest complexity. They require different ballots, particularly for school districts that “finger” into Douglas County. The county also has drainage districts and, for them, the definition of “qualified voter” is different: landowners, not residents, are qualified to vote. Douglas County also is experiencing increasing difficulty in acquiring polling places. Schools

cannot be used because of security issues, and private places are refusing as well. Another problem is adding technology to, for example, township halls that were not built for so many computer hookups. The Douglas County Clerk reiterated BOD works best in voting centers. If the number of polling places were reduced and voting was moved to fewer voting centers with bigger spaces, fewer machines would be needed. Kansas law would need to be changed in order to allow all counties to use voting centers.

The Hodgeman County Clerk provided a small-county perspective. Hodgeman County has a population of fewer than 2,000, with 1,400 registered voters. The number of polling places recently has dropped from six to two. The county has two cities of the third class. It is a paper-ballot-based county and it has backup for all documents. Voters may decide whether to vote by paper or electronically (touch screens are available). Each polling place serves multiple precincts. Ballot programming and ballot printing are outsourced; if the county decided to do its own programming more staff would be required. As with Douglas County, school districts cause the biggest complexity. In the 2012 primary election, there were 30 ballot styles. If school district elections were added, there would be 58 ballot styles at a cost of \$21 per voter. The county has a higher per-voter cost because of the number of precincts and the small number of voters.

Election cost spreadsheets were provided for each of these three counties. The same data also were provided by Stafford County, which is twice the size of Hodgeman County, and Barton County, which has a population ranking between those of the small rural county and Douglas County. For the 2014 general election, the costs per ballot ranged from \$1.81 in Johnson County to \$7.23 in Hodgeman County.

### **Summary of Bill Testimony in Favor Of and Opposed To Combining Elections**

KLRD staff summarized “pro” and “con” arguments that have been presented in testimony on several previous election consolidation bills. As stated previously, since 2011 at least ten bills have been introduced on the topic or amended to include such content, and seven of those bills were

active in the 2013-2014 biennium. The testimony summary was considered a “working draft” and input was sought if there appeared any dispute with the reported information.

Staff explained this topic began by considering the move of spring elections to the fall of even-numbered years, but auxiliary issues moved into the discussion and changed the content and testimony on the various bills. One of the auxiliary issues, *i.e.*, the move would complicate the ballots, resulted in a recommendation to change nonpartisan elections to partisan. This recommendation then engendered additional comments from conferees.

Arguments made frequently in favor of moving spring elections to the fall of *even*-numbered years were to improve voter turnout, reduce costs, and increase the visibility and importance of elections resulting in more informed voters.

Arguments in opposition were the following: combining elections would result in a lengthier ballot; it would become more difficult to manage elections, possibly resulting in problems at the polls and additional errors; it would add confusion for voters; it could preclude voters from becoming informed about all candidates; it would be more costly for candidates; and it would shift – not reduce – costs, resulting in every-other-year, feast-or-famine budgets.

Arguments in favor of moving the spring elections to the fall of *odd*-numbered years were these: it would offer a reasonable alternative to the even-numbered year option; increase voter turnout; eliminate the problem of providing an additional election year; spread out the election calendar; provide adequate ballot production time (to allow military and overseas voters to receive

ballots in a timely manner); and increase voter turnout without adding costs.

Those making arguments in opposition stated any voter turnout increase is pure conjecture and it would swap one freestanding election for another while requiring entities to change the entire process for election terms and procedures. In addition, several arguments in opposition mirrored the reasons for moving to the fall of even-numbered years but might not have applied similarly.

As stated previously, some issues initially considered to be auxiliary issues became policy issues, such as partisan versus nonpartisan elections. Another auxiliary issue addressed as a policy issue by opponents was taking elections on a member district basis and mandating they become at-large.

## CONCLUSIONS AND RECOMMENDATIONS

The Committee spent two of its three assigned days on the topic of combining elections. Presentations were received from experts from around the nation. The Committee heard directly from three other states’ experts on the challenges and benefits of combining elections, either completely or partially, in those states. The Committee also received a presentation from a staff representative of the National Conference of State Legislatures, regarding the history and current practice of election scheduling in the nation, and from Kansas election officials.

Following this review and Committee discussion, the Committee did not make any conclusions or recommendations.

# Special Committee on Ethics, Elections and Local Government

## RILEY COUNTY CONSOLIDATED LAW ENFORCEMENT

### Conclusions and Recommendations

The Committee made no conclusions or recommendations.

*Proposed Legislation:* None.

### BACKGROUND

The Legislative Coordinating Council (LCC) in 2014 created the Special Committee on Ethics, Elections and Local Government, which was composed of nine members. The LCC charge to the Committee included the following:

- Review issues pertaining to abandoned properties. The study is to include reviewing current relevant statutes, economic and potential public safety issues for local communities, and potential impact on state and local government revenues;
- Review 2014 SB 436 which addresses statutes that authorize Riley County to consolidate its law enforcement agencies and establish a law enforcement director; and
- Study moving spring elections to the fall.

The Committee was given three meeting days. It met on October 10, November 21, and December 12, 2014. The issue of Riley County's consolidated law enforcement was addressed during the first Committee meeting.

The *Kansas Statutes Annotated* (KSA) Chapter 19, Counties and County Officers, Articles 8 and 44 address law enforcement. Article 8 addresses county sheriffs and applies to all counties not covered by Article 44. The latter

article addresses the establishment, operation, and procedures for abandonment of a countywide law enforcement department in counties meeting eligibility criteria.

Article 44 allows for consolidation of law enforcement in counties that meet eligibility criteria based on population and assessed valuation. A bill to allow such consolidation was considered in 1969 and referred to an interim study subcommittee; the subcommittee members concluded Riley County should be a "pilot" county for consolidating law enforcement activities. Several changes have been made to the law since then. The matter of consolidating law enforcement in Riley County was placed on the Riley County ballot in 1972 and, due to sufficient local concern, again in 1974.

The article currently contains four consolidated law enforcement acts:

- KSA 19-4401 through 19-4423;
- KSA 19-4424 through 19-4445;
- KSA 19-4446 through 9-4467 (repealed in 1973); and
- KSA 19-4468 through 19-4486.

Although the statutes originally were drafted to apply only to certain counties, criteria in current law would allow 31 counties to consider the question of a consolidated countywide law enforcement agency if 2013 population and county

valuation data are considered. Those criteria, which are a combination of population and assessed tangible valuation, are listed, followed by a listing of counties that appeared to qualify. Additional criteria were available under these laws, but no counties appeared to meet them:

- Population 20,000-23,000, valuation more than \$70 million (KSA 19-4403): Cherokee, Labette, and Pottawatomie;
- Population 3,000-4,000, valuation \$28 - \$50 million (KSA 19-4470): Jewell, Lincoln, Rush, Smith, and Woodson;
- Population 5,000-12,000, valuation more than \$75 million (KSA 19-4470): Anderson, Brown, Clay, Cloud, Coffey, Doniphan, Ellsworth, Grant, Gray, Harper, Kingman, Linn, Marshall, Nemaha, Pratt, Rice, Rooks, Russell, Scott, Stevens, Thomas, Wabaunsee, and Wilson.

Riley County is the only county to have consolidated under Article 44. The provisions applicable to Riley County, KSA 19-4424 through 19-4445, specify the appointed leader of the consolidated department will be its director and abolish the office of sheriff. That is one of the few ways this act differs from the other two.

In 2014, SB 436 was introduced and referred to the Senate Committee on Ethics and Elections. The bill, which died in Committee, would have made the Riley County law enforcement agency director an elected, not an appointed, position.

## COMMITTEE ACTIVITIES

The Chairperson introduced the issue by stating neither Riley County officials nor the Riley County legislative delegation are among those seeking the statutory change. These groups believe the current consolidated system works well, he said.<sup>1</sup>

After receiving background information from a staff member, the Committee heard testimony

<sup>1</sup> The original Committee charge included the following parenthetical statement, which was subsequently removed by the LCC: “Other counties have not followed the example. Currently, representatives from Riley County are seeking a hearing on the possible repeal of the statutes.”

from the chairman of the Board of Riley County Commissioners, the Director of the Riley County Police Department, a Manhattan city commissioner, and a representative of the group that proposed 2014 SB 436.

The county officials provided information about the law enforcement system in Riley County. In the 1960s, one official said, there were serious crimes in the county. Since consolidation, the officials stated, crime has decreased and law enforcement resources have been used more efficiently. One official said the law enforcement “agency” (the term used in statute) is composed of seven members and acts similarly to a board of directors. It consists of one county commissioner, one county resident, one Manhattan commissioner, two Manhattan residents, the Riley County Attorney, and one additional appointee (appointed alternately by the city and the county). Kansas State University maintains its own police department. The testimony stated support for a law enforcement director not involved in politics and stated studies found per capita law enforcement expenditures lower than those of peer counties. One Committee member noted the uniqueness of Manhattan was not addressed—it is situated in two counties, meaning both Pottawatomie County and Riley County maintain some jurisdiction.

The Manhattan City Commissioner provided a signed letter from the City Commissioners of Manhattan that stated, after the law was enacted to allow consolidation by ballot, support was received by a margin of nearly 70 percent. The letter also stated the City believes it has quality, effective law enforcement services.

The representative of the group that proposed SB 436 noted the consolidated law enforcement system does work well and is efficient. He agreed with the other conferees. The group has no interest in reintroducing the bill and is communicating and discussing issues with the law enforcement agency.

## CONCLUSIONS AND RECOMMENDATIONS

The Committee made no conclusions or recommendations.