



Testimony before the Senate Assessment and Taxation Committee
Riley County Clerks & Elections Office
March 9, 2016

I am Rich Vargo, Riley County Clerk and Election Official—a position I have held since my election in 1996. I am also testifying on behalf of the Kansas County Clerks & Election Officials Association. I thank you for the opportunity to present information in opposition to SB 316, the accelerator for the tax lid legislation.

Effective Date of Senate Bill 316

Senate Bill 316's proposal to move up the enacting date of K.S.A. 9-2925b to July 1, 2016 could not come at a worse time. Presidential elections are by far the most challenging election to administer. In Riley County for the Tuesday, August 2, 2016 Primary Election we will have 108 ballot styles, 54 republican and 54 democratic. If our county's budget increased property taxes, the implementation of SB 316 would add 54 more ballot styles for any registered voter who wishes to participate but is unaffiliated with a party when the question is placed on the Primary Election ballot. To further complicate matters, if all five cities and Riley County submitted a tax question to the voters, every city voter would have two questions on their ballot. Not only does this risk creating a two-page ballot (non-workable with Kansas polling machines), but the length of a ballot would significantly increase the time it takes to vote and lines at the polling places. In the 2000 election, officials across the nation—including Kansas—were criticized due to long lines during the presidential election. If the legislature places the questions on the November 8, 2016 general election, then the risk of congestion due to ballot length and time to vote is compounded. But the November ballot really is not an option as the tax roll and bills could not be completed to meet current statutory deadlines.

Overview of Clerk Responsibilities

The current lid and SB 316 have the potential in Riley County of causing five cities and Riley County to hold multiple special elections which may be by: (1) a polling place, (2) by mail, or (3) during a regularly scheduled election—all the more during presidential elections. Please remember only four counties in our State have separate Election Commissioners who exclusively conduct elections. The 101 other counties have elected county clerks. In Riley County, the office I currently hold as county clerk does administer elections. I also administer

tax rolls (including 57 budgets of taxing entities, 84 mill levies, and 10 joint levies), administer human resources, all benefits administration, payroll, accounts payable, budget and finance, clerk to the board of county commissioners, sell wildlife and parks permits, oversee intangible taxes, homestead taxes, moving permits, cereal-malt-beverage licenses, and all other duties as assigned. Most county clerk's offices in Kansas have five or fewer staff members. This legislation is setting local governments up to fail, which only hurts our constituents.

Specific Complications for Running Elections

SB 316 amends the current law to delay the certification of the budget until October 1 for those entities required to hold an election. In doing so, what may be gained in allowing for more time in the election process equally hurts for the tax-roll process. Under K.S.A. 79-1803-04, county clerks must certify the tax roll to the county treasurer by November 1. Narrowing this process to 30 days—particularly for smaller counties with diverse responsibilities—will cause budget errors. This restarts the timeline for publications of the corrected budget, which adds more timing issue. In 2002, Riley County found a significant error on a tax roll that impacted the three largest public entities in our community *after* the budgets were certified. We found this not by luck, but because adequate time periods in the current budget process provided time to call a meeting with those taxing entities, explain the error, and give time for them to amend their budgets and complete the statutorily required publications and process for the public.

County Expense

Both bills come at a cost to the taxpayers if a tax-lid question is submitted for a special election. Because of the timeline issues described above, the following samples show the potential costs to counties for running special elections:

Shawnee County – Based on a recent mail-ballot election, the cost is approximately \$300,000 for a county-wide, mail-ballot election. Shawnee County has not had a county-wide, polling-place election recently enough to provide helpful data.

Saline County – Based on a 2014 election, the cost is approximately \$43,000 for a mail-ballot election. A polling-place election would cost approximately \$48,000.

Smith County – Based on a recent mail-ballot election, the cost is approximately \$8,800. The Smith County Clerk noted that a Smith Center election has 1,800 voters, while a county-wide election is 2,890. The type of election will vary widely from city to county. When estimating a polling-place election, the clerk would subtract postage and replace

the costs with payment for workers and handicap accessibility. She further stressed the many variables that factor into an election estimate.

Hodgeman County – There is not recent data for a mail-ballot election, but the county clerk offered a conservative estimate of \$3,200 for under 1,400 registered voters (compared to 35,000 registered voters in Saline County). This figure assumes a single-ballot style with no additional voter questions.

Even for cities, the cost will be burdensome. In Riley County, our smallest city of the third class, Randolph (population 171), had a 2015 tax levy of \$16,965 for the 2016 budget. For even a 10% increase of \$1,697 it would cost \$6,000 to conduct a special election. In talking with other county clerks, we found a number of smaller cities in which the cost of a special election would exceed the amount of a 10% increase in the tax levy they may be seeking. For this reason if this law is passed I would hope the legislature would exempt cities of the third class from this legislation.

Ambiguity of Ballot Questions

The current tax lid law and SB 316 do nothing to address the specific wording of the tax-lid question to the public. If counties use general language about allowing an entity to increase taxes, then it allows more flexibility to address election-timing issues in coordination with the tax-roll process. But, if the language is to be more specific—an important characteristic for helping voters—then elections preparations cannot begin until each entity completes the budget process. This causes further timing problems for elections and further delays completion of the tax rolls. Also given the fact the question submitted may fail, it raises a further issue about whether each city and county must prepare two budgets in case the proposed tax-levy increase does not pass.

Proposed Sedgwick County Timeline

Sedgwick County has attempted to fix the errors in the current tax lid with a proposal that causes additional issues for the election calendar. The first issue is requiring the county clerk to certify the tax-lid ballot question by July 1. By statute, all other candidate and special-question filings are to be certified by June 1 for the primary election. Kansas requires a written election plan for mail-ballot elections to be filed with the Secretary of State. The Secretary must approve the plan prior to proceeding with the election. The Secretary of State's publication, "Kansas Election Standards," recommends 90 days for the mail-ballot process to include developing the written plan, securing approval, preparing for the election, and tabulating and canvassing the

results. Following the Secretary of State's process and guidelines would put the election at September 28—90 days after the certification of the tax-lid question on July 1. This further complicates the tax-roll timelines.

Sedgwick County's amendments state the mail ballot election is to be held on September 15. Mail-ballot elections are to be open for 20 days from the day the ballots are mailed. So ballots would have to be mailed on August 27. If we use the Sedgwick County amendment of September 15 and follow the Secretary of State's guidelines of 90 days to complete a mail-ballot election, then certification of the ballot question should be June 18. Once again the date is familiarly close to the current filing deadline of June 1 for good reason. These processes do not happen overnight and do take time for the benefit of the election to be conducted properly and for the benefit of the public.

Conclusion

Most of the conferees today will discuss the policy objections to the tax lid. But the county clerks' proper execution of elections laws is what makes this law a lid. Without a timeline that works with the valuation process and the budget process, the elections piece will not work. This imposes more costs on taxpayers with no return on investment.

I have represented all of Riley County since 1996 and worked with my fellow elected officials to provide the essential services that our citizens expect. If they aren't happy with our work, the citizens can vote us out of office. This law cuts against local control, but it does so with a complete misunderstanding of the local processes and the safeguards that ensure thoughtfulness, deliberations, and public access. A rushed process is no way to run a tax roll or an election.

Thank you for allowing me the opportunity to provide testimony in opposition to Senate Bill 316, and I ask you to vote against the bill.

Sincerely,

Rich Vargo
Riley County Clerk and Election Official