



STATE OF KANSAS

February 11, 2025

Testimony on SB2 (Oral Support)

Senate Committee on Ways and Means

Submitted: Monday, February 10, 2025

Chair Billinger and members of the Committee:

The Secretary of State supports Senate Bill 2 which directs that the bond election held May 21, 2024, by Greeley County, for Unified School District 200, be declared valid. There are three reasons the Legislature should feel comfortable support SB2.

The “Will of the People” Doctrine

Since 1861, the legislature’s policy on defects with election notice or administration is to place substance over form. KSA 25-702(a). This policy is applied to question submitted elections by KSA 25-716(a) which states:

“Notwithstanding the fact that the provisions of law may not have been fully complied with in noticing and conducting a question submitted election and so that the real will of the people may not be defeated by any technical irregularity of any officer, whenever the greater number of votes were in favor of a question submitted, the question shall be deemed to have carried . . .”

The Kansas Supreme Court has reaffirmed this doctrine, for instance, when it stated: “[a]n election irregularity will not invalidate an election unless it is shown to have frustrated or to have tended to prevent the free expression of the electors’ intent, or to have otherwise misled them.” Lambeth v. Levens, 237 Kan. 614, 617 (1985).

Over the years through the doctrine of “the real will of the people” multiple bond elections with defects in notice or administrative errors have been found valid, without the need for legislative intervention.

If a party believes that a defect in the notice or the conduct of an election was substantial enough that it could have changed the election’s outcome, then an election contest should have been filed. None was.

Statutory Language:

The Secretary of State was the agency responsible for the initial drafting of the 2023 bill provisions (SB221) amending numerous election laws to require that any time an election notice was required to be

SCOTT SCHWAB
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564
sos.ks.gov

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placed in a newspaper then the county also had to place it on its website. This included notice of bond elections under KSA 10-120.

The statutory term “website” has a common meaning- ‘publicly accessible, interlinked web pages that share a single domain name, designed and maintained by a single individual or group.’ Profiles hosted on a social media platform are, therefore, are not websites.

This statutory provision was never intended as a mandate for a county to create a website if it did not have one. It was only intended to require counties to leverage all existing means of public communications. Indeed, in response to legislator questions, the Secretary’s position in 2023 was that a county without a website did not need to create and maintain one.

The Secretary supports the amendment approved by the Senate Committee on Local Government, Transparency and Ethics to clarify the statute.

Ratifying Election Results:

There is longstanding precedent for the legislature declaring local elections valid. For instance, KSA 12-187 contains multiple examples concerning sales tax elections.

Respectfully,

Clayton Barker

Clayton L. Barker
Deputy Secretary of State,
General Counsel Office of the Kansas Secretary of State
Clay.Barker2@ks.gov