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House Bill 2661

- PropONENT -

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by Det. McKee, R.D.
Pottawatomie Co
Commissioner
785 565 1026

Kansas Secretary of State
Elections
Memorial Hall, 1st Floor
120 SW 10th Avenue
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January 9, 2023

Rep. Francis Awerkamp
Room 187 N
Kansas State Capitol
300 SW 10th Street
Topeka, Kansas 66612

Sen. Dennis Pyle
Room 234 E
Kansas State Capitol
300 SW 10th Street
Topeka, Kansas 66612

Rep. Kenny Titus
Room 165 W
Kansas State Capitol
300 SW 10th Street
Topeka, Kansas 66612

Sen. Kristen O'Shea
Room 441 E
Kansas State Capitol
300 SW 10th Street
Topeka, Kansas 66612

Re: County Commissioner Election Statutes

Dear Sir or Madam,

This letter concerns the recent expansion of the Pottawatomie County Commission from three (3) to five (5) members. In the fall of 2022, a Petition for the expansion of the Pottawatomie County Commission from three to five members was presented to the Pottawatomie County Clerk. The County Clerk determined that the Petition was sufficient and the question of the expansion of the Pottawatomie County Commission was placed on the ballot in the November 2022 election. The voters of Pottawatomie County approved the expansion of the Pottawatomie County Commission from three to five members. Pursuant to K.S.A. 19-204a, the Board of County Commissioners thereafter, on December 12, 2022, passed a resolution dividing Pottawatomie County into the number of districts (5) approved by the voters. Thereafter, on December 16, pursuant to K.S.A. 19-203a, Governor Kelly declared that the two new county commissioners be on the ballot during the next regularly scheduled general election (as opposed to a special

election). The Governor's chief counsel has advised that the next regularly scheduled general election is in November of 2024.

K.S.A. 19-202(c) provides that, except as provided by K.S.A. 19-203, terms of office of county commissioners shall be staggered in such a way that not more than a simple majority of commissioners be elected at any general election. Two existing county commissioner positions will be coming up for election in 2024. With the two new county commission districts coming up for election in 2024 pursuant to the Governor's order, this will result in four (4) of the five (5) county commission districts coming up for election in 2024. Unless an exception exists under K.S.A. 19-203, this would result in a violation of K.S.A. 19-202(c).

K.S.A. 19-203(d) provides in part as follows:

... If at the next general election following the special election more than a simple majority of commissioners are elected, persons elected to the positions created by an increase in the number of districts shall be elected for two-year terms and until their successors are qualified. Thereafter such members shall be elected to four-year terms and until their successors are qualified.

K.S.A. 19-203 appears to assume that new county commissioners will be elected at a special election, as opposed to the next general election (see the underlined part of the statute shown above). K.S.A. 19-203(d) adequately addresses the process for election of county commissioners following a special election ordered by the Governor. It does not address the process for election of county commissioners where the Governor has directed that the new county commissioners be elected at the next general election. This results, in Pottawatomie County's case, in a conflict with the provisions of K.S.A. 19-202(c).

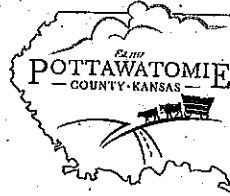
In order to avoid the conflict outlined above, I would suggest that the legislature amend K.S.A. 19-203(d) to provide a process for the election of new county commissioners where the governor has directed that the new county commissioners be elected at the next general election.

I have attached Pottawatomie County Resolution 2022-70, and Governor Kelly's letter to the Pottawatomie County Commission of December 16, 2022.

Sincerely,

John D. Watt
County Counselor

cc. Board of County Commissioners
County Clerk



Dr. Dee McKee, Ed.D.

**Pottawatomie County
Commissioner**

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