

March 17, 2023

HB2086

Opponent

Kari Sue Vosburgh

Chairman Thompson and members of the Committee,

The fact that HB2086 includes changes to 66 sections of statute and 90 provisions is concerning. Many of these should be stand-alone bills.

**New Section 1(a) Page 1, Lines 17-21** The bill provides the Secretary of State with additional powers with respect to elections and election processes. The Legislature has constitutional power over elections, not the Secretary of State. As allowed by statute, the SOS has the power to create Rules and Regulations based on current statutes. The proposed title of chief election officer comes across as a power grab by the Secretary of State, which is unnecessary, especially considering New Section 1(b).

**New Section 3 Page 1, Lines 31-34, Page 2, Lines 1-2** While the bill states each county election officer is the sole public officer responsible for planning, conducting, and coordinating elections within that county, it takes away their ability to ensure the integrity of the elections by eliminating their ability to preserve and protect the data on the electronic equipment. A back-up of all electronic equipment prior to and following any upgrades, system patches or elections should be standard operating procedure, not prohibited. This simply creates more doubts in the minds of already suspicious voters.

**Section 8 Page 4, Lines 25-27** With a population of almost 3,000,000 people, I see no need to go outside the state to fill the position of election commissioner. However I do have an issue with the entirety of KSA 19-3419. The fact that the Secretary of State appoints the election commissioner in the four most populous counties in the state would be considered by many as an Equal Protections Violation. Why is this not an elected position as it is with the election officers in the 101 remaining counties of the state?

**Section 14 (b) Page 8, Lines 23-25; Section 17 Page 11, Lines 40-42; Section 56 Page 47, Lines 14-17** The bill also allows for the State or County Party Chair to object to a precinct person. Mr. Barker states this objection may only be based on the persons' residency, qualification as a voter and party affiliation. However, the statute is providing for that eligibility requirement to be met in the references noted so I see no need for the objection to be added to statute.

**Section 16, Page 9, Lines 42-43** Per New Section 1(b) the process for determining the rotation of names on ballots should be determined by the county election officials. This provides a conflict of interest over his/her own election when the SOS is on the ballot. Guidance should be provided on how to accomplish this. The same issues occurs in **Section 25 Page 20, Lines 36-37**.

**Section 18(i) Page 13, Lines 22-31** This section should read the same as Section 14, Page 8, Lines 6-10, K.S.A. 25-208(a). This process should be the same for all candidates regardless of party affiliation.

**Section 20(c) Page 14, Lines 41-43, Page 15. Lines 1-2** The State Objections Board is an important responsibility and should not be delegated to a designee. Those officials elected by the people should be the ones considering objections.

**Section 23(b) Page 18, Lines 35-41, Page 19, Lines 1-2.** My mom has crippled hands/fingers due to arthritis. I understand a voter may have a disability which prevents voter identification based on a signature match. But what process is there by which to confirm the identity of the voter? I don't have an answer, but I believe some type of identity verification process should be determined so that ALL voters are verified.

**Section 26(b) Page 21, Lines 27-29.** As a registered affiliated voter in the state of Kansas I believe the records of all political parties should undergo an audited annually by an independent accounting firm to provide proof that accounting records are correctly maintained. If the law contradicts other parts of the statute then maybe those should be revisited, not this one.

**Section 39 Page 33, Lines 33-34** Extending observation boundaries "as needed" beyond 3' are likely to increase, rather than reduce, voter concerns regarding election integrity. This change is unacceptable. Having been a poll observer, I am aware that observing details from 3' is difficult. One might be able to determine the basic process, but seeing details is highly unlikely at a distance of 3 feet. Extending the distance would be detrimental to the observation process. Concern also exists as there is no limit to the expanded distance. Will people be moved from 3' to 50'?

**Section 47 Page 39, Line 3** Current law provides the supervising judge authority to direct the conduct of poll agents "within the voting place". The removal of "within the voting place" increases this authority unnecessarily and should remain in statute. Although seemingly minor, eliminating these 4 words could lead to unintended problems.

**Section 48(a)(5) Page 39, Lines 9, 17, (b)(3) Line 39, Page 40 (c) Lines 1-2**

This amendment is not capping the number of authorized precinct leader poll agents, it is removing them from the process completely. First they are being removed as poll agents and secondly they are being removed from having authorization to appoint poll agents. As elected (or appointed) officials, precinct committeemen or committeewomen should be authorized poll agents. Who better to represent the people? Even the most populated counties struggle to have poll agents. Restricting who can automatically serve as or appoint poll agents further weakens the ability of the county parties to provide adequate oversight of elections which help address election security concerns. The elimination of precinct committeemen and committeewomen from this process is not acceptable.

**Section 49(b)(1) Page 40, Line 28** Prior to the 2022 Primary post-election audit, I questioned the Sedgwick County Election Commissioner as to why K.S.A. 25-3009(b) (1) was not being followed. I was made aware of the existence of K.A.R. 7-47-1 (d) which states ballot images are not required. I proceeded to point out that the Reg, per (a) did not apply to statewide constitutional amendments. Their response was the VTB post-election audit was not subject to the Reg because it was not listed as an item to be audited in the post-election audit per 25-3009 (b)(2). The constitutional amendment question was however, listed on the official Post Election Audit Correspondence sent to the Election Commissioner. I questioned how the SOS office could write a regulation that directly contradicted the statute, but never received a response. It seemed to me that the SOS office and/or the Election Commissioner were interpreting the statute to serve whatever purpose they desired. I correctly predicted, to multiple people, that the SOS office would present legislation to concur with the regulation as written rather than revising the regulation. This is exactly what is happening with the proposed change.

The legislative branch is the lawmaking body, not the executive branch. Regulations are guidelines, not law. The fact a Regulation was implemented which circumvented the Statute would indicate to me an issue with the Regulation approval process, or something more nefarious. The Legislative intent was clear with regard to the use of paper ballots for audit purposes. The Secretary of State's blatant misuse of power should alarm the lawmakers of Kansas.

Some questions the committee members might want to consider with respect to the ballot images include what is the chain of custody for a printed ballot image? How do you know if the file has been compromised? Do you know if the printed ballot image corresponds to the ballots cast for that election? What are the checks and balances for ballot images? A paper ballot goes into a locked box that is tagged, signed off on and sealed. There is a process to unseal the box. What security procedures exist for the ballot images? There is no transparency in this process.

As demonstrated by this video, ballot images are subject to manipulation. The presentation by two students from the University of Michigan in 2019 at Defcon may be watched here: [Kartikeya Kandula - Unclear Ballot Automated Ballot Image Manipulation - DEF CON 27 Voting Village - YouTube](#) .

**Section 52 Page 45, Lines 26-28** Certifying the statewide election is an extremely important responsibility and should not be delegated to a designee. Those officials elected by the people should be the individuals who constitute the state board of canvassers. The statute also states that "Any two of such members may act for such board." While two may be the majority, requiring all three individuals to participate would better prevent collusion and/or corruption.

**Section 53(a) Page 45, Lines 33-37** What is the constitutionality issue? Did the party request this change? Mass voter confusion would ensue if each party selected a different option.

**Section 61 Page 52 Lines 22-29 and Section 62 Page 52 Lines 41-43, Page 53 Line 1**

As noted in Section 3, these measures are designed to prevent anyone, except persons authorized by the SOS, from accessing electronic voting equipment for review and defines that access as fraud. This restricts the county election officers/commissioners' abilities to ensure the integrity of our elections. Access to the machines should remain under the purview of the local county election officer or commissioner.

**Section 64 Page 53, Lines 30-33** This addition provides the SOS with the sole power to eliminate due process with respect to a complaint.

I sincerely hope the committee will consider the concerns of myself and several others with regard to the above mentioned changes proposed in HB2086. This bill of small statute clean up contains unnecessary increase of powers to the Secretary of State, while decreasing the power of the county election officers and precinct committee men and women. I have spent many hours reading and educating myself about this bill. I encourage you to take advantage of what I have learned and oppose, remove or reinstate the items of concern as noted above.

Kari Sue Vosburgh  
Sedgwick County Precinct Woman