

To: Senate Assessment and Taxation
From: Amanda L. Stanley, General Counsel
Date: March 11, 2020
RE: Testimony in Support of Senate Bill 338

I want to thank Chairwoman Tyson and the Committee members for allowing the League of Kansas Municipalities the opportunity to provide testimony in support of SB 338.

When SB 338 was originally introduced by the League, it was based on the current budget law without SB 294. Kansas municipalities have been struggling with unintended consequences of the current Kansas budget law for years. In the summer of 2018, the League formed an advisory committee to review the current Kansas budget law and look for solutions to improve their operations. The committee's recommendation was to create an optional system where a taxing entity could either follow existing budget law or complete a two-step process.

Under current Kansas budget law, a taxing entity is required to complete its budget by August 25th. This is four months before the start of the new budget year. While this works for cities with budgets made up of solely ad valorem tax, it has not worked well for cities with budgets including alternative forms of revenue such as sales tax, payment in lieu of taxes, permits, and fees. The current budget law has largely been in place since 1933. In 1933, revenues for local governments were almost exclusively from property tax. Property tax is a very stable revenue source with very little variation from year to year. The vast majority of today's modern cities are dependent on a broad source of revenues, and property tax typically makes up only 20-40% of a city's total budget. Other revenue sources, such as sales tax, are more volatile as they can be impacted by macro and micro forces including recessions, weather, and the success of the local sports team.

The intent behind SB 338 was to give taxing entities the option of either using the existing budget and property tax levy setting process or a new procedure. With the new option, a taxing entity would set the amount of property tax by August, and then would have until November 30th to adopt their budget. That way, they would have three more months to forecast non-property tax revenues and adjust their budget accordingly. They would still go through the notification and public hearing requirement to set their property tax levy in August.

As we have studied the big picture of budgeting and the effect of SB 294; however, it became apparent that SB 338 was the perfect vehicle to accomplish the original goal of SB 338, having final budgets adopted closer to the start of the next fiscal year, and cleaning up some statutory issues that will result if SB 294 is passed in its current form.

I have attached a proposed amendment to accomplish both goals. The amendment establishes two alternative budget procedures

- (1) if a municipality does not intend to exceed the revenue neutral rate and hold a truth and taxation hearing, or if the truth and taxation hearing requirements do not apply to that municipality, these municipalities will follow the current statutory rules for budgets; and
- (2) a procedure for when a municipality does intend to exceed the revenue neutral rate and hold a truth and taxation hearing. The balance of my testimony will be to explain each of these changes.

If a city has filed an intent to exceed the revenue neutral rate with the county clerk pursuant to SB 294 New Section 1 (b)(2), the governing body will prepare a notice showing the amount to be raised by ad valorem taxes and an estimated budget classified by funds. The city will then hold its truth in taxation hearing pursuant to SB 294 New Section 1 (b)(3) on the amount to be raised by ad valorem taxes.

Following the hearing, the governing body will submit the certified tax rate to the county clerk by September 20th as required by SB 294 as well as the notice required in K.S.A 79-2927(a)(2) giving the necessary information regarding ad valorem funds. Now that the governing body knows exactly how much will be raised by ad valorem taxes, the governing body will have until November 30th to certify the final budget taking into account other sources of revenue. By September, the governing body will have far more accurate numbers about other alternative sources of revenue as it finalizes the budget. The final budget once adopted by November 30th will be submitted directly to the director of accounts and reports. There is no reason for the final budget to go first to the county clerk if the county clerk has already received the notice under K.S.A. 79-2927(a)(2) with the necessary ad valorem tax information in order to place it on the taxpayers bill. The only portion of a city budget that a county clerk needs to be involved in is the amount directly related to ad valorem taxes. Most of the original budget laws having the budget first go to the county clerk to be checked over were passed before home rule and long before the age of the internet when a city's budget was easily accessible on the department of administration's website. The ad valorem tax portion will be completed and to the county clerk by September 20th.

The amendment also takes into account two additional statutes that need to be amended if SB 294 is passed in its current form. K.S.A. 79-2933 calls for any hearing on budgets to be held not less than 10 days before the municipality certifies the levy to the county clerk. SB 294 allows for a hearing 5 days before the levy is certified. The amendment changes the 10-day requirement to a 5-day requirement to match SB 294. Finally, the amendment amends K.S.A. 79-1801. This statute requires municipalities certify to the county clerk the amount of ad valorem tax to be levied by August 25th. That date no longer makes sense if a city or county is having a truth in taxation hearing. The amendment takes this into account and requires that if a budget is adopted under this alternative budget timeline, that the ad valorem tax must be certified to the county clerk by September 20th as required in SB 294.

The goal of SB 338 has changed from creating a new way of allowing cities to adopt budgets to being a vehicle to help clean up some of the practical issues that have arisen as the League and its members have continued to study how SB 294 overlaps with the current budget law. For all these reasons, we ask that this Committee pass SB 294 to the full Senate for its consideration.

SENATE BILL No. 338

By Committee on Ethics, Elections and Local Government

1-29

1 AN ACT concerning municipalities; adoption of budgets; authorizing an
2 alternative procedure; amending K.S.A. 79-2927, 79-2929 and 79-2930
3 and repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 79-2927 is hereby amended to read as follows: 79-
7 2927. (a) The governing body of each taxing subdivision or municipality
8 shall meet ~~not later than the first day of August of each year~~, and shall
9 prepare in writing on forms furnished by the director of accounts and
10 reports *either*:

11 (1) *Not later than the first day of August each year* Aa budget itemized
12 and classified by funds and showing amounts
13 to be raised by taxation and from other sources for the ensuing budget
14 year. The budget shall show in parallel columns all amounts and items to
15 be expended for the ensuing budget year and the amounts appropriated for
16 corresponding or other items during the current budget year and amounts
17 expended for corresponding or other items during the preceding budget
18 year. The budget for each fund shall not include any item for sundry or
19 miscellaneous purposes in excess of 10% of the total. Except for school
20 districts, municipal universities and community colleges, the budget for
21 each fund may include a non-appropriated balance of not to exceed 5% of
the total of each fund.

22 (b)—The budget shall show in parallel columns the amount of revenue
23 actually received from taxation and from other sources, with the amount
24 from each source separately stated for the preceding budget year and the
25 amount actually received and estimated to be received from taxation and
26 from sources other than direct taxation with the amount for each source
27 separately stated for the current budget year and also the amount estimated
28 to be received during the ensuing budget year, with the amount estimated
29 to be received from each source separately stated. Except as provided by
30 K.S.A. 79-2927a, and amendments thereto, the budget of expenditures for
31 each fund shall balance with the budget of revenues for such fund and that
32 portion of the budget of revenues to be derived from ad valorem property
33 taxation shall not exceed the amount of tax which can be raised by any
34 fund limit or aggregate limit placed upon such fund; *or*

35 (2) *Instead of preparing a budget pursuant to subsection (a)(1),*
36 *when the governing body has filed an intent to exceed the revenue*
37 *neutral rate with the county clerk on or before July 15 pursuant to SB*
38 *294 New Section 1(b)(2), the governing body may prepare a notice*
39 *not later than September 20 showing only the amounts to be*

1 raised by ad valorem taxation. The notice shall contain an estimated
2 budget classified by funds and show amounts to be raised by taxation. The
3 notice shall show in parallel columns an estimate of expenses for the
4 ensuing budget year and the amounts appropriated for corresponding or
5 other items during the current budget year and amounts expended for
6 corresponding or other items during the preceding budget year. The
7 budget shall show in parallel columns the amount of revenue actually
8 received from taxation and from other sources with the amount from each
9 source separately stated for the preceding budget year and the amount
10 estimated to be received from taxation and from sources other than direct
11 taxation with the amount for each source separately stated for the current
12 budget year and also the amount estimated. Except as provided by K.S.A.
13 79-2927a, and amendments thereto, the budget of expenditures for each
14 fund shall balance with the budget of revenues for such fund, and that
15 portion of the budget of revenues to be derived from ad valorem property
16 taxation shall not exceed the amount of tax that can be raised by any fund
17 limit or aggregate limit placed upon such fund.

18 (b) The governing body of each taxing subdivision or municipality
19 that completed the notice provided in subsection (a)(2) ~~by August 1~~, shall
20 prepare in writing on forms furnished by the director of accounts and
21 reports by November 30, a final budget itemized and classified by funds
22 and showing amounts to be raised by taxation and from other sources for
23 the ensuing budget year. The budget shall show in parallel columns all
24 amounts and items to be expended for the ensuing budget year and the
25 amounts appropriated for corresponding or other items during the current
26 budget year and amounts expended for corresponding or other items
27 during the preceding budget year. The budget for each fund shall not
28 include any item for sundry or miscellaneous purposes in excess of 10% of
29 the total budget. Except for school districts, municipal universities and
30 community colleges, the budget for each fund may include a non-
31 appropriated balance of not to exceed 5% of the total of each fund. The
32 budget shall show in parallel columns the amount of revenue actually
33 received from taxation and from other sources with the amount from each
34 source separately stated for the preceding budget year and the amount
35 actually received and estimated to be received from taxation and from
36 sources other than direct taxation with the amount for each source
37 separately stated for the current budget year and also the amount
38 estimated to be received during the ensuing budget year, with the amount
39 estimated to be received from each source separately stated. Except as
40 provided by K.S.A. 79-2927a, and amendments thereto, the budget of
41 expenditures for each fund shall balance with the budget of revenues for
42 such fund, and that portion of the budget of revenues to be derived from ad
43 valorem property taxation shall not exceed the amount of tax that can be

1 *raised by any fund limit or aggregate limit placed upon such fund.*

2 Sec. 2. K.S.A. 79-2929 is hereby amended to read as follows: 79-
3 2929. (a) Prior to the filing of the adopted budget *under K.S.A. 79-2927(a)*
4 *(1), and amendments thereto*, with the county clerk, the governing body of
5 each taxing or political subdivision or municipality shall meet for the
6 purpose of answering and hearing objections of taxpayers relating to the
7 proposed budget and for the purpose of considering amendments to such
8 proposed budget. The governing body shall give at least 10 days' notice of
9 the time and place of the meeting by publication in a weekly or daily
10 newspaper of the county having a general circulation therein. Such notice
11 shall include the proposed budget and shall set out all essential items in the
12 budget except such groupings as designated by the director of accounts
13 and reports on a special publication form prescribed by the director of
14 accounts and reports and furnished with the regular budget form. The
15 notice of a governing body of any taxing subdivision or municipality
16 having an annual expenditure of \$500 or less shall specify the time and
17 place of the meeting required by this section but shall not be required to
18 include the proposed budget of such taxing subdivision or municipality.

19 ~~(b) Prior to the filing of the notice of ad valorem tax to be levied~~
20 ~~under K.S.A. 79-2927(a)(2), and amendments thereto, the governing body~~
21 ~~of each taxing or political subdivision shall meet for the purpose of~~
22 ~~hearing objections of taxpayers relating to the proposed ad valorem tax~~
23 ~~levy. The governing body shall give at least 10 days' notice of the time and~~
24 ~~place of the meeting by publication in the official city newspaper if a city~~
25 ~~or the official county newspaper for all other political or taxing~~
26 ~~subdivisions. Such notice shall include the proposed ad valorem tax to be~~
27 ~~levied.~~ (deleted because hearing now required by SB 294 New Sec. 1(b)(3))

28 New Sec. 3. Prior to the filing of the adopted budget under K.S.A.
29 79-2927(b), and amendments thereto, with the department of
30 administration, the governing body of each taxing or political subdivision
31 or municipality shall meet for the purpose of answering and hearing
32 objections of taxpayers relating to the proposed budget and for the purpose
33 of considering amendments to such proposed budget. The governing body
34 shall give at least 10 days' notice of the time and place of the meeting by
35 publication in a weekly or daily newspaper of the county having a general
36 circulation. Such notice shall include the proposed budget and shall set out
37 all essential items in the budget, except such groupings as designated by
38 the director of accounts and reports, on a special publication form
39 prescribed by the director of accounts and reports and furnished with the
40 regular budget form. The notice of a governing body of any taxing
41 subdivision or municipality having an annual expenditure of \$500 or less
42 shall specify the time and place of the meeting required by this section but
43 shall not be required to include the proposed budget of such taxing

1 subdivision or municipality.

2 Sec. 4. K.S.A. 79-2930 is hereby amended to read as follows: 79-
3 2930. (a) Two copies of the budget certificate *adopted under K.S.A. 79-*

4 2927(a)(1), and amendments thereto, giving the amount of ad valorem tax
5 to be levied and the total amount of the adopted budget of expenditures by
6 fund, along with itemized budget forms for each and every fund and proof
7 of publication of the notice of budget hearing containing the budget
8 summary *or the certificate of ad valorem taxes to be levied as provided*
9 *under K.S.A. 79-2927(a)(2), and amendments thereto*, shall be presented to
10 the county clerk within the time prescribed by K.S.A. 79-1801, and
11 amendments thereto. ~~Beginning in 2009,~~ All such budget information shall
12 be filed electronically with the county clerk. Where action has been taken
13 under any statute to increase the amount of tax to be levied authorized by
14 law, a statement showing the increased amount or tax levy rate voted, or a
15 copy of the charter resolution or ordinance making the change, shall be
16 attached to the budget each year the change is in effect.

17 (b) The county clerk shall make any reductions to the ad valorem tax
18 to be levied, compute the tax levy rates based on the final equalized
19 assessed valuation, and enter such on the budget certificate *or certificate of*
20 *ad valorem tax to be levied* before attesting
21 the ~~budget document~~, except that with regard to levies made under K.S.A.
22 75-2551,

23 and amendments thereto, such levies shall be based upon the certified
24 preliminary abstract of property values submitted to the director of
25 property valuation pursuant to K.S.A. 79-1604, and amendments thereto. A
26 copy of all budgets *or certificate of ad valorem tax to be* levied for taxing
27 subdivisions of the county, properly attested,

28 shall be filed with the director of accounts and reports, along with a copy
29 of the tax levy rate summary required of the county treasurer by K.S.A.
30 79-2002, and amendments thereto. Beginning in 2009, all such budget
31 information shall be filed electronically with the director of accounts and
32 reports. *Any municipality that adopts a final budget pursuant to K.S.A. 79-*
33 *2927(a)(2) shall submit the final budget directly to the director of accounts and*
34 *reports.*

35 (c) Each fund of the adopted budget ~~certified to the county clerk~~ in no
36 event shall exceed the amount of ad valorem tax to be levied and the
37 proposed expenditures of such fund in the proposed budget as originally
38 published. The governing body of each taxing subdivision shall not certify
39 an amount of ad valorem taxes to be levied that is in excess of any tax levy
40 rate or amount limitations or any aggregate tax levy limitations. The
41 governing bodies, in fixing the amount may take into consideration and
42 make allowance for the taxes which may not be paid, such allowance,
43 however, shall not exceed by more than 5% the percentage of delinquency
44 for the preceding tax year.

45 New Sec. 5. If the governing body of any city or county intends to
46 have an election pursuant to K.S.A. 79-2925c, and amendments thereto,
47 the governing body must adopt a budget pursuant to K.S.A. 79-2927(a)(1),
48 and amendments thereto.

1 *New Sec. 6.* K.S.A. 79-2933. The hearing herein required to be held upon
2 all *ad valorem taxes to be levied budgets* by all taxing subdivisions or
3 municipalities of the state shall be held not less than *five (5) days*
4 prior to the date on which they shall certify their annual levies to the
5 county clerk as required by law. After such hearing the budget shall be
6 adopted or amended and adopted as amended, but no levy shall be made
7 until and unless a budget is prepared, published and filed, but no levy of
8 taxes shall be invalidated because of any insufficiency, informality, or
9 delay in preparing, publishing and filing said budget.

10 *New Sec. 7.* K.S.A. 79-1801.(a) ~~Except as provided by subsection (b),~~
11 *Each year the governing body of any city that adopts a budget pursuant*
12 *to K.S.A. 79-2927(a)(1), the trustees of any township, the board of*
13 *education of any school district and the governing bodies of all other*
14 *taxing subdivisions shall certify, on or before August 25, to the proper*
15 *county clerk the amount of ad valorem tax to be levied. Thereupon, the*
16 *county clerk shall place the tax upon the tax roll of the county, in the*
17 *manner prescribed by law, and the tax shall be collected by the county*
18 *treasurer. The county treasurer shall distribute the proceeds of the taxes*
19 *levied by each taxing subdivision in the manner provided by K.S.A. 12-*
20 *1678a, and amendments thereto.*

21 *(b) Prior to January 2021, if the governing body of a city or county must*
22 *conduct an election for an increase in property tax to fund any*
23 *appropriation or budget under K.S.A. 25-433a, and amendments thereto,*
24 *the governing body of the city or county shall certify, on or before*
25 *October 1, to the proper county clerk the amount of ad valorem tax to be*
26 *levied.*

27 *(c) Each governing body of a city or county that adopts a budget*
28 *pursuant to K.S.A. 79-2927(a)(2) shall certify, on or before September*
29 *20, to the proper county clerk the amount of ad valorem tax to be levied.*
30 *Thereupon, the county clerk shall place the tax upon the tax roll of the*
31 *county, in the manner prescribed by law, and the tax shall be collected*
32 *by the county treasurer. The county treasurer shall distribute the*
33 *proceeds of the taxes levied by each taxing subdivision in the manner*
34 *provided by K.S.A. 12-1678a, and amendments thereto.*

35 ~~Sec. 6.8~~ K.S.A. 79-2927, 79-2929 and 79-2930 are hereby repealed.

36 ~~Sec. 7.9~~ This act shall take effect and be in force from and after its
37 publication in the statute book.