



State Capitol
300 SW 10th Street
Topeka, KS 66612

February 7, 2024

Testimony in Support of HB 2661

Chairman Bergquist and Members of the Committee on Local Government:

Thank you for the opportunity to present testimony in support of HB 2661. We represent Pottawatomie County in the Legislature and have been asked by the Pottawatomie County Commission and our constituents to amend the procedure for selecting commissioners to fill openings on a county commission when voters elect to expand a commission.

In the fall of 2022, the voters of Pottawatomie County voted to expand from three to five commissioners. The commission followed the existing law and created the new districts and then had to coordinate with the governor to determine whether there would be a special election for the new positions or if they would be elected at the next general election. There was much confusion among the commission, the county counselor, and the governor's office about what constituted a "general election." Ultimately, the commission wanted to wait until the next general election, which they believed would come in the fall of 2023, but the governor's office determined that the next general election would occur in the fall of 2024 and ordered the election to be held in 2024. This created a second problem, by causing more than a simple majority of commissioners (four of the five) to be elected in one election in violation of K.S.A. 19-202. No specific provisions were provided for how to change the length of terms to avoid this conflict in perpetuity.

In order to clarify these procedures, HB 2661 updates several outdated references to statutes that had one-time applicability, eliminates the governor's largely ceremonial role in determining when the new commissioners will be elected, eliminates the special election while clarifying that the commissioners will be elected at the next general election that occurs in either an odd or even-numbered year, and provides specific procedures for the length of terms to ensure no ongoing conflicts with K.S.A. 19-202.

We believe this bill simplifies the process for expanding county commissions and provides clarity in the selection of new commissioners to the counties that choose to expand. We ask that you support HB 2661.

Handwritten signature of Kristian O'Shea in black ink.

Sen. Kristian O'Shea
District 18

Handwritten signature of Kenny Titus in blue ink.

Rep. Kenny Titus
District 51

Handwritten signature of Francis Averkamp in blue ink.

Rep. Francis Averkamp
District 61

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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
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Rep. Kenny Titus
Room 165 W
Kansas State Capitol
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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:

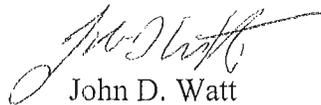
... If at the next general election **following the special election** more than a simple majority of commissioners are elected, persons elected to the positions created by an increase in the number of districts shall be elected for two-year terms and until their successors are qualified. Thereafter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