

MINUTES

2014 SPECIAL COMMITTEE ON ETHICS, ELECTIONS AND LOCAL GOVERNMENT

December 12, 2014
Room 112-N—Statehouse

Members Present

Senator Mitch Holmes, Chairperson
Representative Steve Huebert, Vice-chairperson
Senator Oletha Faust-Goudeau
Senator Garrett Love (substitute)
Senator Michael O'Donnell
Representative John Barker
Representative Keith Esau
Representative Mike Kiegerl
Representative Tom Sawyer (substitute)

Members Absent

Senator Steve Fitzgerald
Representative John Alcala
Representative Stan Frownfelter

Staff Present

Joanna Wochner, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Natalie Nelson, Kansas Legislative Research Department
Mike Heim, Office of Revisor of Statutes
Daniel Yoza, Office of Revisor of Statutes
Linda Herrick, Committee Assistant

Conferees

Mike Koss, League of Kansas Municipalities
Angie Urosevich, Regional Sales Manager, Election Systems and Software
Val Guyett, Vice President, Election Systems and Software
Brian Newby, Johnson County Election Commissioner
Jamie Shew, Douglas County Clerk
Sarah Rains, Hodgeman County Clerk
Sarah Anzia, PhD, Assistant Professor of Public Policy, University of California Berkeley
(via teleconference)

Morning Session

Welcome and Opening Remarks

Chairperson Holmes called the meeting to order. He called the Committee members' attention to the Committee Charge (objective) printed on the back of the agenda ([Attachment 1](#)). The charge is to gather information and furnish it to the appropriate standing committees during the 2015 Legislative Session. He added there will not be a recommendation or proposal to be offered, just factual information. He also noted it is inappropriate to ask a staff member to take a position about a subject being discussed.

Vice-chairperson Huebert added a great deal of information has been presented on the subject of consolidating the dates of elections since he introduced this subject to the Legislature, and he looks forward to today's meeting and discussion during the 2015 Session. He commended Chairperson Holmes for arranging the very informational presentations for this special committee.

Information on Kansas Cities' Governing Body Terms and Cycles

Because timing of elections affects local government, Chairperson Holmes noted he had asked the League of Kansas Municipalities for information on elections in cities across Kansas. There was not sufficient time at the last meeting for this agenda item, so as a carryover, Michael Koss, League of Kansas Municipalities (LKM), gave a presentation ([Attachment 2](#)) on cities' governing body terms and election cycles.

In regard to timing, state statutes specify four-year terms for city officials. Some cities have changed to two-year terms. All 116 cities that responded to the LKM survey reported their elections are held in the spring. Of those, four cities, or 3 percent, hold spring elections every four years; 96 cities, or 83 percent, hold spring elections every two years; and 15 cities, or 13 percent, hold spring elections annually. This evidence indicates a majority of cities has chosen to hold elections more frequently than required by state statute. He cited these examples: The City of Hoisington has two seats for each of four wards, and one seat is up for election each year. Fredonia has an election each year as well.

In regard to length of terms, 15 percent of cities responding had terms of two years while 85 percent had four-year terms. Some cities, such as Iola, reported using hybrid systems, that is, different terms based on position or vote total.

Probably the issue for which cities have exercised their home rule authority the most, Mr. Koss continued, is for staggered terms: 94 percent of the cities have staggered terms. Some might wish to have a more gradual change of their governing body while other cities might desire citizens to have more frequent access to the ballot box.

Twenty-two cities reported they had wards, while 94 reported they do not utilize wards.

In response to questions, Mr. Koss noted both Hoisington and Fredonia have three-year rotating terms with elections held in April. Cities with three commissioners, generally speaking, use this three-year rotation with an election every April. In regard to home rule, it was asked if there have been lawsuits about changes that might have been made that were unusual. Mr.

Koss replied not to his knowledge and with the Supreme Court ruling last year, this is a non-issue.

Representative Esau asked whether in cities where commissioners rotate every year, it affects local school boards. Mr. Koss indicated he was not sure, and possibly county officials can clarify this later in this meeting.

Senator Faust-Goudeau asked about cities with staggered terms and how that works. Mr. Koss noted cities of the third class have five council members and a mayor, and there is an election every two years. Mr. Koss added most cities have a mayor and two council members for four-year terms. Half of the governing body is then elected in each two-year cycle.

Representative Barker asked of the persons elected for four-year terms, what percent do not serve an entire four-year term and someone else is appointed to serve out the term, for cities of the third class. Mr. Koss said it has been difficult for some of the smaller cities to find members for five-member councils, and he was recently asked by a city how it could shrink the size of the council. This can be done with a simple charter ordinance. This is an issue for some small cities.

Senator Holmes asked if any cities were moving their elections to November either in even- or odd-numbered years. Mr. Koss noted the City of Lansing previously might have had its mayor elected on the November even-year ballot, but this has not been in place for some time.

Senator Love noted, in regard to length of term, there is an issue with smaller towns filling four-year commitments, and asked Mr. Koss to elaborate on the two-year statutory requirement. Mr. Koss noted KSA 2014 Supp. 15-201 states cities of the third class with mayor/council forms of government have five council members and a mayor, all with two-year terms, and a charter ordinance would need to be passed to change the cycle.

Mr. Koss further explained population determines whether cities are of first, second, or third class: third class, up to 2,000 people; second class up to 15,000; and first class above 15,000 people. There are 25 cities in the first class, 75 cities in the second class, and the rest of the cities are in the third class. There are statutes applicable to specific classes.

Chairperson Holmes thanked Mr. Koss for his presentation.

Ballot on Demand Demonstration

Angie Urosevich, Regional Sales Manager, and Val Guyett, Vice President, Election Systems and Software (ES&S), were present to give a ballot on demand (BOD) demonstration and a presentation ([Attachment 3](#)).

Mr. Guyett noted several issues already identified related to consolidation of elections include the time and effort it takes to get the information input on the electronic ballot and the related high level of complexity. Combining elections requires a longer ballot and, in many cases, a second page (longer ballot could cause voter drop off), and having more ballot styles adds to the complexity of ballot distribution, creates a larger potential for error, and increases the cost. Tabulation systems can accommodate an 18- or 19-inch ballot. Ballot complexity and ballot length cannot be changed.

He added ES&S provides support to 4,000 jurisdictions in 41 states, and 62 percent who voted did so on a voting tabulation system. Kansas utilizes a statewide voter registration system. ES&S assists with voter registration systems, ballot layout, electronic poll books, ballot printing, ballot distribution, and vote tabulation systems.

Kansas has a broad mixture of systems and equipment, both direct recording electronic voting machines (DRE's) and optical scanning furnished by two different companies. DREs use electronic touch screens and optical scanners involve paper ballots printed, marked, and then fed through a machine to scan. Also, tabulation equipment represents a substantial investment. For DREs, no paper is involved and the right ballot gets to the right voter more easily. It increases accuracy of distribution and decreases time and long lines.

There is no technology that can help with longer ballots, but DREs make an impact in reduction of time to vote.

Even though there is no paper involved, the polling place workers still must get the right ballot on the screen for the voter.

Mr. Guyett explained ExpressPass, an online ballot program, which provides a sample ballot to the voter prior to the election on which the voter may make his or her selections. At the polling place, a bar code identifies the ballot and the ballot can be produced onto which the voter enters his or her choices from the sample ballot rather than thinking through the ballot and then filling it out for the first time at the polling place. This process reduces the time spent in the voting booth. Mr. Guyett noted this is a relatively new technology. A ten-minute voting experience could be a five-minute voting experience or, with a bar code, the voting time could be reduced substantially.

The final ballot could be printed and sent to the designated county or state office/polling place. As for the average length of time to vote, Mr. Guyett said he would leave that to the county officials presenting later today, but he felt it might be five to ten minutes, depending on amendments to be read and then to be voted.

In response to a question on how the system knows the voter's address, Mr. Guyett replied Google Maps and precinct-level voter registration data are utilized. ExpressPass can accommodate both county and state level elections. This is relatively new, and about eight counties used this for their elections. The only other way to reduce time is to prepare the voter in advance, so the voter has made choices by the time that voter arrives at the polling place.

Ballot on demand originally was designed not only to eliminate printing waste, but also to automate the ballot selection process. BOD is connected to a polling place, the voter is checked in, and the address of the voter determines the elections to be voted via the ExpressPass bar code which automatically populates the ballot for the voter. The ballot is printed and BOD assures the right ballot goes to the voter. The same machine prints and tabulates the ballot. BOD's primary value is for advance voting locations and voting places with a large number of ballot styles. In the most recent election, 124 counties across the country utilized BOD.

In response to questions, Mr. Guyett stated a voting device is being developed that could be customized to meet the needs of a requesting state. Each new type of DRE must be certified by each state that uses it, and the mitigation of systems is a slow process.

As for cost, ExpressPass is county-based and has a service fee of \$250-\$750 per election per county. BOD, depending on the tabulation system, could cost \$5,000 to \$7,500 plus \$.35 to \$.45 to print a black and white ballot. There is a ballot programming cost for every ballot style. BOD would print a ballot only when a voter signs in and eliminates the need for ballots to be printed not knowing how many people will show up to vote at each election, thus reducing wasted printed ballots.

There are places for BOD, such as advance voting and consolidated polling places, resulting in savings by utilizing fewer machines, fewer polling places, and fewer poll workers.

As for preference, many people want to walk to their local polling places and wish to keep the process simple, using paper ballots for a paper trail. Younger people might prefer electronic voting.

If an advance sample ballot was mailed to the voter, the length of time to vote would be greatly decreased, particularly the reading of amendments placed on the ballot.

Chairperson thanked Mr. Guyett and Ms. Urosevich for the presentation.

Election Issues and Costs: Perspectives from Election Officials in Small, Medium, and Large Kansas Counties

Chairperson Holmes stated he had sent a list of questions ([Attachment 4](#)) to conferees, county clerks/election commissioners, in order to discuss at this meeting their experience and viewpoints on elections as related to timing and whether they use BOD technology. Martha Dorsey, Kansas Legislative Research Department (KLRD), explained information ([Attachment 5](#)) with the agenda summarized election costs from five county election/clerk offices, and three are the presenters at this meeting.

Brian Newby, Johnson County Election Commissioner, gave the first presentation ([Attachment 6](#)) from a large-county perspective.

Some of the points he suggested should be considered in discussing consolidating elections are listed below.

- Each election is unique;
- Each election varies in complexity as there were more than 1,500 types of ballots in the August election in Johnson County;
- Johnson County has been one of the top five most highly regarded counties with regard to citizens services and, although the satisfaction level has dropped, Johnson County is still in the top five;
- Growth provides scale issues; elections are expensive and in Johnson County, there are 370,000 participants;
- Of 60 elections in the past 10 years, 40 have been special elections (mainly mail ballots) and spring primaries;

- Voter turnout for special elections is greater than for regular spring elections; the worst turnout for mail ballot special elections was better than the best turnout in April;
- Privacy and identity theft are voter concerns;
- Finding polling places and recruiting election workers is becoming more difficult; and
- Advance voting brings cost efficiencies (such as not renting polling places, which are becoming less available) and introduces other costs, such as BOD machines.

Mr. Newby made the following points in his presentation:

- It is more difficult to obtain polling places, particularly at schools. It was suggested possibly election dates could be scheduled on teacher in-service or school holidays in order to have ample space and parking. With the economy improving, there are fewer large empty buildings available as voting places.
- Voting centers (large combined polling places) have been a trend in recent years, for example, in Denver, Colorado.
- Concern exists about mail ballots due to U.S. Postal Service service level and quality, privacy issues when an envelope is opened, and whether the signature is a match. A secure storage area is needed for preparing and mailing paper ballots with many styles.
- It is more difficult to recruit election workers. Mr. Newby indicated he has the same number of staff as 25 years ago, but due to the increased complexity of ballots and population, additional staff are needed. Moving elections from one part of the year to another could require more staff.
- BOD accommodates the distribution of the correct ballot and can handle rotation on a ballot. It gives efficiencies to advance voting.
- In the spring, turnout is low and the cost is expensive. In August and November, there are more advance voting options because people are accustomed to voting in those months. If elections were moved to the fall of even-numbered years, the costs would be greater. Moving elections from spring of odd-numbered years to fall of odd-numbered years would be a wash with respect to costs. However, if an election moved from spring of odd-numbered years to fall of even-numbered years, the election would be much more expensive. A per-ballot cost analysis of five counties submitting data indicated high voter turnout would reduce costs. Regarding special elections, whether mail ballots or at the polls, the incremental costs are paid by the jurisdiction. He also noted spring elections are more expensive due to the number of election races, ballot size, rotation, complexity, and other reasons. He also noted, at this time, Johnson County uses four advance voting sites.

Mr. Newby indicated he would provide a cost assessment of combining elections. The big question is what happens with the added ballot styles while taking rotation and other factors into account. If Mr. Newby and his staff were to print paper ballots at polling places, they might print 150,000 ballots or 25 of one, 30 of another. That leads to throwing away a lot of ballots.

Jamie Shew, Douglas County Clerk and president of the Kansas County Clerks and Election Officials Association, gave his presentation ([Attachment 7](#)) from a mid-size county perspective. He has been County Clerk for ten years. Mr. Shew said he is very appreciative this Committee is looking into elections.

Douglas County has 76,000 registered voters, 125 precincts, and 59 polling places. The county uses paper ballots with each precinct having at minimum one tabulator, one ADA accessible ballot marking device, and poll booths for paper ballots. The largest precinct has 2,759 voters and the smallest has one. He has all sizes of cities in his county. The most ballot styles at one polling place is 14. He has an average of three elections a year. The county is slowly adding e-poll books. Color coding on poll books and ballots are used to help get the right ballot to the right voter. Mr. Shew added, there is still a possibility the wrong ballot is given to the voter, but once that ballot is in the machine and tabulated, by law it cannot be changed.

Mr. Shew added school districts present the biggest complexity. They require different ballots, particularly for school districts in other counties that “finger” into Douglas County. The county also has drainage districts and, for them, the definition of “qualified voter” is different. If a person owns property in the drainage district, that person is qualified to vote. If a person is listed as the or an owner of the property, that person may vote in a drainage district election.

Mr. Shew also noted some counties hire their own programmers. However, he does his own programming and saved thousands of dollars, but his office had to invest about \$100,000. For counties outsourcing their programming, this is a significant cost since there is a charge for programming each different ballot style. The county had 127 ballot styles in 2013 and 207 in 2014.

Mr. Shew gave Willow Springs Township in the southern part of Douglas County as an example of a polling place that requires multiple ballot styles. The township is split by legislative districts by a power line as the boundary; split into four senate districts with a highway denoting the division; and split between two school districts, with Baldwin using district member plans. These and ballot rotation all require new ballot styles.

As for ballot size, in 2010, the ballot was 17 inches long and contained vote choices for two constitutional questions, a library question for Lawrence, judges, and auto races. Mr. Shew added that instructions on the ballot should be combined or reduced to possibly get the ballot on one page. The “nightmare” is a two-page ballot.

Mr. Shew indicated his most expensive election was in August. Temporary staff were hired to be ready to assist with the November election.

Also to be considered are polling places that are getting more difficult to acquire. Schools cannot be used because of security issues, and private places are saying no as well. Another problem is adding technology to township halls that were not built for so many computer hookups. He suggested hiring professional office managers to run elections, as election officials are asking more and more from volunteers. The life cycle of a voting machine

might be ten years, and replacing that technology is costly. Maybe mail ballots will be moved to voting centers as we consider what elections will be like in the next ten years.

BOD works best in voting centers. If the number of polling places were reduced and voting was moved to fewer voting centers with bigger spaces, fewer machines would be needed, and that cost could be transferred.

In response to questions, Mr. Shew stated the voting center concept is used in other states, but the law in Kansas would need to be changed in order to transition.

Sarah Rains, Hodgeman County Clerk, gave a presentation ([Attachment 8](#)) representing a small county. She noted Hodgeman County has a population of fewer than 2,000, with 1,400 registered voters. Previously, Hodgeman County had six polling places, and now it has two. Hodgeman County has two cities of the third class. The main polling place is Jetmore. Hodgeman County is a paper-ballot-based county and it has backup for all documents. Voters may decide whether to vote by paper or electronically (touch screens are available).

Each polling place has multiple precincts. Ballots are distributed based on precinct identification numbers within the poll books. Ballot programming and ballot printing are outsourced. Ms. Rains indicated it costs approximately \$25 to print each ballot style and \$175 per ballot style to be programmed for the electronic machines. A decision might have to be made for the county to do its own programming, but that would require hiring staff.

School districts cause the biggest complexity. There are six school districts in the county with one district the home district; “fingers” of school districts come in from bordering counties, creating requirements for additional ballot styles. More precincts require more ballot styles and cost per ballot.

Poll workers double check voter information using three people to verify the voter number. In 2012, the cost for 13 ballot styles was approximately \$3,000. It cost \$.26 to \$.40 each for printing ballots. If school district elections are added, there would be 58 ballot styles at a cost of \$21 per voter.

For a while, the county was straying away from paper ballots, but now people want to hold the ballot rather than vote on the screen. Hodgeman County has a high voter turnout for even-year elections, 60 percent to 71 percent, and a low voter turnout for odd-year elections, 25 percent to 35 percent.

Moving city and school elections to fall of odd years has been proposed several times over the past few years. Moving elections to the fall of even-numbered years has been a proposed option to increasing voter turnout; however, this would increase the number of ballot styles and encoding in-house is not a practical option for Hodgeman County at this time.

Ms. Rains noted she has a higher cost because of the number of precincts and the small number of voters. Senator Love asked for cost detail regarding the 10-20 ballot styles. Ms. Rains indicated if the county were to go electronic, the cost would be \$175 for each, and for small counties, that is a large increase. The electronic voting machine is a must to meet requirements of the Americans with Disabilities Act.

Chairperson Holmes called attention to the spreadsheets that also listed Stafford County, which is twice the size of Hodgeman County, and Barton County, which ranks between the small rural county and Douglas County.

Chairperson Holmes thanked all three presenters for taking the time to make presentations and to answer questions from the Committee members.

Afternoon Session

Ms. Urosevich and Mr. Guyett gave a BOD demonstration at 1:15 p.m.

Election Timing and Its Effect on Voter Turnout

Sarah Anzia, Ph.D., Assistant Professor of Public Policy, University of California Berkeley, gave a presentation ([Attachment 9](#)) via telephone conference call. Chairperson Holmes noted Dr. Anzia has written a book on research about elections, *Timing and Turnout*, as well as numerous articles available on the internet. Ms. Anzia summarized some of the most important findings of her book. She added the book is the first-ever treatment of the subject and additional research is needed.

Data were collected on rules governing elections in the states. Dr. Anzia noted there are more than 500,000 elected officials and most are for local government. Most are not elected on "Election Day" (November of even-numbered years) but on other days. A chart presented in her slides depicted the timing for state, county, municipal, and school elections. For most state governments and counties, elections are held in November of even-numbered years. Municipal and school board elections mostly are held at other times.

Information has been gathered that indicates voter turnout is lower in off-cycle (other than Election Day) than on-cycle (Election Day) elections and turnout also depends on whether the election includes presidential candidates. Of 57 cities across the country, turnout was 29 percent lower off-cycle than in cities that held elections at the same time as national elections.

Dr. Anzia noted her book's main argument is that shifting from on-cycle to off-cycle election increases the electoral presence of the organized. That is, many people are members of organized groups that have a large stake in an election turn out regardless of timing; and off-cycle election timing enhances the effectiveness of mobilization efforts by organized groups (e.g., teacher unions, employee unions, political parties).

Dr. Anzia added for many cities, elections are held when they are because American citizens want it that way. Some people favor having local elections on different days than national elections because it allows voters to focus on a shorter list of candidates and issues. Other people favor having local elections on the same day as national elections because combining the elections boosts voter turnout for local elections.

Of 479 election date bills offered in state legislatures between 2001 and 2011, as identified by the National Conference of State Legislatures (NCSL), she reviewed in depth 219. Of election consolidation bills, only a few became law. Bills that make combining elections discretionary rather than mandatory were much more likely to advance. Also, bills to move

elections to November of even-numbered years as opposed to combining elections of school boards and municipalities were less likely to advance.

Based on a study of eight states (2003-2004 data) regarding who votes in favor of school election consolidation, generally Republicans favor consolidation and Democrats oppose it. In a different study of 12 states on the same question, the division was less well defined; still, school election consolidation was supported more often by Republicans and less often by Democrats.

She said the impact of election timing on policy outcome is that the off-cycle election has a lower turnout and creates a strategic advantage for large, organized groups. Persons elected in an off-cycle election should be more responsive to those organized groups. There is a cost increase with off-cycle elections.

In support of the above statements, Dr. Anzia summarized conclusions from the eight-state study, reported also on 2006 and 2007 school board election turnout data from Minnesota, and reported on her study based on a recent change in Texas election timing law. In both the Minnesota and the eight-state study, Dr. Anzia examined the effect of voter turnout on average teacher salary. She concluded school districts with off-cycle elections pay higher teacher salaries and such salary premium is associated with lower voter turnout. Dr. Anzia reported questions remain regarding this study, from at least two perspectives: whether variable bias had been omitted when the study was conducted; and whether school officials might choose election timing on the basis of anticipated outcomes. She concluded additional study is needed to address these questions. The summary of the Texas test was school trustees forced to switch to on-cycle elections gave smaller salary raises to teachers, and the response was greater in districts in which teachers were more highly organized.

Her study of the effect of election timing on turnout in California city elections found the higher turnout of on-cycle elections is not eliminated by “roll-off” (ballot drop-off). The effect of on-cycle election timing on turnout dwarfs the effects of many other factors people consider to be important.

Common arguments for and against on-cycle elections were these:

For: Higher turnout, more representative electorate, and decreased cost of administering elections; and

Against: Administratively difficult, voters are less informed about local issues, campaigns become expensive, and issues get lost in the fray.

Dr. Anzia continued noting some things to consider are the following:

- Local elections—not the same as national elections;
- Longer ballots vs. two separate ballots;
- Length of terms for one time; and
- Budget cycles that may or may not overlay with new terms.

Dr. Anzia noted much more study is needed as many questions are still unanswered.

Senator Faust-Goudeau noted Dr. Anzia had mentioned usually people who have a vested interest turn out to vote and asked, in areas where the change has been made to on-cycle elections, what the change has been in turnout. Dr. Anzia replied, it seems like a simple task to look at changes in turnout rates, but data on changes in turnout rates is difficult to find. Turnout data was studied from California and Minnesota because those states had turnout information. Texas would be best to study, because school board elections were forced to change; however, most districts could not give her that information. Based on the data she could locate, turnout rates were higher for November even-numbered year elections. Dr. Anzia indicated the research summarized in her book was conducted in 2008 through 2013 and the book was written in 2014.

Representative Huebert asked, since the book was published, whether there has been any feedback from groups as far as the conclusions. Dr. Anzia replied no one has challenged the conclusions.

Chairperson Holmes noted, in addition to the book, he read an article by her about combining two studies but election turnout was different. Dr. Anzia noted it was a study by The Greenlining Institute and she did not write that study, which came out after her book was published, but there is direct correlation of off-cycle elections and teachers receiving pay increases. Dr. Anzia replied it is fairly clear changing election timing to on-cycle results in smaller pay increases for teachers.

Chairperson Holmes asked about Ferguson, Missouri, and what was happening in that city regarding its citizens' argument about combining city government. Dr. Anzia indicated when turnout goes down, fewer minority voters participate.

Dr. Anzia stated, for further questions, she can be reached at sanzia@berkeley.edu. Chairperson Holmes thanked her for this discussion.

Committee Discussion

Chairperson Holmes then asked the Committee if there was any discussion before adjournment. Ms. Dorsey clarified for the Committee that staff will be writing a summary report on the information presented to this Special Committee that will be available to the appropriate committees during the 2015 Legislative Session.

Adjournment

The meeting adjourned at 2:45 p.m.

Prepared by Linda Herrick
Edited by Martha Dorsey

Approved by the Committee on:

February 10, 2015
(Date)