

State of Kansas

Senate Chamber



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Testimony of Senator Anthony Hensley To the Senate Committee on Ethics, Elections and Local Government Supporting the passage of Senate Bill 229

Good Morning Chairwoman Bowers and members of the Committee:

Senate Bill 229 is identical to legislation I introduced 35 years ago, 1983 House Bill 2278, which changes how the county election commissioners in the four largest counties are appointed. Under current law, the election commissioners are appointed by the Secretary of State. Senate Bill 229 provides their appointment by the board of county commissioners.

This bill is aimed at ensuring local control and accountability to the elected county commissioners who appropriate tax dollars for the election commissioner's budget.

This committee heard testimony last week on Senate Bill 299, which would require the election commissioners to adhere to the same personnel, pay, purchasing, budgeting, financial, and auditing policies and procedures applicable to all county departments, agencies, and officials. However, as to the conduct of elections, the election commissioners would continue to operate under the general supervision of the Secretary of State who would continue to appoint them. While I appreciate the attempt to find a middle ground on this subject, I don't believe Senate Bill 299 will solve the problem.

Under current law, county election commissioners are not only appointed by the Secretary of State but have the authority to certify his or her own budget and submit it to the county commission. The county commission is then required by law to fund the budget as submitted to the county.

In Shawnee County, this has caused great controversy over the past two years. Shawnee County Elections Commissioner Andrew Howell, overspent his county-approved budget by \$85,000 in 2016 and \$184,000 in 2017. This resulted in several disputes between Howell and the Shawnee County commissioners, who ultimately voted to cut Howell's salary by 15% in 2016 because of the budget overruns.

The problem with current law is that county commissioners must fund the operations of a county office over which they have no say. That sets up friction between the county and state. But, it is important to fund elections adequately, especially when technology changes so rapidly and secure elections are at risk.

Senate Bill 299 would appear to solve this problem because it would place the authority of the budgeting process with the county commissioners. However, as Mr. Howell and Sedgwick County Elections Commissioner Tabitha Lehman testified, this could result in a situation in which the county commissioners cut their budgets, making it more difficult to carry out their election duties set by the Secretary of State. Under Senate Bill 299, the county commission could slash the elections budget, but doesn't have to take responsibility for the outcome. You can't serve two masters.

The best way to resolve the issue is to pass Senate Bill 229 and put election commissioners entirely under the authority of the county commission. The county commissioners should appoint the election commissioner who then would follow all county policies and procedures.

This would move both the responsibility for the budget and operational outcomes to the county commission. In this way, the elected county commissioners have end-to-end responsibility. They will be held accountable to the taxpayers for efficient and secure elections, and for the funding to make sure that happens. Those decisions will be closer to the voters who are impacted.

The election commissioners would still follow the advice and recommendations of the Secretary of State just as the county clerks do in the other 101 counties. However, the county commissioners would be ultimately responsible for issues that occur in the administration of elections in their respective counties.

I appreciate your consideration of this bill. It is important that we ensure that our county election commissioners are accountable to the taxpayers they serve. Senate Bill 229 would provide for this accountability.

HOUSE BILL No. 2278

By Representative Hensley

2-8

0017 AN ACT relating to the office of commissioner of elections in
0018 certain counties; concerning the appointment of the commis-
0019 sioner; amending K.S.A. 1982 Supp. 19-3419 and repealing
0020 the existing section.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 1982 Supp. 19-3419 is hereby amended to
0023 read as follows: 19-3419. In counties of this state having a
0024 population exceeding 130,000, there shall be an office of com-
0025 missioner of elections, which shall be administered by an elec-
0026 tion commissioner. The election commissioner shall be ap-
0027 pointed by the ~~secretary of state~~ *board of county commissioners*
0028 *of the county* and shall hold office for a term of four years and
0029 until a successor is appointed and qualified. The ~~secretary of~~
0030 ~~state board of county commissioners of the county~~ may remove
0031 the election commissioner for official misconduct. Upon occur-
0032 rence of a vacancy in the office of county election commissioner,
0033 the ~~secretary of state~~ *board of county commissioners of the*
0034 *county* shall appoint a successor. If the vacancy occurs before the
0035 expiration of a term of office, the appointment shall be for the
0036 unexpired term. Such election commissioner shall have been a
0037 qualified elector and a resident of the county at least two years
0038 prior to appointment. Within 10 days after receiving official
0039 notice of the appointment and before entering upon the duties of
0040 the office, the election commissioner shall take, subscribe and
0041 cause to be filed in the office of the secretary of state an oath of
0042 office for the faithful discharge of official duties.

0043 Sec. 2. K.S.A. 1982 Supp. 19-3419 is hereby repealed.

0044 Sec. 3. This act shall take effect and be in force from and
0045 after its publication in the statute book.