



## TESTIMONY

concerning HB 2376, Property Tax Lid Modification  
Presented by Randall Allen, Executive Director  
House Taxation Committee  
March 16, 2017

Chairman Johnson and members of the committee, thank you for the opportunity to testify in support of HB 2376. This is a bill which amends the current property tax lid law applying to cities and counties. In a nutshell, the bill does two things: 1) removes the requirement that city and county budgets with property tax increases over and above that allowed in statute be **automatically** sent to the voters for approval; and 2) replaces it with a protest petition mechanism by which electors (signers) numbering at least 10% of the total vote cast for the office of U.S. President in the last preceding general election can require an election to be held before such budget is approved by the governing body. If a valid petition is filed, the governing body may either submit the question to an election on whether the property tax revenue increase required to fund the proposed budget shall be authorized, or adopt a budget with property taxes no greater than the maximum established by K.S.A. 79-2925c.

Before considering the changes in HB 2376, it may be helpful to recall aspects of the current tax lid and how they work. Here is a brief summary:

1. Beginning January 1, 2017, except as provided (discussed below), a city or county governing body cannot approve a budget funded by property taxes exceeding that of an average change in the Consumer Price Index (CPI-U) for the preceding five calendar years. **For upcoming budget year 2018 (tax year 2017), the 5-year average of annual changes is 1.36%, or rounded up, 1.4%.** This results from annual CPI-U changes from December, 2011 to December, 2012 (1.7%); December, 2012 to 2013 (1.5%); December, 2013 to December, 2014 (0.8%); December 2014 to December, 2015 (0.7%); and December, 2015 to December, 2016 (1.2%).
2. Allowances (exceptions) are made for certain increases in property tax revenues produced by or attributable to: a) new construction or improvements or remodeling or renovation of existing structures; b) increased personal property valuation; c) for cities, real property located in annexed property; d) real property which has changed in use in the past year; e) the expiration of property from which property taxes were previously abated; or f) the expiration of various property tax rebate programs, including tax

- increment financing, rural housing incentive, or neighborhood revitalization district;
3. Allowances (exceptions) are also made for increased property taxes to be spent on a) debt service; b) special assessments; c) court judgments or legal settlements against a city or county and legal costs directly related to such judgments or settlements; d) expenditures specifically mandated by federal or state law that became effective on or after July 1, 2015, or the loss of federal funds after January 1, 2017 where a city or county is contractually obligated to provide a service; e) expenses related to a federal, state or local disaster or emergency; and f) increased costs above the CPI for law enforcement, fire protection or emergency medical services, except to construct or remodel buildings;
  4. Allowances (exceptions) where the property tax revenues of a city or county have declined in one or more of the preceding three calendar years or from the loss of property valuation resulting from legislative action, judicial action or a ruling by the board of tax appeals.

Except for the allowances or exceptions listed in paragraphs 1 -4 of my testimony (above), any increase in property taxes requires a public vote. Current law allows such election to be held at the next regularly scheduled election in August or November; or as a mail ballot election; or as a special election called by a city or county. The city or county requesting an election is responsible for paying all costs related to the election.

The significant problem associated with a mandatory election as required by current law is that there is insufficient time to conduct an election given the timing of several different actions in the property tax process already imbedded in statute. Here are just a few of these dates and their statutory references:

**June 1:** Director of Property Valuation certifies to county clerks the amount of assessed valuation in each taxing unit for all state-assessed properties (K.S.A. 2016 Supp. 79-5a27);

**July 1:** County clerks notify all taxing districts of the assessed valuation estimates to be used in preparation of annual budgets (K.S.A. 2016 Supp. 79-5a27)

In this example, it would at first glance appear to be prudent to schedule a tax lid election at the time of the August primary (at least on even-numbered years). However, according to the election standards of the Kansas Secretary of State, preparation for an election begins a minimum of 90 days before an election. Federal service ballots must be mailed 45 days before an election. So, if a tax lid election were held as part of the primary election on the first Tuesday in August, notice would be required on June 23, at least eight days before taxing jurisdictions receive their assessed valuation estimates to be used to prepare their budgets (K.S.A. 2016 Supp. 79-5a27).

So, what happens if a governing body waits and holds its election as part of the November general election on the first Tuesday after the first Monday in November? For starters, K.S.A. 79-1801 requires all local governing bodies to certify, on or before August 25, to

the county clerk the amount of ad valorem (property) tax to be levied. Although this date can and does slide occasionally, it is not a best practice to ignore a statute. Not only is it disrespectful, it causes a time crunch for county clerks in setting tax levies which can then delay the preparation of tax statements. Throw a general election like the one we just had in the middle of that time frame, and we only invite additional errors – not because clerks are careless but because they are human.

HB 2376 provides a process by which the electorate can protest the proposed budget and related property tax levy by filing a petition in opposition to the same, within 21 days of the publication of a notice as provided in New Section 1. ( b ). Following a five day period for signatures on a petition to be verified, the governing body of a city or county would call an election not less than 45 days from the date signatures on the petition are verified. As such, after notice of the election is given through publication in the official city or county newspaper, the election could be held. Here is a likely timetable:

<b>Action</b>	<b>Date</b>
Resolution of Intent adopted by the Governing Body	August 15
Resolution of Intent published in official newspaper; 21 day period for protest petition begins	August 22
21 day period for protest petition ends (assuming publication on August 22)	September 12
5 day period for signatures to be verified	September 17
Petition is verified; Election is called by a city or county governing body	September 20
45 day period begins	September 20
Earliest possible date of a mail ballot election	November 4

Even with the steps included in HB 2376, an election of any kind does not easily mesh with the municipal budget calendar as provided in several different statutes. However, it is more feasible, practical, and reasonable than automatically sending all required property tax increases to the voters for approval.

**Recommendation:**

We call upon the House Taxation Committee and Legislature to enact HB 2376, not as the ideal solution but as an improvement to current law. From our standpoint, we believe that

repeal of the entire property tax lid is justified and appropriate. If the property tax lid is to remain, however, we believe the provisions of HB 2376 are a significant improvement.

<u>County</u>	<u>House Taxation Committee Member(s)</u>	<u>2016 Pres. Votes Cast</u>	<u>10% Signature Required</u>
Atchison	John Eplee	6,575	658
Butler	Kristey Williams	27,657	2,766
Cheyenne	Adam Smith	1,407	141
Cloud	Susan Concannon	3,930	393
Decatur	Adam Smith	1,452	145
Doniphan	John Eplee	3,378	338
Douglas	Ken Corbet	50,087	5,009
Ellis	Ken Rahjes	11,947	1,195
Ellsworth	Steven Johnson	2,679	268
Graham	Ken Rahjes	1,284	128
Johnson	Erin Davis, Abraham Rafie	290,089	29,009
Kingman	Jack Thimesch	3,334	333
Labette	Richard Proehl	8,107	811
Lincoln	Susan Concannon	1,464	146
McPherson	Steven Johnson, Les Mason	12,742	1,274
Mitchell	Susan Concannon	2,942	294
Montgomery	Richard Proehl, Jim Kelly	12,004	1,200
Norton	Ken Rahjes	2,234	223
Osage	Ken Corbet	7,046	705
Ottawa	Susan Concannon	2,903	290
Phillips	Ken Rahjes	2,664	266
Rawlins	Adam Smith	1,472	147
Reno	Jack Thimesch	24,210	2,421
Rice	Steven Johnson, Jack Thimesch	3,804	380
Riley	Tom Phillips	21,633	2,163
Rooks	Ken Rahjes	2,419	242
Saline	Steven Johnson	22,064	2,206
Sedgwick	Tom Sawyer, Daniel Hawkins, KC Ohaebosim	188,783	18,878
Seward	Shannon Francis	5,038	504
Shawnee	John Alcalá, Ken Corbet, Jim Gartner	75,406	7,541
Sherman	Adam Smith	2,612	261
Thomas	Adam Smith	3,576	358
Wallace	Adam Smith	798	80
Wyandotte	Tom Burroughs, Louis Ruiz, Kathy Wolfe Moore	48,781	4,878

**Source: Kansas Secretary of State, 2016 General Election Official Results**