



**DOUGLAS COUNTY
BOARD OF COUNTY COMMISSIONERS**

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FOR IMMEDIATE RELEASE

Petition does not meet legal criteria

Douglas County Counselor outlines several issues with submitted petition as currently written

LAWRENCE, KS (April 16, 2018) – Justice Matters authored a petition that would seek to place a question on the November 6, 2018 general election ballot. They presented this petition to the Douglas County Counselor for legal review as provided by Kansas statutes.

By law, the Douglas County Counselor is required to review the draft petition and provide a written advisory opinion regarding the legality of the form of the question on the Petition. The Douglas County Counselor performed this review and earlier today furnished to Justice Matters a written advisory opinion addressing the legality of the form of the question on the petition.

The County Counselor concluded that the question stated on the petition complies with state law in some respects, but it does not comply with state law in other respects. The County Counselor detailed the specific ways the question does not comply with state law in his letter.

For example, the question:

- Fails in some respects to comply with state statutes regarding how the question must be stated and formatted.
- Presents a legal impossibility by stating that, following a November 6, 2018 election, the tax increase would be collected beginning in January 2019. This is not legally possible due to requirements of state budget law. The earliest the tax could be collected under these circumstances is in January 2020.
- Provides for a future election, on an undefined question, but this cannot legally be authorized pursuant to the current petition.
- Provides for elimination (*i.e.*, sunset) of the tax if not “renewed” in 2028, but this is not authorized by law.

The County Counselor pointed out some additional legal concerns regarding the question on the Petition, including that the question:

- Unequivocally states that it will be placed on the November 6, 2018 general election ballot, where there is no guarantee this will occur in light of state and federal election law and the timing of future events which, by definition, have not yet occurred.
- Fails to take into account the effect of the Tax Lid law. This law limits the ability of Counties to raise property taxes and spend funds derived from property taxes.
- Purports without legal authority to limit the use of funds raised by the proposed property tax increase to certain defined purposes. By contrast, state law authorizes Douglas County to pledge the increased sales tax revenues to specific defined purposes as set forth in Proposition 1, the County’s ballot question.
- Provides for no debt financing, yet fails to take into account the effect of the cash basis law. This state law will limit the County’s ability to spend the increased tax revenues until they are actually collected, beginning at the earliest in January 2020.

“The County is being fully transparent about the viability of this petition and we support the County Counselor sharing all of the possible issues, so that the community understands the complexity of what is involved. As the petition currently stands, it is not a viable alternative.” said County Commission Chair Nancy Thellman.

The County Counselor further advised that it is the petitioner’s responsibility to submit a legally valid petition. He encouraged the organization’s leaders to consult with their own legal counsel to make independent determinations concerning these legal issues and to ensure they comply with the various laws that relate to the petition and the petition process.

In conclusion, the current petition has legal defects that will need to be addressed before the petition can be presented to the voters, assuming the required number of signatures can be obtained.

For more information contact:

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