
STATEMENT OF KIM J. SETER, ESQ.
SETER & VANDER WALL, P.C.
To the House Transportation and Local Government Committee
February 6, 2019, 1:30 p.m.
RE: HB 19-1048

A BILL FOR AN ACT CONCERNING THE ELECTION OF LIBRARY TRUSTEES

Thank you for this opportunity to comment on HB 19-1048. I, and other attorneys in my firm have specialized in the establishment of library districts and representation of all library entities for more than 35 years.

We have many concerns about this Bill. I will focus on only three.

1. Section 2 of the Bill will curtail the formation of library districts in Colorado.

Under current law we have been able to organize the library district board of trustees prior to funding the district and address the district organization and its funding as required by TABOR in a single election. Most importantly, this process allows the trustees to fully inform the voters of the benefits and costs of the district before they vote.

The ability to organize in one election and the ability to fully inform the voters prior to their vote is eliminated by the terms of this Bill.

Section 2 proposes to add § 24-90-108.5 to the statutes. It requires a preliminary election for the sole purpose of determining whether trustees of a non-existing library district should be elected or appointed. That election is separate and apart from the elections to organize the district and to fund the district pursuant to TABOR.

The adoption of Section 2 of the Bill will require at least two, and possibly three elections (possibly in multiple counties) to form a library district instead of one election. This will severely curtail the organization of future library districts in Colorado for two reasons.

- a. Your Fiscal Note correctly states that an election costs approximately \$10.19 per vote cast. Our library districts generally have hundreds of thousands of voters. It will be difficult or impossible for us to convince a sponsoring government entity to make this kind of expenditure more than once in an effort to organize a district. The organization of future library districts will be cost prohibitive.

- b. In the absence of a previously formed library board of trustees it will be impossible to determine and advise the voters of the benefits and burdens of approving a

library district. The voters will be less informed when they are asked to vote to organize and/or fund a library district.

2. Counties and other governmental units will be forced by citizen petition to incur the high cost of two elections and will have no control of the budget or timing of the elections.

Colorado Revised Statutes, Section 24-90-107(1) requires a county or other governmental unit to submit the question of organization of a library district to the voters upon receipt of a petition signed by 100 electors.

The county or governmental unit can avoid some of the cost of elections by forming the district by resolution and then conducting a TABOR election to establish funding. This Bill eliminates the ability of the county to limit the number of elections and renders the authority given to it by C.R.S. 24-90-107(3)(d) void.

3. Section 2's addition of §24-90-108.5(4)(a) (page 6, line 18) creates an anti-democratic recall provision that forces additional elections outside the control of the governmental unit that will incur the costs.

New section (4)(a) allows a small minority of eligible voters (25 or 50) to file a petition to remove a trustee from office and force an election to re-fill the seat of an existing appointed or elected trustee. Upon filing the petition:

- a. The trustee's seat is deemed vacant without any further action; and,
- b. The County or other sponsoring entity must incur the cost of an election to re-fill the seat.

This forced election process is without any limitation and may involve one or all of the appointed or elected trustees on a library district board as often as the petitioners choose.

This provision:

- (i) Creates an automatic recall by a handful of people contrary to the will of a majority of the voters that elected or the BOCC that appointed a trustee; and,
- (ii) Imposes a costly election requirement on the governmental unit over which it has no control for budgeting, timing or other purposes.

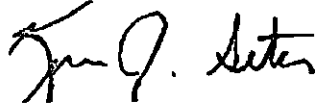
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For these and many other reasons, we respectfully request your vote to reject this proposed legislation in this committee.

Thank you for your attention.

Sincerely,

SETER & VANDER WALL, P.C.

A handwritten signature in black ink that reads "Kim J. Seter". The signature is written in a cursive style with a large initial "K" and "S".

Kim J. Seter