



Senate Committee on Judiciary

Testimony in Support of Senate Bill 242

Presented by Eric Stafford, Vice President of Government Affairs

Monday, March 3, 2025

Madam Chair and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber represents small, medium and large businesses of all industry segments across the state. We appreciate the opportunity to testify in support of Senate Bill 242, which establishes guidelines for when it is deemed appropriate for local governments to enter into contingency fee arrangements with law firms, along with approval from the Attorney General.

In 2020, then AG Derek Schmidt introduced legislation that would prohibit public entities in the state from entering into a contingent fee agreement with outside legal counsel without express consent from the Attorney General of the state. That year, the Chamber had also added language to our legislative agenda to support these efforts as then a disturbing trend was happening nationally with these class action lawsuits based on contingency fee arrangements.

We appreciate Attorney General Kobach for bringing this bill forward for consideration, as just a few months ago, Ford County Kansas joined a case out of Missouri against Exxon regarding alleged fraudulent recycling practices- after dismissing their own case. Back in 2020, cities across the country and in Kansas, along with several Kansas school districts, had entered into contingency arrangements in pursuit of awards against opioid manufacturers and e-cigarette makers and distributors. So this legislation is not a solution looking for a problem in our state; the problem already exists.

In March 2019, the U.S. Chamber Institute for Legal Reform (ILR) issued a research paper on this subject titled *Mitigating Municipality Litigation, Scope and Solutions*. The report reads "The incentives that drive municipal litigation are principally economic." In short, cities and counties are simply looking for low-risk opportunities to receive potential windfall awards. The ILR report offers extensive background on this type of litigation and how municipal litigation began in the 1990's during lawsuits against tobacco companies.

Following the Master Settlement Agreement against tobacco companies, however, municipalities have pursued similar cases against lead paint manufacturers, gun manufacturers and subprime mortgage lenders with mixed results. Most recently, cities are pursuing class action lawsuits against opioid manufacturers, against companies whose products allegedly contributed to global warming (Ford County case), and for failure to protect consumer data.

Municipal litigation undermines the ability of the Attorney General to represent the state and its citizens in instances where there is a widespread, alleged public harm. The ILR report states "Municipal litigation limits the potential for global settlements, depriving parties of finality and predictability...And as commentators and courts have noted, although litigation can yield sizeable recoveries for municipal entities, it reduces the funds available to compensate injured individuals."

The bill before you today is much different than HB 2461 in 2020. HB 2461 was a prohibition against such actions unless the Attorney General deems an exemption was in the best interest of the public at his sole discretion. It is our understanding the Attorney General's office has been in discussions with local government officials on slight modifications to the language in SB 242 and edits we have seen appear to be reasonable, although not ideal probably for either side on this topic.

In closing, if a company, or industry has truly caused collective harm to residents of our state, the Attorney General should be the lone voice in acting against those companies. Again, this legislation is not a prohibition against these agreements. But there should be certain factors in order for a city or county to enter into a class action lawsuit.

We appreciate the opportunity to testify in support of Senate Bill 242, and I am happy to answer any questions at the appropriate time.