



U.S. Chamber of Commerce Institute for Legal Reform

Testimony of the U.S. Chamber of Commerce Institute for Legal Reform Written Proponent for SB 242 Committee on Judiciary February 28, 2025

Chair Warren and Members of the Committee:

Thank you for the opportunity to provide written testimony in support of Senate Bill 242. This legislation critically ensures that transparency and oversight are introduced into the currently opaque process of this State's political subdivisions hiring private contingency fee lawyers to bring civil lawsuits on their behalf. Further, this bill ensures that those political subdivisions' lawsuits do not conflict or interfere with the litigation and policy priorities of Kansas's duly elected Attorney General, who alone has the authority to litigate on behalf of the People of this State.

Importantly, Senate Bill 242 is carefully crafted to ensure that political subdivisions will continue to be able to lodge and resolve matters of local concern in courts, without imposition. But policy-motivated activist organizations and profit-motivated private lawyers should not be permitted to misuse Kansas's political subdivisions as vehicles to achieve their own objectives at the expense of the public. This commonsense reform will protect Kansas's political subdivisions and the rule of law, and rightly respects the sovereign authority of the Kansas Attorney General.

For years, the U.S. Chamber of Commerce Institute for Legal Reform ("ILR") has been the leading voice of the business community calling for state legislative reforms to address states' political subdivisions being coopted by plaintiffs' lawyers to sue businesses. In 2019, ILR published a pioneering whitepaper on this issue entitled, [*Mitigating Municipality Litigation: Scope and Solutions*](#).¹ This whitepaper outlined how political subdivisions' lawsuits over matters of statewide and national concern, if not addressed, would create obstacles for global settlement (forcing businesses to resolve similar claims with potentially hundreds of plaintiffs, rather than one state attorney general), undermine the authority of legislators and state attorneys general, and ultimately reduce funds available to compensate injured individuals. Those predictions have manifested, with hundreds of political subdivision lawsuits filed in state and federal courts throughout the country, including here in Kansas, attempting to hold businesses responsible for perceived societal harms, including those related to plastics recycling, climate change, and more.

¹ In 2021, ILR published a follow-on, shortform whitepaper highlighting new developments on this issue. Trevor Cox and Elbert Lin, [*ILR Briefly: Municipality Litigation: A Continuing Threat*](#), U.S. Chamber of Commerce Institute for Legal Reform (June 16, 2021).

While this might be a relatively new issue in Kansas, as compared to other jurisdictions around the country, it is important that this Legislature act now to prevent Kansas from becoming a magnet jurisdiction for plaintiffs' lawyers searching for new venues to build up novel claims. And that threat is not a hypothetical one. In December 2024, Ford County, Kansas and its Kansas City-based plaintiffs' lawyer filed a lawsuit in federal court against major energy and petrochemical companies, as well as their Washington, D.C.-based trade association, alleging that those defendants created a public nuisance by deceiving consumers about the recyclability of plastic products. While a dubious claim, at best, this is precisely the type of national (even global) policy issue that this Legislature or the Attorney General would most appropriately consider, if at all. Not a single political subdivision representing a small fraction of the State. And Ford County, through its lawsuit, follows in the footsteps of California and the Sierra Club. This is exactly the type of novel litigation that Kansas's political subdivisions ought not to be dragged into, at least without the awareness of the People and some say of their elected officials.

To be clear, Senate Bill 242 does not close the courthouse doors to political subdivisions. This bill simply requires that political subdivisions publicly justify hiring private lawyers – who, if hired, would stand to assume large percentages of any award or settlement – to represent them, rather than litigating their claims themselves, and ensures that such hiring process is open and transparent. Further, it implements a process to alert the Attorney General to litigation that might conflict or interfere with his office's own litigation and provide him with the opportunity to avert such conflicts.

The People of this State deserve transparency when their political subdivisions provide private lawyers lucrative opportunities to represent their interests. And they deserve to have the official they elected as their state's chief lawyer, the Kansas Attorney General, represent them in matters of statewide and national concern.

ILR respectfully urges this committee to carefully consider Kansas Senate Bill 242 and advance it for passage. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Roger C. Gibboni". The signature is written in a cursive, flowing style.

Roger C. Gibboni
Counsel
Hunton Andrews Kurth