

Date: March 3, 2025
To: Chair Warren and the Senate Committee on Judiciary
From: City of Overland Park
Re: SB 242 – Opponent (Written)

Thank you for allowing the City of Overland Park (the “City”) to submit testimony on SB 242. The City appreciates the work the Attorney General’s office and League of Kansas Municipalities have done to draft a positive amendment, and the City would not oppose this legislation if a compromise is reached on Section 1(b)(2)(B)(ii). However, the City opposes the current version of the bill because it infringes on local control and prevents the City from potentially advancing the interests of the community.

SB 242 would require the Attorney General to consent to a municipality’s contingency fee arrangement for certain legal matters. Contingency fee arrangements are typically contracts for legal services where outside counsel are paid for their services by receiving a portion of the damages recovered, rather than paid from existing public funds. These arrangements are not widely used by municipalities. The City’s main purpose in using this fee arrangement is not pursuit of damages, but to allow the City to be a party to a resolution that will hopefully help curtail behaviors that adversely impact our community. For example, the City used a contingency fee arrangement to participate in opioid litigation that required companies to change opioid marketing practices and fund programs that include education, drug treatment, job programs, homelessness solutions, and counseling. The City is currently using opioid settlement funds arising from such litigation to fund a Behavioral Health Specialist in our Municipal Court to provide innovative mental health support to defendants who are struggling with or are at risk of opioid abuse, and funded numerous non-profits fighting to stop the opioid epidemic. By entering a contingency fee arrangement, the City has supported these important achievements without spending any taxpayer money.

The part of SB 242 (*as amended by the Attorney General’s proposed balloon amendment*) that the City does oppose is Section 1(b)(2)(B)(ii) which gives the Attorney General’s office the right to veto the City’s ability of cities to pursue litigation where “the legal matter involves claims or issues that are more appropriately within the scope of state enforcement, and the pursuit of the matter independently by the political subdivision could lead to inconsistent legal outcomes or undermine the state’s unified position” This current provision is too broad and would potentially prevent cities’ from pursuing the outcomes that would benefit our community. We are hopeful that a compromise can be reached on this portion of the bill and will withdraw our opposition if it is.

Finally, the City believes its use of a contingency fee arrangements have and will result in benefits to Kansans and does not agree with arguments that such arrangements have been used irresponsibly. Furthermore, the City’s participation in such litigation has in no way prevented the State from pursuing its own litigation in state or federal court, which can result in additional benefits to Kansans.

Thank you for allowing the City to submit testimony on SB 242. Although the City is willing to withdraw its opposition to this legislation if the aforementioned amendment is made, we respectfully request that the Committee not advance this bill out of Committee without those amendments.