



SEDGWICK COUNTY BOARD OF COUNTY COMMISSIONERS

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Dear Chair Warren, Vice Chair Titus, Ranking Minority Member Corson, and Committee Members:

I am writing on behalf of the Sedgwick County Board of County Commissioners regarding SB 242, which proposes to limit the ability for municipalities to hire legal counsel with contingent fee contracts.

The Sedgwick County Board of County Commissioners opposes the adoption of SB 242 for three (3) simple reasons: (1) it makes the ability of locally-elected governing bodies to act in their own municipalities' best interests subject to the determination of the Kansas Attorney General; (2) to the extent it is claimed that municipalities have filed lawsuits that lack merit, the judicial branch is the proper forum for these matters to be addressed; and (3) contingency fee agreements are often beneficial for municipalities and their taxpayers by eliminating out-of-pocket litigation costs.

The Sedgwick County Board of County Commissioners, as the governing body elected by the residents of Sedgwick County, is tasked with managing the affairs of Sedgwick County and is vested with statutory home rule authority that "shall be liberally construed for the purpose of giving to counties the largest measure of self-government." K.S.A. 19-101c. SB 242 would curtail Sedgwick County's home rule powers by subjecting these decisions to the approval of the Kansas Attorney General. This undermines the County's ability to self-govern, as it is foreseeable that the best interests of Sedgwick County, as determined by its duly elected governing body, may sometimes be contrary to the aims or wishes of the Kansas Attorney General. Furthermore, by requiring a public hearing and a review of up to 90 days by the Kansas Attorney General, SB 242 also places municipalities in the position where they may be expected to waive attorney-client privilege and go through a process that takes more than three (3) months just to engage legal counsel.

It is unclear what "ill" SB 242 is intended to cure. If the concern is that municipalities may bring lawsuits that lack merit, the judicial branch exists to make these determinations. Defendants in any such lawsuits and any other parties with standing have an opportunity to engage in the legal process and seek relief from the appropriate court.

Also, contingency fee agreements generally eliminate out-of-pocket costs for litigation that would otherwise be borne by the municipalities—and by extension, their taxpayers. For example, contingency fee agreements are traditionally utilized by parties for collection matters for claims or judgments where it is preferable to avoid paying attorneys' hourly rates, but to instead have attorneys' fees based upon the receipt of a portion of the funds actually recovered.

Passage of SB 242 would create far more problems than it would ever solve and it would represent an unfortunate intrusion upon counties' statutory home rule powers. For these reasons, we would request that you would not pass the bill out of this Committee.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Baty".

Ryan Baty, Chairman
Board of County Commissioners of Sedgwick County