

To: Senate Committee on Federal and State Affairs
From: Nathan Eberline, Executive Director
Date: February 12, 2024
RE: SB 373 – Lobbying and Prohibiting Public Funds for Lobbying
In Opposition – Verbal Testimony

Introduction

The League of Kansas Municipalities serves as a trusted source of information and guidance for cities by providing legal support, training, and connections between our cities and leaders at all levels of government. The League combines these services to weigh in on policy matters, but this service would no longer be possible under SB 373. This legislation would restrict the use of public funds for lobbying activities, and the effect would be harmful to our cities and harmful to the state by minimizing the League as a resource. We serve an important function as liaison between cities and the state, and we subsequently encourage this committee to vote against SB 373.

Policy Arguments Against SB 373

1. *Lost Connections* – Cities serve a wide variety of functions and do so in a wide variety of ways: public safety, infrastructure, public works, parks & rec, land use planning, emergency management, and more. The League tracks legislation in nearly every committee other than education. Throughout the session, the League receives numerous questions from legislators who want to know “how does this bill affect my constituents.” We contact our members and follow their direction on how we testify. Once the session concludes, we train our members on how to comply with new laws. If SB 373 becomes law, both cities and the state lose a resource that has served Kansas for over a hundred years.
2. *Lost Local Control* – Cities are the closest form of government to the people and play a vital role in addressing local needs and concerns. 84% of Kansans live in cities, and SB 373 encroaches upon municipal autonomy by limiting their ability to effectively advocate for their communities' interests. It is unreasonable to expect our cities to track and weigh in on the many policy proposals that the Kansas Legislature considers. Restricting the use of public funds for lobbying inhibits municipalities' capacity to engage in the policymaking process and advocate for policies that best serve their constituents at the local level.

3. *Lost Intergovernmental Pathways* – The League works on policy development beyond the Kansas Legislature. Yet it builds upon the work performed by the Kansas Legislature. At the city and county level, lawmaking occurs in conjunction with the state and federal laws. Further, federal and state agencies enact rules and regulations that affect cities, and the League helps in this realm, as well. These steps may not be traditional lobbying, but cutting the League out of the lobbying realm hurts our cities’ capacity to remain connected to the many levels of government and lawmaking.

Each League staff member recognizes that we have a unique responsibility to serve our member cities. Lobbying may be one small part of what we do, but we know how critical it is to help cities ensure not only effectiveness but also legal compliance. For these reasons, we encourage your vote against SB 373.

Constitutional Arguments

First Amendment Protections – Irrespective of the vote on SB 373, the proposal seems flatly unconstitutional based on *Citizens United v. Federal Election Commission*.¹ SB 373 infringes upon the First Amendment rights of municipal corporations by placing restrictions on their ability to engage in political speech and advocacy. The Supreme Court has consistently held that government restrictions on corporations’ political speech must withstand strict scrutiny and be narrowly tailored to serve a compelling government interest. The blanket prohibition on the use of public funds for lobbying fails to meet this high standard and represents an unconstitutional limitation on free expression.

Conclusion

Since 1910, the League has served as a trustworthy and capable resource for our cities and for the state. Senate Bill 373 poses a significant restriction on our capacity to be a resource that has served Kansas for over a century. In addition to being poor policy, the constitutional concerns provide additional reasons to vote against SB 373. The League of Kansas Municipalities opposes this legislation, and we urge you to do the same. If there is additional information we can provide, please let me know. We will help however we can.

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¹ *Citizens United v. Federal Election Commission*, 558 U.S. 310, 340 (2010).