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Proponent Testimony HB 2558, Prohibiting the Regulation of Political Activity

HB 2558 should be enacted into law to make clear that local ordinances regarding solicitation do not sweep permissible political activity within their scope or inflict a chilling effect on political activity.

While these ordinances do not directly target political speech, it is important to note that general bans that effect a prohibition on political activity are impermissible paternalism, denying individuals the ability to decide for themselves whether or not to engage in political activity. The U.S. Supreme Court has struck down ordinances forbidding solicitors or distributors of literature from knocking on residential doors and ordinances that require a permit or license were deemed "offensive, not only to the values protected by the First Amendment, but to the very notion of a free society, that in the context of everyday public discourse a citizen must first inform the government of her desire to speak to her neighbors and then obtain a permit to do so."

As a matter of good public policy, door-to-door campaign activity is the most effective means to inform voters on issues and candidates. Kansas electoral districts are small, allowing personal contact between voters and candidates for elected office. Kansas candidates do not need to rely on expensive indirect mail or phone operations, nor must they depend on the news media to accurately transmit their message to voters. Door-to-door political activity is not only the essence of campaigning in Kansas, it also brings marked benefits to the citizens of Kansas by allowing them to meet their candidates face-to-face.

Unfortunately, many local governments have broadly worded ordinances which can be construed to cover political activity such as door-to-door canvassing and literature drops. Local governments may adopt unofficial policies of not enforcing these ordinances against political activity but that makes them selectively enforceable. On October 1, 2014, after Kansas City issued a notice that it intended to enforce its general anti-solicitation ordinance against political activity, the Attorney General issued an Opinion that the city's notice misconstrued the scope of the city's own ordinance and was invalid.

It is the very vagueness of these ordinances that places political candidates and their supporters in a bind, never knowing whether a local government will try to enforce an ordinance against political activity. This creates an impermissible chilling - the stifling effect that vague or excessively broad ordinances have on legitimate political activity.