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SB 401
Written Testimony to Senate
Committee on Utilities
By: Jason A. Gage, City Manager
on behalf of the City of Salina
February 5, 2016

Request

Thank you for the opportunity to provide the City of Salina's position on SB 401. We are very appreciative of your time to consider this written testimony. With that said, we respectfully request that you oppose the passage of SB 401.

Bill Summary

This bill is written to significantly restrict the ability of local governments from managing the proliferation of small cell networks (aka distributed antenna systems - DAS) and other telecommunication facilities.

Reasons For Our Opposition

We believe this bill is not good for Kansas communities for the following reasons:

- The bill hampers a city's ability to properly franchise telecom facilities.
- The bill restricts location review and regulation by cities utilizing its zoning authority. It may also compromise safety considerations. Today, complaints received from our residents cause us to believe that our level of regulation of existing DAS facilities and related utility boxes is insufficient. Many of our residents are very unhappy with DAS locations in their neighborhood. We also believe that eliminating a technical demonstration of need (as allowed by federal law) before siting will negatively affect our neighborhoods.

SENATE UTILITIES COMMITTEE

DATE: 2-9-16

ATTACHMENT # 18

- The bill eliminates a City's right and responsibility to require co-location of facilities. Sharing of facilities is very cost effective and will temper the future, unfettered proliferation of DAS facilities. This should be required, not eliminated.
- The bill restricts regulating the appearance of facilities. Reasonable modifications of appearance to ensure neighborhood compatibility don't typically have a significant cost impact. This effort is also considered an expectation by our residents.
- The permit cost limitation is overly restrictive and capping the cost to 'a building permit for any other type of commercial development' is overly vague and prompts many questions. What permit is to be compared? Is it a single outlet electrical permit? Is it a full permit for a hotel or factory?
- The bill impairs the City's ability to charge a reasonable lease rate for our own property? Both the use of municipal property and the discretion to set lease pricing must remain with the cities unless the State of Kansas wishes to fully fund the future facility maintenance costs of all cities.
- The bill requires a single permit approach. While on first blush the requirement may sound practical, it is not. In fact, it is common for a City to have 30 to 90 of these locations to consider. Each location requires need location impact analysis. Salina's experience is that these antenna requests do not always come in at the same time, but can trickle in over time. So, this requirement prompts the question of "How many separate location applications can the telecom provider submit in a year – 1, 6, 15?"
- Other telecom providers have already invested heavily under the current federal and statutory rules, as applied by cities such as Salina. To change the rules again and again simply to please competing providers appears to actually inhibit fair competition on a level playing field. We certainly oppose that.

Requested Action

This bill appears to be very self-serving to the telecommunications industry, with no community benefit. The telecommunication providers do not appear to have demonstrated they are truly hampered by the current statutory or local, legal framework. Those requesting this legislation desire a major change to the rules for their own competitive

advantage over other telecom providers. As a result, we respectfully request that you oppose SB 401.

Thank you for considering our legislative request!

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