



**TESTIMONY IN OPPOSITION TO HB 2201 – Taxpayer empowerment,
accountability and transparency in state contracting act**

To: Honorable Chairman, Rep. John Barker
House Committee on Federal & State Affairs

From: City of Lenexa, Kansas
Mike Nolan, Assistant to the City Administrator

Date: March 8, 2017

Chairman Barker and members of the committee, thank you for your time and the opportunity to submit testimony opposing HB 2201.

There are certain services and programs that are not easily outsourced or privatized – the traditional example is national defense. However, sometimes it is necessary, cost effective, and efficient for a government to do so. The City of Lenexa does this on a local level, and when it makes sense, we advocate for privatization at the state level if circumstances warrant. The proposed legislation is curious in that it would make the process of gaining efficiency and/or effectiveness more cumbersome.

HB 2201 seems to be aimed at regulating the privatization of several large-scale functions the state government performs. However, the specific language included in the bill is quite far-reaching and more problematic than just ensuring taxpayers are getting a good deal when outsourcing governmental services and programs.

One point of confusion is in the effective date of the bill. It states that services provided by public personnel performing specific functions as of July 1, 2017 are exempt from the law. However, it is not clear as to whether or not it would apply to contracts for services where *some* of the work is done in-house as of that date – but thereafter some of the work is outsourced, particularly on a temporary basis.

Furthermore, the bill is confusing because while a number of provisions are very state-specific, the bill broadly applies to all “agencies” meaning state departments and all political subdivisions – including municipalities. As written, this bill applies to a large number of contracts that municipalities enter into, especially because there is no minimum contract limit for applicability.

The only dollar amount referenced in the bill is for the application of the Kansas Open Records Act (KORA), which requires contracts in excess of \$25,000 be reported. It is an



odd standard to apply in this case, as KORA applicability is based on the *type* of document, not the dollar amount of an agreement.

For some background, here are a few examples of the work the City does that would fall under the provisions of this bill:

1. The City periodically contracts with private attorneys to serve as a *pro tem* prosecutor when there are conflicts in the legal department, attorneys are on maternity leave, etc. Also, the City will occasionally hire outside counsel to handle certain matters that the Legal Department does not have the expertise in or does not have the capacity to handle.
2. When construction activity ramps up in the summer months, the Community Development Department will often hire contract building inspectors or enter into consulting agreements with outside engineering firms to bridge the gap between manpower and demand.
3. To ensure financial accountability, the City hires outside financial advisors, arbitrage consultants, investment consultants, auditors, and appraisers.
4. The City contracts with an outside legislative advocate.

Essentially, most of the consultants hired by the City would be covered by this legislation.

Another concern we have is with the tracking and reporting of each of the pieces of information called for in the bill. It will be costly and an administrative burden to municipalities and Department of Administration alike. There are a significant number of administrative requirements associated with this bill which will be not only cumbersome, but will also add significant time to the contracting process. It will also require substantial state involvement in the local government contracting process – involvement that is contrary to Home Rule authority. The bill requires the Department of Administration establish and maintain an online database of all such contracts and to receive information on specific performance requirements, etc. We currently do not send the state copies of our contracts. If Lenexa and all other cities and counties are required to do so it would generate a significant amount of work for not just the cities and counties, but also for the state. The bill codifies a lot of contractual obligations which are currently not included in every city consulting agreement, generally for good reason.

Transparency in privatization is a good thing for governments and taxpayers. However, HB 2201 imposes unnecessary and cumbersome reporting processes on municipalities. Most of the local government information called for in the bill is available to taxpayers with relatively little effort already and if the desire is to ensure transparency for *state government*, we would ask that the bill be amended to explicitly state that. Given the



contrarily cumbersome nature of and potentially unknown implications of the bill, the City opposes HB 2201 and urges the committee members to oppose it as well.

Sincerely,

CITY OF LENEXA

A handwritten signature in blue ink that reads "Mike Nolan".

Mike Nolan
Assistant to the City Administrator