



ABOVE AND BEYOND. BY DESIGN.

City Hall
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Date: March 9, 2018
To: Senate Committee on Commerce
From: City of Overland Park
Re: Written Testimony for HB 2701 (Neutral – Support Amendment)

Thank you for allowing the City of Overland Park (the “City”) to submit neutral testimony for HB 2701. The City supports the creation of a task force to address broadband access across Kansas. However, we believe the task force, as currently constituted in this legislation, does not reflect the diverse interests needed to advance broadband access and the public interest. If the Committee adds members that create more equitable representation on the task force, the City will support the legislation.

Seven of the 17 members on the proposed task force would be represented or appointed by entities that profit off of their industry’s use of the right-of-way. Municipal entities would only have 2 of 17 representatives. Local governments have invested millions of dollars in acquiring the public right-of-way and carefully manage it and deploy necessary infrastructure for the benefit of the public. While local governments share the interest in bringing advance broadband to our communities, municipal expertise is crucial to advancing broadband deployment in a way that protects the integrity of public infrastructure, reimburses taxpayers for costs required to ensure the broadband facilities are deployed safely, prevents the deployment of facilities which communities strongly oppose (e.g. 120 foot towers in residents’ front yards), and prevents security risks to public safety infrastructure (e.g. private access to publicly-owned fiber). Additional municipal representation on the task force is important to make sure these issues are properly addressed.

The Federal Communication Commission (“FCC”) is currently dealing with fallout from not having meaningful municipal representation on several broadband-related boards (see footnote).¹ In the words of one municipal representative who chose to resign rather than support the pretense that municipalities were represented on the FCC’s Broadband Deployment Advisory Committee (“BDAC”):

“One working group, which did not have a single municipal representative among its 30+ participants, created a draft model state code that included provisions to eliminate all municipal control over when, how, and whether to accept industry

¹ <https://arstechnica.com/tech-policy/2018/01/fcc-broadband-committee-wants-to-restrict-publicly-owned-networks/>

applications for infrastructure deployment... It has become abundantly clear that, despite the good intentions of several participants, the industry-heavy makeup of BDAC will simply relegate the body to being a vehicle for advancing the interests of the telecommunications industry over those of the public. The apparent goal is to create a set of rules that will provide industry with easy access to publicly-funded infrastructure at taxpayer-subsidized rates, without any obligation to provide broadband access to underserved residents.”²

In order to avoid similar problems caused by the BDAC’s lack of municipal representation, and to protect the aforementioned public interests, the City proposes adding at least two new municipal representatives to the proposed task force. The following page includes a potential amendment.

Thank you for allowing the City to testify on this legislation. We respectfully request that the Committee add meaningful municipal representation to the proposed task force before advancing HB 2701 to the full Senate.

² *Id.*

HOUSE BILL No. 2701

By Committee on Energy, Utilities and Telecommunications

2-7

1 AN ACT concerning broadband; creating the statewide broadband
2 expansion task force; relating to the expansion of broadband services.

3

4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) There is hereby established the statewide broadband
6 expansion task force. The task force shall be composed of ~~23~~ {17} voting
7 members, as follows:

8 (1) ~~Four~~ {Three} members of the house of representatives appointed
9 by the speaker of the house of representatives with one ~~member~~ {of such
10 appointees} from the house standing committee on energy, utilities and
11 telecommunications ~~and one member from the house standing committee~~
12 ~~on commerce;~~

13 (2) ~~one member~~ {two members} of the house of representatives
14 appointed by the minority leader of the house of representatives;

15 (3) two members of the senate appointed by the president of the
16 senate with one ~~member~~ {of such appointees} from the senate standing
17 committee on utilities ~~and one member from the standing committee on~~
18 ~~commerce;~~

19 (4) one member of the senate appointed by the minority leader of the
20 senate;

two
members

21 (5) ~~one member~~ appointed by the Kansas association of counties;

two
members

22 (6) ~~one member~~ appointed by the Kansas league of municipalities;

23 (7) ~~two members~~ {one member} appointed by the Kansas rural
24 independent telephone coalition, ~~with one member representing a rural~~
25 ~~service area and one member representing an urban service area;~~

26 (8) ~~two members~~ {one member} from the Kansas cable
27 telecommunications association, ~~with one member representing a rural~~
28 ~~service area and one member representing an urban service area;~~

29 (9) one member appointed by the ~~cellular~~ {wireless}
30 telecommunications industry association;

31 (10) one member representing an electing carrier;

32 (11) one member representing an incumbent local exchange carrier
33 that is a recipient of KUSF funds and serves a rural service area;

34 (12) one member appointed by the Kansas ~~chamber of commerce;~~