



# CITY OF TOPEKA

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## TESTIMONY

### HOUSE LOCAL GOVERNMENT COMMITTEE

#### HB 2135

An Act concerning cities; relating to the political signage in the right-of-way

Brent Trout  
On behalf of the City of Topeka  
February 11, 2018

#### PROPONENT

Chair Thompson and Members of the Committee. I would like to provide testimony on the importance of this legislation to the City of Topeka and why it is a legislative priority.

The prosperity of the State of Kansas is absolutely dependent upon the prosperity of our cities. Over 82% of Kansans live in an incorporated city. In an effort to promote healthy and sustainable communities, and consistent with the Home Rule Amendment of the Kansas Constitution approved by voters in 1960, we support local elected officials making decisions for their communities. There is a need to ensure local governments maintain autonomy and the authority of self-governance to create a safe and sustainable quality of life for residents. In an effort to construct appropriate policies for their community, such as economic and community development initiatives, cities should be committed to implementing procedures which ensure ethical and transparent governance from their officials.

In addition to philosophical concerns, there are practical considerations as well. Since local elected officials and staff receive the direct complaints and since local staff is charged with enforcement of the current provisions, we have questions on our legal ability to enforce the current state law. There are legitimate concerns that current state law on this issue is in conflict with federal law, thereby putting local governments into a bad situation.

- The United States Supreme Court held in *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218 (2015) that sign restrictions that make distinctions in reference to the sign's message are content based and are unconstitutional.
- Generally speaking, if you have to ask what the sign says in order to enforce the law, the law is a content-based restriction in violation of the First Amendment.
- To enforce K.S.A. 25-2711, local authorities must review the content of a sign to determine if it qualifies for the protection from local sign regulations. On its face the statute protects specific signs based on the message. This would appear to be in violation of the Supreme Court ruling in *Reed*.
- The only way for a city to comply with K.S.A. 25-2711 and the ruling in *Reed* is to allow all signs to be placed in the public right-of-way. This would result in not only an aesthetic issue for many cities, but potentially a safety issue as well.
- The above step would likely generate a significant amount of public complaints to which a local government would not be able to respond appropriately.

On behalf of the City of Topeka, we respectfully ask for your favorable support of HB 2135 that repeals legislation that was passed into law in 2015 that restricts a city's or county's ability to restrict political signage in the right-of-way.

Thank you.



Brent Trout