



Testimony

Unified Government Public Relations
701 N. 7th Street, Room 620
Kansas City, Kansas 66101

Mike Taylor, Public Relations Director
913.573.5565 mtaylor@wycokck.org

Signs in the Public Right-of-Way HB 2135

**Delivered February 13, 2019
House Local Government Committee**

The Unified Government of Wyandotte County/Kansas City supports House Bill 2135 because it will remedy a conflict between State law and Federal policy which has caused unsightly and sometimes dangerous situations at intersections and in other public right-of-ways.

Under a Supreme Court ruling, the Unified Government can not discriminate between political signs and any other kind of sign, from yard sale signs to weight loss program signs. The result has been a clutter of cheap, ugly signs at corners and in public medians.

HB 2135 will correct this situation by allowing the Unified Government to prohibit all signs in the public right-of-way.

Date: February 11, 2019
To: Chairman Thompson and the House Committee on Local Government
From: City of Eudora
Re: Testimony in Support of HB 2135

Dear Chairman Thompson and the House Committee on Local Government:

The City of Eudora strongly supports HB 2135 to repeal K.S.A. 25-2711 relating to the placement of political signs. It is extremely difficult for us to reconcile and comply with both K.S.A. 25-2711 and the United States Supreme Court ruling in *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218 (2015). As the former apparently seeks to add protections for the placement of political candidates' campaign signs and the latter renders unconstitutional sign restrictions that make distinctions in reference to a sign's message/ content. To enforce K.S.A. 25-2711, our staff must review the content of every temporary sign to determine if it qualifies for the protection from local sign regulations. On its face, the Kansas statute protects specific signs based on their message and appears to be in violation of the Supreme Court ruling in *Reed*.

The only way for a city to comply with *both* 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 safety issues relating to distracted driving but also an undue burden on private businesses/utilities and municipal utilities and departments that require unfettered access to the right-of-way to perform their work efficiently and without concern of potential legal trouble resulting from pulling and [attempting] replacing signs as they were found.

Thank you for considering the position of the City of Eudora and for your thoughtful review of HB 2135 to repeal K.S.A. 25-2711. We urge you to vote yes to repeal K.S.A. 25-2711.

Kind regards,



Tim Reazin
Mayor



CITY OF HAYSVILLE, KANSAS

200 W. GRAND AVENUE - P.O. BOX 404 - HAYSVILLE, KS 67060
(316) 529-5900 - FAX (316) 529-5925 - WWW.HAYSVILLE-KS.COM

Date: Monday, February 11, 2019
To: Chairman Thompson and the House Committee on Local Government
From: City of Haysville
Re: Testimony in Support of HB 2135

MAYOR

BRUCE ARMSTRONG

CITY COUNCIL

WARD I

STEVE CRUM
DALE THOMPSON

WARD II

DANIEL BENNER
JANET PARTON

WARD III

PAT EWERT
BOB RARDIN

WARD IV

RUSS KESSLER
DANNY WALTERS

To whom it may concern:

Dear Chairman Thompson,

This letter is in support of HB 2135 to repeal K.S.A. 25-2711.

There are several reasons this statute should be overturned. The placing of signs in our city should be in the control of the city and not give preference to one type of sign. This is a local control issue not a state issue.

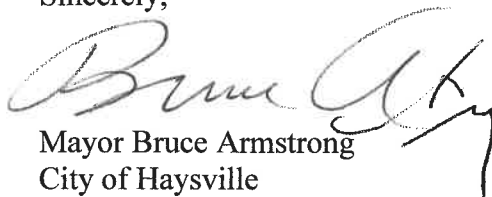
Regulating political signs becomes content based because we have to read the sign to enforce our ordinance. Individuals working for, or politicians themselves, do not follow even the state statute placing signs so they block the view of drivers causing a safety issue.

Thinking that the way to solve the issue is to not enforce our sign ordinance for the 45 day period outlined in the law is not workable because this gives everyone the permission to place signage of any type.

Cities work to make their city aesthetically pleasing to residents. This law works in the opposite for cities leaving potential signs up over the 48 hour time and making the city spend time and resources picking up the signs.

If you have any questions concerning this matter please feel free to contact me directly.

Sincerely,



Mayor Bruce Armstrong
City of Haysville



CITY OF TOPEKA

Brent Trout
City Manager
215 SE 7th Street, Room 357
Topeka, Kansas 66603

Email: btrout@topeka.org
Tel.: (785) 368-3947
www.topeka.org

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



**HEARING ON HB2135
House Local Government Committee
9:00 a.m. on February 13, 2019**

Chairman Thompson and members of the House Local Government Committee:

The City of Wichita supports the proposed repeal of K.S.A. 25-2711 which prohibited municipalities from regulating political signs forty five days prior to an election. The proposed amendments would allow cities to regulate all signs in a consistent and constitutional manner.

Cities should be allowed to determine, within constitutional limitations, the orderly placement of signs within their boundaries. Such local regulation is necessary to promote public safety, provide that city right of ways and traffic control devices are visible to drivers and to reduce sign clutter.

Questions were raised by legislators and municipalities regarding the constitutionality of K.S.A. 25-2711 in light of the United States Supreme Court decision in *Reed v. City of Gilbert*, 135 S. Ct. 2218 (2015). Municipalities and the Kansas Attorney General reached varying legal conclusions regarding the legality of the statute's restrictions.

The statute regulates "political signs" differently from other signs. This distinction arguably would make the statute a content-based regulation. The Supreme Court in *Reed* held that content-based ordinances/statutes are presumably unconstitutional. Such laws are subject to strict scrutiny by courts and will only be upheld if they are narrowly tailored to serve compelling state interests. The imposition of content based regulation of signs on local governments could subject municipalities to costly litigation to enforce the statute's provisions.

The City of Wichita urges passage of this legislation to return the regulation of signs to cities pursuant to its Home Rule and police powers.

Regards,

Mayor Jeff Longwell
City of Wichita

Office of the Mayor

City Hall • 1st Floor • 455 N. Main • Wichita, Kansas 67202-1698

T 316.268.4331 • **F** 316.858-7743



City of Dodge City

806 N. Second Ave.
P.O. Box 880
Dodge City, KS 67801

Phone: 620-225-8100
FAX: 620-225-8144
www.dodgecity.org

To: Chairman Thompson and the House Committee on Local Government
From: Cherise Tieben, City Manager & Ernestor De La Rosa, Assistant City Manager/Legislative Affairs
Date: February 13, 2019
Subject: Written Testimony in Support of House Bill 2135

Honorable Chair and Committee Members:

Thank you for considering my testimony on behalf of the City of Dodge City in support of House Bill 2135, which repeals legislation that was passed in 2015 that restricts a cities and counties' ability to restrict political signage in the right-of-way.

As the entities responsible to manage and regulate the public rights-of-way, we believe that current legislation, which limits the ability to restrict political signage does not serve its intended purpose and poses difficulty for enforcement. The following are a few reasons why we respectfully ask that your repeal current legislation:

- 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 cities 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 a safety issue as well.

We urge you to work with all parties and find consensus among all interested groups. We strongly ask that you support House Bill 2135 and respectfully request that the Committee advance HB 2135 for further consideration.

Thank you for your time and consideration.

Sincerely,

Cherise Tieben
City Manager

Ernestor De La Rosa
Assistant City Manager/Legislative Affairs