

KANSAS OFFICE *of*  
**REVISOR *of* STATUTES**

LEGISLATURE *of* THE STATE *of* KANSAS  
*Legislative Attorneys transforming ideas into legislation.*

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**MEMORANDUM**

To: Chairman Masterson and Members of the Committee on Utilities  
From: Matt Sterling, Assistant Revisor of Statutes  
Date: February 6, 2019  
RE: Senate Bill 68

SB 68 would amend K.S.A. 12-2001 to prohibit a city from requiring a franchise agreement in order to provide wireless telecommunications service. Under current law, K.S.A. 12-2001 allows a city to require a franchise agreement with a telecommunications local exchange service provider for the provision of local switched telecommunications service within any local exchange service area. However, K.S.A. 12-2001 does not address franchise agreements with a wireless service provider. Article 12, Section 5 of the Kansas Constitution gives cities the powers of home rule and allows a city to enact any charge unless it is limited or prohibited by the Legislature uniformly to all cities.

SB 68 would prohibit a city from requiring a wireless service provider to enter into a franchise agreement in order to provide wireless service within the city.

The definition of “wireless services” refers to K.S.A. 66-2019 and is defined as:

“Wireless services” is defined as “personal wireless services” and “personal wireless service facilities” as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities or any fixed or mobile wireless services provided using wireless facilities.

This definition of “wireless services” is tied to several definitions in the federal code that are listed below:

- “Personal wireless service” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.
- “Personal wireless service facilities” means facilities for the provision of personal wireless service.
- “Commercial mobile service” means any mobile service (as defined in section 153 of this title) that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission.
- “Unlicensed wireless service” means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.