

To: Senate Utilities Committee
From: Erik Sartorius, Executive Director
Date: January 27, 2021
RE: Testimony in opposition to SB 24

Mr. Chairman and members of the committee, the League of Kansas Municipalities appreciates the opportunity to offer testimony in opposition to Senate Bill 24. Voters amended the Kansas Constitution in 1960 to provide Home Rule to the cities in Kansas. In municipal government parlance, this is “local control.” The League believes that this bill impinges upon our members’ Constitutional Home Rule powers and their ability to address issues in a way that is responsive to their residents.

Cities develop policies, plans, and ordinances with an eye toward not diminishing the opportunity for their cities’ growth. Quite simply, it is not in their interest to adopt policies that might drive away businesses or residents.

Senate Bill 24 in its construction is extremely broad in the actions – and even *effect* of actions – that it will prohibit. What if a city approves a plan or development that somehow incidentally limits the ability of a particular energy source to reach an adjacent property? Would that constitute an action which “prohibits, discriminates against, restricts, limits, impairs, or has the effect thereof” on an energy choice for a business or residence?

Similarly, cities negotiate franchise fees with utilities for the use of public right of way. Is there a cause of action if there is a difference in the franchise fees for natural gas and electricity? Would a difference in franchise fees be something which “prohibits, discriminates against, restricts, limits, impairs, or has the effect thereof” on the energy choice for a business or residence? Would that jeopardize the franchise agreements maintained by the city?

Should the committee move Senate Bill 24 forward, we believe three important changes are advisable.

- First, the legislation should address the question posed above concerning franchise agreements.
- Second, a sunset provision should be added to the legislation. The reality is technologies and energy options are constantly evolving. Kansas communities should not become stymied by stale state law.
- Third, the bill needs to be amended to clarify that it does not limit a city’s ability to encourage renewable energy usage through voluntary incentive agreements or to manage energy usage at its own facilities.

Again, we thank the committee for its attention to the concerns of the cities of Kansas. The League looks forward to working with the committee and stakeholders on the legislation.