



January 29, 2020

Re: TESTIMONY FROM CITY OF WICHITA ON HB 2461  
Before the House Judiciary Committee

Representative Patton and members of the committee:

Thank you for the opportunity to provide written testimony on this proposed legislation. The City of Wichita opposes HB 2461 and requests careful consideration of this measure. Instead of legislation, the City of Wichita would support discussion between municipalities and the Attorney General in an effort to understand the Attorney General's concerns and determine if joint coordination of certain types of litigation is of value. Prior to HB 2461 being filed, the City of Wichita had not been made aware of any concerns by the State of Kansas about municipalities contracting for legal services.

Contracting for services is clearly a function protected by cities' home rule authority in the Article 12 of the Kansas Constitution. The Kansas voters have clearly supported giving local government this measure of local control for over 50 years. HB 2461 would be in contradiction to this protection.

Contracts for legal services with municipalities currently take a variety of fee structures, depending on the nature of the work and other factors. They may include hourly rates, flat annual rates, or blended rate structures, yet HB 2461 only restricts contingency fee based contracts.

Contingency fee –based contracts are not new for municipalities. For example, many cities and other municipalities, including the City of Wichita, have long entered into fee recovery – based agreements for debt collection. These fee structures provide a market-based, low-risk, flexible, cost-effective tool to recover costs for a variety of City functions, without the expenditure of taxpayer money. No state law has ever precluded these contracts, and taxpayers benefit from these models.

We fail to understand the need for state oversight of an individual municipalities' litigation. Such contracts, as well records of payments under them, are all open records and are available to the public upon request. The City of Wichita engages in competitive procurement processes for professional

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services and is accountable to its citizens for such decisions. The City has not been made aware of any constituent concerns for any type of legal services contract that it has ever had, to my knowledge.

We support an earnest and open dialogue between the Attorney General and representatives of the various types of municipalities that would be regulated by this bill, rather than by rushing straight to legislation.

I do understand that some informal negotiations have occurred resulting in proposed amendments to this bill, however, the City of Wichita respectfully requests that the bill not be advanced out of committee under any version. Again, we are happy to visit with the Attorney General to hear his concerns, but firmly believe that legislation is not an appropriate response.

Thank you for your consideration of the City of Wichita's concerns. Please contact us if you have any questions.

Sincerely,

Jennifer Magaña  
City Attorney and Director of law