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Chairman Thompson
Federal & State Affairs
Room 144-S
State Capitol Building
Topeka, Kansas. 66612

Dear Chairman Thompson and Members of the Committee:

I am appearing today, first, to express my appreciation to the Kansas Legislature for continuing to grant citizens who reside in cities the right to enact city ordinances as codified in KSA 12-3013. It is notable that this statute is celebrating its 65th birthday this year, and its language has been amended only twice since its enactment in 1959. I mention this legislative history and its continual use throughout the decades because this tradition should give every senator sitting on this committee confidence that allowing citizens the right to propose city ordinances by petition and election has proven its worth. Ordinances have been proposed to address public policy issues ranging from, where to build a public building, to purchase a racetrack, and how city residents will be taxed.

SB 474 proposes to strengthen and protect this statutory tradition by a modest expansion in its scope of application.

To review, citizens of cities may enact a city ordinance by drafting a proposed ordinance, passing a petition among residents of their city, proving they have gathered the required number of signatures from city residents, and then submitting the petition to the city council where they decide to enact or reject the proposal. If the council rejects the proposal, an election is held by city residents to adopt or reject the proposal.

Meeting all of the statutory requirements of enacting a citizen ordinance requires a great deal of planning, execution, and expression of considerable public support. Despite these facts some city administrators and city councils may consider these efforts to be an intrusion on their power to enact ordinances. It is possible city legal staff may be directed to scrutinize citizen petitions in order to prevent these initiatives. Sometimes, the courts are also asked to determine the legal sufficiency of proposed ordinances. This is where SB 474 comes into play.

When a court determines that a proposed ordinance has failed to legislate but instead tells city executives how to conduct their operations, they likely run afoul of the prohibition against enacting administrative ordinances. SB 474 simply eliminates the prohibition of enacting administrative ordinances while recognizing the courts will always determine the constitutional of an ordinance or proposed ordinance.

Sincerely,

Eric Rucker