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February 11, 2013

The Honorable Dennis Pyle, Chairman
Senate Committee on Ethics, Elections and Local Government
Room 159-S, State Capitol
Topeka, KS 66612

Re: S.B. 109

Dear Chairman Pyle and Members of the Committee:

On behalf of my client, the Board of Riley County Commissioners, I offer my testimony in opposition to S.B. 109.

My client believes the state legislates best on issues that matter to local government when the legislature has direct access to local governing bodies and their staff. S.B. 109 prohibits that access. Riley County experienced a matter demonstrating how useful such access can be to legislators.

In 2009 Riley County learned of a nationwide effort originating within the Department of Defense to have various states enact a statute forbidding commercial and industrial "encroachment" upon military bases. Reviewing the "cookie cutter" version of the D.O.D. statute the state of Kansas was considering, my client quickly came to the conclusion it was unacceptable. My client based its conclusion, in large part, upon input from the Riley County Planning and Development Department. That county department oversees all zoning, and land use planning issues in Riley County. Simply put, the "one size fits all" legislation offered up by D.O.D. was full of ambiguities and vague policy statements. That original version of the federally-generated statute would not have fostered a good working relationship between Riley County, Fort Riley, and the communities bordering the Fort.

A good working relationship between military bases and their surrounding communities is often cited as a prerequisite to a base's survival, if and when the Base Realignment and Closure Commission (BRAC) is reactivated. The financial stakes for getting this statute "wrong" were therefore huge for the economies of Riley and Geary County, Fort Riley, and all communities abutting the base.

In February, 2009, my client created a 19-member local working group composed of local civilian and military interests, national military representatives, as well as staff from Riley and Geary County. That group's charge was to work on an alternative version of the statute which would be better-suited to local conditions. By late March, 2009, the working group had a "consensus draft" of an alternative version of the statute. That alternative statute was acceptable to a vast majority of the local civilian interests my client had brought to the table. It was acceptable to all the local and national military interests whom had been included in the discussion. My client placed that "consensus draft" on the Riley County website and discussed it at length in its regular and open public meetings throughout the spring, summer and fall of 2009.

My client's alternative statute was discussed, in detail, with our Riley County legislative delegation, on my client's initiative. For example, we did so at our June, 2009 Riley County legislative conference. We also placed the Riley County alternative version of the statute on our 2010 state legislative platform.

During the 2010 legislative session, at my client's initiative, we worked for passage of the alternative statute with both the Riley County delegation, and other legislators, in the form of H.B. 2445 and H.B. 2487. This effort was successful and the alternative statute was passed, becoming law as K.S.A. 2011 Supp. 12-772; K.S.A. 2011 Supp. 12-773; K.S.A. 2011 Supp. 12-774; and K.S.A. 2011 Supp. 12-775.

In my opinion, none of the foregoing could have been accomplished had S.B. 109 been law in 2009. In that event, my client could not have lawfully initiated all of the interaction it had during 2009 and 2010 with the Riley County legislative delegation and other legislators. Instead of the significantly altered statute with broad local support we were able to provide the 2010 legislature, Riley County might easily have been "stuck" with the original defective statute. That original version lacked the following phrase, which now appears as K.S.A. 2011 Supp. 12-775:

"Notwithstanding any other provision of this act, the final decision on all planning, development, zoning and land use issues shall be made by each municipality adjacent to or surrounding a military installation."

Through my client's direct Riley County--initiated contact with our legislative delegation and other Kansas legislators, my client was able, in 2010, to preserve local civilian control over zoning and land use issues involving Fort Riley. Simultaneously, we were able to satisfy the military that we continued to be a good neighbor and had addressed its concerns about "encroachment" on Fort Riley and the other Kansas military bases.

In my opinion, the legislature will create better, more effective legislation affecting counties only if it preserves the right of counties to initiate contact, to lobby, on public policy issues. S.B. 109 eliminates your access to the local information you need when crafting legislation with an impact on local government.

Please do not pass S.B. 109 to the floor of the Senate.

Sincerely,



Clancy Holeman
Riley County Counselor

cc: Board of Riley County Commissioners