



KANSAS REPUBLICAN PARTY

February 16, 2016

Proponent Testimony HB 2558, Prohibiting the Regulation of Political Activity

HB 2558 should be enacted into law to make clear that local ordinances regarding solicitation do not sweep permissible political activity within their scope or inflict a chilling effect on political activity.

Political speech and activity is subject to the highest level of Constitutional protection. It may only be regulated when there is a compelling government interest and in a narrowly tailored specific way.

Bans on political activity are impermissible paternalism, denying individuals to ability to decide for themselves whether or not to engage in political activity. The U.S. Supreme Court has struck down ordinances forbidding solicitors or distributors of literature from knocking on residential doors. Martin v. City of Struthers, 319 U.S. 141 (1943)

Ordinances that require a permit or license are "offensive, not only to the values protected by the First Amendment, but to the very notion of a free society, that in the context of everyday public discourse a citizen must first inform the government of her desire to speak to her neighbors and then obtain a permit to do so." Watchtower Society v. Village of Stratton, 536 U.S. 150 (2002)

Kansas electoral districts are small, allowing personal contact between voters and candidates for elected office. Kansas candidates do not need to rely on expensive indirect mail or phone operations, nor must they depend on the news media to accurately transmit their message to voters. Door-to-door political activity is not only the essence of campaigning in Kansas it also brings marked benefits to the citizens of Kansas. Door-to-door campaign activity is the most effective means to inform voters on issues and candidates.

Unfortunately, many local governments have broadly worded ordinances which can be construed to cover political activity such as door-to-door canvassing and literature drops. Local governments may adopt unofficial policies of not enforcing these ordinances against political activity but that makes them selectively enforceable. On October 1, 2014, after one Kansas city issued notice that it intended to enforce its anti-solicitation ordinance against political activity, the Attorney General issued an Opinion that the city's notice misconstrued the scope of the city's own ordinance and was invalid.

It is the very vagueness of these ordinances that places political candidates and their supporters in a bind, never knowing whether a local government will try to enforce it an ordinance against political activity. This creates an impermissible chilling - the stifling effect that vague or excessively broad ordinances have on legitimate political activity.

We, therefore, support a clear, bright line rule that local government cannot prohibit or regulate door-to-door political activity.

Submitted by: Clayton Barker, Executive Director, Kansas Republican Party