



Testimony of the Kansas Association of Counties to the
Senate Committee on Federal & State Affairs
Proponent for House Substitute for HB 2398 • April 2, 2018

Mr. Chairman and Members of the Committee:

In 2017, a case emerged out of Cowley County that placed 29 counties out of compliance with the court's ruling.¹ For the 35 counties under a County-Township System, there is now confusion on responsibility for road signs. Each county and township handles signage in a slightly different manner, but the change in House Substitute for HB 2398 will maintain status quo for most of the counties and improve clarity in the law. Further, each of the 35 affected counties agreed to the language and supports its passage. KAC supports this bill on behalf of its members, and we ask you to do the same.

While KAC initiated this bill late last year, we were able to move it forward this session. It passed 124-0 in the House. Before its passage, Norm Bowers—KAC's Local Engineer—again contacted each of the 35 counties to confirm continued support. He provided the following analysis in case there are questions on how the bill will affect each jurisdiction:

This year, all 35 counties with the County-Township System have been consulted, and the proposed language follows current practice in 29 of those counties. In Harvey, Osage and Washington Counties, the county maintains the regulatory signs on township roads, so those townships might have a little more signing to maintain. In Barton County, the county maintains all the signs on township roads, so if the county followed the new law the townships would have more to maintain. In Reno County, the townships maintain the street name signs on township roads. In Dickinson County, the township maintains the signs related to county culverts. So in Dickinson and Reno, the counties would have more to maintain (*note, both counties are on board with this plan*).

While we had broad support for the bill in House Fed & State, you can see the language is now a substitute bill. Representative Averkamp intended to carry the bill in 2017, but the original bill was drafted in a negative tense. This followed the language in the original law, but the result was confusing. We worked with Representative Averkamp and the Revisor's Office to create a clear construct for signage responsibility. House Substitute for HB 2398 is the end result.

¹ *Patterson v. Cowley County* (2017), 388 P.3d 923.

The case that prompted the legislation, *Patterson v. Cowley County*,⁶ placed counties and townships in a confusing situation for those operating in a County-Township System. *Patterson* held that townships do not have authority to place traffic control devices on roads within the township jurisdiction. This runs counter to normal practices across the state, which includes counties generally authorizing regulatory signs (speed limits, no parking, and stop signs) and townships generally *installing* both regulatory and warning signs (upcoming travel hazards).⁷ Despite this practice and intent, the *Patterson* Court held that counties are responsible for all signs. HB 2398 gives clarity for everyone moving forward.

Under HB 2398, the amended language provides a point-by-point specification on which jurisdiction covers the signage responsibility. The bill provides clear guidance for everyone on roads maintained by townships. This will bring our counties into compliance with the law and help ensure predictability as municipalities maintain our transportation system.

Respectfully,



Nathan Eberline
Kansas Association of Counties
Kansas County Highway Association

⁶ *Patterson v. Cowley County* (2017), 388 P.3d 923.

⁷ *Id.* at 944-945.