

Date: February 20, 2017
To: House Committee on Elections
From: City of Hutchinson, Paul W. Brown, City Attorney
Re: HB 2310 – Opponent

Thank you Chairman and Committee for allowing me to submit testimony on HB 2310. The City is currently opposed to this legislation because Section 4 would potentially repeal long-standing charter ordinances that are essential to the City's operations.

When a non-uniform enactment is made uniform, those charter ordinances opting out of the enactment are effectively repealed. The City is concerned that, because it has relied on the non-uniformity of K.S.A. 25-2110a to charter out of other statutes that were part of the same enactment, this legislation will potentially repeal those charter ordinances. The city election statutes have been non-uniform for decades, and the City has exercised its Home Rule powers during that time to adopt local rules related to elections and other issues.

The legislation would reverse the City's decision to charter out of K.S.A. 12-104a. This law is unworkable because it requires cities to call a special election within 45 days if they haven't filled a vacancy within 60 days, and conflicts with many other statutes speaking to this issue.

In addition, to adjust to the 2015 election law, the City drafted one new charter ordinance controlling its election process, terms transitions, its form of government rules, its district system, and other essential provisions for operating the City. If the non-uniform statute the City was relying upon to pass that charter ordinance is made uniform, that charter ordinance, and the essential provision within it, will potentially be repealed. It is simply bad policy to throw into disarray cities most essential operational rules when those rules are required for an election only months away.

If the Committee thinks more statutory clarity is necessary, the League of Kansas Municipalities has crafted an amendment to HB 2310 that accomplishes that, and doesn't force cities to be subject to flawed policies. Like HB 2310, this amendment creates uniform rules for the filing fee and where candidates are to file. However, it also leaves non-uniform provisions for the nomination petition requirements. The result of this amended legislation would be statutory clarity, the continued validity of city charter ordinances, taxpayers avoiding the cost of recodifying new ordinances, and legal certainty heading into the inaugural November city elections.

For these reasons, I ask that Committee either not pass HB 2310 out of committee, or adopt the amendment drafted by the League of Kansas Municipalities. Thank you for your consideration.