

**Senate Committee on Ethics, Elections and Local Government**

**Hearing on Senate Bill 109**

**Monday, February 11, 2013 at 9:30 a.m.**

**Testimony of Loren J. Pepperd**

**Mayor, City of Manhattan, Kansas**

Good morning Chair Pyle, Vice Chair Holmes and honorable members of the committee. My name is Loren Pepperd, and I have the honor of serving as Mayor of the City of Manhattan, Kansas. I want to thank you for this opportunity to provide testimony to the Committee.

The City of Manhattan opposes Senate Bill 109 that prohibits the use of public funds for lobbying the state legislature or agencies and contractors of the State of Kansas. The language in the bill is far-reaching and effectively eliminates the ability of municipalities to discuss public issues with the legislature.

Lobbyists serve a vital role in state government. They provide expertise to their clients on how to navigate a sometimes complicated legislative process. They assist legislators by conveying timely and accurate information about constituent positions and concerns on various issues. The City of Manhattan is a member of the Kansas League of Municipalities which has employees to represent local governments at the state capitol. In addition, the City has a modest part-time contract with a lobbyist to act as a day-to-day monitor of state legislative issues and to assist the City in communicating with legislators, the Governor's office and state agencies on key issues. It is essential for the City to have this representation due to the vast array of state legislative and regulatory actions that affect local government including, but not limited to, laws regarding annexation, taxation, shared state revenues, municipal finance, utilities, public retirement, emergency management, state mandates and much more.

We need to have daily representation in Topeka, especially during the legislative session, due to the complexity and pace of state law-making. For example, on Friday, Senate Bill 109 was scheduled for this morning's hearing. The City learned from its lobbyist and the League late Friday evening that the bill would be heard on Monday morning. We coordinated over the weekend to make arrangements to participate in this hearing. Without assistance from lobbyists who are daily tracking the legislative calendar, the City of Manhattan probably would have missed this opportunity to publicly voice our opposition.

If we did not have a contract lobbyist, the City would likely assign staff members to have a more frequent presence in Topeka to monitor and react to state legislative issues that could affect the City, as well as work with legislators to draft and implement legislation. That would require hiring additional staff and/or re-assigning staff from their existing duties. The cost of having full-time staff in Topeka would undoubtedly exceed the cost of our lobbying contract.

However, the bill appears to restrict even staff or local officials from interacting with state government. The bill states that "no public funds may be used directly or indirectly for lobbying." It goes on to say that public funds shall not be used for employing any person whose duties include lobbying. The state definition of lobbying includes promoting or opposing any legislative matter or any regulatory action of state agencies. Therefore, this bill may render ineligible the Mayor, the City Manager, or any other official employed by the City from expressing an opinion to state legislators or state agencies. The bill seems to create an exception for employees acting in an official capacity, but the language is unclear. It suggests that cities may only engage in the public process upon the request of a member of the legislature or through "proper official channels." What are the official channels? Do I need to wait for an invitation to express an opinion to my legislators?

The bill goes far beyond lobbying and restricts the payment of membership dues to an association that is engaged in lobbying the state. This would prohibit the City from maintaining its membership in the Kansas League of Municipalities and similar organizations, such as Kansas Municipal Utilities. Lobbying is only one aspect of the services offered by the League and similar professional organizations. In addition, the League provides important training, legal, and networking services to municipalities that would all be forfeited through this legislation.

The tie to public funds will extend the impact of this bill far beyond municipalities. The City has contracts for services and grant agreements with a number of outside agencies such as the Manhattan Area Chamber of Commerce, the Flint Hills Regional Council, and the Flint Hills Metropolitan Planning Organization, not to mention numerous contracts with private vendors for goods and services. Although none of the public funds that go to these agencies are directly used for lobbying or association membership dues, the term “indirectly” in the legislation creates a gray area. To ensure compliance with the law, any entity paid with public funds for services rendered or a recipient of public funds through the budgeting process would likely have to refrain from expressing opinions to the legislature, either through its staff or professional associations.

This bill is contrary to the essential ideals of democratic governance. Legislators rely on advice and input from their constituents to make informed decisions, and constituents often rely on lobbyists to facilitate the communication. Any legislation that limits a healthy, public exchange of ideas is a recipe for bad government.

There are numerous past examples of Manhattan's involvement in the state legislative process in which the outcomes could have been very different for the City and the State of Kansas if this legislation would have been in place. Without support from lobbyists, it is unlikely that Kansas, K-State and Manhattan would be the future home of NBAF. Manhattan Regional Airport would not have commercial jet service, which would have continued the flow of air travel funds to Missouri. T-WORKS funded projects, including Highway K-18 which is essential for a viable Fort Riley, may not have occurred. There would not be a second count date for public schools impacted by major fluctuations in enrollment around military bases. Fort Riley could have been designated as a closure base instead of a growth base during the last BRAC; and if this legislation passes, the City will not be able to work with the state in future BRAC cycles. These are just a few examples of the types of negative repercussions that may result from this legislation.

Please oppose SB109 and thank you for your consideration. I am happy to answer any questions.