

To: House Energy, Utilities, and Telecommunications Committee  
From: Erik Sartorius, Executive Director  
Date: March 16, 2021  
RE: Testimony in opposition to SB 24

Mr. Chairman and members of the committee, the League of Kansas Municipalities appreciates the opportunity to offer testimony in opposition to Senate Bill 24. Voters amended the Kansas Constitution in 1960 to provide Home Rule to the cities in Kansas. In municipal government parlance, this is “local control.” The League believes that this bill impinges upon our members’ Constitutional Home Rule powers and their ability to address issues in a way that is responsive to their residents.

Cities develop policies, plans, and ordinances with an eye toward not diminishing the opportunity for their cities’ growth. Quite simply, it is not in their interest to adopt policies that might drive away businesses or residents.

Senate Bill 24 is extremely broad in the actions – and even *effect* of actions – that it will prohibit. What if a city approves a development that incidentally limits the ability of an energy source to reach an adjacent property? Would that constitute an action which “prohibits, discriminates against, restricts, limits, impairs, or has the effect thereof” on an energy choice for a business or residence? The attached amendment supported by the League and several other organizations would address our concerns of incidental effects of a city’s policy be a cause of action against them. Further, the language clarifies that cities’ efforts to improve energy standards in their community would not cause a breach of SB 24.

Similarly, cities negotiate franchise fees with utilities for the use of public right of way. Is there a cause of action if there is a difference in the franchise fees for natural gas and electricity? Would a difference in franchise fees be considered something which impacts the energy choice for a business or residence? Would that jeopardize the franchise agreements maintained by the city?

Should the committee move Senate Bill 24 forward, we believe three important changes are advisable:

- First, the legislation should address the question posed above concerning franchise agreements.
- Second, adopting the attached amendment which is supported by the League and several other organizations.
- Third, the bill needs to be amended to clarify that it does not limit a city’s ability to encourage renewable energy usage through voluntary incentive agreements. We do appreciate that the Senate clarified cities will be able to manage energy usage at its own facilities.

Again, we thank the committee for its attention to the concerns of the cities of Kansas. The League looks forward to working with the committee and stakeholders on the legislation.

*As Amended by Senate Committee*

Section of 2021

**SENATE BILL NO. 24**

By Committee on Utilities

1-13

1 AN ACT concerning municipalities; prohibiting any requirements that  
2 impact a customer's use of energy, relating to ~~public utilities~~ *natural*  
3 *gas utility service*; creating the Kansas energy choice act.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) As used in this section:

7 (1) "Municipality" means any county, city, township or other political  
8 or taxing subdivision thereof, or any board, bureau, commission,  
9 committee, department, division or other agency thereof.

10 (2) "~~Public-Utility service~~" means *any the retail provision of natural*  
11 *gas or electric public utility as defined in K.S.A. 66-104, and amendments*  
12 *thereto.*

13 (b) A municipality shall not impose any ordinance, resolution, code,  
14 rule, provision, standard, permit, plan or any other binding action that  
15 prohibits, discriminates against, restricts, limits, impairs, ~~or has the effect~~  
16 ~~thereof~~, an end use customer's use of a ~~public utility-based upon the source~~  
17 ~~of energy to be delivered to such customer service.~~

18 (c) *This section shall not be construed to restrict the ability of a*  
19 *municipality to limit an end use customer's use of a utility service if the*  
20 *end use customer is such municipality.*

21 (d) This section shall be known and may be cited as the Kansas  
22 energy choice act.

23 Sec. 2. This act shall take effect and be in force from and after its  
24 publication in the statute book *Kansas register.*

Delete comma after "prohibits"; add "or unreasonably"

Delete

(d) Nothing in this act shall infringe any municipality from setting new performance standards for efficiency, emissions, and health and safety as it relates to energy use in new or existing buildings.