

To: Senate Federal and State Affairs Committee
From: Erik Sartorius, Executive Director (esartorius@lkm.org)
Date: March 14, 2022
RE: Testimony in opposition to Senate Bill 547 – Oral Virtual Testimony

Good morning, Chairman Olson and Committee Members and thank you for allowing the League of Kansas Municipalities to offer testimony in opposition to Senate Bill 547.

Changes in technology this century have brought about amazing transformations in our lives. The complexity contained within this technology has been disruptive – in good ways and bad – across the spectrum.

Governments and businesses have tried to thread the needle with governance issues. Completely retain old laws and ingenuity can be stifled; but throw out all the laws, and you get the Wild West. As telecommunications, cable, wireless and other interests have come to the legislature, at times gunplay has ensued. Cities have sometimes been targets, and at other times we have caught some stray bullets.

Frequently, however, parties look for reasonable ways to sit down, discuss priorities, and figure out “must haves” in a give and take. That has not been the case with Senate Bill 547. Its introduction at nearly the end of the legislative session does a disservice to the complexities of the issues involved.

Further, the contents of SB 547 are akin to bringing a Gatling gun to a skeet shoot – it stands to blow apart longstanding right of way governance and franchise statutes. This leaves everyone involved on edge – local governments as well as these several industries. Sudden changes proposed at the last minute that sway advantages to one party over others causes conflict and anxiety. Neither of those things tend to produce the best legislation, and frequently produce unintended results.

The exemptions of “direct broadcast satellite service” and “a provider of digital audiovisual works delivered over the internet, including streaming content” may seem simple changes on their face. However, both upend the long-established expectation that users of the right of way are subject to cities’ necessary regulations, permitting requirements, and franchise agreements. With so many competitors in the universe of “streaming content,” the expected result of the passage of SB 547 will be all competitors coming to the legislature seeking equal treatment of their services.

Our understanding from proponents of this legislation is that they are now not seeking changes to (f) on page 4. We support that removal, as the bill as drafted sets different audit criteria and standards than those of other similar providers, opening the door for claims of discrimination and unfair treatment between providers.

Off and on hallway conversations in recent years have contemplated a larger examination of the legal framework under which is placed the myriad means we use to access information in the world. Undertaking a comprehensive look at issues – we would suggest stakeholders working on issues over the summer and fall – offers the chance for a better framework for all parties. We fail to see how that would not be better for all parties.

We would ask to work with the proponents of the legislation and all other stakeholders to reach mutually agreeable solutions. We thank you for the opportunity to provide testimony today.