

**TESTIMONY OF COLLYN A. PEDDIE, ON BEHALF OF THE CITY OF HOUSTON, IN**  
**OPPOSITION TO SENATE BILL 2858<sup>i</sup>**

House Intergovernmental Affairs Committee Hearing, May 13, 2025, 8:00 A.M.

Good morning, Chairman Bell and members of the Committee,

I am Collyn Peddie, Houston’s City Solicitor General, testifying against Senate Bill 2858. In doing so, I suggest three amendments to lessen its negative impacts on cities while still achieving the state’s goals.

**1. Remove all financial penalties.** The State and private parties already have adequate means of preempting conflicting local laws and 2858 provides private parties with new tools. Nevertheless, the bill also imposes severe financial penalties that bear no reasonable relationship or proportionality to the alleged wrongdoing. A city can pass a minor health regulation in good faith, one that has no state counterpart, yet find itself financially hamstrung for five years. Such severe financial penalties should be reserved only for fully-adjudicated, willful or repeat violators. Voiding offending laws and subjecting cities to private damages claims and fees is more than sufficient inducement for cities to comply.

**2. Reverse the presumption of guilt in AG actions and/or remove penalties during pending actions.** If a city is accused of violating 2858, it must prove it did not. SB 2858 thus violates—and reverses—the presumption of innocence. Worse, while trying to prove their innocence, cities suffer exactly the same financial penalties they would suffer if found liable. There is no compelling need for either requirement, no flood of city regulations in conflict with state law to beat down. Instead, 2858’s presumption of guilt should be reversed and its penalties should not be imposed unless and until the AG proves his case by a preponderance of the evidence.

**3. Change 2858’s preemption language to make it constitutional: 2858’s preemption language has already been found unconstitutional in a case Houston brought challenging SB 2127, from the 2023 session, which contains identical preemption language. Upon passage, 2858 will surely suffer the same fate. Texas law preempts local law only when it is unmistakably clear that the two conflict. To make 2858 constitutional then, its preemption language must be clarified to include the Constitution’s conflict requirement, which it currently omits.**

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<sup>i</sup> Collyn Peddie is a 43-year attorney and the first Solicitor General of the City of Houston. She has been responsible for all of Houston’s numerous state/local preemption appeals for the last seven years, including several before the Texas Supreme Court. In particular, she is lead lawyer in the lawsuit, *Houston, et al., v. Texas*, in which Houston, El Paso and San Antonio obtained a final judgment declaring unconstitutional HB 2127, an almost identical “super-preemption” bill. In private practice, she spent 14 years focusing preemption issues on both the defense and plaintiffs’ sides. She chaired the American Association of Justice’s national Preemption Litigation Group for several years and has written amicus briefs and assisted in the preparation for several of the U.S. Supreme Court’s landmark preemption cases. In addition, she also obtained a *writ of certiorari* for her clients and was on brief in another preemption appeal involving the Vaccine Act. Ms. Peddie has written and spoken extensively on preemption issues for more than twenty years, including testifying on preemption issues before the U.S. Senate Judiciary Committee.