

SESSION OF 2025

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2116

As Amended by Senate Committee of the Whole

Brief*

HB 2116, as amended, would require cities and counties to use standard contract provisions prescribed by the Department of Administration (Department) as used in state contracts. The provisions are contained in Form DA-146a, published by the Department, and include provisions governing warranties, liabilities, taxes, insurance, and applicable laws.

The provisions of the bill would apply only to cities of the second or third class and to any county with a population less than 35,000 and to any contract entered into after July 1, 2025.

The bill would require the provisions to be included in each contract unless the governing body of the city or board of county commissioners decides to omit a provision by affirmative majority vote. However, the governing body or board may not omit the provisions regarding indemnity or governing law, as specified in the bill.

Indemnity

The bill would state it is public policy of Kansas for a contract entered into by a city or county governing body to restrict city or county responsibility for actions or failure to act under a contract. It would stipulate that no city or county would be authorized to enter into a contract that would indemnify or hold harmless against damages, injury, or death

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

resulting from actions or failure to act of any party to a contract other than the governing body of a city or county or its officers or employees.

Governing Law

The bill would state it is the policy of the State that contracts entered into by a city or county governing body, or its officers or employees acting on their behalf, shall be governed and interpreted in accordance with Kansas law. The bill would require that any contract entered into by a city or county be governed and interpreted by the laws of the State of Kansas. No city or county would be authorized to enter into a contract that stipulates the contract be governed or interpreted by laws of any state other than Kansas.

Background

The bill was introduced by the House Committee on Local Government at the request of Representative Blex.

House Committee on Local Government

In the House Committee hearing, written-only **proponent** testimony was provided by representatives of the Kansas Association of Counties and the City of Independence, Kansas. The proponents generally stated that smaller cities and counties do not have the same bargaining leverage in vendor contracts as do larger cities and counties, and that the amount of money that small cities and counties deal with in vendor contracts is much smaller. The proponents stated the bill would allow a greater possibility for smaller cities and counties to negotiate with vendors because it would grant certain provisions to be non-negotiable while maintaining the capacity of larger cities and counties to negotiate based on contract size.

Neutral testimony was provided by a representative of the League of Kansas Municipalities, who stated the bill's provisions could be beneficial in some contract negotiations but could hinder negotiations with others. The conferee stated that making the bill apply only to cities of the second and third class and counties with populations less than 35,000 would possibly allow the bill to give smaller cities and counties similar negotiation power to that of larger cities and counties.

No other testimony was provided.

Senate Committee on Local Government, Transparency and Ethics

In the Senate Committee hearing, written-only **proponent** testimony was provided by a representative of the Kansas Association of Counties and the attorney for the City of Independence. The testimony expressed support for flexibility for larger cities and counties in the bill.

Neutral testimony was provided by a representative of the League of Kansas Municipalities.

No other testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

The bill was withdrawn from the Consent Calendar on March 11, 2025, and placed on General Orders.

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to clarify the bill would apply to any contract entered into after July 1, 2025.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Kansas Association of Counties indicates enactment of the bill would require changes to certain forms, which would not have a fiscal effect on counties. However, the Association notes that the bill could affect contract negotiations and costs of services, but that fiscal effect cannot be estimated. The League of Kansas Municipalities indicates enactment of the bill would not have a fiscal effect on cities.

Standard contract provisions; state contracts; city and county contracts; Form DA-146a