

Approved: 3-15-00
Date

MINUTES OF THE HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by Chairperson Lisa Benlon at 3:35 p.m. on February 16, 2000 in Room 521-S of the Capitol.

All members were present except: Doug Johnston (E)
Peggy Palmer (A)
John Topliker (A)
Billie Vining (E)

Committee staff present: Dennis Hodgins, Research
Mary Galligan, Research
Theresa Kiernan, Revisor
Dee Woodson, Committee Secretary

Conferees appearing before the committee: Representative Tim Carmody
Dan Hermes, Governor's Office
Dana Fenton, Johnson County
Larry McAulay, Asst. County Counselor, Johnson County
Terry Humphrey, Kansas Trial Lawyers Association
Kathy Sexton, Sedgwick County (written testimony)
Erik Sartorius, Johnson County Board of Realtors
(written testimony)

Others attending: See attached list.

HB 2346 - Campaign finance; political committees established by members of legislature

Chairperson Benlon opened hearings on **HB 2346**.

Representative Tim Carmody explained what PAC's (Political Action Committee) are and how they are formed. He testified one of the purposes of a political committee can be to make contributions or expenditures for the nomination, election or defeat of a clearly identified candidate for state or local office. He stated a political committee can be formed by any two or more people at any time, and it may accept donations and contributions in any amount at any time, which he saw as a problem. He added that such committees may accept contributions during the legislative session from registered lobbyists, other political committees or any other person. Representative Carmody also said there was no limit to the number of political committees a legislator could set up. He stated that this bill would prohibit legislators, members elect, or candidates for election to the Legislature from serving as officers or directors of a political committee which expressly advocates, or makes contributions or expenditures, for the nomination, election, or defeat of a clearly identified candidate for the Legislature. Representative Carmody elaborated that the bill excludes candidate committee and party committees from the definition of political committee. He said he believes that the campaign finance act never intended to allow a method to avoid the restrictions on contributions to political campaigns, and asked that the loophole be closed. He stood for questions. (Attachment 1)

General questions and discussion followed regarding: what happens to the PACs that are already in existence and operating, how does this affect the Republican House Campaign PAC, limitations of money coming out of the PACs, and what happens to the PAC money when the PACs are dissolved.

Representative Shriver asked if he would be able to set up a PAC and receive contributions during the legislative session through the PAC?

Representative Carmody responded both yes and no. He said the way he understood the campaign finance committee that the legislator would set up could accept contributions in an unlimited amount from a lobbyists or anything, but that a political committee could not make contributions to you or your candidate committee during the session period.

CONTINUATION SHEET

Dan Hermes, Director of Governmental Affairs for the Governor, testified as a neutral party, and explained that this bill extends the ban to recognized party committees of the House and Senate and individual leadership political committees. He said currently that contributions to state-wide elected officials and candidates, as well as legislators or candidates for the legislature, are prohibited between January 1 and sine die except for contributions from individuals. He clarified that the current law in place is to prevent solicitation of contributions while the legislature is considering changes in law. Mr. Hermes further added that this bill is a continuation of the effort to make sure solicitations do not take place at a time where special interest have matters being voted on by the legislature. He said the Governor had a bill introduced in the Senate, waiting floor action, that also related to leadership PACS as well as the four political committees previously mentioned by Representative Shriver. (Attachment 2)

There were no opponents to this bill, and following questions from the Committee, the Chair closed hearings on HB 2346.

Chairperson Benlon opened the hearings on HB 2738.

Dana Fenton, Intergovernmental Relations Coordinator for Johnson County spoke in support of HB 2738, and his testimony covered Section 1 of the bill. He said Johnson County was seeking legislative clarification of its home rule powers. He stated the bill was also supported by Sedgwick County, Kansas Association of Counties, and the Johnson County Board of Realtors. He explained that this bill would provide counties the express power to sell, lease, license, market and copyright computer software that a county had (1) developed in-house or (2) contracted with a private vendor to develop. He stated this bill is modeled after similar legislation in the states of Florida, Texas and Maryland. Mr. Fenton said that Johnson County would probably work through private vendors to market the computer software as they do not want to get into the software business, but feel that other counties could benefit from this specialized software system. He stated that Johnson County would benefit by receiving royalties, the private vendor would gain by obtaining more business and profits, and the buyer of the software would realize a benefit by knowing that the product had been used successfully by the owner. He stood for questions. (Attachment 3)

F. Lawrence McAulay, Jr., Assistant County Counselor for Johnson County, testified in support of HB 2738, and helped draft the proposed language in this bill after reviewing what several other states had litigated. Cynthia Dunham, Assistant County Counselor for Johnson County, accompanied him and was available to assist in answering any questions. She had co-drafted this bill with Mr. McAulay. He said this bill would give Kansas counties specific authorization to sell, lease, license, market or otherwise distribute computer software for commercial or noncommercial use to any other public or private entity or individual, adopt fees and prices, copyright software, and other authority detailed in the bill. He communicated that Johnson County recognized and supported its statutory Home Rule authority found in K.S.A. 19-101 et seq. Mr. McAulay felt that the County had amply authority under Home rule to allow it to sell software it had developed under contract with an outside vendor. He expressed that counties today are heavily dependent on software, and the software needed by government is not always available in the private market; therefore, it is sometimes necessary to have software developed either in-house or through an outside firm. He said this can be very costly and involve a lot of time and effort. He added that any warranties or other responsibilities between the selling county and the buyer would be adequately handled by the sale contract and by general contract and warranty law. Mr. McAulay stated that once an effective software program is developed, other counties may find it of value to use the same software, and it may be cost effective for the buyer to pay the selling county for the software instead of having their own developed. He further explained that this software is not suitable for personal use of individual consumers as it is developed by counties in some form of governmental service. His final comment was that government at all levels is under intense pressure to reduce taxes and to find alternative revenues sources, and the sale of software is a way that counties can increase revenues and at the same time promote public safety and government efficiency. (Attachment 4)

General questions and discussion from the Committee members followed regarding: whether Johnson County developed the software themselves or if it was done by an outside vendor; definition of municipalities vs. county; clarification of data in software and possibility of losing information, software that was contracted for development for the county belongs to the county, provisions of copyright for the software that was created, and the question of competing unfairly with the private sector using tax dollars.

CONTINUATION SHEET

Representative Welshimer expressed a concern that the bill should possibly be limited to buyers for governmental entities only.

Representative Huff raised the question of liability when selling this software to another county, and stated if the buyer knows up front about the liability issue he could not see a problem. Mr. McAuley responded that the County would be selling the product "as is", and most likely they would be dealing with sophisticated buyers and consumer protection would not be involved in this instance.

Discussion continued concerning use of data in software to solicit sales of other merchandise, i.e. car sales and also the filing of claims for defective software. Mr. McAuley and Ms. Dunham answered that this would involve the Open Records Act, and that the data would not be sold with the software. Ms. Dunham said the buyer would only be getting the software setup.

Written testimony in support of **HB 2738** was submitted from Kathleen B. Sexton, Director of Information & Operations for Sedgwick County. Marci Hess, Governmental Relations for Sedgwick County, made the statement that this was a platform item on Sedgwick County's platform, and strongly supported the passage of this bill by the Sedgwick County Board of Commissioners. (Attachment 5)

Erik Sartorius, Governmental Affairs Director of Johnson County, submitted written testimony in support of **HB 2738**. (Attachment 6)

Terry Humphrey, Executive Director of the Kansas Trial Lawyers Association, appeared in opposition of **HB 2738**. She said that this bill proposes to amend the Kansas Tort Claims Act to provide complete immunity to any municipality which seeks to develop, trademark and sell computer software to any other public or private entity or individual. She testified that this immunity would give municipalities a tremendously unfair advantage over private corporations who sell software; but, remain accountable to their customers for the quality and integrity of their product. She stated with this proposed amendment to the Tort Claims Act, a municipality would have no such accountability and their purchasers would have no recourse. (Attachment 7)

Representative O'Connor asked for clarification from Ms. Humphrey as to whether she and her Association were objecting to the warranty issue. Ms. Humphrey clarified that their only objection was to the immunity provision in the Tort Claim section of the bill, and that they did not object to the sale of software by the municipalities.

General questions and discussion followed relating to: the difference in the immunity provision for geological purposes vs. real estate purposes, continuance of technical support from the software company after purchase, the possibility of restricting originator of software program to future earnings, the effective date, and what happens to funds within PAC upon dissolving. Due to the late hour of the day, the Chair suggested delaying further discussion on this bill until the actual working of the bill.

The Chair closed the hearings on **HB 2738**.

Chairperson Benlon called for discussion and final action on **HB 2346**.

Representative Powers made a motion to to favorable pass this bill out as amended and updated. The motion was seconded by Representative Welshimer.

Representative O'Connor raised a concern with the wording in the bill and asked for the Revisor to work up a balloon of the bill to insure correct wording by the Committee. She said that since she was on the Board of Directors of a PAC and also a legislator, she was apprehensive about the difficult position this bill placed her in. She stated she was not opposed to the bill, but wanted accurate wording within the bill.

Representative Powers withdrew his motion to pass out of Committee, and Representative Welshimer withdrew her second. The Chair announced that discussion on this bill would be continued at the next meeting.

Chairperson Benlon adjourned the meeting at 5:25 p.m. The next meeting of the Governmental Organization and Elections Committee will be Monday, February 21, 2000, at 3:30 p.m., Room 521-S.

House Governmental Organization
and Elections
Guest List

2-16-30

Your Name	Representing
Alma Fenton	Johnson County
Larry McCubey	Johnson County
Bruce Diminitt	Independent
Tom Simpson	KTLA
Dan Holmes	GOVERNOR'S OFFICE
Brad Bryant	Sec. of State
John Hill Jr	Rep. Troy Endley

TIM CARMODY
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TOPEKA

HOUSE OF REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIR—RULES AND JOURNAL
VICE-CHAIR—JOINT COMMITTEE ON PENSION,
BENEFITS AND INVESTMENTS
VICE-CHAIR—JUDICIARY
MEMBER—KANSAS 2000

**TESTIMONY IN SUPPORT OF H.B. 2346
GOVERNMENTAL ORGANIZATION AND ELECTIONS
FEBRUARY 16, 2000**

Chairman Benlon and Committee Members:

H.B. 2346 is a narrowly drafted bill which attempts to address one issue, so called “leadership PAC’s”. The operative provision is new Section 3 which prohibits a member of the legislature from establishing a “political committee”.

The definition of a “political committee” is contained in K.S.A. 1999 Supp. 25-4143 and can be found in this bill on Page 2 at Lines 10 through 15. One of the two major purposes of a political committee can be to make contributions or expenditures for the nomination, election or defeat of a clearly identified candidate for state or local office. Political committees are usually referred to as Political Action Committees or “PAC’s”, although that term does not appear in statute.

A political committee can be formed by any two or more people at any time and it may accept donations and contributions in any amount at any time. Although contributions made by the political committee to candidates do come under the limits of the campaign finance law (\$500 per representative, per cycle, etc.) there is no limit on contributions to a political committee unless such contributions are “dedicated” to a specific candidate. In addition, political committees are not under the restrictions of K.S.A. 1999 Supp. 25-4153a in that such committees may accept contributions during the legislative session from registered lobbyists, other political committees or any other person.

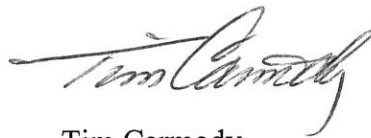
I would also point out that entities such as the Republican House Campaign Committee and its Democrat equivalent are considered political committees. In addition, a candidate can have only one “candidate committee”.

What is the problem that H.B. 2346 corrects?

- 1). There is no limit on the number of political committees that can be established by legislators. (For example, multiple Senate Republican PACS)
- 2) There is no limit on the contributions to political committees

- 3) As a result of 1 and 2, these committees can multiply the contributor base. For example, if I wanted to form a "Old Guy's Political Committee" I could easily do so. If I had two people who wanted to contribute \$10,000 to the PAC, I would be in business and I could in turn make contributions to candidates, including other legislators. But I can do more. I could also form "Old Guy's PAC #1", "Old Guy's PAC #2" and "Old Guy's PAC #3". The same two contributors could give \$10,000 to each of these PAC's. Each of these PAC's could in turn give me \$500 for my primary campaign and \$500 for my general campaign and in addition the two contributors can give me \$500 for each campaign from their personal funds.
- 4) Aspirants for senate and house leadership positions target races and indirectly influence leadership elections.
- 5) Donors, especially lobbyists, may feel subtle pressure to make multiple contributions to the "right" leadership candidate.

In conclusion, I believe that the campaign finance act never intended to allow a method to avoid the restrictions on contributions to political campaigns. Please close the loophole. I urge your support for H.B. 2346.



Tim Carmody
State Representative

STATE OF KANSAS

BILL GRAVES, *Governor*
State Capitol, 2nd Floor
Topeka, Kansas 66612-1590



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OFFICE OF THE GOVERNOR LEGISLATIVE TESTIMONY

TO: Chairperson Lisa Benlon and Members of the House Committee on Governmental Organization and Elections

FROM: Dan Hermes, Director of Governmental Affairs

DATE: February 16, 2000

SUBJECT: HB 2346

Madam Chair and members of the committee, thank you for the opportunity to appear today to discuss HB 2346 and a related proposal of the Governor.

The bill in front of you today prohibits legislators from forming personal political action committees to contribute to legislative candidates. The Governor has recommended a bill (SB 462) which has passed the Senate Committee and is awaiting floor action. This bill broadens the ban on solicitation of campaign contributions during the legislative session.

Currently, contributions to statewide elected officials and candidates, as well as legislators or candidates for the legislature are prohibited between January 1 and sine die except for contributions from individuals. This bill extends the ban to recognized party committees of the house and senate and individual leadership political committees. The current law in place is to prevent solicitation of contributions while the legislature is considering changes in law. This extension is a continuation of the effort to make sure solicitations do not take place at a time where special interests have matters being voted on by the legislature.

I would be happy to respond to any questions.

**House Governmental
Organization & Elections
2-16-00
Attachment 2**



Johnson County, Kansas

Office of the County Administrator

**TESTIMONY REGARDING HB 2738
HOUSE GOVERNMENTAL ORGANIZATION & ELECTIONS COMMITTEE
FEBRUARY 16, 2000**

DANA FENTON, INTERGOVERNMENTAL RELATIONS COODINATOR

A handwritten signature in cursive script, appearing to read "Dana Fenton", is written in dark ink to the left of the printed name.

Madame Chair and members of the committee, my name is Dana Fenton, Intergovernmental Relations Coordinator for Johnson County, Kansas. Thank you for this opportunity to appear in front of the committee. I am here to express the SUPPORT of the Johnson County Board of Commissioners for HB 2738.

My testimony will cover Section 1 of HB 2738. Mr. Larry McAulay, a Deputy Legal Counsel with Johnson County, will provide testimony on Section 2. This bill is also being supported by Sedgwick County, Kansas Association of Counties, and the Johnson County Board of Realtors.

Johnson County is seeking legislative clarification of its home rule powers. This bill would provide counties the express power to sell, lease, license, market and copyright computer software that a county has (1) developed in-house or (2) contracted with a private vendor to develop. We believe this legislation will clarify the powers of local governments with respect to the sale of software.

First, I would like to describe the situation leading up to the development of this bill. Johnson County was approached by the private vendor who developed a piece of software for our personal property appraisal system seeking to market this software to other counties. That vendor had been approached by other counties seeking a similar system for their own use. When told the Johnson County system would probably meet most if not all of their needs, the other counties and the vendor decided to approach Johnson County to see if some sort of commercial deal could be explored. The vendor suggested that the County receive a royalty from the sale of this software to the other counties. Inquiries of this nature had never been received before by the Appraiser and Legal Counsel. Thereupon staff was assigned to study this issue and determine whether such a commercial deal could be accomplished under current law.

Our legal staff researched the issue carefully by reviewing applicable Kansas statutes. Their opinion was that the power of the County to enter into such commercial deals was unclear. Staff also researched how other states had addressed this issue. The State Legislatures of Florida, Maryland and Texas had passed legislation expressly allowing local governments and state agencies to sell, lease, license, market and copyright computer software. For these reasons, we felt it was prudent to ask the legislature to extend such powers to counties before proceeding with any commercial deals. That is why we are here today.

Prior to going to my technical testimony, a common question I receive is: Is Johnson County going into the software business? The answer to that question is no. The marketing of computer software will not become a core business priority of Johnson County. Our Information Technology Department is already operating at full capacity. Any sales or leases or licenses or royalties received would probably best be accomplished by using a third party private vendor. Private vendors have the marketing expertise that is needed to close a successful deal and to service a product after the sale. Johnson County would benefit by receiving royalties, the private vendor would gain by obtaining more business and profits, and

the buyer of the software would realize a benefit by knowing that the product had been used successfully by the owner.

Section 1 is basically the “guts” of the bill before you today. Subsection (a), lines 15 - 21, defines municipality and computer software.

Subsection (b), lines 22 - 37, proposes the specific powers of counties relating to the marketing of computer software including selling, licensing, copyrighting, and adopting a price structure.

Subsection (c), lines 38 - 40, reinforces the fact that counties may not use this law to circumvent the provisions of the Open Records Act.

Subsection (d), lines 41 - 43, means that new warranties would not be created by this legislation. Existing warranty law would apply in these cases.

Section 1 is modeled after the legislation found in the States of Florida, Texas and Maryland. We believe the bill before the committee provides a good starting point for considering this proposed extension of powers to counties.

Thank you and I will be glad to stand for questions.



JOHNSON COUNTY LEGAL DEPARTMENT

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TESTIMONY REGARDING HB 2738
HOUSE GOVERNMENTAL ORGANIZATION & ELECTIONS COMMITTEE
FEBRUARY 16, 2000
F. LAWRENCE MCAULAY, JR.,
JOHNSON COUNTY ASSISTANT COUNTY COUNSELOR

Madame Chair and Committee members, my name is Larry McAulay, Assistant County Counselor for Johnson County, Kansas. With me today is another Assistant County Counselor, Cynthia Dunham. Cindy and I co-drafted the proposed language contained in House Bill 2738. We are here today to express the SUPPORT of the Johnson County Board of County Commissioners for HB 2738.

The proposed House Bill 2738 would give Kansas Counties specific authorization to:

- sell, lease, license, market or otherwise distribute computer software for commercial or noncommercial use to any other public or private entity or individual;
- adopt fees and prices;
- copyright software; and,
- other authority detailed in the Bill.

Note that the word "software" is defined in the Bill.

In my following testimony, I will sometimes use the term "sell software" for convenience, but my comments also apply to the other rights set out in the Bill, such as the right to lease, license, copyright and market software.

Johnson County recognizes and supports its statutory Home Rule authority found in K.S.A. 19-101 et seq. It can be argued that the County has ample authority under Home Rule to allow it to sell software.

We support H.B. 2738 in order to remove any doubt about such authority and to avoid any future legal challenge to our authority.

Although we have become accustomed to computers and software being a major part of our daily lives, we must remember that in relation to the Home Rule statute, adopted originally 131 years ago in 1868, computers are a very recent addition to the functions of government. When the Home Rule statute was adopted no one could have envisioned the modern high tech world.

Much of the history of governmental entities has involved the provision of basic services, such as police and fire protection. The sale of software is ironically far removed from such traditional government services, but, at the same time, directly related to the efficient provision of such services in today's world. An example of this is a computer aided dispatch system found at a police station or in a medical services department.

Counties today are heavily dependent on software and the software needed by government is not always available in the private market. Therefore, it is sometimes necessary for government to develop software, either in house or with an outside firm. A great deal of time, money and effort goes into such development.

Once an effective software program is developed, other Counties may find it of value to use the same software. It may be cost effective for the buyer to pay the selling county for the software, rather than expend the time and money to independently develop software. Cost effectiveness can be achieved by spreading the development costs among multiple users. This process serves the overall public good, for without it, government would have to settle for less effective or non-existent software.

However, if there is doubt about the authority to sell software, the benefits of such software will likely not be shared beyond the initial jurisdiction. Additionally, the risk of legal liability, such as warranties or otherwise, will also act as a disincentive to the production of such software. Any warranties or other responsibilities between the selling county and the buyer will be adequately handled by the sale contract and by general contract and warranty law. The provisions contained in subparagraph (d) of Section 1 is intended to make this clear.


Since the type of software that counties will sell under this Bill are directly related to the provision of governmental services, as opposed to private activity, subparagraph (w) of Section 2 was added to the Bill in order to avoid the creation of new liabilities for counties.

It should be noted that the software being developed by counties typically would only be purchased by another governmental entity, to a business or to an individual involved in some form of governmental service, so we're not talking about individuals buying these products for personal use. This software is simply not suitable for individual consumers.

Government at all levels is under intense pressure to reduce taxes and to look for alternative sources of revenue. The sale of software is one way that counties can enhance revenues (albeit by a relatively small amount), and, at the same time, promote public safety and government efficiency.

The Johnson County Board of County Commissioners asks for your support of House Bill 2738.

Cynthia and I will be happy to answer your questions or supply you with additional information.


F. Lawrence McAulay, Jr.
Assistant County Counselor
Johnson County Legal Department
111 South Cherry St., Suite 3200
Olathe, KS 66061
913-715-1859



SEDGWICK COUNTY, KANSAS
DIVISION OF INFORMATION & OPERATIONS

Kathleen B. Sexton, Director

538 N. Main
Wichita, KS 67203
(316) 383-4698 Fax (316) 383-7673

February 16, 2000

Representative Lisa Benlon, Chairperson
Committee on Governmental Organization & Elections

Dear Chairperson Benlon:

Sedgwick County supports HB 2738 to allow municipalities to sell, lease, license, market, or distribute computer software to other entities. This bill would help us "run government more like a business."

In the business world, when a company develops computer software it can be sold for profit and personal gain. When government programmers develop computer software the return is speedier service to taxpayers and a reduction in labor costs. Yet, the initial expense of software development is often high enough to discourage such innovation.

If municipalities could sell their software to other governments and software companies, revenue from these sales would reduce the net cost of using technology to improve services. The primary reason governments do not adopt technological solutions is the up-front cost of software and hardware. HB 2738 would help eliminate minimize this obstacle.

How will passage of this bill benefit taxpayers in municipalities that do not develop their own software? They will benefit from faster service delivery and more efficient processes. Instead of continuing outdated and cumbersome methods, their county could buy software custom-written by another local government that understands the business of serving the public in the best way possible.

HB 2738 encourages innovation and entrepreneurship in Kansas local government. I commend the committee on its foresight in bringing state laws into the information age and in giving counties the ability to use revenue sources other than taxes to fund public services.

Sincerely,

Kathleen B. Sexton
Director of Information & Operations

100usba16courrepulHB2738.ltr

"Quality Service in a Timely Fashion at a Reasonable Cost"

House Governmental
Organization & Elections
2-16-00
Attachment 5



Johnson County Board of REALTORS®, Inc.

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The Voice for Real Estate®

Testimony of Erik Sartorius
Governmental Affairs Director
for the
House Governmental Organization & Elections Committee
Regarding
House Bill 2738 Municipal Licensure of Software

February 16, 2000

The Johnson County Board of REALTORS® encourages passage of House Bill 2783. The bill will help clarify the authority counties already appear to possess.

Johnson County's government invests significant dollars to provide better services for its citizens and meet state and federal mandates. In doing so, they have developed a number of computer software programs, either in house or via contractual arrangements, specifically for county departments and agencies. Costs are incurred both in the development of the software, as well as follow-up programming.

At times, other counties in Kansas have expressed interest in the software produced by Johnson County. Providing the county the statutory authority to sell, lease, license and copyright their software would allow them to recover some of their costs. Additionally, other Kansas counties would be able to purchase software more economically, based on the increased volume of such specialized software.

We are supportive of Johnson County's efforts in this regard, as they accomplish two things. First, the county provides services sought by taxpayers. For instance, the county's program that allows the viewing of properties' appraisal information and tax bills has saved countless research hours for our members.

Second, in licensing and selling their unique programs, the county is able to reduce its costs and increase revenue, saving the county's taxpayers money. Given the frustrations of many of our citizens with rapidly escalating property values, any way that the county can hold the line on property tax increases is a blessing for property owners.

We respectfully seek your support of this legislation.

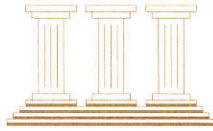
**House Governmental
Organization & Elections
2-16-00
Attachment 6**

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KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the House Governmental Organization and Elections Committee

FROM: Terry Humphrey, Executive Director
Kansas Trial Lawyers Association

RE: H.B. 2738

DATE: February 16, 2000

Madam Chair and members of the House Governmental Organization and Elections Committee, I am Terry Humphrey, Executive Director of the Kansas Trial Lawyer Association and I appreciate the opportunity to appear before you in opposition to H.B. 2738.

H.B. 2738 proposes to amend the Kansas Tort Claims Act to provide complete immunity to any municipality which seeks to develop, trademark and sell computer software to any other public or private entity or individual. This immunity would give municipalities a tremendously unfair advantage over private corporations who sell software. Private corporations remain accountable to their customers for the quality and integrity of their product. However, with this proposed amendment to the Tort Claims Act, a municipality would have no such accountability and their purchasers would have no recourse.

As a general rule broad-sweeping immunities do not promote responsible behavior, especially in the free market place where goods, such as computer software, are bought and sold.

Rather than providing an immunity, municipalities and their customers should contract with one another to determine what warranties and accountability will accompany the software purchase. This would then put municipalities who seek to sell software on a level playing field with other private corporations and, most importantly, clearly outline the terms of the purchase.

In closing, KTLA opposes giving municipalities immunity for the development and sale of software products and I respectfully request that you oppose H.B. 2738.

Thanks

**House Governmental
Organization & Elections
2-16-00
Attachment 7**

Terry Humphrey, Executive Director