

To: House Local Government Committee  
From: John Goodyear, General Counsel  
Date: January 31, 2024  
RE: Neutral Testimony on HB 2116

I want to thank Chairman Bergquist and the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide neutral testimony on HB 2116.

HB 2116 would mandate the inclusion of certain provisions in all local government contracts. The protections included in the legislation, particularly the indemnification provisions, will be beneficial to many cities and counties. Often, cities and counties negotiate to strip down indemnification clauses, remove arbitration requirements, and select Kansas as the appropriate venue for any litigation that could arise. Mandating the inclusion of these provisions could help to expedite the contract negotiation process in some communities. That said, it will hinder negotiations in others.

Many city legal departments are empowered to negotiate the terms of an agreement and then present the final proposals to their governing bodies for approval. This legislation would require affirmative votes of the governing body to modify any of the mandated terms, slowing down negotiations and potentially excluding certain contracts from consideration. There are some larger companies that are unlikely to ever agree to these terms – inadvertently, these provisions limit the ability to contract with these companies and limit local control in decision making.

Often times differences in how contract negotiations are approached and handled emerge between bigger cities with in-house counsel and smaller cities that contract with an attorney. Last year when this bill was heard, the League suggested that the legislation be amended to make it apply only to those cities and counties that will benefit from the requirement most. We are grateful to the proponents of the bill that this year's legislation does just that, making it apply only to cities of the second and third class.

The League is grateful for the opportunity to weigh in on HB 2116 and would be happy to address any questions by the members of the Committee. We would request that if this legislation is to move forward, that it do so in its current form.