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MEMORANDUM

To: Chairperson Bergquist
Members of the House Committee on Local Government

From: The Office of Revisor of Statutes

Date: February 5, 2025

Subject: HB 2116 – Requiring certain cities and counties to use the state standard contract provisions in municipal contracts.

House Bill No. 2116 (HB 2116) would create new statutes requiring certain cities and counties to use standard contract provisions that are prescribed by the Department of Administration and used in state contracts. These provisions are contained in Form DA-146a, published by the Department, and include provisions governing warranties, liabilities, taxes, insurance, and applicable laws. The provisions would be required to be included in each contract unless the governing body of the city or the board of county commissioners decides to omit a provision by affirmative majority vote. However, two provisions of Form DA-146a cannot be waived by the city or county. They are expressly governed by Sections 2 and 3 of the bill.

Section 2 of HB 2116 requires that cities and counties cannot assume responsibility for the actions or conduct of any other party to a contract other than the city or county and its employees. A city or county also cannot contract to indemnify or hold any other party harmless for damages or injuries resulting from another party's conduct.

Section 3 of HB 2116 requires that all contracts executed by cities and counties be governed by the laws of the state of Kansas and be subject to the jurisdiction of Kansas courts.

Section 4 of HB 2116 limits the application of Sections 1-3 to cities of the second or third class and to any county with a population of less than 35,000.

This legislation was heard by the House Committee on Local Government in 2024 as HB 2537. The provisions of Section 4 were amended into last session's bill to narrow the application of the legislation.

If enacted, HB 2116 would become effective on July 1, 2025.