

HOUSE BILL No. 2116

By Committee on Local Government

Requested by Representative Blex

1-28

1 AN ACT concerning municipalities; relating to the authority of certain
2 cities and counties to enter into contracts; requiring that certain
3 contractual provisions be incorporated into all such contracts, including
4 the provisions of department of administration form DA-146a;
5 providing certain exceptions.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. (a) Except as provided by subsection (c), any contract
9 entered into by the governing body of any city, or any officers or
10 employees thereof acting on behalf of the governing body, or by the board
11 of county commissioners of any county, or any officers or employees
12 thereof acting on behalf of the board of county commissioners, shall
13 contain the mandatory contract provisions prescribed by the department of
14 administration in form DA-146a, as amended.

15 (b) Except as provided by subsection (c), any contract entered into
16 after July 1, 2024, shall be deemed to have incorporated the mandatory
17 contract provisions prescribed by the department of administration in form
18 DA-146a, as amended, even if such provisions are not specifically
19 contained in such contract.

20 (c) The governing body of any city or the board of county
21 commissioners of any county may omit any of the mandatory contract
22 provisions prescribed by the department of administration in form DA-
23 146a, as amended, upon the affirmative recorded vote of a majority of the
24 members of the governing body or board of county commissioners. The
25 governing body and the board of county commissioners shall not have the
26 authority to waive or omit from the provisions of any contract the
27 provisions of sections 2 and 3, and amendments thereto.

28 Sec. 2. (a) It is the public policy of the state of Kansas that all
29 contracts entered into by the governing body of a city, or any officers or
30 employees thereof acting on behalf of such governing body, or by the
31 board of county commissioners of a county, or any officers or employees
32 thereof acting on behalf of such board, provide that the city or county shall
33 be responsible solely for the actions such governing body or board of
34 county commissioners, or any officer or employee thereof, or the failure of
35 such entity or persons to act under a contract.

1 (b) The governing body of a city, and any officers or employees
2 thereof acting on behalf of such governing body, and the board of county
3 commissioners of a county, and any officers or employees thereof acting
4 on behalf of such board, shall not have the authority to enter into a contract
5 under the provisions of which the city or county agrees to, or is required
6 to, indemnify or hold harmless against damages, injury or death resulting
7 from the actions or failure to act on the part of any party to a contract other
8 than such governing body or board of county commissioners, or any
9 officers or employees thereof.

10 (c) The provisions of any contract entered into in violation of this
11 section shall be contrary to the public policy of the state of Kansas and
12 shall be void and unenforceable.

13 Sec. 3. (a) It is the public policy of the state of Kansas that all
14 contracts entered into by the governing body of a city, or any officers or
15 employees thereof acting on behalf of such governing body, or by the
16 board of county commissioners of a county, or any officers or employees
17 thereof acting on behalf of such board, shall be governed by and
18 interpreted in accordance with the laws of the state of Kansas.

19 (b) The governing body of a city, and any officers or employees
20 thereof acting on behalf of such governing body, and the board of county
21 commissioners of a county, and any officers or employees thereof acting
22 on behalf of such board, shall have no power to enter into a contract that
23 provides that the contract shall be governed by or interpreted in
24 accordance with the laws of a state other than the state of Kansas.

25 (c) The governing body of a city, and any officers or employees
26 thereof acting on behalf of such governing body, and the board of county
27 commissioners of a county, and any officers or employees thereof acting
28 on behalf of such board, shall have no power, pursuant to a contract, to
29 submit to the jurisdiction of any court other than a court of the state of
30 Kansas.

31 (d) The provisions of any contract entered into in violation of this
32 section shall be contrary to the public policy of the state of Kansas and
33 shall be void and unenforceable.

34 Sec. 4. The provisions of sections 1 through 3, and amendments
35 thereto, shall apply to cities of the second or third class and to any county
36 with a population of less than 35,000.

37 Sec. 5. This act shall take effect and be in force from and after its
38 publication in the statute book.