



Shawnee County Office of County Counselor

RICHARD V. ECKERT
County Counselor

Shawnee County Courthouse
200 SE 7th St., Ste. 100
Topeka, Kansas 66603-3932
(785) 233-8200 Ext. 4042
Fax (785) 291-4902

February 23, 2015

House Standing Committee on Local Government
Rep. Steve Huebert, Chair
Kansas State Capitol
300 SW 10th St.
Topeka, KS 66612

RE: HB 2246: Municipalities, payment of claims, notice of claims procedure, employees added

Chair Huebert and other distinguished members of this committee:

K.S.A. 12-105b is a useful statute not only because it provides municipalities notice of a possible lawsuit but it can help clear up any confusion that plaintiffs may have about the accident that caused the situation. A claim letter puts the municipality on notice therefore allowing preservation of evidence. Routine examples of this include video evidence that may otherwise be recorded over by a DVR. A common occurrence for Shawnee County is that the plaintiff has the wrong party. For example, there are several entities that engage in refuse collection that have green refuse trucks. A claim that mistakenly names the County could cause an attorney to miss the statute of limitations in suing the correct party. We often contact plaintiff's counsel to let them know that another party could be involved.

Another possibility is that an attorney intends to sue the County about a negligent parks or recreation activity. The claim letter lets us know that the attorney may not understand the correct legal standard is actually one of gross and wanton negligence pursuant to the Kansas Tort Claims Act as opposed to simple negligence. This will allow the attorney to withdraw the claim before needless litigation will ensue.

The statute requires a specific damage amount before the lawsuit can be filed. This is actually helpful in settling lawsuits before litigation as the parties have a better understanding of the damage component of the case before litigation is filed.

I would note that Shawnee County has personally settled two cases recently within the 120 day period without requiring a lawsuit.

The K.S.A. 12-105b demand letter is helpful in explaining to my county commissioners why a matter needs to be settled. It is also rather helpful in explaining to citizens why we settled a particular manner since the money to settle this cases is taxpayer money. We have the letter on file and can share it with anyone who would like to know why a case is settled.

Sincerely,

A handwritten signature in black ink, appearing to read "Rich Eckert", written over a horizontal line.

Rich Eckert
Shawnee County Counselor