

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2246

As Recommended by House Committee on
Local Government

Brief*

HB 2246 amends law governing notice that must be provided to a municipality when a claim is filed against the municipality. The bill would require when a claim is brought against a municipal employee, notice must be provided to the municipality. The bill would create a definition of employee for this act.

Background

Proponents of the bill in the House Committee on Local Government included representatives of the League of Kansas Municipalities, Kansas Association of Counties, Kansas Association of Defense Counsel, the City of Emporia, and Shawnee County. There was no neutral or opposition testimony.

Proponents said the bill was introduced in response to the Kansas Supreme Court decision in *Whaley v. Sharp* on December 24, 2014. In that decision, the Court held that a written 120-day notice of claim under KSA 12-105b(d) as a prerequisite to a lawsuit against a municipality, did not apply to a lawsuit against a municipal employee. As a result, there is no longer any requirement to provide notice to a municipality before suit is filed against an employee, even though the municipality will have a duty to defend and indemnify the employee under the Kansas Tort Claims Act. The intent of the bill is to explicitly require notice be given to a

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

municipality before an action can be filed against an employee for injuries alleged to have been committed by the employee in the course and scope of employment. Notice allows a municipality the opportunity to investigate the claim to determine if it should be paid, or to prepare to defend and indemnify the employee.

The fiscal note prepared by the Division of the Budget states enactment of the bill would have no fiscal effect on the Judicial Branch. There is potential for a fiscal effect on cities, but the effect would depend on the number of claims filed and cannot be estimated.