

SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2537

As Amended by House Committee on Local
Government

Brief*

HB 2537, as amended, would mandate certain contractual provisions be incorporated into all contracts negotiated by cities of the second and third class and counties with a population of less than 35,000.

Mandated Provisions

The bill would require the governing body of any city of the second or third class and the board of county commissioners for counties with populations less than 35,000, or any officers or employees acting on behalf of the governing body or board of county commissioners (governing body), to use the Contractual Provisions Attachment from the Kansas Department of Administration in contract negotiations. The bill would amend any contract entered into after July 1, 2024, to be deemed to have incorporated the mandatory contract provisions in the attachment, even if such provisions are not explicitly stated.

[*Note:* State law requires the Contractual Provisions Attachment be attached to all contracts negotiated by the State, local school districts, and community colleges.]

*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>

Omission of Provisions

The governing body would be able to omit any of the provisions upon a majority vote except:

- The provision stating the city or county may not agree to indemnify or hold harmless against damages, injury, or death caused by the actions or failure to act on the part of any party to a contract other than the governing body; and
- The provision stating the contract is subject to Kansas law and the jurisdiction of any suit in connection with the contract shall be in Kansas.

The bill would make void and unenforceable any provision of any contract in violation of either of the above provisions.

Legal Responsibility

The bill would clarify the governing body would be responsible solely for the actions or failures of such governing body under a contract.

Background

HB 2537 was introduced by the House Committee on Local Government at the request of Representative Blex on behalf of Representative Bryce and the City of Independence.

House Committee on Local Government

In the House Committee hearing, **proponent** testimony was offered by Representative Bryce and Representative Blex on behalf of a representative of the City of Independence. The proponents generally stated mandating inclusions of these provisions would protect smaller cities with

fewer resources from bad actors responding to requests for proposals.

Representatives of the League of Kansas Municipalities and Kansas Association of Counties presented neutral testimony. The neutral conferees stated there is a split between higher population and lower population areas and proposed an amendment as compromise.

A representative of the City of Topeka provided **opponent** testimony, stating the city negotiated more than one thousand contracts last year and the City needs the corporate power of negotiation.

Written-only opponent testimony was submitted by a representative of the cities of Merriam, Mission, Prairie Village, Roeland Park, and Westwood Hills and a representative of the City of Overland Park.

No other testimony was provided.

The House Committee amended the bill to limit its provisions to cities of the second and third class and counties with a population less than 35,000.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Administration, the League of Kansas Municipalities, and the Kansas Association of Counties estimate the bill would have no fiscal effect.

Department of Administration; cities of the third class; cities of the second class; counties; county board of commissioners; contracts