

To: House Judiciary Committee
From: Eric B. Smith, Legal Counsel
Date: February 3, 2016
RE: Opposition to HB 2466

I want to thank Chairman Barker and the Committee members for allowing the League of Kansas Municipalities to provide testimony in opposition to HB 2466.

HB 2466 is an attempt to interfere in the operation of local law enforcement agencies and would be an obstruction of local control granted to municipalities by the Kansas constitution. The cities and counties of this state have a constitutional duty to enforce the laws of this state and those of the local jurisdictions. The enforcement of these laws is done within the framework established by the federal and state constitutions.

Day to day operations and decisions of local agencies are dependent upon several factors including available personnel and budget constraints. HB 2466 attempts to mandate what policies local law enforcement can or cannot have and could potentially expose municipalities to liability for violating constitutional rights.

Many municipalities across the United States have found themselves in lawsuits over immigration detainer cases and many have had to pay out judgments and settlements. HB 2466 creates confusion and could lead to municipalities violating the constitutional rights of individuals for fear of violating an unnecessary state mandate. Local policies and regulations are intended to assure compliance with all constitutional requirements and reduce the potential of constitutional rights violations.

Federal immigration detainers have been interpreted to be requests and not court orders requiring the holding of an individual without bond. If a municipality has a policy to not recognize federal immigration detainers will this be in violation of HB 2466? Unless the state is prepared to indemnify and hold the local governments harmless our members must be able to establish policies to protect against civil liability.

HB 2466 arbitrarily provides prohibitions that may create a potential liability for municipalities. How local law enforcement agencies perform their duties is a local concern where those closest to the events can assure that proper controls are in place.

The League of Kansas Municipalities opposes HB 2466 as an improper involvement in a local issue that should remain under local control. The League respectfully requests that the Committee not pass out HB 2466 to the full House.