

To: Senate Ethics, Elections, and Local Government

From: Amanda L. Stanley, General Counsel

Date: March 15, 2018

RE: Support for HB 2505

I want to thank Chairwoman Bowers and the Committee members for allowing the League of Kansas Municipalities the opportunity to provide testimony in support of HB 2505.

HB 2505 redefines when a mayor is considered a member of the governing body. The phrase “governing body” is used in over 1000 statutes. When the mayor is considered a member of the governing body is key for determining when he or she has an original vote. The current version of K.S.A. 12-104 was written almost 100 years ago. It states:

“In acts granting or limiting executive or administrative powers to city governments, or prescribing procedure, the designation of “the governing body” shall be held to include mayor and council, mayor and commissioners and board of commissioners, as the status of cities affected may require; and the commission to revise the statutes is authorized to substitute the words, “the governing body” for the terms mayor and council, mayor and commissioners or board of commissioners in all acts.”

When the term governing body is used in statute, the city must determine if the statute is addressing the body’s executive, administrative, or legislative powers. The League has seen an increase in questions about what is an act granting or limiting executive power. Sometimes the answer is easy; however, other times, such as when a statute from the legislature orders a local governing body to do something via ordinance, the answer is not so simple. Is that an executive function because the city’s governing body is using its authority to execute the Kansas legislature’s statute? Or, is it a legislative function because the governing body is acting by ordinance? I have found even the most experienced city attorneys can disagree on the correct answer.

The language proposed in HB 2505 will eliminate this confusion, and provide some much-needed clarity, by redefining when a mayor is considered a member of the city’s governing body while giving cities the ability through local control to modify the general rule to best suit their situation. We respectfully ask this Committee forward HB 2505 to the full Senate for its consideration.