

HOUSE BILL No. 2246

By Committee on Federal and State Affairs

2-5

1 AN ACT concerning municipalities; dealing with payment of claims;
2 amending K.S.A. 2014 Supp. 12-105a and 12-105b and repealing the
3 existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 12-105a is hereby amended to read as
7 follows: 12-105a. As used in this act ~~and the act of which this section is~~
8 ~~amendatory~~, the following words and phrases shall have the meanings
9 respectively ascribed to them herein, unless the context shall otherwise
10 require:

11 (a) "Municipality" means and includes county, township, city, school
12 district of whatever name or nature, community junior college, municipal
13 university, city, county or district hospital, drainage district, cemetery
14 district, fire district, and other political subdivision or taxing unit, and
15 including their boards, bureaus, commissions, committees and other
16 agencies, such as, but not limited to, library board, park board, recreation
17 commission, hospital board of trustees having power to create
18 indebtedness and make payment of the same independently of the parent
19 unit.

20 (b) "Governing body" means and includes the board of county
21 commissioners, the governing body of a city, the township board (trustee,
22 clerk and treasurer), board of education or other governing body of a
23 school district, board of trustees of a community junior college, board of
24 regents of a municipal university, the body of a special district (such as a
25 drainage, cemetery, fire or other) which has the power to create
26 indebtedness and is charged with the duty of paying the same, and the
27 board, bureau, commission, committee or other body of an independent
28 agency of a parent unit.

29 (c) "Claim" means the document relating to and stating an amount
30 owing to the claimant by a municipality for material or service furnished
31 to the municipality, or some action taken by or for the municipality and for
32 which the municipality may or may not be responsible in a liquidated or an
33 unliquidated amount. A claim is liquidated when the amount due or to
34 become due is made certain by agreement of the parties or is fixed by law.

35 (d) "Warrant" means an instrument ordering the treasurer of a
36 municipality to pay out of a designated fund a specified sum to a named

1 person or party who or which has filed a claim against the municipality.

2 (e) "Check" means an ordinary check drawn on a depository bank of a
3 municipality by the treasurer of such municipality and payable to the
4 holder of a warrant or warrants issued by the municipality.

5 (f) "Warrant check" means a combination of warrant and check. It is a
6 negotiable instrument which orders a depository bank to pay to the order
7 of the payee therein named. A warrant check authorizes the bank upon
8 which drawn to charge the municipality's account with the amount stated
9 therein.

10 (g) For the purposes of this act the term "audit" shall be construed to
11 mean to examine and render an opinion as to allowance or rejection in
12 whole or in part.

13 (h) *"Employee" means any officer, employee, servant or member of a*
14 *board, commission, committee, division, department, branch or council of*
15 *a governmental entity, including elected or appointed officials and persons*
16 *acting on behalf or in service of a governmental entity in any official*
17 *capacity, whether with or without compensation.*

18 *"Employee" does not include an independent contractor working for a*
19 *municipality under contract.*

20 Sec. 2. K.S.A. 2014 Supp. 12-105b is hereby amended to read as
21 follows: 12-105b. (a) All claims against a municipality must be presented
22 in writing with a full account of the items, and no claim shall be allowed
23 except in accordance with the provisions of this section. A claim may be
24 the usual statement of account of the vendor or party rendering a service or
25 other written statement showing the required information.

26 (b) Claims for salaries or wages of officers or employees need not be
27 signed by the officer or employee if a payroll claim is certified by the
28 administrative head of a department or group of officers or employees or
29 an authorized representative that the salaries or wages stated therein were
30 contracted or incurred for the municipality under authority of law, that the
31 amounts claimed are correct, due and unpaid and that the amounts are due
32 as salaries and wages for services performed by the person named.

33 Nothing in this subsection shall be construed as prohibiting the
34 payment of employment incentive or retention bonuses authorized by
35 K.S.A. 72-8246, and amendments thereto.

36 (c) No costs shall be recovered against a municipality *or against an*
37 *employee of a municipality* in any action brought against—~~it~~ *the*
38 *municipality or an employee of a municipality* for any claims allowed in
39 part unless the recovery shall be for a greater sum than the amount
40 allowed, with the interest due. Subject to the terms of applicable insurance
41 contracts, judgments and settlements obtained for claims recoverable
42 pursuant to the Kansas tort claims act shall be presented for payment in
43 accordance with this section or in such manner as the governing body may

1 designate.

2 (d) Any person having a claim against a municipality *or against an*
3 *employee of a municipality* which could give rise to an action brought
4 under the Kansas tort claims act shall file a written notice as provided in
5 this subsection before commencing such action. The notice shall be filed
6 with the clerk or governing body of the municipality and shall contain the
7 following: (1) The name and address of the claimant and the name and
8 address of the claimant's attorney, if any; (2) a concise statement of the
9 factual basis of the claim, including the date, time, place and
10 circumstances of the act, omission or event complained of; (3) the name
11 and address of any public officer or employee involved, if known; (4) a
12 concise statement of the nature and the extent of the injury claimed to have
13 been suffered; and (5) a statement of the amount of monetary damages that
14 is being requested. In the filing of a notice of claim, substantial
15 compliance with the provisions and requirements of this subsection shall
16 constitute valid filing of a claim. The contents of such notice shall not be
17 admissible in any subsequent action arising out of the claim. Once notice
18 of the claim is filed, no action shall be commenced until after the claimant
19 has received notice from the municipality that it has denied the claim or
20 until after 120 days has passed following the filing of the notice of claim,
21 whichever occurs first. A claim is deemed denied if the municipality fails
22 to approve the claim in its entirety within 120 days unless the interested
23 parties have reached a settlement before the expiration of that period. No
24 person may initiate an action against a municipality *or against an*
25 *employee of a municipality* unless the claim has been denied in whole or
26 part. Any action brought pursuant to the Kansas tort claims act shall be
27 commenced within the time period provided for in the code of civil
28 procedure or it shall be forever barred, except that, a claimant shall have
29 no less than 90 days from the date the claim is denied or deemed denied in
30 which to commence an action.

31 (e) Claims against a municipality which provide for a discount for
32 early payment or for the assessment of a penalty for late payment may be
33 authorized to be paid in advance of approval thereof by the governing
34 body in accordance with the provisions of this subsection. The governing
35 body may designate and authorize one or more of its officers or employees
36 to pay any such claim made against the municipality in advance of its
37 presentation to and approval by the governing body if payment of the
38 amount of such claim is required before the next scheduled regular
39 meeting of the governing body in order for the municipality to benefit
40 from the discount provided for early payment or to avoid assessment of the
41 penalty for late payment. Any officer or employee authorized to pay claims
42 under this subsection shall keep an accurate record of all moneys paid and
43 the purpose for which expended, and shall submit the record to the

1 governing body at the next meeting thereof. Payments of claims by an
2 officer or employee of the municipality under authority of this subsection
3 are valid to the same extent as if the claims had been approved and ordered
4 to be paid by the governing body.

5 (f) When an employee is required to travel on behalf of a
6 municipality, the employee shall be entitled, upon complying with the
7 provisions of the municipality's policies and regulations on employee
8 travel, to timely payment of subsistence allowances and reimbursement for
9 transportation and other related travel expenses incurred by the employee
10 while on an approved travel status. When reimbursement through the
11 regular claims approval process of the municipality will require more than
12 15 days from the date the reimbursement claim is filed, the claim may be
13 authorized to be paid in advance of approval thereof by the governing
14 body in accordance with the provisions of this subsection. The governing
15 body may designate and authorize one or more of its officers or employees
16 to pay any such claim made against the municipality in advance of its
17 presentation to and approval by the governing body if payment of the
18 amount of such claim is required before the next scheduled regular
19 meeting of the governing body. Any officer or employee authorized to pay
20 claims under this subsection shall keep an accurate record of all moneys
21 paid and the purpose for which expended, and shall submit the record to
22 the governing body at the next meeting thereof. Payments of claims by an
23 officer or employee of the municipality under authority of this subsection
24 are valid to the same extent as if the claims had been approved and ordered
25 to be paid by the governing body.

26 (g) Claims submitted by members of a municipality's self-insured
27 health plan may be authorized to be paid in advance of approval thereof by
28 the governing body. Such claims shall be submitted to the administrative
29 officer of such insurance plan.

30 (h) Claims against a school district for the purchase of food or
31 gasoline while students are on a co-curricular or extra-curricular activity
32 outside of the school boundaries may be paid in advance of approval
33 thereof by the governing body in accordance with the provisions of this
34 subsection. The governing body may designate and authorize one or more
35 of its officers or employees to pay any such claim made against the school
36 district in advance of its presentation to and approval by the governing
37 body.

38 (i) Except as otherwise provided, before any claim is presented to the
39 governing body or before any claim is paid by any officer or employee of
40 the municipality under subsection (e) or (f), it shall be audited by the clerk,
41 secretary, manager, superintendent, finance committee or finance
42 department or other officer or officers charged by law to approve claims
43 affecting the area of government concerned in the claim, and thereby

- 1 approved in whole or in part as correct, due and unpaid.
- 2 Sec. 3. K.S.A. 2014 Supp. 12-105a and 12-105b are hereby repealed.
- 3 Sec. 4. This act shall take effect and be in force from and after its
- 4 publication in the statute book.