

Date: March 8, 2017

To: Senate Ethics, Elections and Local Government Committee

From: Cindy Green, Deputy Director

Re: HB 2137; Neutral Testimony with Concern (Written Only)

Thank you, Chairwoman, and Members of the Committee for the opportunity to provide neutral testimony on behalf of the League's member cities for HB 2137, which amends K.S.A. 19-205 and repeals the existing section. The change would allow city governing body members and county commissioners to serve as a volunteer in any capacity for emergency medical services, ambulance service or as a volunteer firefighter and receive the usual compensation or other remuneration for such volunteer service.

The League understands many elected officials most likely volunteered in their communities prior to being elected. The current law prohibiting volunteer service for the city or county as an elected official relates to the common law of incompatibility. One test for incompatibility is whether one office is subordinate to the other. Consider this example: a citizen is a city council member and a volunteer firefighter. As a council member he or she helps hire the fire chief, yet reports to the fire chief as a volunteer firefighter. This could create a conflict if the councilmember was involved in disciplining the fire chief while also reporting to that person as a firefighter.

There are numerous Attorney General opinions and court cases regarding the incompatibility of concurrently holding two positions with a city or county. The committee may want to review these when considering this proposed legislation.

We appreciate your consideration of our comments and request you further evaluate the change in statutes.