

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Chairperson Carlos Mayans at 3:30 p.m on March 14, 2000 in Room 519-S of the State Capitol.

All members were present.

Committee staff present: Michael Heim, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:

Representative Joe Shriver
Dean Carlson, Secretary, Kansas Department of Transportation
Steve Phillips, Assistant Attorney General
Sandra Jacquot, League of Kansas Municipalities
Randy Allen, Kansas Association of Counties
William Sneed, Legislative Counsel, The State Farm Insurance Companies
Cynthia Lutz Kelly, Attorney, Kansas Association of School Boards
Bob Totten, Public Affairs Director, Kansas Contractors Association
Dana Fenton, Intergovernmental Relations Coordinator, Johnson County
Trudy Aron, Executive Director, AIA Kansas
Patrick Mulvihill, Assistant Chief Examiner, Kansas Insurance Department
(Written Testimony) Sally Finney, Executive Director, Kansas Public Health Association, Inc.
(Written Testimony) David Hanson, Legislative Counsel, Kansas Insurance Associations

Others attending: See Guest List, [Attachment 1](#)

Chairperson Mayans opened the meeting for discussion of the twelve exemptions to the Kansas Open Records Act listed in the committee's agenda and welcomed conferees. He reviewed his meeting last Friday with Governor Graves, who indicated approval of the committee's work on **HB 2864** (Powers and duties of attorney general and agencies subject to the open public records act and the open public meetings act); and he indicated he did not wish to create a new bureaucratic structure, but did request that the bill be acted upon.

The Chair explained he had met with committee staff to begin formulation of committee amendments to the bill, and he encouraged sponsors of other bills on the subject and interested persons to actively participate in the deliberations.

Beginning deliberations, the Chair referred members to the memorandums authored by Mike Heim, relating to *Policy Issues and Open Records and Certain Exceptions to Openness Requirement* ([Attachment 2](#)). He then asked conferees to present their testimonies. The following were heard:

- KDOT Secretary Dean Carlson opposed deletion of exemptions (13) and (33), stating release of appraisal, engineering or feasibility estimates before acquisition of public improvements would be damaging to involved landowners and the state. ([Attachment 3](#))
- Steve Phillips described his office's administration of exemptions (30) and its interpretation of exemptions (14) and (20). ([Attachment 4](#))
- Sandy Jacquot advocated retention of all exemptions, citing the possibility of new exemptions because of the proliferation of electronic databases. ([Attachment 5](#))
- Randy Allen cautioned deletion of exemptions (6), (13) and (30). ([Attachment 6](#))
- Bill Sneed opposed deletion of exemptions (39), (40) and (42) stating actuarial memoranda could

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include proprietary information that is generally protected by various trade secret and propriety information laws. ([Attachment 7](#))

- Cynthia Lutz Kelly opposed deletion of exemptions (6), (14), (20), and (30); each one relating to correspondence that schools consider as privacy items. ([Attachment 8](#))
- Bob Totten opposed deletion of exemption (34) which keeps financial statements closed on the qualifications of a contractor. ([Attachment 9](#))
- Dana Fenton essential opposed deletion of (6), (13), (30), and (31). However, with respect to (32) and (34) he commented that Johnson County releases bidder lists without financial information prior to award or rejection of bids. ([Attachment 10](#))
- Trudy Aron expressed opposition to the deletion of items (33) and (34). ([Attachment 11](#))
- Patrick Mulvahill expressed opposition to deletion of (39), (40) and (42) because of the possible loss of the Insurance Department's accreditation by the National Association of Insurance Commissioners. ([Attachment 12](#))
- Representative Joe Shriver offered suggestions and changes including separating access of public information from enforcement of public information, and recommending that all 44 exemptions be referred to interim study. ([Attachment 13](#)) Also, he suggested KORA education data could be placed on the Kansas Information Network to educate a substantial segment of the public. He recommended a solution be sought to the costly storage of paper records, suggesting investigation into use of electronic storage as an answer.

The Chair asked the committee their wishes for action, such as amending the law to include a five-year sunset clause for all exemptions and requesting an interim study of exemptions. "Sunset" would mean that if an exemption is not validated by the end of five years, the exemption would be deleted.

Representatives Welshimer and Jeff Peterson indicated support for these suggestions.

Representative Welshimer suggested that the committee agree on the policy issues outlined in Mr. Heim's memorandum ([Attachment 2](#)) and that each issue be spelled out for study. The Chair asked Mr. Heim to prepare the study for the next meeting.

The Chair then asked the committee to decide whether each exemption should be deleted. Representative Flower disagreed; and the Chair responded that a "no" vote could be indicated if a member was in favor of retaining each one. Then, by a show of hands, the committee voted for and against each exemption posted in the agenda. The majority agreed to deletion of item (32). The committee also agreed to request the Legislative Coordinating Council to hold an interim study this summer on the exemptions to the law.

The Chair indicated the "balloon" amendment will be drafted for committee approval at the next meeting.

The meeting was adjourned at 5:55 p.m.

The next meeting of the committee is scheduled for March 16, 2000.