

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 p.m. on February 24, 2004 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Legislative Research Department  
Mike Heim Legislative Research Department  
Theresa Kiernan, Office of the Revisor of Statutes  
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Barry Martin, Johnson County Fire District No. 2  
Ed Peck, Tecumseh Township  
Jim Kilmartin, Monmouth Township  
Bob Haselwood, Topeka Township  
Kim Gulley, League of Kansas Municipalities  
Doug Anstaett, Kansas Press Association  
Phill Kline, Kansas Attorney General  
Judy Moler, Kansas Association of Counties  
Jim Edwards, Kansas Association of School Boards  
Harriet Lange, Kansas Association of Broadcasters  
Jerry Slaughter, Kansas Medical Society  
Tom Bell, Kansas Hospital Association  
Chip Wheelen, Kansas Association of Osteopathic Medicine  
Larry Buening, Kansas State Board of Healing Arts  
Chris Collins, KaMMCO

Others attending:

See Attached List.

Chairman Vickrey opened the hearing on:

**HB 2712**      **fire district property tax levies**

Barry Martin, Attorney for Johnson County Fire District No. 2, testified in support of the bill (Attachment 1). He said the bill amends K.S.A. 19-3610. He explained that the statute needed “cleaned up,” as the 1992 amendment included language that made reading difficult. He said the bill expands the language of “has contracted with a city” to include contracts for fire protection with “any other fire district, city or township or private entity within the vicinity of the district.” Mr. Martin said that Fire Protection District should be allowed to contract with other fire districts, townships or private entities

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with the same parameters as contracts with cities.

There were no opponents to the bill.

Chairman Vickrey closed the hearing on: **HB 2712**

**HB 2712**      **fire district property tax levies**

Rep. Kassebaum made the motion for favorable passage of HB 2712. Rep. Siegfried seconded the motion. The motion carried.

Chairman Vickrey opened the hearing on:

**HB 2774**      **township fire districts; procedure to create**

Ed Peck, Tecumseh Township Treasurer and Topeka-Tecumseh Fire District Board member, testified in support of the bill (Attachment 2). He said that current statute calls for a lengthy, tedious process calling for 51 percent of the landowners in the proposed new district to sign and file a petition with the township boards requesting creation of a new district. He explained that because of the number of housing areas that are involved, we are looking at contacting several thousand landowners to assist them in filing a petition. He stated that they are trying to simplify the process by allowing patrons to vote by ballot after proper notification of the proposition at the next general election. Mr. Peck explained that the bill also provides for the newly formed fire district board to be comprised of all three members of each township board. He said that current statute calls for allowing only one member from each board to serve.

Jim Kilmartin, Monmouth Township Clerk, testified that the bill allows for a more constructive way for our boards to reorganize the fire district (Attachment 3). He said that the public's best interest is served with the expansion of the current fire district rather than the creation of a new entity.

Bob Haselwood, Topeka Township Clerk and Topeka-Tecumseh Fire District Clerk, testified that after many meetings and much discussion with the boards of the Monmouth, Tecumseh, and Topeka townships, it was decided that it would be beneficial to the residents of the area if the three townships join to form one new fire district (Attachment 4). He explained that the bill allows for a simpler way for the townships to form a new fire district without taking away from the residents of the proposed district their ability to voice their opinion.

There were no opponents to the bill

The Chairman closed the hearing on: **HB 2774**.

**HB 2774**      **township fire districts; procedure to create**

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Rep. Campbell made the motion for favorable passage of **HB 2774**. Rep. Reitz seconded the motion. The motion carried.

Chairman Vickrey opened the hearing on:

### **HB 2889**      **KORA; records not required to be open**

Kim Gulley, Director of Policy Development and Communications, League of Kansas Municipalities, appeared in support of the bill (Attachment 5). She explained that in 2000, the Kansas Legislature adopted a number of new provisions to the Kansas Open Records Act (KORA), including a requirement that all of the exemptions to the Act would expire on July 1, 2005 (K.S.A. 45-229). Ms. Gulley said that review of the statutory exemptions to KORA began during the 2003 interim, with hearings held on a number of specific exemptions. She informed that at the conclusion of the interim committee's work on this issue, the various stakeholders involved were asked to get together and to determine whether they could find any common ground on the very important public policy issues. Ms. Gulley stated that the League of Kansas Municipalities, the Kansas Association of Counties, the Kansas Association of School Boards, the Kansas Press Association, and a variety of other entities at various times, met on numerous occasions to review the exemptions. She explained that **HB 2889** reflects a great deal of work and compromise regarding the KORA exemptions. She said that the bill repeals a number of exemptions which are considered to be redundant with other statutes. Ms. Gulley testified that the bill makes substantive changes to a number of exemptions in an attempt to address concerns raised by the Kansas Press Association without compromising the need to protect certain privacy interests.

Doug Anstaett, Executive Director, Kansas Press Association, appeared in support of **HB 2889** (Attachment 6). He said the bill reflects changes that representatives of the opposing groups could agree upon. He said that if they didn't agree on a change the exception was left unchanged and that later in the process, both sides may offer new language for consideration. He explained that changes were proposed to the following:

- exceptions 4, 6, 8, 10, and 45.
- elimination of redundant exceptions 35, 38, 39, 40, and 46, reducing the total number of exceptions in the law to 41.

Mr. Anstaett said that they have asked for exceptions to be eliminated because they are addressed in other Kansas statutes and that their inclusion in KORA is redundant. He reminded the Committee that another 350 exceptions to disclosure have been identified elsewhere in the statute books. He said that if we redundantly mentioned each of them in KORA, we would then be dealing with 400 exceptions rather than fewer than 50. He explained that is why their group decided to review KORA this year and leave the other 350 exceptions for an interim committee or next year's legislative session.

Attorney General Phill Kline, testified in support of **HB 2889** (Attachment 7). He said that he and individuals from his office have had meetings with members of the Kansas Sunshine Coalition over the last several weeks. He explained that meetings were held with the purpose of finding areas of common

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interest in addressing the exceptions in the Kansas Open Records Act (KORA). Attorney General Kline said that it became apparent that he shared a common desire with the Sunshine Coalition: a desire to ensure transparency in government, while at the same time acknowledging the need to protect records of a secure nature. He said **HB 2889** represents a responsible effort to broaden public access to records. Attorney General Kline said additional discussions are taking place involving other components of the Open Records Act. He anticipates that these discussions will result in the introduction of another piece of legislation.

Judy Moler, Legislative Services Director, Kansas Association of Counties, testified in support of the bill (Attachment 8). She said that the Kansas Association of Counties supports the compromise language contained in the bill. She stated that they would, however, reserve the right to oppose any amendments offered to the bill.

Jim Edwards, Governmental Relations Specialist, Kansas Association of School Boards, testified in support of the bill (Attachment 9). He said that at the conclusion of the hearings held by the Interim Committee on Local Government, the Chair and Co-Chair instructed the representatives of the parties that had appeared before the committee to attempt to sit down before the 2004 Session started and see if there were items that could be agree upon. He stated that the bill today is the outcome of several meetings between the parties. He explained that after a couple of meetings, it was found that there was middle ground and definite areas on which they could work together. Mr. Edwards said that they believe the changes made will make available the information that should be made public while still protecting the personal privacy of individuals.

Harriet Lange, President/Executive Director, Kansas Association of Broadcasters, appeared in support of **HB 2889** (Attachment 10). She said that the bill represents a very positive step in reaching agreement on revisions to KORA. She explained that there are other changes to KORA forthcoming in another bill.

Jerry Slaughter, Executive Director, Kansas Medical Society, appeared before the Committee (Attachment 11). He said they oppose the removal of the exception found in subsection (35) and urged the Committee to amend the bill to re-insert subsection (35). He explained that the exception prevents state agencies from disclosing health care peer review and risk management reports. He attached a proposed balloon amendment to his testimony

Tom Bell, Executive Vice President, Kansas Hospital Association, testified in opposition to **HB 2889** (Attachment 12). He said the bill as drafted will discourage medical facilities and health care providers from coming forward with vital information that will improve patient care, save patients' lives and assist those providers who are impaired and need treatment.

Charles (Chip) Wheelen, Kansas Association of Osteopathic Medicine, testified in opposition to the bill in its' current form because it would repeal important exemptions from the Open Records Act that pertain to confidential reports made to peer review committees of state and county professional organizations (Attachment 13). He attached a draft amendment to his testimony.

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Larry Buening, Executive Director, Kansas Board of Healing Arts, appeared before the Committee (Attachment 14). He stated that the Kansas Board of Healing Arts is opposed to deletion of K.S.A. 45-221 (a)(35) from the exceptions to public disclosure. He said that they recommend that this paragraph be retained to serve as a reaffirmation of legislative intent to maintain the confidentiality of peer review and risk management records.

Christina Collins, KaMMCO, testified in opposition to **HB 2889** (Attachment 15). She said that KaMMCO stands in opposition to the bill as written and urged the committee to reinsert the deleted exceptions (38) - (40). She testified that many of the parties most significantly impacted by this bill were not involved in those discussions nor in the authorship of the bill. She said that a process of open discussion might perhaps have resulted in a stronger, less controversial bill.

Reginald Robinson, President and CEO, Kansas Board of Regents, submitted written neutral testimony (Attachment 16). He attached a letter written jointly from each of the General Counsels to the University of Kansas, Kansas State University and Wichita State University.

The Chairman closed the hearing on: **HB 2889**

### **HB 2889**      **KORA; records not required to be open**

Rep. Yonally made a motion for the favorable passage of **HB 2889**. Rep. Storm seconded the motion.

Rep. Siegfried made a substitute motion to amend **HB 2889** by reinstating Section 35 which relates to medical peer review and risk management records. Rep. Huy seconded the motion. The motion carried.

Rep. Storm made a motion for the favorable passage of **HB 2889** as amended. Rep. Johnson seconded the motion. The motion carried.

### **HB 2585**      **convention and visitor's committees or bureaus; open meetings and open records laws**

Rep. Lane made a motion to remove **HB 2585** from the table. Rep. Toelkes seconded the motion. The motion carried.

Rep. Lane made a motion to amend the bill to localize to the Topeka bureau. Rep. Thull seconded the motion. The motion carried.

Rep. Lane made a motion for the favorable passage of **HB 2585** as amended. Rep. Toelkes seconded the motion. The motion carried.

### **HB 2615**      **abatement of nuisances, owner has not exceeding 40 days to abate nuisance; current law 10 days**

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Rep. Kassebaum made a motion to amend **HB 2615** by deleting the time frame extension of 40 days and adding an extension for due diligence. Rep. Yonally seconded the motion. The motion carried.

Rep. Sigfried made a motion for the favorable passage of **HB 2615** as amended. Rep. Huy seconded the motion. The motion carried.

### **HB 2758**      **open records act; exemptions; military discharge forms**

Rep. Yonally made a motion for the favorable passage of **HB 2758** as amended. Rep. Lane seconded the motion. The motion carried.

### **HB 2805**      **law enforcement consolidation; Lincoln and Cloud counties**

Rep. Horst made the motion to amend the bill as per the balloon amendment (Attachment 17). Rep. Reitz seconded the motion. The motion carried.

Rep. Yonally made the motion for the favorable passage of **HB 2805**. Rep. Horst seconded the motion. The motion carried.

### **HB 2519**      **county fire districts; detachment of territory**

Rep. Toelkes made the motion to strike the language in **HB 2519** and to insert the language of the balloon amendment (Attachment 18). Rep. Lane seconded the motion. The motion carried. Division was called: Yeas 5, Nays 7. The motion failed.

### **Minutes**

Rep. Storm made the motion to approve the minutes of the January 29, 2004 and February 19, 2004 meetings. Rep. Siegfried seconded the motion. The motion carried.

The meeting was adjourned at 5:30 p.m.

Next scheduled meeting will be Thursday, March 5, 2004.