

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairman Senator Janice Hardenburger at 1:00 p.m. on March 29, 2000, in Room 245-N of the Capitol.

All members were present except: Senator Petty
Senator Huelskamp

Committee staff present: Dennis Hodgins, Legislative Research Department
Mike Heim, Legislative Research Department
Ken Wilke, Revisor of Statutes
Graceanna Wood, Committee Secretary

Conferees appearing before the committee: David Furnas, Kansas Press Association
Harriet Lang, Pres. & Exec. Director Kansas Association of Broadcasters
Don Moler, Exec. Director, League of Kansas Municipalities
Randy Allen, Executive Director Kansas Association of Counties
Mike Taylor, Gov. Relations Director, City of Wichita
Mark Tallman, Asst. Exec. Director for Advocacy, Kansas Association School Boards
Melissa Wangemann, Legal Counsel, Deputy Assistant Secretary of State
Steve Phillips, Assistant Attorney General
Clyde Graeber, Secretary Department of Health & Environment
Sally Finney, Executive Director Kansas Public Health Association, Inc. (Written Testimony)

Others attending: See attached list

Chairman Hardenburger continued the hearing on **S Sub HB 2864 concerning the open records act; concerning the open meetings act; establishing the position of public information officers; prescribing the powers and duties and repealing the existing sections**, and introduced David Furnas of the Kansas Press Association.

Mr. Furnas testified in favor of **S Sub HB 2864** as recommended by the House Local Government Committee, and said there were some good provisions of the bill that was passed by the House. He also distributed copies of a publication by Hurst Laviana of *the Wichita Eagle* regarding requests for public records. (Attachment #1) (Attachment #2)

Harriet Lange, President and Executive Director of Kansas Association of Broadcasters, in support of **S Sub HB 2864** said that Kansas currently has good basic laws related to open records and open meetings. However, a few changes in each would enhance the process of government and the public's access. (Attachment #3)

Don Moler, Executive Director, League of Kansas Municipalities, presented testimony in opposition to **S Sub HB 2864**, and said that the Kansas Open Records Act and portions of the Kansas Open Meetings Act have been substantially modified. (Attachment #4)

Chairman Hardenburger said that she is not supportive about signs, because many times they are in language that is difficult for the general public to understand. She said she would like to encourage the public to seek information. She requested the development of a brochure that would be placed in the state's municipalities that would be accessible, easily picked up, and educate the public on how they can obtain information. She asked Mr. Moler if the League of Municipalities would be willing, as well as the

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Kansas Association of Counties, to develop the brochure if the Committee decides to replace signs with a pamphlet or a handout. She said that she needed to have someone to pilot the process. Also funding may be another problem, as it would be an unfunded mandate upon the counties.

Mr. Moler said they would be glad to participate in a process by the counties to develop an easy to read brochure for the public, so the public would have an easy access for knowing their rights under the Open Records Act.

Chairman Hardenburger told the Committee, using her own experience, when she was Freedom of Information Officer for a federal agency, the request came directly to her. If she had doubts whether the record could be released, she had a regional attorney to advise her. She said, the city clerk has a city attorney, the county clerk has a county attorney to seek advice on what should be released. There would be one entry point for that request to be made rather than requesting from county or city officials who have no idea what they can release. This would simplify the process, protect the information as far as privacy and provide more streamline process for requests.

Randy Allen, Executive Director of the Kansas Association of Counties, expressed concerns to the Committee regarding **S Sub HB 2864**. He said that the County officials are continually educated in the application of both the Kansas Open Records and Open Meetings Acts through extensive education programs offered by the KAC as well as several KAC affiliate organizations, such as the Kansas County Clerks and Election Officials Association. (Attachment #5)

Mike Taylor, Government Relations Director, City of Wichita spoke in opposition to the bill. He said as public employees we should spend our time making information about government available to citizens, letting them know what we are doing with their tax dollars and why. (Attachment #6)

Mark Tallman, Assistant Executive Director for Advocacy, Kansas Association of School Boards, in opposition to **S Sub HB 2864**, said a number of changes to the original bill were made on the floor of the House, and feels that those were improvements, but still do not address all the questions for local government bodies. Mr. Tallman also included a list of those questions to his testimony. (Attachment #7)

Senator Gooch asked if there would be a fine against an individual for releasing private information. Mr. Tallman said there would be a fine for failure to comply with the Open Records Act. The bill passed in the House set a fine for violating the Open Records Act, but the fine would be levied against the public agency, not the individual.

Chairman Hardenburger asked the question: Is not the employee a part of the public agency? She said the public agency can always punish the employee by dismissal, by putting something in that employee's evaluation report. That person is the public agency, employees do not work separately as individuals being employed as a public agency.

Melissa Wangemann, Legal Counsel, Deputy Assistant Secretary of State, gave testimony opposing **S Sub HB 2864**. She said as the state's chief custodian of records, the Secretary of State has always supported open access to public records. She also said their office generally performs ministerial filing duties and has little authority to regulate entities or enforce laws. (Attachment #8)

Steve Phillips, Assistant Attorney General, gave testimony on behalf of Attorney General Carla Stovall. He said the bill started out as a proposal by Governor Bill Graves and Attorney General Carla Stovall for strengthening enforcement of the Open Records and Open Meetings Acts by providing additional enforcement mechanisms for their office, county and district attorneys, the courts and private individuals. The main thrust was creation of a hearing officer who could hear complaints through administrative proceedings brought by an assistant Attorney General, a county or district attorney, or a private individual or entity. (Attachment #9)

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Clyde Graeber, Secretary of Kansas Department of Health & Environment, appeared before the Committee to support the concerns expressed by the Kansas Public Health Association. He said that the provision that allows a sunset of the exemption for access to public health records should be removed from this legislation.

(Attachment #10)

Chairman Hardenburger informed the Committee that there was written testimony from Sally Finney, Executive Director of Kansas Public Health Association, Inc. (Attachment #11)

Chairman Hardenburger requested that all parties get together, create a bill, and bring it to the Committee. She said that she would like to have the House bill gutted. She feels the current law is good, but if it needs to be improved to help the public understand the law, and to assist our government officials to meet the requirements of the law. This would be the end result.

Meeting was adjourned at 2:00 p.m. Next meeting April 5, 2000.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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