



Kansas Press Association, Inc.

Dedicated to serving and advancing the interests of Kansas newspapers

5423 SW Seventh Street • Topeka, Kansas 66606 • Phone (785) 271-5304 • Fax (785) 271-7341 • www.kspress.com

Jan. 29, 2015

To: The Honorable John Barker, chairman of the House Judiciary Committee, and members of the committee

From: Doug Anstaett, executive director, Kansas Press Association

Re: HB 2054

Chairman Barker and members of the committee:

Thank you for this opportunity to address you today regarding the Kansas Press Association's position on HB 2054, the Public Speech Protection Act.

Freedom of expression is a cherished right in America. As citizens, we believe the right to speak out on issues of public concern is, in fact, a fundamental right.

Our nation's strength is based upon this belief that government can only be "good" if those who are represented — the people — are allowed to be contributors to the process of writing laws, judging the effectiveness of government and speaking their mind before the Legislature, city council, school board, county commission and other public bodies.

We strongly support this bill brought forward by Rep. Janice Pauls because it protects the voices of those who wish to speak truth to power.

We all are familiar with the term "money talks." Money does buy access. But it also can be used to thwart public discussions of issues. Those with deep pockets also can use their money to virtually shout down their detractors.

How? By filing lawsuits against those whose views they would prefer to eliminate from the public square. We call these Strategic Lawsuits Against Public Participation, or SLAPPs. They are designed to censor and, therefore, silence critics through financial intimidation because the cost of defending oneself would be too expensive for the average citizen or small newspaper owner to bear.

This bill is most often referred to as an anti-SLAPP bill. It is designed to level the playing field for those who wish to truthfully participate in public debates. Think about it: our democracy cannot work effectively if those with different views cannot be heard. Only when we hear all sides of a debate can government come to the best and fairest decisions.

How does it work? Without anti-SLAPP legislation, a lawsuit, even if defended, takes considerable time to wend through the judicial process, often until long after the original issue was concluded. So, even if the lawsuit is eventually dismissed or decided in favor of the defendants — they lose because they have often exhausted their financial resources and now it's too late to have an effect on the issue.

Anti-SLAPP laws provide for a quick review of lawsuits that threaten the right of free expression. Usually, within a few days or weeks, a judge can determine the validity of the lawsuit, before it becomes too expensive — or too late.

Anti-SLAPP laws favor no one ideology; in fact, they protect the entire spectrum of ideas, because anyone with deep pockets can try to put a stranglehold on public opposition to any issue.

One thing this bill doesn't do: It does not provide protection for those who would deliberately spread falsehoods.

The Society of Professional Journalists provides the following as examples of SLAPP-like lawsuits from around the country:

❑ In Rhode Island, a woman filed comments on proposed groundwater rules, raising concerns about possible contamination from a local landfill. The landfill operators sued her for defamation and tortious interference with prospective business contracts, seeking both compensatory and punitive damages.

❑ In Pennsylvania, a couple wrote letters to their United States senator, state health officials, and CBS News complaining about conditions at a local nursing home. The state investigated and eventually revoked the nursing home's license. The nursing home then sued the couple, the senator and a state health department official.

❑ In Minnesota, a retired United States Fish and Wildlife Service employee mobilized his neighbors against a proposed condominium development on a small lake. After the rezoning request was rejected, the developer sued him, alleging he had made false statements that damaged the developer's business reputation.

❑ In Texas, a woman confined to her home by illness spoke out publicly against a nearby landfill. In response, the landfill owners filed a \$5 million defamation suit against the woman and her husband.

❑ In California, a group of small cotton farmers bought newspaper advertising opposing a proposed ballot measure supported by the nation's largest cotton agribusiness. The corporation sued the farmers for libel, requesting \$2.5 million in damages.

❑ In California, a \$63 million lawsuit was filed by a developer who claimed that the Beverly Hills League of Women Voters had unlawfully stymied his 10-acre project.

❑ In Washington, The Nature Conservancy was sued for \$2.79 million by seaweed farm developers after it had inventoried potential natural areas in San Juan County, identified lands that should be preserved (including the plaintiffs'), and turned the study over to the county as a recommendation.

❑ In Washington, the anti-SLAPP legislation was named "The Brenda Hill Bill" after a woman who reported her subdivision developer to the state for failure to pay its tax bill. The developer filed foreclosure proceedings on Hill's home and sued her for defamation, seeking \$100,000. Her story swayed both the governor and the legislator who brought the bill.

Thank you for your attention today and to Rep. Pauls for her initiative on this legislation. The Kansas Press Association strongly supports this legislation.

I will stand for questions at the appropriate time.