



To: Senate Committee on Federal and State Affairs

From: Nicole Proulx Aiken, Legal Counsel

Date: February 10, 2015

Re: Opposition to SB 98

Thank you for allowing me to appear before you today on behalf of the League of Kansas Municipalities and its member cities. The League opposes SB 98 because it mandates the fees cities can charge for open records requests and regulates the minutes kept at every meeting.

Current law, K.S.A. 45-219(c), requires cities to charge reasonable fees for open records requests. The League offers yearly trainings on the Kansas open records act (KORA). This training educates city officials and staff that fees charged for open records requests should be set at a reasonable amount; cities should not make money off of open records requests or charge high fees to deter requests. It has been our experience that cities respect and obey this law.

Mandating the fees cities can charge for open records requests not only erodes local control, but it creates an unfunded mandate on local governments. If cities are not able to set appropriate and reasonable fees to recoup costs, the cost for open records requests will be paid by every tax payer through increases in sales tax or property tax or decreases in other services. A one-size-fits-all approach is not appropriate, because costs vary from city to city. Moreover, the League is concerned that the proposed fee structure will produce unduly burdensome requests. A small minority of individuals use KORA as a way to disrupt operations. Mandating a fee structure in which some records are free could encourage continued abuse. For example, an individual could make one open records request in the morning that requires an hour of staff time and a second request in the afternoon or the next day that requires another hour of staff time. Under this bill, cities would not have the ability to recover the costs associated with such requests. The bill also does not adjust the maximum amount cities can charge as inflation and salaries increase. Cities would have to ask the Legislature to increase these fees.

In addition to the open records fees, SB 98 mandates that cities take minutes at every meeting and that the secretary of state determine the format of such minutes. The requirement that minutes be kept for all meetings ignores the wide-scope gatherings that fall under the Kansas open meetings act's (KOMA) definition of meeting. Work sessions and emergency meetings do not lend themselves to minute keeping, but qualify as meetings under the Act. Making it a KOMA violation to not use a state-approved minute's form for the numerous kinds of meetings is an unreasonable burden on Kansas's 626 city governments.

Thank you again for allowing the League to testify on this important topic. We respectfully request that you do not pass SB 98 out of Committee.