

Approved _____

Date

4/9/86

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:00 a.m./~~p.m.~~ on April 7, 1986 in room 254-E of the Capitol.

All members were present except:

Senator Anderson and Senator Morris were excused.

Committee staff present:

J. Russell Mills, Jr., Legislative Research
Emalene Correll, Legislative Research
Mary Torrence, Assistant Revisor of Statutes
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Rita Noll, Assistant Attorney General
Dennis Moore, District Attorney, Olathe

HB2821 - time limits for enforcement of open meetings laws

The Chairman welcomed the first conferee, a proponent of HB2821, Ms. Rita Noll, an Assistant Attorney General. Appearing on behalf of the Attorney General she said that specifically the bill would amend K.S.A. 75-4320 to increase from ten (10) to twenty (20) days the time period in which the Attorney General or a district or county attorney could bring an action to void binding action taken at a meeting which was in violation of the law. The bill is of great interest to the Attorney General's office and they have taken the lead role in interpreting and enforcing the open meetings act. (Attachment #1)

The next proponent was Mr. Dennis Moore, District Attorney, from Johnson County, Olathe, Kansas. Mr. Moore stated that the ultimate objective is that the public has the right to know how decisions are made. A copy of his statement is attached. (Attachment #2)

There were questions and discussion by the Committee.

Senator Walker moved to amend HB2821 by making the time involved to be 15 days. 2d by Senator Strick. Senator Vidricksen made the substitute motion to amend it to 20 days. 2d by Senator Ehrlich. Motion carried.

SCR1614 - authorize with county option the regulation, license and taxation of dog racing and parimutuel wagering thereon

The Chairman asked the Committee to consider SCR1614. Senator Arasmith moved it be reported adversely. 2d by Senator Daniels. Motion carried.

SCR1626 - constitutional amendment for prohibition of liquor

The Committee then considered SCR1626. Senator Arasmith moved it be reported adversely. 2d by Senator Daniels. Motion carried.

HB2735 - requiring psychological testing for law enforcement officers

Senator Arasmith made a technical amendment to correct the title. 2d by Senator Martin. Motion carried. Senator Hoferer moved that the bill be reported favorably as amended. 2d by Senator Martin. Motion carried.

The meeting was adjourned at noon.

4/7/86
Attachment #



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

TESTIMONY OF ASSISTANT ATTORNEY GENERAL
RITA L. NOLL
TO THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
April 7, 1986
REGARDING 1986 HOUSE BILL NO. 2821

Mr. Chairman and Members of the Committee:

On behalf of Attorney General Robert T. Stephan, I appreciate this opportunity to discuss with you the proposed amendment in 1986 House Bill No. 2821 to the Kansas Open Meetings Act. Specifically, the bill would amend K.S.A. 75-4320 to increase from ten (10) to twenty (20) days the time period in which the Attorney General or a district or county attorney could bring an action to void binding action taken at a meeting which was in violation of the law. In that the Attorney General's office has taken the lead role in interpreting and enforcing the open meetings act, this bill is of great interest to our office.

It is my understanding that the ten (10) day provision was an initial compromise when the Kansas Open Meetings Act was enacted during the 1970's. On the one hand, there were those who did not want the business of cities and counties disrupted by the threat of a subsequent lawsuit invalidating

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action which may have been taken earlier. On the other hand, it was argued that action taken in violation of the law should not be allowed to have binding effect. The ten (10) day period was a compromise figure, and allowed actions to be brought within this time that would void any binding action.

As a practical matter, our office has found that the ten (10) day period is not very workable. In that the ten (10) day period begins to run from the day of the action, regardless of whether or not anyone discovers what was done, the fact of the illegal act may not come to light until after the period has passed. We have had actual situations in which our office has been requested to examine a matter on the ninth or even the tenth day. Obviously, this places a great deal of pressure on our office to initiate legal proceedings, even if all of the facts are not known. Additionally, it has been the policy of Attorney General Stephan to work with county and district attorneys whenever possible. Such coordination requires time, and cooperation between the Attorney General's office and local officials is hampered by the ten (10) day time limit.

Attorney General Stephan appreciates this opportunity to present his views on this bill before the committee. I would be happy to answer any questions which may assist the committee in its deliberations.

4/8/86
Attachment #2
#2

STATE OF KANSAS
Tenth Judicial District

OFFICE OF DISTRICT ATTORNEY

DENNIS W. MOORE
DISTRICT ATTORNEY

JOHNSON COUNTY COURTHOUSE
P.O. Box 728, 6TH FLOOR TOWER
OLATHE, KANSAS 66061
913-782-5000, EXT. 333

May 28, 1986

Mrs. June Windscheffel
1100 Southwest Belle Avenue
Topeka, KS 66604

Dear June:

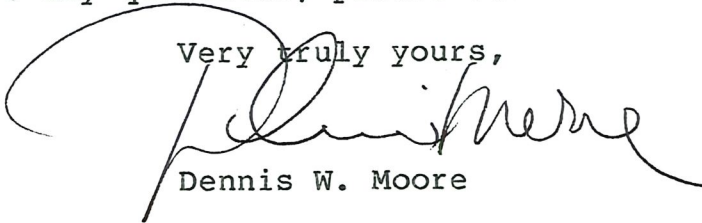
I'm very sorry for this late reply to your letter which I received May 12th.

On April 7, 1986, I appeared before the Senate Committee on Federal and State Affairs in support of HB2821, a proposed amendment to the Kansas Open Meetings Act.

As I testified at the hearing, as District Attorney for the past ten years in Johnson County, I have received several complaints of alleged violations of the Kansas Open Meetings Act. Under the law prior to HB2821, a county or district attorney receiving a complaint alleging a violation of the Kansas Open Meetings Act had ten days within which to file a lawsuit to set aside binding action taken by a board or council contrary to the provisions of the Act. While I understand the need for finality in actions taken by governmental bodies, it is very difficult to receive a complaint, investigate the substance of the complaint and prepare and file a lawsuit within ten days. I asked that the time be enlarged to fifteen or twenty days.

If you have any questions, please call me.

Very truly yours,



Dennis W. Moore

DWM/sjb

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