

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by CHAIRMAN MILLER at _____
Chairperson

1:30 a.m./p.m. on February 25, 1987 in room 526S of the Capitol.

All members were present except:

Representatives Aylward, Ramirez, Rolfs, Sifers, Sprague, Peterson, Charlton, & Grotewiel

Committee staff present:

Lynda Hutfles, Secretary
Mary Galligan, Research
Mary Torrance, Revisor
Raney Gilliland, Research

Conferees appearing before the committee:

Representative Mike O'Neal
Jim Fountain
Mike Hill, Kansas
Neil Woerman, Attorney General's Office
Roy Dunwick
Representative Elizabeth Baker
Paul Louderman, Association of News Broadcasters
Jim Koup, League of Kansas Municipalities

The meeting was called to order by Chairman Miller.

Representative Sughrue made a motion, seconded by Representative Gjerstad, to approve the minutes of the February 24 meeting. The motion carried.

HB2305 - Fingerprinting of candidates for sheriff and chief of police.

Representative Mike O'Neal introduced Sheriff Jim Fountain who is a supporter of the bill.

Jim Fountain explained how the bill effects his area and feels that candidates for sheriff should be fingerprinted and checked to determine whether the person qualifies for admission to the law enforcement training center which is required of all sheriff's.

Sheriff Mike Hill, Kansas Sheriff's Association, told the committee that their joint legislative conference had discussed the bill and backed it completely. There is a need for good qualified people to run for sheriff and chiefs of police. See attachment A.

There was discussion of line 48-50 and whether legislation is needed dealing with the election laws.

Neil Woerman, Attorney General's Office, gave testimony in support of the bill. Mr. Woerman had several suggested amendments. One was to give the county election office the authority to remove a name from the ballot if a candidate does not pass the fingerprint check. Also needed is a clarification of exactly what the KBI is certifying when they do the print check.

A sub-committee was appointed by the Chairman with Representative Jenkins as Chairman and Representative Roy as a member.

Roy Dunwick, Jefferson County Sheriff, gave his support of the bill.

Hearings were concluded on HB2305.

HB2309 - Open meetings requirements of members-elect of public bodies

Representative Baker explained the bill which relates to the open meeting requirements and simply states that a quorum of membership and/or membership elect of a body or agency cannot meet to discuss the business of that body or agency. See attachment B.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Federal & State Affairs,
room 526S, Statehouse, at 1:30 a.m./p.m. on February 25, 1987

There was discussion of the definition of quorum as it relates to this bill.

Paul Louderman, WIBW and Association of News Broadcasters, gave testimony in support of the bill. He said there is a potential for abuse where members-elect of governing bodies begin to take part in the process of decision making before they are sworn into office. See attachment C.

Jim Koup, League of Kansas Municipalities, gave testimony in opposition to the bill saying it is an over-reaction. He said that there was no way members-elect could govern or transact business before they are members; they have no powers.

Hearings were concluded on HB2309

The Chairman thanked the committee for their work and dedication on the three major pieces of legislation that have gone through the committee and the House.

The meeting was adjourned.

Written testimony distributed:

Sunflower Alcohol Safety Action Project, Inc. See attachment D.



Kansas Sheriffs Association

3601 S.W. 29th St. #125
Topeka, Kansas 66614

913-273-5959

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Sandra L. Cantwell

TO: Members of the Federal and State Affairs Committee
FROM: Kansas Sheriffs Association
REF: Support of House Bill 2305

The Kansas Statutes state that a person who has been convicted of a felony or violation of drug and alcohol laws shall not serve as sheriff. This does not, however, prevent such person from running for the office nor does it prevent such person from concealing the fact of his conviction.

In the recent past there have been instances of persons who have been convicted of said violations being appointed, elected and serving as sheriff.

This legislation was requested on behalf of the Kansas Sheriffs Association by Reno County Sheriff Jim Fountain. We are thankful to Representative Michael O'Neal for sponsoring H.B. 2305 and respectfully request passage of the proposed legislation.

KSA:slc

attachment A

ELIZABETH BAKER
REPRESENTATIVE, EIGHTY-SECOND DISTRICT
SEDGWICK COUNTY
1025 REDWOOD RD.
DERBY, KANSAS 67037



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN: ELECTIONS
MEMBER: ECONOMIC DEVELOPMENT
JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT
LOCAL GOVERNMENT

February 25, 1987

TO: House Committee on Federal and State Affairs
FROM: Representative Elizabeth Baker
RE: House Bill 2309

House Bill 2309 relates to the open meeting requirements and simply states that a quorum of membership and/or membership-elect of a body or agency cannot meet to discuss the business of that body or agency.

The basis for concern originated in Sedgwick County December of '86, when two commissioners-elect and a commissioner met secretly to make decisions concerning county policy and personnel. Because the open meetings law's principle purpose is to open governmental decisions for public view, it appears the spirit of the law was violated by the commissioner's and commissioner's-elect participation in this secret meeting. Carl Monk, Dean of the Washburn School of Law, said, "The Legislature might well want to look into extending the provision to people elected, but not yet in office." Thus the introduction of HB 2309.

It is my view that the open meetings law is not a restriction placed on elected officials, but rather, it is instead, a protection provided for elected officials. It protects us from our own human frailties and weaknesses by requiring public examination, thus insuring our own self-examination. To ignore this protection makes us vulnerable to a disease that inflicts many in public office, the well-known syndrome of infectious venality.

When decisions are made that effect public policy and consequently the taxpayers hard-earned dollars, those decisions must be open to public scrutiny. I urge your support of this needed and necessary change.

/bs

Attachment B

Law Circumvented

Commission Policy Discussed in Secret

By Alissa Rubin
Staff Writer

A Sedgwick County commissioner and two commissioners-elect met secretly earlier this month to make decisions about county policy and personnel — meetings they could not hold two weeks from now.

The meetings violate the spirit but not the letter of the Kansas open meetings law, said experts on the law.

Commissioner Tom Scott and Commissioners-elect Mark Schroeder and Billy McCray met with Warner Moore, a leading

member of the Sedgwick County Democratic party, to discuss who to hire as county counselor, said the participants in the meetings.

The three elected officials — Scott, Schroeder and Moore — are the Democrats on the Sedgwick County Commission that will expand to five members next month. Because they represent a majority of that commission, once they are sworn into office on Jan. 11, any decision they agree on can become county policy. Republican Commissioner Bud Hentzen and

● MEETING, 8A, Col. 1

The Wichita Eagle-Beacon

DECEMBER 27, 1986

Meeting Violated Spirit, Not Letter of Law, Experts Say

MEETING, From 1A

Republican Commissioner-elect Dave Bayouth said they had heard informally that the meetings were going on but had not been invited to them.

"GIVEN THAT the purpose of the law is to open governmental decisions to public view, this situation doesn't seem in keeping with the (intent of) the law. The Legislature might well want to look into extending the provision to people elected but not yet in office," said Carl Monk, a law professor and dean of the Washburn School of Law in Topeka.

When the commissioners-elect are sworn in, private meetings of two or more commissioners to discuss county business will be a violation of the law. Until the commissioners-elect are sworn in, however, they are not bound by the law, said Neil Woerman, a spokesman for Attorney General Bob Stephan.

"They are doing something now that they clearly couldn't do once they are sworn in. ... The result (making decisions about county business) is contrary to the intent of the open meeting law, but until January the law's simply not applicable," Woerman said.

Commissioner Tom Scott said the meetings were being held before the commissioners were sworn in because the open meetings law would prevent them from having private discussions come Jan. 11.



THE LAW also says that two or more commissioners cannot meet to discuss county business unless they notify the public. It was designed to make sure that the public is informed about how government bodies make decisions.

Scott said the meetings were being held before the commissioners were sworn in because the open meetings law would prevent them from having private discussions come Jan. 11.

"We're trying to put that office (the county counselor's) together and get that decision (who to hire) made before the commissioners take office," he said.

The three commissioners decided to offer the job to Wichita lawyer Robert Arnold, said Scott. Arnold said if the job is offered to him formally, he will accept it.

Both Schroeder and McCray said they were concerned that the meetings might violate the law.

Schroeder said he was reassured that the meetings were proper after checking the point with Moore and other local attorneys.

"I DON'T feel there's been any violation of the law because we are not sworn into office," he said.

McCray, a 14-year veteran of the Kansas House of Representatives, said he did not know much about the law.

"I would say that sometimes you just kind of get together, but you've got to be careful because of the open meetings law, with telephone calls and get-togethers," McCray said.

"I'VE BEEN told that when we become commissioners we have to be very careful to invite the press. I'm just not that well-informed on the open meetings law," he said.

Bayouth, who did not attend the meetings but said he was consulted about how the county counselor's office should be run, said that the meetings did not violate the law. "We're not even sworn in... so now's about the only time we can talk. After the 12th (of January) the party's over."

Arnold is a former president of the Wichita Bar Association and longtime friend of Moore's.

"He's our choice if he wants the job. We visited with him and offered it to him and he said was going to do some checking," said Scott.

"I would say at this point that it has been discussed with me. ... If the commission wants me to serve, I would be willing to. ... I probably need to talk with Commissioner Scott again and I probably will be talking to him in the next few days," Arnold said.

SCOTT SAID he planned to offer a resolution either at the first or second meeting of the new county commission appointing Arnold — assuming he accepts the position.

The county counselor's three primary responsibilities are to advise the commission on legal matters, advise other county departments, and monitor any cases that are sent out to private firms.

The office has four full-time attorneys, including the county counselor, and one part-time attorney. In 1987, the county counselor's salary is budgeted at \$65,704, the other attorneys are paid between \$35,000 and \$40,000. Outside law firms earn about \$275,000 of the \$500,000 budgeted for the county's legal matters.

County counselor is one of the five county staff positions where the commissioners have direct control over who to hire and fire. The others are the county administrator, county appraiser, head of the office of economic development, and head of the office of public affairs.

SCOTT AND the commissioners-elect have said they want the county counselor's office to be reorganized and would consider replacing one or more staff attorneys in addition to William Rustin, the current county counselor.

Traditionally the county counselor has been appointed by the party that has the majority on the commission. In Wichita's city government the position of city attorney

is non-partisan and the city attorney reports to the city manager. It is widely acknowledged that the job of county counselor is a patronage post, but county officials said in this case patronage does not have a pejorative connotation.

"THE PROBLEM is that if commissioners are making decisions about who to hire and how to run that office, they're probably talking about a lot of other county departments and county policy. It doesn't matter whether the decisions are good or bad, the purpose of a democratic system — and of the open meetings law — is to have public participation, or at least knowledge of how government works," he said.

Editorials/Opinion

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As We See It:

Mr. Scott Declares War on Progress

THE mask is down now, and there can be no doubting what direction Tom Scott, Democrat, soon to be chairman of the Sedgwick County Commission, wants the county to take under his leadership: straight back to the political Old Stone Age. We and others had hoped there might be some reasoning with the new chairman; we frankly had doubted many of the stories about Mr. Scott's pettiness and vindictiveness that were emanating from the Courthouse; we had thought that once he assumed the leadership, he would be a leader for all Sedgwick County, not just the Democratic hierarchy.

We were wrong. By declaring he would dismantle the office of county administrator and return those duties to the various commissioners — with all the patronage and political favoritism that implies — Mr. Scott has declared war on whatever progress the county has made toward professionalism (a word Mr. Scott abhors) and good government over the past eight years. Since he's doing it in the name of the Democratic Party, he also is besmirching that party's good name, and equating it with the "good 'ol boy" politics that rank-and-file Democrats ought to resent to their toenails.

However partisanly petty and mean-spirited Mr. Scott wants to be during the remaining two years of his term, he shouldn't take the other commissioners with him. The two new Democratic members, Billy McCray and Mark Schroeder, were suckered into meet-

ing with Mr. Scott earlier to determine whom they, as the Democratic majority, would hire as county counselor to replace Bill Rustin, whom Mr. Scott regarded as the "Republican" county counselor. If the secret meeting didn't violate the letter of the Kansas Open Meetings Act, it certainly violated its spirit — something Mr. Scott well knew.

That little subterfuge not only hurt the credibility of the incoming commissioners, it also hurt the person selected as county counselor. We long have known Robert Arnold, former head of the Wichita-Sedgwick County Bar Association and a longtime Democratic worker, as a trusted and knowledgeable individual. He could have been offered the job in the light of day, and no questions would have been asked. Now the taint of behind-the-door political favoritism has been attached to his appointment — and it was so needless.

Every good thing the county has done over the past several years — its moves toward greater cooperation with the city, its streamlining of county services, its participation in the Long Range Planning Task Force — every one is in jeopardy from this destructive attitude of looking to the past instead of to the future. The only hope is that Mr. Scott's four colleagues will be as independent-minded as they show indications of being, and not let him take them down that

Who's Paying Professor Carlin?

NOW that questions are starting to be asked about the source of funding for the teaching position Gov. Carlin will assume after he leaves office next week, Wichita State University officials should do what they should have done in the first place: disclose the names of the private contributors. For those contributors who might not agree to that, their money should be returned or shifted to some other university

Mr. Carlin is being paid a handsome salary, by university standards, for performing some minimal teaching and other assignments for the Hugo Wall Center for Urban Studies. The prestige his appointment brings to the university must be figured in any accounting of what he is "due." But the university also has to be able to justify Mr. Carlin's salary, particularly to the other faculty members, whatever the amount or

Compliments of the
KANSAS STATE HISTORICAL SOCIETY

Steve Bens



Now S

The other morning accountant passed federal income form to all employees used to be two or now four pages. instruction book The accountant held eral seminars w try and explain W-4. After the firm were totally co have to dig out o home to fill out other words, co America will b hours filling out ment form. And productivity and businesses.

It also means the taxpayers, w to fill out their twice a year in Accountants



BOX 119 • TOPEKA, KANSAS 66601 • 913/272-3456

TESTIMONY BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

FEBRUARY 25, 1987

PAUL LOUDERMAN, WIBW AM/FM NEWS DIRECTOR
VICE PRESIDENT OF THE ASSOCIATION OF NEWS
BROADCASTERS OF KANSAS

MR. CHAIRMAN, COMMITTEE MEMBERS, MY NAME IS PAUL LOUDERMAN. I AM THE NEWS DIRECTOR OF WIBW AM/FM IN TOPEKA AND ALSO THE VICE PRESIDENT OF THE ASSOCIATION OF NEWS BROADCASTERS OF KANSAS. I AM HERE BEFORE YOU THIS AFTERNOON TO SPEAK IN SUPPORT OF HOUSE BILL 2309. OUR GROUP REPRESENTS THE NEWS BROADCASTERS IN THE STATE WHICH INCLUDES 164 RADIO STATIONS AND 22 T.V. STATIONS. OUR SUPPORT FOR HOUSE BILL 2309 IS BASED ON THE FOLLOWING FACTS AND CONCERNS.

1. WE HAVE FOUND THAT THERE IS A POTENTIAL FOR ABUSE WHERE MEMBERS-ELECT OF GOVERNING BODIES BEGIN TO TAKE PART IN THE PROCESS OF DECISION-MAKING BEFORE THEY ARE SWORN INTO OFFICE. WHILE MANY GOVERNING BODIES AND CANDIDATES UNDERSTAND THE NEED FOR OPEN MEETINGS, THERE IS AT LEAST ONE CASE WE SHOULD BRING FORTH TO YOU THIS AFTERNOON.

LAST NOVEMBER, 2 NEWLY-ELECTED BUT NOT SWORN-IN-YET CANDIDATES ON THE SEDGEWICK COUNTY COMMISSION MET WITH THE HEIR-APPARENT COMMISSION CHAIRMAN. I UNDERSTAND THE NEWS MEDIA REPORTED ABOUT THE SEVERAL, UNANNOUNCED, CLOSED-DOOR SESSIONS IN WHICH THE CANDIDATES LATER ADMITTED BUSINESS WAS DISCUSSED. WHILE THIS MAY BE A RARE INCIDENT, THE ASSOCIATION CAN'T BUT HELP THINK THERE IS A STRONG CHANCE THE OTHER SUCH INCIDENTS ARE NOT BEING REPORTED.

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Attachment C

ANBK TESTIMONY/2-2-2

2. ANOTHER CASE IN POINT DEALS WITH THE TOPEKA 501 SCHOOL DISTRICT. LET ME PREFACE THIS BY SAYING THE ASSOCIATION IS NOT ACCUSING ANYONE OF WRONGDOING, BUT WE WANT TO EXPRESS OUR CONCERN FOR THE POSSIBILITY.

ELECTIONS FOR THE 501 SCHOOL BOARD ARE HELD IN APRIL. BUT THE NEW MEMBERS DO NOT TAKE OFFICE UNTIL JULY, FOUR MONTHS LATER! NOW, I THINK WE ALL RECOGNIZE THAT THE NEW MEMBERS ARE NOT GOING TO IDLE AWAY VALUABLE TIME FOR 120 DAYS AND NOT ORIENT THEMSELVES WITH THE SCHOOL DISTRICT.

TWO YEARS AGO, 501 IN FACT, INVITED THE NEW MEMBERS-ELECT TO GET INVOLVED IN THE PROCESS RIGHT AWAY AND WERE ASKED TO SIT IN ON EXECUTIVE SESSION AS WELL AS THE REGULAR, OPEN BOARD MEETINGS.

THIS YEAR, 4 NEW MEMBERS WILL BE ELECTED TO THE SCHOOL BOARD AND ALREADY 501 BOARD VICE-PRESIDENT TUCK DUNCAN HAS INVITED THE MEMBERS-ELECT TO HELP IN THE PAINSTAKING PROCESS OF BUDGET CUTS. SO HERE WE HAVE MEMBERS-ELECT ACTUALLY TAKING PART AND GIVING INFLUENTIAL INPUT. BUT YET, THEY ARE NOT SUBJECT TO THE KANSAS OPEN MEETINGS LAW.

IS THAT FAIR?

IS THE PUBLIC BEING SERVED?

THE ASSOCIATION OF NEWS BROADCASTERS OF KANSAS THINKS NOT.

WHILE WE APPLAUD TOPEKA 501'S ORIENTATION PROCESS, WE FEEL EVERYONE HAS TO PLAY BY THE SAME RULES OF THE GAME.

OUR ASSOCIATION FEELS THERE'S NO GREATER TIME THAN THE PRESENT FOR NEW MEMBERS OF SCHOOL BOARDS, CITY COUNCILS OR COUNTY COMMISSIONS TO LEARN ABOUT THE OPEN MEETINGS LAW AND TO ABIDE BY IT RIGHT AWAY, EVEN BEFORE THEY TAKE OFFICE. THEY WILL LEARN ABOUT THE NEED TO WORK FOR THE PUBLIC'S TRUST AND TO RUN AN OPEN AND HONEST GOVERNMENT.

THANK YOU.



Sunflower Alcohol Safety Action Project, Inc.

Suite F, 112 S.E. 7th / Topeka, Kansas 66603 / Phone (913) 232-1415

February 25, 1987

Honorable Robert H. Miller
Chairman, Federal and State Affairs Committee
House of Representatives
Statehouse
Topeka, Kansas

RE: House Bill 2265

Dear Representative Miller

The Kansas Community Alcohol Safety Action Project Coordinator's Association fully supports House Bill 2265 for those people who are under the influence of alcohol, drugs, or both, while operating a motor boat or vessel in the waters of this state. As we draw attention to our state's fine lakes and recreational areas through promotional efforts, we must also promote water safety and the responsible use of alcoholic beverages.

We would suggest that you, and your committee, consider amending the proposed legislation to include the provisions as noted in K.S.A. 8-1008 for those people who operate, or attempt to operate, vehicles in the state of Kansas while under the influence of alcohol, drugs, or both. We feel that offering the evaluation to the offender who has been found guilty of an offense, and then referring that offender to the proper education or treatment program, promotes water safety within our state.

Our association would be glad to meet with you and your committee at your convenience to offer any other further suggestions concerning this very important legislation.

Respectfully yours

Gene Johnson
Kansas Community Alcohol Safety Action
Project Coordinators Association

GJ/lkt

cc: Committee Members