

Approved 4-29-87
Date

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 March 20, 1987 in room 254-E of the Capitol.

All members were present except:

Senator Daniels was excused.

Committee staff present:

Mary Galligan, Legislative Research
Emalene Correll, Legislative Research
Mary Torrence, Assistant Revisor of Statutes
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Editorials were before the Committee, concerning the open meetings law, from THE WICHITA EAGLE-BEACON (Attachment #1) and THE LEAVENWORTH TIMES (Attachment #2).

The Chairman stated that SB307, as amended, concerning the open meetings law, was sent back to this Committee, and was studied by a Subcommittee appointed by the Chairman. The Subcommittee was composed of Senator Bond, Chairman; Senator Hoferer and Senator Martin. Senator Bond explained the bill for the Committee and presented the Subcommittee Report to the Committee. (Attachment #3) Also attached is a copy of an Attorney General suggested amendment. (Attachment #4) Senator Bond said if the suggested amendment from the Attorney General is adopted it will alleviate the fear among members as to when it is not a "meeting." The proposed amendment has been incorporated into the Subcommittee Report. Senator Bond said the Subcommittee is requesting that the Chairman of this Committee on Federal and State Affairs request from the Attorney General an opinion concerning the casual discussion, where it is not a violation of the open meeting law.

Senator Bond moved the Subcommittee Report be adopted. Seconded by Senator Hoferer. The motion carried and the Subcommittee Report was adopted.

Staff will draft a letter to the Attorney General, requesting an opinion on casual discussion.

Senator Bond moved favorable passage of SB307, as amended. Seconded by Senator Hoferer. The motion carried.

The Chairman stated that the House of Representatives did pass the House Substitute for SB 141 by a vote of 76-46. He asked the Committee for its direction. Senator Martin moved that the Committee reintroduce its bill, to stay with the version of the bill that the Senate proposed. Senator Morris concurred with Senator Martin. The Chairman stated that the Committee will stay with its version of the bill. It will be on the Calendar.

The Chairman pointed out that Senator Morris, Senator Arasmith, and Senator Martin are working very hard on the Subcommittee for HB 2062, concerning capital punishment. Senator Morris spoke to the Subcommittee Report and staff assisted in going through the bill. There was much Committee discussion.

Senator Morris moved that the Minutes of March 17 and 18, 1987, be approved. Seconded by Senator Vidricksen. The motion carried.

The meeting was adjourned at noon.

3/20/87
Attachment #1

Editorials/Opinion

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THE WICHITA EAGLE-BEACON

Thursday, March 19, 1987

Leave Open Meetings Act Alone

ON the heels of last week's furor over the Kansas Open Meetings Act, Attorney General Robert Stephan has offered a "clarifying amendment" supposedly saying public officials can get together socially as long as they don't discuss public business. In fact, the amendment does not make that clear.

The Senate last week approved another amendment that would have allowed members of a governing body to meet socially as long as they didn't transact business. Then senators realized the amendment would have allowed public officials to discuss public business socially. That would have weakened the Open Meetings Act: Discussions need to be open so citizens can understand government actions. Senators wisely voted

that amendment down and sent the matter back to committee.

The Stephan amendment is a follow-up measure intended to make explicit what the act already implies: Members of a given body may get together socially as long as they don't discuss business. But the text is confusing and does not clearly forbid discussion of public business in social settings: "This act does not prevent free association among members of a body or agency when such association does not constitute a meeting as defined by this act."

Most officials already understand they may meet socially as long as they don't talk business. That's why the Senate Federal and State Affairs Committee, which now has charge of the matter, should let the Stephan amendment die.

Attachment #1
FSA 3/20/87

THE LEAVENWORTH TIMES, March 17, 1987

Editorial/Opinion

Open meetings law unchanged

The public won a major victory last week when the Kansas Senate defeated a measure to amend and weaken the current open meetings law. The bill which was defeated would have allowed elected public officials to discuss governmental business at social gatherings and while traveling.

The proposed change, however, is not dead. It has been returned to the Senate Federal and State Affairs Committee, chaired by Leavenworth Sen. Edward F. Reilly Jr., for further study and possible changes.

The bill was sponsored by the Kansas Association of School Boards and opposed by Attorney General Robert Stephan. We laud Stephan's opposition to the bill.

Reilly said he supported the bill because, even though he has championed the open meetings law, he believes it contains a flaw. The current law does not allow members of governmental units to travel in the same vehicle to attend meetings or to talk to each other at social gatherings because it might be construed that they are violating the open meetings act, according to the senator.

Reilly said forcing county commissioners or school board members from the western part of the state to travel in separate vehicles to Topeka to discuss legislation is costly and unnecessary. He also believes that elected local government officials should be able to socialize together without facing the penalties of the open meetings law.

The local senator said the strongest opposition to the proposed change in the open

meetings law came from the media, but did not surface until the proposal came up on the floor of the Senate for a vote. The Kansas Association of School Boards did testify in committee hearings in support of the bill but the media did not, Reilly said.

Reilly said it was not his intent to "gut" the open meetings law. He has always been a supporter of it and will continue to be, he said. He hopes a compromise can be worked out which will satisfy both elected officials and the media.

The open meetings law was passed to guarantee the public access to decisions which effect it. The law prevents the majority of a quorum of any elected or appointed governmental entity from discussing public business anywhere other than at public sessions. The philosophy behind the law is that the public should be able to hear every phase of discussion leading up to a governmental decision.

It is possible if an amendment to the open meetings law is passed, the public would be denied the right to hear all of the decision making process. The reasoning behind a governmental agency's vote is just as important as the vote. We have a right to know where our elected and appointed officials stand on any given issue.

We hope the legislators will continue to recognize the importance of a strong open meetings law and will not alter it in a way which will weaken it.

3/20/87
Attachment #3

March 18, 1987

SUBCOMMITTEE REPORT
S.B. 307


The Subcommittee chaired by Senator Bond and composed of Senators Hoferer and Martin met at 1:30 p.m. on March 17, 1987. The Subcommittee received testimony from representatives of the Attorney General's Office, the Kansas Association of Broadcasters, the Wichita Eagle-Beacon, and the Kansas Association of School Boards. The Chairman of the Osage County Commission also presented testimony.

After reviewing the testimony and discussing S.B. 307, as amended, with the conferees, the Subcommittee concluded that the bill should be further amended and therefore makes the following recommendation to the Senate Committee on Federal and State Affairs:

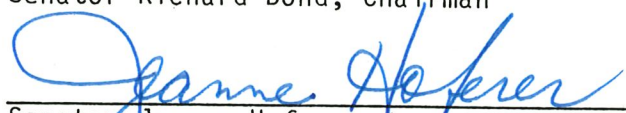
- the Committee amendment on lines 027, after the word agency, and lines 028-029 be stricken; and
- section 1 be amended to include a new subsection "(b) The act does not prevent free association among members of a body or agency when such association does not constitute a meeting as defined by this act."

The Subcommittee also recommends that the Chairman of the full Committee be authorized to request an Attorney General's opinion in regard to the following question:

Is a casual discussion during travel or at a social gathering where the discussion was not pre-arranged a violation of the open meetings law of the state of Kansas?



Senator Richard Bond, Chairman



Senator Jeanne Hoferer



Senator Phil Martin

307/MG/bd

Attachment #3
FSA 3/20/87



3/20/87
Attachment #4

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Suggested language to emphasize that the mere fact that members of a public body are together socially or during travel does not mean they are in violation of the open meetings law:

"75-4317a. Meeting defined. (a) As used in this act, "meeting" means any prearranged gathering or assembly by a majority of a quorum of the membership of a body or agency subject to this act for the purpose of discussing the business or affairs of the body or agency.

"(b) This act does not prevent free association among members of a body or agency when such association does not constitute a meeting as defined by this act."

Attachment #4
FSA 3/20/87