

Approved 3-1-90
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

The meeting was called to order by Senator Bill Morris at
Chairperson

11:05 a.m./~~p.m.~~ on February 27, 1990 in room 254-E of the Capitol.

All members were present ~~except~~:

Committee staff present:

Mary Torrence, Revisor of Statutes Office
Mary Galligan, Legislative Research
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Senator Wint Winter
Cynthia Kelly, Kansas Association of School Boards

A bill request was made by Chuck Magerl, Free State Brewing Co.,
Lawrence. (Attachment 1)

A motion was made by Senator Vidricksen and seconded by Senator
Ehrlich to introduce the bill. The motion carried.

Hearing on: SB 626 - Individually identifiable records derived
from personnel records not required to be disclosed under open records
act

Senator Winter said the bill was introduced in response to an Attorney
General opinion on open records which ruled that certain personnel
information compiled by school districts had to be disseminated
to whomever wanted it, even for commercial purposes, etc. It is
his opinion that a person who goes to work for the government should
not have to give up privacy rights, rather that certain personal
information will not be made available unless there is a compelling
state interest to do so. He said the language in the bill as it
stands is flawed and would unduly restrict the open records act.
A memorandum from the Attorney General's office regarding proposed
amendments to SB 626 was made available to be distributed to the
committee members at the next meeting. (Attachment 2) Staff will
work with Theresa Nuckolls of the Attorney General's office on the
language of the proposed amendments.

Cynthia Kelly, Kansas Association of School Boards, presented testimony
in support of SB 626, stating that it would clarify for school districts
their obligations under KORA. (Attachment 3)

The minutes of the February 26 meeting were approved.

The meeting was adjourned at 11:30 a.m.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: 2-27-90

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Cindy Kelly	Topeka	KASB
Christine Andrada	Topeka	DPS
De Sunda	Topeka	KPO
Chuck Magerl	Lawrence	Free State Brewing
Alexa Marie	Topeka	D of A
Faith Loretto	"	"
Jim Kauf	Topeka	League of Municipalities
Anne Smith	Topeka	Ks. Assoc of Counties
B. Joseph	AP	

Chuck Magerl
Free State Brewing Co.
636 Massachusetts
Lawrence, Kansas 66044
(913)843-3512

February 27, 1990

Good morning Senators. Thank you for the opportunity to present my support for the extension of microbrewery regulations. My name is Chuck Magerl. I am the brewer and principal owner of the Free State Brewing Company in Lawrence.

Three years ago I appeared before the Federal and State Affairs Committee in support of legislation for microbrewery licensing. The legislation I was promoting was included in S.B. 141, the bill that changed many aspects of Kansas alcoholic beverage laws. The passage of those laws by the 1987 session of the Legislature permitted the return of small brewery operations to Kansas.

After two years of development and construction we opened the first legal brewery in Kansas since 1880 (there were 113 here prior to 1880), in Lawrence. We've just completed our first year of business, we've been well received by the community and we're proud of the quality of our product and our operation. We run a restaurant operation with our brewery, and actually sell more food than beverage.

During the year of 1989, we produced slightly over 700 barrels of beer. Since we've established our production processes and shown a good record for compliance with all the state and federal agencies, we are looking to grow as a business. Some of that will require adoption of legislation to permit our expansion.

On March 29, 1988, this committee approved S.B. 598, permitting farm wineries to sell wine manufactured by the winery to licensed wine distributors, clubs, drinking establishments, and retailers. The bill allowed farm wineries to sell wine for off premise consumption between 6 a.m. and midnight Monday through Saturday and between noon and 6 p.m. on Sunday.

In discussions with ABC personnel, they suggested microbreweries should probably have been included in this legislation. They further stated they would have no objections should these operations be extended to microbreweries.

This legislation would be valuable because it would permit the steady, deliberate development of our business. We began strictly as an on-premise sales operation, allowing us to assure the quality control of our product. It was an opportunity for us to introduce our product and business to the State of Kansas at a size manageable for us and our state regulators. We've proven the quality of our product and the responsibility toward reporting and tax payments as required by ABC.

We've received permission to sell kegs of our beer to consumers, and we're exploring our options for bottling our product.

Senate F&SA
2-27-90
Att. 1

We would like to begin limited self-distribution to drinking establishments in our area as a way to establish our business in the beverage market. Self-distribution would allow small operations like ours the opportunity to do the groundwork to make their product more attractive to larger volume distributors in the state. Once a track record has been established and self-distribution has gone smoothly, the greater resources of large distributors could become an advantage for a growing Kansas brewery.

We are currently facing competition from a Kansas City Missouri brewery that enjoys that state's permission for self-distribution. We would like to build our business on the same foundation that Missouri allows their breweries and wineries and that Kansas allows our wineries.

We feel the provisions of this legislation would allow a transition for businesses like ours into the framework of the statewide distribution networks currently established.

Thank you for the opportunity to address the Committee, and I urge your approval of this legislation.

MEMORANDUM

I like S.
Att

TO: Neil Woerman
FROM: Theresa Nuckolls
DATE: February 19, 1990
RE: Proposed Amendment to KORA; Senate Bill No. 626

LANGUAGE YOU SUGGESTED: Inclusion in other records of personally identifiable information derived from personnel records and exempted from release by this paragraph shall not subject such information to required disclosure.

LANGUAGE CURRENTLY INCLUDED IN SENATE BILL: Individually identifiable records or information derived from personnel records which are included in other records shall not be required to be disclosed as provided in this subsection.

POSSIBLE ALTERNATIVE LANGUAGE:

1. Records created from information solely derived from information taken from personnel records shall not be required to be disclosed.

2. Information contained in personnel records which is not otherwise subject to disclosure, may be included in other records by a public agency and, records created from such information shall not mandate disclosure of such information.

[scribble] 3. Records containing individually identifiable information which has been taken or derived from personnel records shall not be subject to disclosure.

4. Secondary records which contain personally identifiable information which has been taken from personnel records by a public agency in order to create such secondary records shall not be required to be disclosed except as provided in this subsection.

[scribble] 5. Information that would otherwise be protected from mandatory disclosure because it is contained in a personnel record, shall not be subject to mandatory disclosure merely because an agency creates an internal record or list containing that information.

our two favorites

Senate F&SA
2-27-90
Att. 2

[scribble] "Home addresses and home phone numbers of public employees or officials are not subject to disclosure."

SENATOR WINTER'S SUGGESTION — Great

6. Personally identifiable records created from personnel records and containing information that is not subject to disclosure shall remain closed.

As we discussed, the legislature needs to clarify that there may be individually identifiable records that are subject to disclosure. The purpose of the proposed amendment is not to protect such records, but rather, to protect information taken from personnel records. Thus, I agree with your analysis that it is necessary to allow information to be closed rather than to focus on the record. The purpose of the proposed amendment is to protect information that is not subject to disclosure if it is contained in a personnel record. If the agency chooses to compile a document using that same information, they have created a separate record. Thus, the proposed amendment needs to clarify that creation of such a record does not subject information to mandatory disclosure. While it is desirable to protect secondary records, the focus of the amendment is upon the information contained in the records. Thus, by providing protection for the information, the type of record created does not become material.

I will contact Senator Wint Winter's office and work with that office to clarify the amendment. Please let me know if you have any further suggestions or if you prefer any of the above versions.

NOTE: 2-19-90, As of 2:17 P.M. - I have yet to get return call from Senator Winter or his aide. I will contact them again tomorrow.

TMN:bas

*2/20 Spoke to
Senator Winter:
wants copy of memo.*



TESTIMONY ON SENATE BILL 626
BEFORE THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

by

Cynthia Lutz Kelly, Deputy General Counsel
Kansas Association of School Boards

February 27, 1990

Mr. Chairman, members of the committee, thank you for the opportunity to appear before you today on behalf of our member school districts to speak in support of Senate Bill 626.

In August, 1989, the Attorney General opined that the names and addresses of school district employees are subject to disclosure under KORA. (A.G. Opinion No. 89-106) Until that time school districts believed that under the statute only "names, positions, salaries, and lengths of service of officers and employees" were subject to disclosure under KORA.

Because Attorney General opinions are merely persuasive and not legally binding, school districts are now confused about their obligations under KORA. This amendment would clarify those obligations, and alleviate the confusion.

We urge you to recommend Senate Bill 626 favorably for passage.