

Approved: 3-3-99
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairman Senator Janice Hardenburger at 1:30 p.m. on February 15, 1999 in Room 529-S of the Capitol.

All members were present except: Senator Huelskamp

Committee staff present: Dennis Hodgins, Legislative Research Department
Mike Heim, Legislative Research Department
Ken Wilke, Revisor of Statutes
Graceanna Wood, Committee Secretary

Conferees appearing before the committee: Brad Bryant, Deputy Asst. Secretary of State
John Koepke, Exec. Dir., Kansas Assn. Of School Board
Don Moler, Gen. Counsel, League of Ks. Municipalities
Harriet Lange, Pres. & Exec. Dir. Ks Assoc. of Broadcasters
Steve Kearney, Lobbyist, Kansas Press Association

Others attending: See attached list

Chairman Hardenburger opened hearings on SB 229 concerning elections; relating to appointment procedures for precinct committees.

Brad Bryant, Assistant Deputy Secretary of State testified in support of this bill. He proposed this legislation was needed to clarify provisions in the statutes governing party district conventions to fill vacancies in elected offices. (Attachment #1)

The Committee discussed the process that should be followed when an elected official dies or resigns and the length of time before precinct committee members appointments are made in order not to influence the outcome of the convention.

Chairman Hardenburger closed hearings on SB 229 and opened hearings on SB 247 concerning authorized subjects in closed or executive meetings.

John Koepke, Executive Director of Kansas Association of School Boards, testified before the Committee in favor of SB 247. He informed the Committee that some exceptions to the Kansas Open Meetings Act would serve the public interest, such as, involving sale of school buildings. Mr. Koepke said the law already permits closed door discussions about real estate purchases. (Attachment #2)

Senator Praeger said selling public property or purchasing public property, the public should have a vested interest in it either way.

Don Moler, General Counsel of the League of Kansas Municipalities, testified in support of SB 247, which included the two amendments originally asked to be inserted in SB 62. He said SB 247 which would improve the Kansas Open Meetings Act, by allowing greater flexibility in the law. (Attachment #3)

Harriet Lange, President and Executive Director of Kansas Association of Broadcasters, testified in opposition to SB 247. She said that the public discussion of the sale of public property or appointments to boards and commissions may be uncomfortable for some public officials, cumbersome, and inefficient, but this is the price we pay for living in an open and free society. (Attachment #4) (Attachment #5)

The Committee discussed people of the community want to serve as appointees on different committees and boards, but do not wanting to be subjected to criticism by the public which may occur if qualifications were discussed in open meetings.

Steve Kearney, Lobbyist for the Kansas Press Association informed the Committee that the Kansas Press Association was in opposition of the further exemptions to the closing of public meetings.

CONTINUATION SHEET

Chairman Hardenburger closed hearings on **SB 247**.

Meeting was adjourned at 2:30 p.m. Next meeting scheduled for February 16, 1999.

Ron Thornburgh
Secretary of State



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STATE OF KANSAS
Senate Committee on Elections and Local Government

Testimony on SB 229

Brad Bryant, Deputy Assistant Secretary of State
Elections and Legislative Matters

February 15, 1999

Madam Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee in support of Senate Bill 229. The Secretary of State has proposed this legislation to clarify provisions in the statutes governing party district conventions to fill vacancies in elected offices.

When an elected official dies or resigns, the county party chair calls a convention of precinct committee persons to nominate a person to be appointed by the Governor. The current 1990 statute was intended to prohibit the chair from making last-minute committee appointments to influence the outcome of the convention, but the language is unclear--it has been construed to prohibit precinct committee appointments only after the chair mails the notice calling a convention, instead of after the occurrence of the vacancy.

This bill would narrow the window during which the chair can appoint precinct committee persons. With this bill, the chair would be prohibited from appointing precinct committee persons after receiving notice that a vacancy has occurred or will occur in an elected office. This will provide for a more orderly process and will prevent undue influence by county party chairs over the selection of replacements to fill vacancies in elected offices.

We urge the committee to report SB 229 favorably for passage.

Thank you.

Senate Elections & Local Government

Attachment: # 1-1

Date: 2-15-99

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KANSAS
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OF
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BOARDS

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Testimony on Senate Bill No. 247
before the
Elections and Local Government Committee

by
John W. Koepke
Executive Director
Kansas Association of School Boards
February 15, 1999

Madam Chairman and members of the Committee, we appreciate the opportunity to appear before you on behalf of the member boards of education of the Kansas Association of School Boards in support of Senate Bill 247. While we are aware of the furor these suggested changes are likely to cause with some segments of the media, we believe they are common sense exceptions to the Kansas Open Meetings Act that would serve the public interest, rather than destroy it.

Further, we would suggest that the public interest would be served by further amending this measure to include the exception for "social gatherings and travel" which has twice previously passed the Kansas Senate. Even though the Attorney General has issued rulings which indicate this exception already exists, our members would be more comfortable with its status if it were explicitly stated in statute.

We thank you for the opportunity to express our support of these changes and urge your favorable consideration of this measure. I would be happy to attempt to answer any questions.

Senate Elections & Local Government
Attachment: # 2-1
Date: 2-15-99



League of Kansas Municipalities

LEGAL DEPARTMENT · 300 S.W. 8TH TOPEKA, KS 66603 · TELEPHONE (785) 354-9565 · FAX (785) 354-4186

LEGISLATIVE TESTIMONY

TO: Senate Elections & Local Government Committee

FROM: Don Moler, General Counsel

RE: Support for SB 247

DATE: February 15, 1999

First I would like to thank the Committee for allowing the League to testify today on SB 247. As you all know, the League has taken a strong interest in the Open Meetings Act over the years and today is no exception. We are here today to support SB 247 which includes the two amendments which we originally asked to be inserted in SB 62. We believe our two modification to the law will significantly improve the Kansas Open Meetings Act.

Both of our changes in SB 247 are simple and straightforward. They allow greater flexibility in the law and provide for a significant improvement on the current state of the law. The first modification, which is found at new subsection (b)(13) in K.S.A. 75-4319, would allow for discussions in executive session concerning the sale of public property. We believe this is an important improvement to the KOMA as it allows the governing body to discuss the **sale** of public property in executive session, just as they now can discuss the **purchase** of property in executive session pursuant to K.S.A. 75-4319 (b)(6). We feel this will help governing bodies across the state maximize the amount of revenue which can be obtained when properties are sold. Not allowing cities, counties and other local units to maximize the sale price, only costs the taxpayers money. We believe this is one step in the right direction to a sensible policy concerning the sale of public property.

Our second proposed change to the KOMA, which is found at new subsection (b)(14) in K.S.A. 75-4319, would allow the discussion of appointees to nonelected boards and commissions in executive session. While this may seem to be a minor problem, we would suggest it is serious as not allowing the change can only continue two unfortunate outcomes. The first is simply that appointees to nonelected boards and commissions are discussed outside of a regular meeting in violation of the Act. We do not advocate this approach, but understand its possibility. The second outcome without this modification is that people are appointed to nonelected boards and commissions without having been adequately discussed by the governing body, because to do so in an open meeting is often not an option. We believe both of these outcomes are unacceptable. As a result, we would urge you to approve this amendment.

We hope the committee will give serious consideration to our proposed amendments as we believe they will improve the KOMA. We believe both of these amendments are well within the spirit of the act and provide greater flexibility for the locally elected representatives of the people. Once again I would like to thank the Committee for the opportunity to appear before you today and offer testimony regarding the Kansas Open Meetings Act.

Senate Elections & Local Government
Attachment: # 3-1
Date: 2-15-99



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Testimony before
Senate Committee on Elections and Local Government
February 15, 1999
RE: SB 247

Madam Chair and members of the Committee, I am Harriet Lange, president and executive director of Kansas Association of Broadcasters. We serve a membership of free, over-the-air radio and television stations in Kansas. We appreciate the opportunity to appear before you on SB 247.

Open meetings of public bodies is the "declared policy" of the state of Kansas. K.S.A. 75-4317, subsection (a) states:

"In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the policy of this state that meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public."

Is this not the purpose of Kansas Open Meetings Act - to assure that public bodies do the public's business in public view?

A truly informed electorate must have access to not only the *actions* taken by public bodies, but also to the *decision-making process* and the rationale that enters into a particular action.

The public discussion of the sale of public property or appointments to boards and commissions may be uncomfortable for some public officials, it may be cumbersome, and it may at times be inefficient. This is the price we pay for living in an open and free society.

The KAB opposes the addition of these two exemptions to Kansas Open Meetings Act and urges you to do the same.

Thank you for your consideration.

Senate Elections & Local Government
Attachment: # 4-1
Date: 2-15-99



Chris Kelly, News Director
KKOW AM/FM
1162 East Highway 126
Pittsburg, KS 66762

KKOW News sees no need to amend KSA 75-4319 in order to allow preliminary discussion relating to the sale of public property or appointments to non elected boards and commissions to be included as "executive privilege" exemptions. KKOW News believes Senate Bill 247 would only add to an already confusing and complex list of exemptions. This will undoubtedly lead to abuse, accidental or intentional, of what has become one of the most important laws on the books.

Local governmental bodies continue to operate efficiently without these exemptions and to adopt SB 247 would only serve to further insulate governmental bodies from their constituents.

Pittsburg's school board has sold or leased several pieces of public property, including two school buildings, without needing to meet in executive session. To our knowledge no board member has ever expressed regret about the process.

KSA 75-4319 is meant to allow free access to the daily operations of government. By including more exemptions, allowing public bodies to meet in secret, you defeat the purpose of this act.

Chris Kelly, News Director
KKOW AM/FM