

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 p.m. on February 3, 2004 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Legislative Research Department  
Mike Heim Legislative Research Department  
Theresa Kiernan, Office of the Revisor of Statutes  
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Rep. Gordon  
Lorna Stullken, Stony Point Cemetery  
Rep. Mays  
David Lehman, Topeka and Shawnee County Public Library  
Rep. Lane  
Rich Gannon, Kansas Press Association  
Doug Anstaett, Kansas Press Association  
Harriet Lange, Kansas Association of Broadcasters  
Dick Carter, Travel Industry Association of Kansas

Others attending:

See Attached List.

**Bill Introductions**

Rep. Yoder requested a committee bill amending K.S.A. 19-3610 to allow rural areas to contract for fire service with other counties in the same manner that they can contract with other cities. He said that under current law when these rural areas contract with the city they have the freedom to pay what the city requests but if they contact with the county they are limited to taxing up to 5 mills. Rep. Yoder said the bill would create some consistency should a rural area contract with another city or with a county fire department to provide services. He said the bill would give rural areas the same mechanism to pay for these fire services.

Without objection, the request will be introduced as a committee bill.

Rep. Freeborn requested a committee bill allowing law enforcement consolidation on behalf of both the Cloud and Lincoln County Commissioners. She said the counties hoped to achieve greater levels of service and accountability to their constituents. Rep. Freeborn said she was advised by the Kansas Association of Counties to seek county specific rather than statewide legislation.

Without objection, the request will be introduced as a committee bill.

Rep. Toelkes requested a committee bill providing for three representatives from three townships on the Fire Board. He is requesting this bill because statute currently allows for two representatives from two townships. He stated that the Monmouth Township Fire Department is being brought into the Topeka/Tecumseh Township Fire Department.

Without objection, the request will be introduced as a committee bill.

CONTINUATION SHEET

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE at 3:30 p.m. on February 3, 2004 in Room 519-S of the Capitol.

Chairman Vickrey opened the hearing on:

**HB 2590**      **Cemeteries; burial rights, abandonment of**

Rep. Gordon, 52<sup>nd</sup> District, testified in support of **HB 2590** (Attachment 1). She stated that members of a private cemetery board notified her that privately owned cemeteries do not have the right within our state statutes to resell plots. She said that under statute, city and county owned cemeteries do. Rep. Gordon explained that the bill would allow private cemeteries to resell lots that have remained abandoned for 50 or more successive years. She said that the bill provides that appropriate notification be given by mail, if possible, or if not possible, notice must be placed in an official county publication in the county where the cemetery is located.

Lorna Craig Stullken presented testimony on behalf of Stony Point Evangelical Lutheran Cemetery Association and any other private cemetery in Kansas in support of **HB 2590** (Attachment 2). She testified that of the 630 spaces originally platted, they now have only about 15 available for sale. She said that with the help of the proposed legislation, 234 additional spaces could be made available. She explained that tax supported township cemeteries already have a provision for reclaiming abandoned spaces.

The Chairman closed the hearing on **HB 2590**.

Chairman Vickrey opened the hearing on:

**HB 2605**      **Topeka and Shawnee county public library; detachment of certain territory**

Speaker of the House, Rep. Doug Mays, 54<sup>th</sup> District, testified in support of **HB 2605**. He said that he introduced the bill on behalf of the Auburn City Council and Auburn Community Library. He stated that Auburn would like to have the option of opting out of the county wide mill levy for the Topeka and Shawnee County Public Library. Rep. Mays said the funds would be diverted within the city of Auburn to the Auburn Community Library.

David Lehman, Executive Director, Topeka and Shawnee County Public Library, testified in opposition to **HB 2605**. He said that the Topeka and Shawnee County Public Library was created under a library district in 1992. He stated that in that referendum there was no call for city votes, only the townships voted in that election.

The chairman closed the hearing on **HB 2605**.

Chairman Vickrey opened the hearing on:

**HB 2585**      **Convention and visitor's committees or bureaus; open meetings and open records**

Rep. Lane testified in support of **HB 2585** (Attachment 3). He said that the Topeka Convention and Visitor's Bureau (CV) was recently involved in a highly publicized scandal concerning CVB funds being used illegally for campaign contributions. He stated that he found it hard to believe that the CVB is not already required to have open meetings and open records. He testified that there should not be tax dollars spent without accountability to the taxpayer. Rep. Lane informed that this bill should be viewed as a right to know issue.

Tim Graham, Chief of Staff, for Senator Hensley, Minority Leader, appeared on behalf of Senator Hensley in support of **HB 2585**. He stated that Senator Hensley regretted not being able to be present at the hearing due to illness. He informed that the same bill has been drafted and introduced on the Senate Side and it is his intention to submit written testimony at a later date.

CONTINUATION SHEET

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE at 3:30 p.m. on February 3, 2004 in Room 519-S of the Capitol.

Rich Gannon, Kansas Press Association, testified in support of **HB 2585** (Attachment 4). He said that by submitting the proposed legislation's referenced tax dollars to the Open Records Act, legislators are establishing a type of dual control that provides needed oversight and monitoring. He suggested making the use of all tax monies subject to openness and public scrutiny.

Doug Anstaett, Executive Director, Kansas Press Association, testified in support of **HB 2585** (Attachment 5). He said the bill is directed at the convention and visitor's bureaus in Kansas, those organizations that receive substantial funding from the bed tax but which do not now have to open their meetings and their records to the public. He encouraged the committee to expand the bill to include all businesses performing a public function on a contract basis for government.

Harriet Lange, President/Executive Director, Kansas Association of Broadcasters, appeared in support of **HB 2585** (Attachment 6). She said most CVB's are funded almost entirely by guest tax money. She informed that most CVB's are created by "public bodies" or contract with public bodies to carry out their mission.

Dick Carter, Executive Director, submitted written neutral testimony concerning the bill (Attachment 7). He pointed out that in many instances CVB's are bidding competitively for conferences, trade shows or sporting events, which produce significant revenue for the host community, as well as the state. He explained that if these bids were made broadly available, competing cities (and other states) would conceivably have an unfair advantage in their attempt to secure the same conference, trade show, or event, placing Kansas - and Kansas communities - at a disadvantage.

The Chairman closed the hearing on **HB 2585**.

The Chairman adjourned the meeting at 4:35 p.m.

The next meeting is scheduled for February 5, 2004.

**HOUSE LOCAL GOVERNMENT**

DATE 2-3-04

| NAME               | REPRESENTING                          |
|--------------------|---------------------------------------|
| Christy Colwell    | Topoka Chamber of Commerce            |
| Richard Hanson     | KPA                                   |
| Harriet Lang       | KAB                                   |
| Davis Learmon      | Topoka = SN County Public Library     |
| Lerna Stullken     | Stony Point Cemetery Assoc.           |
| Howard P. Hemphill | Stony Point Cemetery Assoc.           |
| Jana Gordon        | Representative HB 2590                |
| Shel Stullken      | Stony Point Cem. Assoc. HB 2590       |
| Rosanne Skoble     | Kansas Library Association            |
| Robert Banks       | Topoka RUCo Public Library            |
| Dany Mays          | Dist # 54                             |
| Dick Carter        | Travel Industry Association of Kansas |
| Matt Johnson       | City of Topoka                        |
| Matthew Johns      | Intern for Rep - Sue Storm            |
| Joseph Windsor     | Intern for Bill Sneed                 |
| Jim Johnson        | * Chief of staff A. Hensley           |
| E. J. Brown        | * <del>Chief</del> Valley Intern      |
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|                    |                                       |
|                    |                                       |

STATE OF KANSAS

LANA GORDON  
REPRESENTATIVE, FIFTY-SECOND DISTRICT  
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TOPEKA, KANSAS 66614  
(785) 273-1203  
STATE CAPITOL—RM. 181-W  
TOPEKA, KANSAS 66612-1504  
(785) 296-7652  
(1-800) 432-3924



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIR: SHAWNEE COUNTY LEGISLATIVE  
DELEGATION  
VICE-CHAIR: ECONOMIC DEVELOPMENT  
MEMBER: CORRECTIONS & JUVENILE JUSTICE  
HIGHER EDUCATION  
TAXATION  
JT. COMMITTEE: ARTS & CULTURAL RESOURCES  
ECONOMIC DEVELOPMENT

February 3, 2004

Chairman Vickrey, Members of the Local Government committee, I come to you today in support of HB 2590.

Members of a private cemetery board, made me aware that privately owned cemeteries do not have the right within our state statutes to resell plots, but city and county owned cemeteries do. They came to me and requested a change in statute.

HB 2590 would allow private cemeteries to resell lots that have remained abandoned for 50 or more successive years.

Appropriate notification must be given by mail if possible or if not possible notice must be placed in an official county publication in the county where the cemetery is located.

This bill would provide equity to enable private cemeteries to do what ones owned by the public sector have already been doing.

I would appreciate your favorable consideration of HB 2590.

Thank You,

A handwritten signature in cursive script that reads "Lana Gordon". The signature is written in dark ink and is positioned above the printed name.

Lana Gordon

House Local Government  
Date: 2-3-04  
Attachment # 1

Testimony of Lorna Craig Stullken before the Local Government Committee, Kansas House of Representatives, Feb. 4, 2004 regarding House Bill No. 2590.

Chairman Jene Vickrey and members of the Local Government Committee of the Kansas House of Representatives:

On behalf of Stony Point Evangelical Lutheran Cemetery Association and any other private cemetery in Kansas, I am supporting HB 2590 to assist us in reclaiming use of abandoned burial spaces in our cemetery.

We were founded in the latter quarter of the 19<sup>th</sup> century and were incorporated with the State of Kansas in 1898. A number of early day residents bought full or half lots that consisted of 18 or 9 spaces as they regarded the needs of their large families. However, they perhaps could not realize how many members of those families would move away or marry into other families to be buried elsewhere.

As a result, we have many unused spaces belonging to someone that no one in the community has seen or heard from for many, many years. For instance, a Jane Udall was buried in 1874 on one space leaving 17 spaces in her lot unused for the last 130 years.

Out of the 630 spaces originally platted, we now have only about 15 available for sale, but over 234 additional spaces that could be available with the help of this law. We are currently in the process of updating our records and still have about 1/3 of the cemetery yet to be processed. When finished, there will be even more than 234 spaces found "abandoned" by the terms of this law. Whereas the cemetery was originally intended to be burial places for the members of the Lutheran Church (whose 1-room building still stands on the grounds, and is being placed on the National Historic Register), this cemetery is becoming a chosen place for current members of the community south of Lawrence in the Vinland Valley. It is our desire to keep it as an active cemetery for members of this community since the church congregation faded away some 90 years ago.

Tax supported township cemeteries already have a provision for reclaiming abandoned spaces. We are asking for your help in being able to do the same. We feel we are being pretty conservative in the manner and length of time we would be able to reclaim abandoned unused spaces. It is not our desire to usurp anyone's ownership that is still interested in the burial site.

We wish to thank all of you for your serious consideration of our needs and will appreciate your making it possible for us to use some of these unused spaces.

House Local Government  
Date: 2-3-04  
Attachment # 2

HAROLD LANE  
 REPRESENTATIVE, 58TH DISTRICT  
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 TOPEKA, KANSAS 66612  
 (785) 232-3610



OFFICE ADDRESS  
 300 SW 10TH AVE  
 CAPITOL BLDG—ROOM 273 W  
 TOPEKA, KANSAS 66612-1504  
 (785) 296-7690

TOPEKA

HOUSE OF  
 REPRESENTATIVES

Thank you Mr. Chairman Vickery and fellow committee members. It is a pleasure to have the opportunity to testify before you today on HB 2585.

The Topeka Convention & Visitor's Bureau was recently involved in a highly publicized scandal, when it was found to be true that CVB funds were used illegally for campaign contributions to Topeka's past Mayor Felker's campaign. I find it hard to believe that the CVB is not already required to have open meetings and open records. There should not be tax dollars spent without accountability to the taxpayer.

I served on the Topeka Convention and Visitor's Board of Director's from 2001 to 2002 as the city of Topeka council person representative. And I found it extremely difficult, if not impossible to get information from the Bureau.

The Convention and Visitor's Bureau is fully funded by the Transit Guest Tax, that customers pay when staying in a hotel, inn, or motel. And it is only prudent that these type of agency's that promote tourism, be subject to open records, and open meeting laws of Kansas.

There has been some uncertainty whether the CVB, which is entirely funded by tax dollars, is a public agency, or an independent entity not required to open meetings or open records. If this bill is passed it will certainly clarify any doubt in this area.

This bill should be viewed as a right to know issue, Kansas Taxpayers deserve the right to know how their tax money is being spent. Particularly when it is being spent inappropriately.

Thank you, and I will stand for questions.

House Local Government  
 Date: 2-3-04  
 Attachment # 3



## **Kansas Press Association, Inc.**

*Dedicated to serving and advancing the interests of Kansas newspapers*

5423 SW Seventh Street • Topeka, Kansas 66606 • Phone (785) 271-5304 • Fax (785) 271-7341 • www.kspress.com

To: House Local Government Committee

From: Richard Gannon, on behalf of the Kansas Press Association

Re: HB 2585

Mr. Chairman and Members of the Committee:

I am Richard Gannon and speak today on behalf of the Kansas Press Association's support of HB 2585. I also stand before the committee as a Topekan and believe my personal support of HB2585 dovetails with many individuals that possess at least a remote knowledge of community events and the surrounding issues that precipitated the introduction of HB 2585. Even though my following remarks may initially appear to deviate from the topic at hand, I beg the committee's indulgence and assure you that they will prove germane to this hearing.

As many of you know, I am new to the Kansas Press Association and that most of my professional career has been in the field of banking. Over the years, I have had the opportunity to serve as a director and chief officer of both large and small banks. For an individual to be successful in banking, one must have a good understanding of business, of money, and possess a keen sense of the human character. Unfortunately, it seems that oftentimes when you mix money and people together, strange things occur. I have seen all types of scams, embezzlements, fraud and the misuse of money. I have seen it within the businesses of my bank customers, customers of my customers and internally within the bank itself. Besides greed and/or stupidity, there is a common thread among all of these misappropriation events. The person that is in charge usually lets down his or her guard, has become too trusting or complacent and has adopted an "it can't happen in my organization" attitude. Unfortunately, it is usually a long-time tenured employee who steps over the line and perpetrates the fraud.

How do you prevent this from happening? It is really quite simple. Develop a process of checks and balances that promotes a sense of openness, which removes secrecy and temptation. In banking, this is usually referred to as dual control. That is, in any monetary transaction there is always another person, camera or computer program monitoring the event. Accountability is established, which protects the bank employee, the customer and the bank itself. Openness promotes honesty.

In many respects this is what HB 2585 is doing. By submitting the bill's referenced tax dollars to the Open Records Act, you are establishing a type of dual control that provides needed oversight and monitoring.

House Local Government  
Date: 2-3-04  
Attachment # 24



Currently, declining revenues have challenged all governmental bodies to become more innovative in their stewardship of tax dollars. I applaud those elected officials that think outside the box and create more efficient ways to provide enhanced public services. In the spirit of creativity, let us not forget the fiduciary responsibility that all government has to the taxpayer.

As this committee deliberates HB 2585, I believe it would be incumbent upon you to determine whether there are other Kansas organizations besides convention and visitor bureaus that receive and spend tax money without openness and dual control. Let us make the use of all tax monies subject to openness and public scrutiny. As previously stated, let us not be allowed to lower our guard and become too trusting or complacent or adopt an "it can't happen in my organization" attitude. If that is achieved, I can assure you that there will be a future time when some city council person, school board member, township trustee or county commissioner will be thankful that your committee had the foresight to address this matter.

Thank you.



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5423 SW Seventh Street • Topeka, Kansas 66606 • Phone (785) 271-5304 • Fax (785) 271-7341 • www.kspress.com

To: House Local Government Committee

From: Doug Anstaett, executive director, Kansas Press Association

Thank you, Mr. Chairman and Committee Members, for allowing me to address HB 2585 today on behalf of the 235 member newspapers of the Kansas Press Association.

Open government is the hallmark of a free society. I think we can all agree on that. But it is becoming increasingly difficult for the press — and ordinary citizens as well — to provide oversight about where our tax dollars are going and if they are being spent effectively.

HB 2585 is specifically directed at the convention and visitors bureaus in Kansas, those organizations that receive substantial funding from the bed tax but which do not now have to open their meetings and their records to the public. Operating as quasi-public organizations, they do not have to face the public scrutiny of most governmental entities.

My members believe this issue goes much further than that, however. They cite the growing privatization of formerly publicly delivered services, which has led to numerous situations where information important to the public has not been made available.

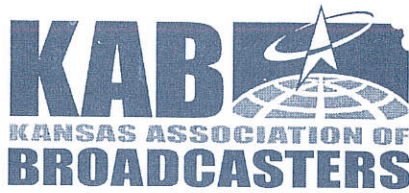
Here are a couple of examples: In Wichita, Durham Leasing, which operates Wichita's school buses, has denied The Wichita Eagle access to its maintenance records, inspection reports and even the names of its drivers. It argues that it is not covered by the open records act. Yet, we are putting our most precious possession — our children — in the care of total strangers who are not subject to the open meetings and open records laws. Where is the accountability?

Here's another: Foster care and adoption services in Kansas were turned over to private agencies during the 1990s. Again, the public and press have little or no access to their records and meetings, even though they receive millions of dollars in public tax money to pay for services formerly delivered by SRS.

We offer our support to the passage of HB 2585, but we also want to encourage the committee to expand it to include all businesses performing a public function on a contract basis for government.

Thank you.

House Local Government  
Date: 2-3-04  
Attachment # 5



1916 SW Sieben Ct, Topeka KS 66611-1656  
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Web site: [www.kab.net](http://www.kab.net) \* E-mail: [harriet@kab.net](mailto:harriet@kab.net)

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Testimony before House Committee on Local Government  
Regarding HB 2585  
February 2, 2004  
Harriet Lange  
President/Executive Director

Mr. Chairman, Members of the Committee, I am Harriet Lange with the Kansas Association of Broadcasters. KAB serves a membership of radio and television broadcast stations in Kansas. We appreciate the opportunity to appear before you today on HB 2585.

The bill clarifies that convention and visitors bureaus and other agencies who receive moneys from the transient guest tax - would be subject to Kansas Open Records Act and Kansas Open Meetings Act. Most CVBs are funded almost entirely by guest tax money. Why shouldn't they be subject to KORA and KOMA? Most CVBs are created by "public bodies" or contract with public bodies to carry out their mission. We encourage you to support bringing CVBs under the KORA and KOMA.

We also encourage you to consider expanding this legislation to include any "quasi-public body" which receives substantial public funds to carry out a public function. As the structure of government changes and public functions become "privatized", it is important that the public have access to information about how well these "privatized" contractors are performing on their behalf. We would be happy to help develop language to accomplish this objective.

Thank you for your consideration.

House Local Government  
Date: 2-3-04  
Attachment # 6



**Written Statement Re: HB 2585  
House Committee on Local Government**

**Travel Industry Association of Kansas  
Dick Carter, Executive Director  
February 3, 2004**

Chairman Vickrey and Members of the House Committee on Local Government, this written statement is submitted on behalf of the Travel Industry Association of Kansas (TIAK) as a neutral response to HB 2585.

HB 2585, if passed, would require any convention and visitor's bureau or committee or similar organization or group, which receives monies generated by the transient guest tax, to be subject to the Kansas Open Meetings Act, and the Kansas Open Records Act.

This bill raises a number of issues that could have a potentially negative impact on the travel and tourism industry in our state, as well as the ability to recruit and retain businesses or attractions through economic development efforts.

- In many instances convention and visitor's bureaus are bidding competitively for conferences, tradeshow or sporting events, which produce significant revenue for the host community, as well as the state. If these bids were made broadly available, competing cities (and other states) would conceivably have an unfair advantage in their attempt to secure the same conference, tradeshow or event, placing Kansas - and Kansas communities - at a disadvantage.
- Economic development organizations could be harmed by the requirement to release proprietary information used in bids or packages to attract prospective businesses or attractions in our state. If competing communities in other states were able to access information used to attract and secure such developments, Kansas' competitive edge could be jeopardized, and result in the loss of the prospective attraction or business.
- The definitions used in this bill appear somewhat vague and far-reaching. How far does this act intend to reach with respect to "committee or similar organization or group?"

Finally, it is important to note that many, if not most, local governing bodies have exercised their ability to charter out through home rule powers from the state statute, allowing them to set the collection rate for the transient guest tax, as well as determine the mechanism for how those dollars will be utilized locally. Transient guest tax rates differ across the state as much as the organized entities, which oversee the expenditures. TIAK has long held the opinion that decisions regarding transient guest tax issues, and the oversight of dollars generated by transient guest tax, are best made at the local level.

House Local Government  
Date: 2-10-04  
Attachment # 7