

## MINUTES

### SPECIAL COMMITTEE ON LOCAL GOVERNMENT

November 8-9, 2004  
Room 519-S—Statehouse

#### Members Present

Senator Barbara Allen, Chair  
Representative Jene Vickrey, Vice Chair  
Senator Mark Buhler  
Senator Kay O'Connor  
Representative Joe Humerickhouse  
Representative Lance Kinzer  
Representative Harold Lane  
Representative Jerry Williams

#### Staff

Mike Heim, Legislative Research Department  
Martha Dorsey, Legislative Research Department  
Norm Furse, Revisor of Statutes  
Theresa Kiernan, Revisor of Statutes Office  
Ken Wilke, Revisor of Statutes Office  
Nancy Kirkwood, Committee Secretary

#### Conferees

Don Moler, League of Kansas Municipalities  
Doug Anstatt, Kansas Press Association  
Senator David Jackson  
Gary Hanson, Kansas Alliance for Rural Development  
Jane Mosteller, Haysville  
Paul Degener, Shawnee County Resident  
Dennis Schwartz, Rural Water District No. 8, Shawnee County  
Greg Dye, Wichita  
Mike Murray, Shawnee County Resident  
Richard Maginot, Business Administrator of Soldier Township, Shawnee County  
Jeff Bridges, City Administrator, Andover

**Monday, November 8**

## Morning Session

### Kansas Open Records Act

Senator Barbara Allen, Chairperson, called the meeting to order at 10:10 a.m., and welcomed everyone to the meeting. The Chair noted the Committee had two handouts for their attention: a letter from the Secretary of State, Ron Thornburgh relating to filings in his office that fall within the disclosure exceptions to the Kansas Open Records Act (KORA) ([Attachment 1](#)); and a letter from the Kansas Insurance Department providing additional information regarding Senator O'Connor's question regarding K.S.A. 40-2c20, and whether this exemption was a national standard or only a Kansas exemption ([Attachment 2](#)).

Chairperson Allen noted that she had requested staff to prepare a bill draft that would continue all of the KORA exceptions that were reviewed and that were certified.

Norm Furse, Revisor of Statutes, gave an overview of the bill draft amending K.S.A. 45-229. Mr. Furse proposed to change the word "reenact" to "continue" in KSA 45-229. He said that "reenact" was a technical term and not appropriate. The word *reenact* only appears this one place in the statute. Mr. Furse also recommended, in subsection (e), changing the June 1 date to July 15, to give staff added time to pick up open records exceptions made by the previous Legislature. Page 5, subsection (h) lists the exceptions contained the statutes as certified by the Revisor of Statutes to the President of the Senate and the Speaker of the House of Representatives. The exceptions certified would continue and not expire under the provision of this section ([Attachment 3](#)).

Senator O'Connor requested staff to include a brief description of each of these statutes in the supplemental note when such note is written.

*Senator O'Connor made a formal motion to approve the draft for introduction with the recommendation of changing the date from June 1 to July 15 and with the understanding the supplemental notes would give a brief explanation of each statute. Representative Lane seconded the motion. The motion carried.*

A committee member expressed concerns regarding the following 12 exceptions: KSA 17-1312e, KSA 22-3711; KSA38-1508; KSA 40-222; KSA 47-844; KSA 65-1135; KSA 65-1627; KSA 65-1627; KSA 74-7405 (a); KSA 75-104; KSA 75-712; and KSA 75-526. He requested staff to make note of these and that his concerns be included in the committee report.

Mr. Furse directed for the committee's attention to the trade secrets handout reviewed at the last meeting ([Attachment 4](#)).

*Senator O'Connor made a motion to introduce a bill on trade secrets, as drafted. The motion was seconded by Representative Kinzer. The motion carried.*

Mr. Furse then reviewed exceptions to discovery and the issue of confidentiality of records not subject to subpoena. He noted that staff had checked these exemptions that have the same language to see if the language was added during the legislative process or was included in the original bill. He noted that most of the original bills did not have the language in them. He said that there was no drafting standard practice to include or exclude this language.

Senator O'Connor had questions concerning some of the sections. The Chair requested the Senator O'Connor to meet with staff to have a bill draft available for the committee the next day.

Don Moler, Executive Director, League of Kansas Municipalities, provided information regarding the Kansas Open Records Act (KORA). He stated that it was unclear which statutes will expire on what date, and recommended repealing most of K.S.A. 45-229 and enacting instead a statutorily required review by a special legislative committee every five years (Attachment 5).

Doug Anstaett, Executive Director, Kansas Press Association said the Press Association had no objection to the actions taken by the committee. He said the Association would ask for added amendments to KORA during the 2005 Legislative Session (Attachment 6).

The committee directed Mike Heim, Legislative Research Department, to prepare a committee report with the recommendations available for the committee the next day.

The Chair informed the committee the meeting would start at 9:00 a.m., Tuesday, November 9, 2004. The meeting adjourned at 11:35 a.m.

### **Tuesday, November 9, 2004 Morning Session**

Chairperson Allen called the meeting to order at 9:00 a.m. and welcomed everyone to the meeting.

Norm Furse, Revisor of Statutes, reviewed the subpoena and discovery issue.

Senator O'Connor expressed concerns regarding eight statutory sections regarding *subpoena or discovery*. The sections are: KSA 22a-243, relating to child death review board; KSA 44-510j; workers compensation medical benefits section; KSA 44-714; employment security law and benefit hearings; KSA 44-817 relating to mediators and labor disputes and the information mediators obtain; KSA 65-1,113, Department of Health and Environment, relating to health manpower planning information; KSA 65-2836, Board of Healing Arts dealing with impaired licensees; KSA 65-4922, Department of Health & Environment dealing with medical care facilities and risk management; and KSA 65-4925, Department of Health & Environment dealing with medical care facilities and risk management (Attachment 7).

The Chair noted a bill had been drafted, and the committee had reviewed it.

### **City Annexation Laws**

Theresa Kiernan, Senior Assistant Revisor of Statutes, presented a memorandum providing an overview of annexation laws (Attachment 8). She also gave the Committee an update on the legislation passed during the 2004 Legislative Session and a copy of the Governor's veto of an annexation bill (Attachment 9).

Senator Dave Jackson suggested the current annexation law be amended to restrict city unilateral annexation powers (Attachment 10).

Gary Hanson, Kansas Alliance for Rural Development (KARD), stated it was very difficult for rural development in the areas affected by city annexation. Planning for long-term development was

a problem. He stated KARD believes that residents of the area to be annexed should be allowed to vote on the proposed annexation (Attachment 11).

Jane Mosteller, Wichita, said citizens should have the right to vote on or have some form of consent petition either for annexation or to stop annexation (Attachment 12). She presented the committee with a handout she prepared showing 48 states which she said had annexation statutes providing protection for landowners (Attachment 13). She also distributed e-mail notes from three citizens in her area: Dan Benner, Chuck Tilson and Debbie Hudson (Attachment 14).

Paul Degener, resident of Soldier Township in Shawnee County, expressed opposition to unilateral annexation (Attachment 15).

Dennis Schwartz, General Manager of the Shawnee County Rural Water District No.8, presented testimony in support of changing current law regarding unilateral annexation of unincorporated lands by a city to allow citizens a voice (Attachment 16).

Greg Dye, Wichita, supported an amendment to the annexation law allowing people affected to vote (Attachment 17).

Mike Murray, resident of Shawnee County, said the annexation law should be amended now. He said that the City of Topeka has a draft plan to annexation lands. No written testimony was provided.

Richard Maginot, administrator of Soldier Township in Shawnee County, supported amending the annexation law to allow citizens a direct voice in all annexation proceedings (Attachment 18).

Don Moler, League of Kansas Municipalities, spoke in favor of the current law. He stated the League believes the annexation statutes have worked well over the past 17 years and believed that they will continue to work well (Attachment 19).

Jeff Bridges, City Clerk, City of Andover, appeared on behalf of Mayor Ben Lawrence and the Andover City Council. He said the current law protects the rights of the property owners and provides cities a means by which they can grow and provide efficient municipal services (Attachment 20).

Chairperson Allen asked the committee for discussion regarding the annexation issue.

Senator O'Connor recommended that the report state that the 2005 legislature should address the annexation issue and the following concerns:

- □ Rural water districts and their loss of customers when annexation occurs;
- □ Annexation of areas surrounded by a city;
- □ Diminished services to an area because of annexation; and
- □ Unilateral annexation powers of cities and whether these powers should be eliminated.

*Senator O'Connor made a motion to have this language in the committee report considering the annexation issue. Representative Lane seconded the motion. The motion carried.*

Mike Heim, Legislative Research, presented a preliminary draft of a committee report dealing with the Kansas Open Records Act (Attachment 21).

Senator O'Connor expressed concerns regarding certain records being exempt from discovery or subpoena.

*Senator O'Connor made a motion to reverse the earlier action taken by the committee and introduce the proposed bill draft. Representative Kinzer seconded the motion. After committee discussion, the motion and second was withdrawn.*

Mr. Heim noted the committee report on both the open records and annexation topics would be mailed to the committee for final approval.

The meeting adjourned at 11:20 a.m.

Prepared by Nancy Kirkwood  
Edited by Mike Heim

Approved by Committee on:

December 30, 2004