

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Chairperson Carlos Mayans at 3:30 p.m. on March 9, 2000 in Room 519-S of the State Capitol.

All members were present except: Representative Melany Barnes, excused
 Representative Cindy Hermes, excused
 Representative Peggy Palmer, excused

Committee staff present:
 Michael Heim, Legislative Research Department
 Dennis Hodgins, Legislative Research Department
 Theresa Kiernan, Office of the Revisor of Statutes
 Lois Hedrick, Committee Secretary

Conferees appearing before the committee: None

Others attending: See Guest List, Attachment 1

The minutes of the committee meeting held on February 22, 2000 were approved.

Chairperson Mayans noted that no Senate bills have been assigned to the committee. He indicated it is his intention for the committee to continue its work on the issue of Open Records and particularly address the 44 exemptions listed in K.S.A. 42-215. **HB 2864** (Powers and duties of attorney general and agencies subject to the open public records act and the open public meetings act) was “blessed” for continued action and will be worked by the committee. The plan is to discuss suggested changes at today’s meeting and act on the bill next week.

Beginning his recommendations, the Chair stated even though several bills assigned to the committee advocated the establishment of a separate Freedom of Information office (similar to the office of Ombudsman for Long-Term Care), he suggested the next best thing would be to place the responsibility in the Office of the Attorney General. This may entail hiring additional personnel and additional costs. The Chair stated his desire to keep politics out of the discussion and have the committee bring forth a bill that corrects some of the problems that were discussed in earlier committee meetings. Continuing, the Chair indicated several bills have been introduced to develop more exemptions and he believes that the exemptions are part of the problem in the Open Records debate. His suggestions follow:

- Some exemptions should be eliminated; that a “sunset” provision be incorporated for regularly-scheduled legislative review; and a request made to the Legislative Coordinating Council to conduct an interim study of all exemptions this summer.
- To authorize the office to issue advisory opinions on the law and agency responsibilities.
- To include, as part of the duties of the office, education of government officials and the public on the provisions of the law.
- To provide authority for the office to contract with private vendors for specific services and education.

Representative Shriver questioned if problems should arise with privatization, should there be a provision to permit executive sessions for officials to receive “confidential” information. Also, he suggested that legislators should have the ability to acquire protected information when a constituent has requested assistance in sensitive situations.

Representative Jeff Peterson questions if the committee should hear the history of the exemptions before taking action. The Chair responded that today’s meeting would target certain exemptions and conferees will be invited to present testimony before decisions are made. He encouraged members to study the exemptions and bring forth their suggestions at the next meeting. He also stated he did not know how to

CONTINUATION SHEET

make the committee process more democratic than what he has asked of the members and of other interested parties. Continuing his suggestions:

- An informal inquiry process should be permitted.
- Once a formal complaint is filed, a copy must be sent to the agency and the agency must respond within three days. If the complaint is complicated, the agency must respond within seven days.
- The office should issue advisory opinions. If the complainant does not agree, a court action could be filed and the agency may be liable for court costs.

Representative Dahl asked if the \$500 agency fine is fair and if it was something that could be debated. The Chair responded that today's discussion is to discuss ideas; and, imposing the \$500 fine on the custodian is proper as the custodian would be the responsible party. The idea of imposing a fine on someone who commits a vexatious action is appropriate and probably should be added. Also, the custodian should be exempt from liability if too much information is released.

- Information about the procedure of Open Records should be posted and include reasonable fees, the name of the person responsible for the records; and the appeal process in case records are withheld.

Representative Jeff Peterson asked if the committee was going too far to change current law. The Chair stated impetus was given by the examples conferees presented to the committee. He noted that public policy is to have Open Records; yet there are 44 exemptions to the law, with others being proposed.

Representative Dahl again questioned the meeting's proceedings, asking if the Chair would issue a listed agenda so members could assess each item. The Chair responded that members were receiving his suggestions, that the suggestions would be incorporated into a "balloon" amendment and brought back to the committee for consideration and vote next week. Continuing his suggestions:

- Deletion of exemptions numbers (6), (13), (14), (20), (30), (31), (32), (33), (34), (39), (40), and (42).
- Amend (43) by adding, "except that information should be provided to the Joint Committee on Tribal Relations."

The Chair asked members to study the exemptions, particularly those listed above and be prepared with their recommendations at the next meeting. Also, he indicated testimonies will be accepted at that meeting.

The meeting was adjourned at 5:05 p.m.

The next meeting of the committee is scheduled for March 14, 2000.