



TESTIMONY OF THE KANSAS ASSOCIATION OF COUNTIES
TO THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE
ON SB 10

MARCH 13, 2013

Mr. Chairman and Members of the Committee:

KAC supports open government and we encourage and educate our counties to follow Kansas laws pertaining to open meetings and open records. We believe the current law is good – it just needs to be enforced.

Amendments to KOMA - Requirement for Minutes

KAC is not opposed to the requirement that governing bodies take minutes, as required in new subsection (e) on page 4. When we teach parliamentary procedure to county commissioners we include discussion on taking minutes. The County Clerk is required to take minutes of the Board of County Commissioner meetings by statute already (KSA 19-305). We believe minutes are a valuable record for the public to determine what happened at a public meeting.

However, we would prefer that the local unit of government determine the format, as some local governments prefer more detail in their minutes than others, and the Secretary of State has no specialized knowledge about taking minutes.

We would point out to the committee that SB 10 requires any body that falls under KOMA to take minutes, including the really small governmental units, like watershed districts, drainage districts, townships, etc. We question whether these small entities will learn of the new law and whether prosecutors will bother prosecuting them for violations. If they are ignorant of the new law and there is no enforcement, then there is little point to the law.

Amendments to KORA – No Charges for Staff Time, Per-Page Fee

SB 10 eliminates the ability for a county to recoup its staff time in filling open record requests. While we appreciate the belief that county offices should have staff available to make copies for the public, due to budget constraints, the reality is that counties do not have employees with free time to make copies. Any time a county employee is making copies is time away from the day-to-day functions of that particular office. This amendment does not consider the situation where the employee must fetch the record from another location (i.e., storage vault, salt mines) or if the employee must redact confidential information from the record before making it public, both time-consuming tasks. The bill also does not contemplate the situation involving an abusive request where the requestor is intentionally creating a burden on the public agency.

Senator LaTurner has expressed an interest in working out a compromise on this issue, such as disallowing staff time charges for just the first hour or two of work on the records request. Our County Clerks and Registers of Deeds are opposed to this suggestion, however, as they cannot afford to lose 1-2 hours of staff time without some compensation. Budgets are just too tight to lose that much productivity.

Current law establishes a reasonable fee of \$.25 per page for open record requests, paid by the requestor. This \$.25 fee was created in Kansas statute in 1994; meaning the legislature presumed a fee of \$.25 per page was reasonable 19 years ago. One could argue the fee no longer reflects the costs of making a copy, as costs for paper copies have increased in the last 19 years. Counties have budgeted for copying expenses of \$.25, and this price is more than fair when one includes the cost of retrieving the paper record and using staff time to make a record.

If the state legislature decides to lower the cost of open records for the public, we suggest that the committee amend the various state statutes that call for much higher fees than \$.25 per page for state records. Vital statistic records are a good example of a common and frequent record request by the public (birth, marriage, death certificates), yet these records cost \$15 and SB 10 does nothing to reduce the cost of these records for the public. Copies from the Secretary of State's Office are priced at \$1 per page. In other words, if the legislature decides to lower the fees associated with county open records, we suggest you apply the same standards to state records.

Conclusion

We believe the real problem besmirching open government is lack of enforcement, which ultimately comes from lack of funding. The current KORA requirement for copies is a fee that reflects "actual costs of furnishing copies" with the presumption of \$.25 as a reasonable fee for a copy. The current law is fair and reasonable to both sides – it needs to be enforced.

We appreciate the concerns raised about open government. We want to do our part to ensure open government, but we do not agree with the methods given in SB 10. We look forward to working out another method of achieving the intent of the legislation.

Melissa Wangemann
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