



To: Senate Committee on Judiciary

From: Nicole Proulx Aiken, Legal Counsel

Date: February 18, 2015

Re: Neutral testimony on SB 206

Thank you for allowing me to provide neutral testimony on SB 206. This bill would provide the attorney general with more authority to investigate and penalize public agencies violating the Kansas Open Meetings Act (KOMA) and the Kansas Open Records Act (KORA).

The League of Kansas Municipalities and its member cities believe transparency is a vital part of good government. We support the attorney general's efforts to enhance enforcement of KOMA and KORA. We have concerns, however, about two aspects of this bill.

First, we are concerned that requiring public agencies to pay for the attorney general's reasonable investigation costs and attorney fees may suppress some agencies from pursuing their rights in court if they believe they have done nothing wrong. We believe the current standard, requiring attorney fees if the court finds the public agency did not act in good faith or without a reasonable basis in fact or law, is sufficient and should remain law.

Second, we believe the attorney general or county attorney enforcing the action in district court should bear the burden of proof to sustain the action. Criminal defendants are presumed innocent, until found guilty. Public agencies should be treated the same.

Thank you again for allowing me to testify. The League looks forward to working with this Committee and the attorney general's office on this very important issue.