

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 p.m. on February 5, 2004 in Room 519-S of the Capitol.

All members were present except:

Representative Larry Campbell- excused

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. Loyd, Kansas House
Doug Anstaett, Kansas Press Association
Rich Gannon, Kansas Press Association
Don Moler, League of Kansas Municipalities

Others attending:

See Attached List.

Chairman Vickrey opened the hearing on:

HB 2601 open records act; allowance of costs and attorney fees

Rep. Loyd appeared in support of the bill (Attachment 1). He said the bill provides that KORA will govern the award of costs and attorneys' fees in legal actions filed to enforce the right to inspect records, where there is a determination that an agency's denial of access to the records was not in good faith or without reasonable basis in fact or law. He explained that he introduced the measure in an attempt to preserve the concept of "open" in the Kansas Open Records Act and to facilitate and foster the right of the Kansas public to access public records.

Doug Anstaett, Kansas Press Association, presented testimony on behalf of Steve Delaney, editor-publisher, *The Garden City Telegram*. (Attachment 2). Mr. Anstaett said the measure Rep. Loyd is offering will close a loophole created last spring by the Kansas Supreme Court.

Rich Gannon, Kansas Press Association, presented testimony on behalf of John Montgomery, President, Kansas Press Association (Attachment 3). Mr. Gannon stated that the bill is about rectifying a classic flaw in a law that lacks teeth. He explained that *The Garden City Telegram* pursued rail crossing safety records from the Kansas Department of Transportation. He said that *The Garden City Telegram* won access to the records but that the newspaper had to bear most of the legal costs in doing so.

Written testimony in support of the bill was submitted by:

CONTINUATION SHEET

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- Michael Merriam, Kansas Press Association (Attachment 4)
- Harriet Lange, Kansas Association of Broadcasters (Attachment 5)
- Tom Throne, *Leavenworth Times* (Attachment 6)

Don Moler, League of Kansas Municipalities, appeared as a neutral conferee on the bill (Attachment 7). He stated that they have a concern about one portion of the amendments being offered in the bill. He said the amendment changing the word “and” to an “or” significantly changes the threshold standard for the awarding of attorneys’ fees. Mr. Moler suggested that the Committee retain the current policy position and the threshold standard which must be met before attorneys’ fees, and costs, can be awarded.

The Chairman closed the hearing on: **HB 2601**

Rep. Yonally made the motion to approve the minutes of the February 4, 2004 meeting. Rep. Lane seconded the motion. The motion carried.

The meeting was adjourned at 4:10 p.m.

The next meeting is scheduled for February 10, 2004.