

To: House Judiciary Committee

From: Amanda Stanley, General Counsel

Date: February 18, 2019

RE: Opposition Testimony for HB 2219

I want to thank Chairman Patton and the members of the Committee for allowing the League of Kansas Municipalities the opportunity to provide testimony in opposition to HB 2219.

HB 2219 would amend the Kansas Open Meetings Act to require any public body subject to the Kansas Open Meetings Act audio or video record any meeting that is required to be open to the public and make the recording accessible to the public within 24 hours of the meeting.

The League and our members have several concerns with this legislation. First, it is exceptionally broad. Second, it is extremely vague. The legislation is unclear for how long the audio or video must be retained and it is unclear what "accessible to the public means." Does that mean post on a website, make the recording available to be listened to upon request, make a copy of the recording if requested? Something else?

Starting with our first concern, HB 2219 is extremely broad. This would apply to not only all city governing body meetings. It would also apply to all boards, commissions, authorities, councils, committees, and subcommittees of city governing bodies. To give you an idea of what that means, the League did a quick survey of our members. In less than 48 hours, 61 cities responded. It quickly became apparent that regardless of the size of the city, this would require the audio or video recording of numerous meetings a month.

On average, a city of the first class has 21 different bodies subject to KOMA and about 172 meetings a year that would need to be audio or video recorded. This number varies from city to city, with the City of Topeka estimating it would need to provide audio or video recording for as many as 32 different bodies' meetings - approximately 278 times per year. On average, a city of the second class has 8 different bodies meeting 74 times a year. For example, the City of Bel Aire has 4 different bodies meeting on average 60 times a year. The City of Derby has 10 bodies meeting on average 126 times a year. On average a city of the third class has four different bodies meeting 36 times a year. Again, this number varies from city to city. The City of Holcomb, population 2,112, has 2 bodies meeting about 10 times a year that would be subject to recording. The City of Riley, population 950, would need to record about 60 meetings a year.

Our members are committed to transparency. Our survey found most cities of the first and second class that responded already record their cities governing body meetings, often at significant annual cost. The City of Olathe spends about \$22,500 a year producing and recording the Olathe City Council and Planning Commission meetings. The City of Topeka currently has four full time employees and two part time employees who work to help broadcast certain public meetings including City Council meetings, Public Health and Safety Committing meetings, Joint Economic Development Committee meetings, Economic Development Committee meetings, Planning Commission Meetings, and Safe Street meetings. Currently, the City of Topeka records 2-4 meetings a week. Under HB 2219, the city would be required to record about double that number. While our members value transparency, they must balance transparency against being good stewards of the taxpayers' money.

Audio or video recording a meeting is not as simple as "buying a tape recorder and putting it in the center of the room and pressing record." If an audio or video recording is going to be made available to the public, it needs to be one on which the voices can be clearly understood, or it serves no point. Additionally, video recordings must be close captioned to meet the requirements of the Americans with Disabilities Act. This means that all meetings would need to be held in locations with recording equipment and individual microphones. The City Administrator from Hillsboro describes in his testimony the types of locations currently used for meetings. Several of the bodies in his community meet in locations most accessible to the types of individuals interested in the meeting. For example, the museum board, meets at the museum. The Airport Authority meets at the airport. Several of these locations are essentially a group of chairs in a circle. Not the ideal setup for ensuring a usable recording.

The City of Hutchinson estimates in its testimony that to properly set up the various locations used for meetings for quality recordings would cost \$2,500 to \$5,000 per location. The city estimates in addition to the \$30,000 it would need to set aside for the capital investment, it would need to set aside another \$40,000 a year to cover staff time, closed captioning, and storage and management costs for the footage. Seeing as the language in the bill is extremely vague, the language can be read to require this footage be kept forever. Over time, the storage costs could be astronomical. At the local level, the money for these costs would have to come from property taxes. Our members strongly believe it should be left to the citizens in their local communities to decide if they want to pay higher property taxes so that the Saturday morning parks and recreation commissions meetings can be recorded.

The City of Kinsley currently audio records its city council meetings. They do not record the meetings of the other city bodies subject to KOMA. In the 14 years the city clerk has been at the city, no one has ever requested to listen to the city council recordings. In writing about this bill, the City Clerk from Havensville, population 153, wrote:

"I guess I was unaware of this, but for a small municipality like Havensville, this is not only cost preventive, but I am a part time city clerk. I have many hats that I wear and requiring me to video tape a 2 to 3 hour council meeting besides taking notes is just

unreasonable! We have no video equipment. We have no recording equipment. Who presented this bill? I would like to remind them that not all municipalities have unlimited funds. We are in the process of trying to build a new city hall without doing a bond issue or raising taxes. We are a retirement community and do not want to put a further tax burden on our citizens. This is just plain unreasonable in my opinion."

If the citizens in a community desire this level of transparency, and are willing to pay for it, this can be handled at the local level by lobbying their city's local governing body without imposing a massive unfunded and unnecessary mandate on all 625 municipalities in the state.

Finally, the 24-hour timing requirement in HB 2219 is also problematic. Several of the bodies affected by this bill meet on weekends so that it is easier for both the members of the board, and the public, to attend the meeting. Under this bill, if a board met on Saturday morning, the recording would need to be available to the public by Sunday morning. In both small and large communities, this would require employees to work alternative schedules or overtime to comply with this requirement. This both adds to the inconvenience and the expense of HB 2219.

For these reasons, we respectfully ask this Committee not recommend HB 2219 for passage to the full House.