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February 14, 2019

Hon. Fred Patton
House Judiciary Committee Chair
Statehouse Room 519N
Topeka, KS 66612

Dear Chairman Patton,

I am glad to see that there are a few attorneys in the legislature. Things have changed. My former senior partner, Glee Smith, Jr., was President of the Senate in the 1960s and 1970s and was delighted that there were so many attorneys in the senate that he had two judiciary committees, one for civil and probate, and another for Criminal and Administrative legislation.

First, I know that many larger first and second-class cities already record their council meetings but perhaps not all open meetings. They would have very little problem complying with this law.

I am concerned about small cities. I am city attorney for Larned and several very small third-class cities. House Bill 2219 has been scheduled for a hearing on Monday February 18th. This bill would require that any public body or agency subject to the Kansas Open Meetings Act record audio or video of any meeting that is required to be open to the public and make that audio or video recording accessible to the public within 24 hours after the meeting.

In many cities, there are nitpicking citizens who find something wrong with every open meeting they attend and HB 2219 gives them one more issue to nitpick. An informed citizenry is important to a democracy. I am not sure how HB 2219 helps inform. I presume if one puts the recording out on the city's internet site that that would satisfy the bill, however, recording equipment of this type would be costly and many city clerks do not put the information on the website on line, they hire it done from a techie contractor. These contractors don't care about the bill's 24-hour requirement; they cannot jump to get something on line within 24 hours unless they are paid a lot more than currently and that means small towns have an extra expense. Smaller towns will be chronically out of sync with the law.

Further, I assume the new recording law would not apply to executive sessions but is the bill clear on that?

Moreover, I was around the legislative process as an assistant to the Speaker of the House in 1977 and prior to that worked in the legislature when KOMA was enacted. The original purpose was the hallowed "sunshine" in government, which is horse hockey. It was, and remains, a law to allow the press access to government. HB 2219 doesn't assist reporters in doing their stories. If they want to know what happened at a meeting, in small towns they call the Mayor or the city clerk. They don't listen to recordings.

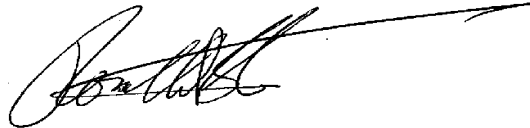
Besides, in 1977 the legislature exempted itself from KOMA and some parts of KORA. Are the house and senate Republican and Democrat caucuses open to the public? Why not record your caucuses and put them on the legislative website? I don't think that has changed in 40 years, has it? Are we still playing "do as I say and not as I do" politics?

My suggestion is simple. I don't believe you need HB 2219 at all. However, if you must have it, amend application of it to cities with populations exceeding 5,000.

Thanks for letting me have input here.

Yours Very Truly,

Smith, Burnett & Hagerman, LLC

A handwritten signature in black ink, appearing to read "Ronald D. Smith", with a long horizontal line extending to the right.

Ronald D. Smith

RDS/s
c: Brad Eilts
Hon. Mary Jo Taylor
Hon. Leonard Mastroni