

Approved:

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairman Senator Janice Hardenburger at 1:00 p.m. on April 5, 2000, in Room 245-N of the Capitol.

All members were present except: Senator Petty

Committee staff present: Dennis Hodgins, Legislative Research Department  
Mike Heim, Legislative Research Department  
Ken Wilke, Revisor of Statutes  
Graceanna Wood, Committee Secretary

Conferees appearing before the committee: None

Others attending: See attached list

Chairman Hardenburger opened discussion on **S Sub for Substitute for HB 2864 concerning the open records act; concerning the open meetings act; establishing the position of public information officer; prescribing the powers and duties, and repealing the existing sections.** At the last meeting regarding this bill Chairman Hardenburger recommended that the House bill be gutted and the interested parties which included the Kansas Association of Counties, the Kansas Press Association, the Kansas Association of Broadcasters, the Kansas League of Municipalities and the Kansas School Board Association get together and return to the Committee with a proposal. She commended the group for coming together with ideas. She presented the proposal to the Committee. The first New Section designated a local Freedom of Information Officer at county level, city level and what their duties would consist of in the position required by the local Freedom of Information Officer. New Section 2 was to display and distribute a brochure. Chairman Hardenburger also said that New Section 1 provided that the local Freedom of Information Officer would assist the local government and the public to resolve disputes relating to the open records. They would serve as point of entry for the request, and would need the help of their city attorney or county attorney to interpret whether they could release the information or not.

Chairman Hardenburger said that the interested parties agreed upon a brochure, rather than a sign that would contain basic information about the rights of a requestor. She also said that the League of Municipalities of Kansas and the Kansas Association of Counties have been very helpful to develop a brochure. Senator Huelskamp asked if the townships would be responsible for the cost of the brochure. He also asked if the District Attorney or County Attorney would assume any liability for the opinion. Chairman Hardenburger said they would if the request for public information is denied. The person requesting the information could go to court and ask for the information to be released.

Chairman Hardenburger said that Section 3 consist of the current exemptions that exist in Kansas Open Records Act. The House had removed exemption (32). She also said that the House suggested sunseting all the exemptions in five years. She felt if all were sunsetted this would be a real risk to sunset a complete set of exemptions. Senator Vidricksen said each exemption took a great deal of time when first introduced into law.

Staff informed the Committee that Section 4 determines the amount of attorney's fees, which is left to the courts discretion.

Staff explained Section 5 which would subject any public agency that knowingly violates any of the provisions of this act or that intentionally fails to furnish information as required by this act shall be liable for the payment of a civil penalty in an action brought by the Attorney General or county or district attorney, in a sum set by the court of not to exceed \$500 for each violation. Any civil penalty sued for and recovered hereunder by the attorney general shall be paid into the state general fund.

The Committee discussed if this would be charged to an individual. They were informed that it would not be, it would be charged to the agency.

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Chairman Hardenburger and the Committee discussed New Section 1, regarding Senator Huelskamp's questioned about the advisory of opinions. She suggested that possibly a different terminology could be used. She said that when the request for records is not permitted, this should be justified as to why they cannot be furnished, as there needs to be a basis for that denial.

Senator Vidricksen moved that **S Sub for Substituted for HB 2864** be passed out favorably, seconded by Senator Praeger.

Chairman Hardenburger said that the Committee is relying on the Associations, who have had an ongoing educational process with county officials and with city officials.

Senator Steineger asked what the time frame would be for release of public information. Staff said it would be three business days under current law.

Senator Huelskamp asked if the county clerk, etc. can appoint themselves to be Freedom of Information Officer, and staff said as the bill is written, the answer is "yes".

Chairman Hardenburger advised the Committee that there was a motion on the floor. Motion carried.

Meeting was adjourned at 2:00 p.m.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.



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