



Kansas Press Association, Inc.

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Feb. 2, 2016

To: Sen. Jeff King, chair, Senate Judiciary Committee

From: Doug Anstaett, executive director, Kansas Press Association

Re: SB 360

Mr. Chairman and members of the Committee:

I am Doug Anstaett, executive director of the Kansas Press Association. Thank you for the opportunity to briefly discuss SB 360, a bill referring to the Kansas Open Meetings Act.

Of all the calls we receive at the KPA office about governmental transparency, the No. 1 complaint every year is the perception that executive sessions are overused, and often abused.

We occasionally are made aware of sessions that don't even qualify under the legal exceptions for a closed session. Other times, we get feedback that those sessions have strayed beyond the subjects that were supposed to be discussed behind closed doors.

This bill tries to bring more specificity to the process that needs to be followed for a closed session.

Currently, the justification for the closing and the subject to be discussed in the executive session quite often are almost identical, which provides little information to the public on the boundaries for the closed meeting.

This bill would change the motion for a closed session to first list the subject (s) to be discussed, followed by the justification (which exception is being cited that allows for such a discussion to take place out of public view). It also would require that the entire motion be recorded in the minutes. Under current law, that motion is the only recorded evidence of a closed session.

We support those changes because they require more specific information to be provided to the public and news media. We also support the changes that bring more specificity to the various exceptions because the public often doesn't know what a certain statute cited might entail when it's listed as "K.S.A. 38-2212(d)(1) and amendments thereto."

We do have a concern about adding the words "To maintain the confidentiality of" to each of the exceptions. We think this might send the wrong message to public officials that they cannot discuss what transpired in the closed session, even when that discussion is illegal because it strays beyond the motion. Since there is no written record or recording of the session required by law, the public must rely on participants in the session to speak out when a closed session is misused.

Putting "To maintain the confidentiality of" language into each exception might be misconstrued and discourage such whistleblowing by public servants.

We have been assured this shouldn't be an issue because the confidentiality clause would be broken if the session strayed beyond the subject cited in the motion for a closed session.

I respect that view, but still believe this ambiguity must be addressed. We all know how unintended consequences can derail good legislation.

Thank you.