



Publisher of

- *Marion County* **RECORD**
- *Hillsboro Star-Journal*
- PEABODY *Gazette-Bulletin*

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February 5, 2017

TESTIMONY
TO THE HOUSE COMMITTEE
ON LOCAL GOVERNMENT

From Eric Meyer, president, Hoch Publishing Co. Inc., and publisher of
Marion County Record, Hillsboro Star-Journal and Peabody Gazette Bulletin

Rather than be a salvation for local government, HB 2247 would take an already bad situation for Kansas citizens and make it infinitely worse.

After the Legislature in 2012 amended KSA 12-3007 to allow some municipalities to place full texts of ordinances online, with only summaries appearing in print, we at Hoch Publishing Co. began checking each time we were asked to publish a summary to ensure that the full text actually had been posted, as required, where citizens could find it.

Shockingly, more than 80 percent of the time in which the Cities of Marion and Hillsboro took advantage of this newfound loophole during its first three years, the full text could not be found online. Many times clerks simply forgot and had to be prodded by us to post the text. Other times, there were technical difficulties with their websites, or they posted summaries at obscure locations to which there was no obvious link from the main page of their official site.

Only after three years of repeated questioning and implicit threats that we might refuse to publish summaries if we could not find full texts have the cities in Marion County begun to actually post summaries without needing to be reminded every time. Even now, we occasionally receive summaries for which full texts cannot easily be found via links from the main page of municipal websites. Even when they are found, they tend to vanish so quickly as to be meaningless. Worse yet, we and the citizens impacted by these ordinances have no way to be assured that the texts have not been altered at some point after posting, either by government officials or by computer hackers intent on disrupting the efficient functioning of our democracy.

HB 2247 would leave the foxes in charge of the henhouse. While municipalities might save a few dollars, they would do so at the expense of openness and responsibility that have been the hallmarks of American democracy for more than two centuries. With half of all voters, especially the elderly and less affluent in rural areas, unable to connect to the Internet, a huge portion of the electorate would get as much information about governmental actions as do peasants in totalitarian regimes. Even those who are connected to the Internet would have no way of knowing whether a law had changed. Websites, unlike newspapers, do not automatically come into your home or business

with each new edition. Citizens would have to know to look for something and then be patient and skilled enough to locate the items within the many dozens if not hundreds of links on confusing governmental websites.

Rather than consider HB 2247, we urge the committee to repeal the 2012 changes that allowed municipalities to print only summaries of new laws or, at bare minimum, to modify that action to require that these summaries contain more than just a simple statement that an ordinance of a certain subject matter has been adopted. We also urge that municipalities be required to provide permanent, secure posting of full texts, with clear direct links to them from the home pages of their websites.

Take, for example, this ordinance summary recently published in the *Marion County Record*.

Ordinance No. 1412 Summary On November 7, 2016, the City of Marion, Kansas, adopted Ordinance No. 1412 amending Ordinance 1111 of the City Code pertaining to the scope and application and lien created for insurance policy proceeds. A complete copy of this ordinance is available at www.marionks.net or at City Hall, 208 E Santa Fe, Marion, Kansas. This summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas. Dated: November 7, 2016 Susan C Robson, City Attorney

If you were to see this summary while perusing the *Record* at home or in any public library in the state via the Kansas Historical Society's digital newspaper archives, you would find the full text no longer posted on the city's website. But you probably wouldn't even look in the first place because you would have no idea what it is talking about: that if your house were to burn down or be destroyed in a storm, the city would have a claim against your insurance settlement to pay for demolition should you choose not to rebuild. This might be a wise precaution. It also might be something a homeowner could question. The problem is, the summary provides insufficient information to know, and the policy of allowing municipalities to only briefly post the full ordinance leaves no option for further investigation.

And that's what happens under current law. Under HB 2247, you wouldn't even have the vaguest clue to look into the matter.

Or consider this ordinance summary:

Ordinance No. 1405 Summary. On May 9, 2016, the City of Marion, Kansas adopted Ordinance No. 1405 amending Section 2-116 & 2-208 of the City Code pertaining to animals running at large. A complete copy of this ordinance is available at www.marionks.net or at City Hall, 208 E Santa Fe, Marion, Kansas. This summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas. Dated: May 9, 2016. /s/ Susan C Robson, City Attorney

What does it mean? A reasonable person has no way to know. Yet it clearly represents a topic about which many people might care. At present, publishing a summary provides at least a slight clue as to the law's nature. HB 2247 would completely take even that vague clue away, leaving the public totally in the dark.

In a state that does not require, as many other states do, that the agendas and minutes of local governmental meetings be published in newspapers read by the general public, the only way citizens can learn about proposed or adopted actions of local government is through their local newspaper. Yes, newspapers make money publishing public notices – as do companies that sell Internet hosting, employees who maintain websites, and attorneys who certify summaries. Most newspapers, especially smaller ones in rural areas with declining retail bases, give you something back in exchange: news coverage in addition to official notices detailing meetings' actions. Such

stories are not particularly profitable for newspapers to cover. Revenue from public notices – the rates for which we, like many, have held the line on for nearly a decade despite rising costs -- helps subsidize not only that coverage but also the existence of these newspapers and the vital overall service they provide to their communities. I can say without reservation that if HB 2247 were adopted, at least two or our three newspapers would cease publication, and one of the last remaining unifying factors for the communities they serve would be eliminated.

The choice is simple. HB 2247 is a foolhardy attempt to save a small amount of money at the expense of openness in government. Instead of engaging the public, it keeps government actions hidden, known only to insiders, lawyers and bureaucrats. It is equivalent to saying that all meetings should be conducted behind closed doors to save a few pennies on the cost of setting up chairs for spectators. It is anti-democratic, anti-business and anti-community, especially in the state's rural areas.

I most strongly urge its rejection.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'EM', followed by a horizontal line extending to the right.

Eric Meyer
President, Hoch Publishing Co. inc.