

Kansas Press Association, Inc.

Dedicated to serving and advancing the interests of Kansas newspapers

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April 6, 2017

To: Rep. John Barker, chairman of the House Federal and State Affairs Committee, and committee members

From: Doug Anstaett, executive director, Kansas Press Association

Re: Testimony in support of SB 86

Mr. Chairman and members of the Committee:

I am Doug Anstaett, executive director of the Kansas Press Association.

My association's members wholeheartedly support the language in Senate Bill 86 because it will finally place statutory limits on what can be charged for access by the public and press to the records of what government is doing.

That this has become necessary is unfortunate. For too long, those of us who rely on access to public records to exercise our rights have been at the mercy of public bodies that charge rates that are sometimes so outrageous that public records are closed by default because no one — including many of the newspapers in Kansas — can afford to pay the bill.

While we have relied for years on an attorney general's opinion about what is a reasonable copy charge, nothing else is there to guide public officials. Furthermore, the charges aren't consistent from jurisdiction to jurisdiction, with many agencies never charging a dime for record requests — not even when multiple copies are involved — while some others gouge the public with high per-hour charges for reviews that are often unnecessary.

A public record is, by state law, the property of the citizens of Kansas. However, in hearing the horror stories from my members, you would conclude these records are the personal property of the employees of public agencies, available only after reporters and ordinary citizens jump through hoop after hoop to try to get what is usually rightfully theirs.

Public records provide the written record of what government has done and plans to do. Citizens of the state of Kansas have a right to review those records without being charged through the nose for it.

Senate Bill 86 tries to bring some sanity to this often frustrating situation. Placing limits on what can be charged and whose salaries can be included in the costs is sorely needed if for no other reason than consistency.

Our nation's Constitution and its first 10 amendments, the U.S. Bill of Rights, provided considerable protections for citizens to ensure they would be free to be active participants in our democracy. The five freedoms in the First Amendment, in fact, are clarion calls to citizens to not be intimidated by an overzealous government but to instead exercise the rights to freedom of speech, freedom of the press,

freedom of religion, freedom of assembly and the freedom to petition government for a redress of grievances.

Those rights encourage citizens and the press to ask questions, to seek answers and to hold the feet of government officials to the fire so that the government's business is done in public and that the recorded information needed to judge the performance of those same officials is accessible.

Citizens and member of the press cannot access information when the cost of doing so becomes prohibitive. And we in the press cannot serve the vital role of "watchdog" of government when access to records is made so difficult that you simply throw up your hands out of frustration.

The Kansas Open Records Act was written with the admonition that it to be construed liberally. That meant when a question arose about whether a record should be released, government should err on the side of disclosure.

But when government can choose to thumb its nose at the public and make it difficult to learn about what that government is doing, it has become too large. So maybe it's time to clip the wings of government and once again remind public officials they work for the rest of us.

One other thing: the Kansas Open Records Act was never designed to create a revenue stream for governmental agencies. No, it was placed in law to provide public access to the public's business. The language in SB 86 will help accomplish the statute's original intent.

And if I might be allowed to suggest a simple friendly amendment to the language in this statute: Whenever public and non-public information is intermingled in the same document and redaction of confidential or protected information is necessary, it shall be done at no cost to the requester.

We ask that the committee work this bill this year and send it to the governor's desk for his signature. It's time has come.