

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 70

As Amended by Senate Committee on Federal
and State Affairs

Brief*

SB 70 would amend the Kansas Open Meetings Act (KOMA) with respect to closed or executive meetings. The bill would require any motion to recess for a closed or executive session to include a statement describing the subjects to be discussed during the closed or executive session and the justification for closing the meeting. Current law requires a statement of the justification for closing the meeting and the subjects to be discussed during the closed meeting. The bill would leave unchanged the requirement the motion contain the time and place at which the open meeting will resume.

The bill would require the complete motion be recorded in the minutes of the meeting.

Justifications for closing meetings would be limited to the circumstances listed in the bill. The justifications would be substantively similar to the list of subjects allowed to be discussed at closed or executive sessions under current law, with the following exceptions:

- The bill would amend language related to KSA 22a-243(j) to specify matters relating to the investigation of child deaths could be discussed;
 - Current law states matters related to district coroners could be discussed in executive session pursuant to the statute.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- The bill would specify what matters could be discussed pursuant to statute in the following instances:
 - Matters relating to parimutuel racing pursuant to KSA 74-8804 and amendments thereto;
 - Matters relating to the care of children pursuant to KSA 2016 Supp. 38-2212(d)(1) or 38-2213(e) and amendments thereto;
 - Matters relating to patients and providers pursuant to KSA 39-7,119(g) and amendments thereto;
 - Matters relating to maternity centers and child care facilities pursuant to KSA 65-525(d) and amendments thereto; and
 - Matters relating to the office of inspector general pursuant to KSA 2015 Supp. 75-7427 and amendments thereto; and
- The bill would strike language related to repealed statutes.

Background

The bill was requested by Senators Francisco and Baumgardner. At the hearing by the Senate Federal and State Affairs Committee, Senators Francisco and Baumgardner, as well as representatives from the Kansas Association of Counties, the Kansas Association of Broadcasters, the League of Women Voters of Kansas, the Kansas Press Association, and one citizen testified in favor of the bill. They testified the problem with the current statute is that “justification” is undefined. The proponents stated, in conjunction with other bills passed in recent years, this bill is the next step in ensuring open accountability. Written testimony in support of the bill was provided by the Kansas Policy Institute, the Kansas Sunshine Coalition for Open Government, the Garden City Telegram, and the Oskaloosa Independent.

Neutral, written testimony in support of the bill was provided by the League of Kansas Municipalities and the State Child Death Review Board.

No opponent testimony was provided.

The Senate Committee amended the bill to specify the complete motion to recess for executive session, rather than the motion “in its entirety,” be recorded in the minutes. The Senate Committee also changed language in the list of justifications to allow discussion of the investigation of child deaths pursuant to statute, rather than matters relating to district coroners.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Office of the Attorney General indicates the changes proposed by the bill could cause new issues to arise that have not been litigated or for which an Attorney General’s Opinion has not been issued. If the number of opinion requests significantly increases, additional staff attorneys could be required to handle the added workload. If a court case were brought questioning the application of the new law, the Attorney General’s Office could be required to be involved to defend a state agency accused of violating the new provisions or to enforce violations of KOMA. The agency is able to collect civil penalties for violations of KOMA. However, it is not possible to predict the number of opinion requests or court cases that would arise or how complex and time-consuming they would be. Therefore, a fiscal effect cannot be determined. Any fiscal effect associated with the bill is not reflected in *The FY 2018 Governor’s Budget Report*.