



Kansas Press Association, Inc.

Dedicated to serving and advancing the interests of Kansas newspapers

5423 SW Seventh Street • Topeka, Kansas 66606 • Phone (785) 271-5304 • Fax (785) 271-7341 • www.kspress.com

Feb. 4, 2013

To: Rep. Lance Kinzer, chairman, and members of the House Judiciary Committee

From: Doug Anstaett, executive director, Kansas Press Association

Re: House Bill 2128

Mr. Chairman and members of the Committee:

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

The Kansas Press Association has a long-standing tradition of fighting hard for open government, so we look suspiciously at any attempt to shut down the public's access to the kinds of records that will help citizens make informed decisions about how their government is performing.

However, we also realize there are times when records potentially can contain such sensitive information that an exception must be made. While we agree the language in HB 2128 is designed to keep sensitive information out of the hands of the "bad guys," we also want to make sure the language chosen narrowly defines what is to be closed to the public.

We ask as part of your consideration of this new language to also contemplate trying to streamline KORA by placing similar exceptions together under the same number. For instance, all the criminal investigation records not subject to disclosure fall under exception (10). We have references to "security information, procedures and measures" in a number of exceptions, including Exception 12, 45, 47, 50, 51, 52 and now with this request in Exception 53.

We would prefer these be placed under a single "security" exception. This streamlining might be for another day, but it should happen soon.

Our main objection to this bill is contained in Exception (13). Last year, without a public hearing, the Senate Ways & Means Committee on a lark included an amendment adding just two words that seriously undermine KORA. The words "or disposal" were added.

It has been a long-standing practice that public agencies should be able to discuss the "acquisition" of property in secret to keep the price of said property from skyrocketing. We understand that if a landowner knows the state, city, county, school district or other entity is interested in a tract of his or her land, the price will go up or negotiations will become much more difficult if that information is released.

However, under the Kansas Open Meetings Act and under KORA as well, discussions and records that pertained to the "disposal" of property have been open records for decades.

Why? To protect the integrity of such transactions.

Here's what happened last year in a small Kansas county. It's typical of the kinds of decisions that undermine the public's trust in its elected officials. I'm purposely being vague with the location, but I would be happy to share that with the chair if someone wants to check it out.

A local school board voted to sell property it owned without informing the public or seeking an appraisal. A small acreage was sold without bids to a friend of a school board member.

Citizens in the community, according to the local newspaper publisher, exploded when they discovered what had happened. One school board member who opposed the decision resigned over it. We understand once he discovered the travesty, an adjacent landowner offered twice as much for the land, but it was too late.

An after-the-fact appraisal of the land, which should have been done before any contract for sale was considered, showed the board got less than one-third of what the land was worth. Public property was sold at a bargain basement, brother-in-law price.

That board should have announced there was land for sale so anyone in the community could have placed a bid on it. After all, it was the "public's" land. An appraisal should have been done in advance to guide the board in what the land was really worth.

Had they followed the rules of good government, there would have been no public uproar, no hard feelings, no resignations.

It is not in the best interests of state or local government entities to do this kind of business in secret. Underhanded deals can be made; land can be bought and sold for pennies on the dollar. It's just bad business.

While we can live with Exception 53, we ask that you right this wrong that was done last year without a hearing, without proper vetting and certainly without the best interests of the citizens of the state of Kansas in mind.

How this occurred is not in keeping with Kansas' long-standing tradition of transparency, open government and citizen participation in the process. We ask that "or disposal" be removed from the bill. It is purely and simply bad law.

Thank you for your attention.