

A Brief Explanation of House Bill 2128 March 30, 2017

As currently written, the Kansas *Open Meetings Act* includes some very confusing language.

The *Act* states that in closing a meeting, a board or commission needs to state the (1) justification for closing the meeting, (2) the subjects to be discussed during the closed meeting and (3) the time and place at which the open meeting is to resume.

This is sensible and reasonable. But the current *Act* then goes on to provide a list of *justifications* for closing meetings (e.g. to discuss personnel matters; to consult with an attorney, etc.) and calls them *subjects*.

By calling *justifications* *subjects*, the current *Act* has led most boards and commissions to conclude that if a justification is cited, NO additional subject(s) need be cited.¹ A recent study of the practices of the governing bodies of the 10 largest cities and the 10 largest counties in Kansas has shown that 95% close meetings at times without disclosing the subjects they are going to discuss.² When they do this, citizens are given no meaningful information about the subjects to be discussed and the boards and commissions conduct governmental business in secrecy.

The proposed amendment to the Kansas *Open Meetings Act* eliminates the confusing wording of the current *Act*. Additional words are added to make the *Act* easier to read. GREAT CARE HAS BEEN TAKEN TO AVOID CHANGING THE INTERPRETATION OF THE ACT, except to make the distinction between subjects and justifications clear, while giving *subjects* and *justification* their ordinary common meanings. In three legislative hearings, NO opponents to these changes have appeared.

Two sections of the current *Act* that refer to nonexistent portions of the Kansas statutes are deleted. To allow these remain might suggest that the Kansas Legislature is incompetent in maintaining its statutes. A new justification regarding the governor's domestic violence fatality review board has been added.

House Bill 2128 should be passed without further amendment.

Alan L. Cowles, M.D., Ph.D. *KansasOpenMeetings.org*

¹ One commonly-cited court decision, *State of Kansas vs. Board of Education of Unified School District No. 305, et al.* Saline County District Court, Case No. 87 C-169, November 17, 1987, has affirmed that conclusion.

² Cowles, Alan L.: *Governmental Business in Secrecy in Kansas*, February 26, 2016, available at <http://KansasOpenMeetings.org>.