

# City of Paola, Kansas

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February 15, 2019

House Judiciary Committee Chairman Representative Fred Patton  
Kansas State Capitol Building  
310 SW 10<sup>th</sup> Street  
Topeka, KS 66612

RE: Written Testimony in opposition of House Bill No. 2219

Chairman Patton and Committee Members:

I am submitting this letter in opposition of House Bill No. 2219, which would amend the Kansas Open Meetings Act; relating to recording of proceedings; availability to public; amending K.S.A. 2018 Supp. 75-4318 and repealing the existing section. Specifically, House Bill No. 2219 would provide as follows:

*(g) A public body or agency designated in subsection (a) shall record audio or video of any meeting described in subsection (a) that is required to be open to the public and shall make such audio or video recording accessible to the public within 24 hours after such meeting.*

It is the City of Paola's concern that this provision is too vague and not specific in its requirements making compliance difficult and uncertain. The following are a few of the City's concerns:

- ❖ The bill does not specify how long recordings must be maintained.
- ❖ Accessibility to the public is not defined.
  - Are we to merely post it on the City's website?
  - Are we to provide a copy of the recording? If so, in what format?
  - Are we to provide the mechanism for the public to listen to or view the recording?
  - Are we to provide a private area for the public to listen to or view the recording?
- ❖ Making the recording available to the public within 24 hours is not always practical. What if the meeting takes place the evening before a legal holiday or takes place on a Friday or Saturday?
- ❖ What becomes the official record of the meeting? Is it the recording or is it the written minutes? Minutes for Paola City Council meetings are a written summary of the important comments and the action taken on an issue. These minutes are not a verbatim transcript of the meeting and I would be confident in saying that



very few cities have minutes that are full transcripts. If we are going to be required to archive audio or video recordings, we could certainly see a trend toward making minutes just a record of the action taken and nothing more. To do otherwise would expose the City to debate over what should or should not have been recorded in the minutes.

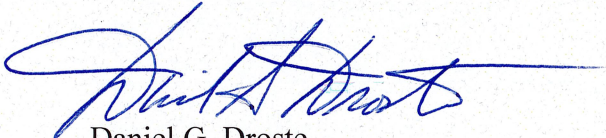
- ❖ Would cities be required to record and archive audio or video for events such as the League of Kansas Municipalities Regional Suppers, local Chamber of Commerce events, and employee holiday parties where a majority of our City Council is in attendance? If so, I can picture a multitude of recording devices competing for prominent placement in some conferences and meetings.
- ❖ Currently, we audio record our meetings, but as soon the minutes are approved (the official record), we record over that tape so that there is only one official record. We would have to migrate to digital recordings so that the files could be archived easier. A quality digital recording set up will cost approximately \$700 for each committee or board. We have 9 which would require an up-front investment of \$6,300 to create the recordings to comply with the proposed legislation. Video recording equipment would be substantially more expensive.
- ❖ Additional up-front and ongoing expenditures could be substantial depending on the requirements for ongoing compliance dictated by archiving and accessibility requirements.

As you consider House Bill No. 2219, we would ask you to keep in mind all of these and potentially many more compliance issues that would need to be addressed.

As a City Clerk, I am completely supportive of transparency at all levels of government. But in my opinion this Bill, as written, would make compliance uncertain and expose governmental entities to unintentional violations of the Kansas Open Meetings Act.

Thank you for your hard work and your consideration of our concerns.

Sincerely, for the Governing Body of the City of Paola, Kansas.



Daniel G. Droste  
City Clerk / Finance Director  
City of Paola, Kansas

**HOUSE BILL No. 2219**

By Representative Alcalá

2-8

1 AN ACT concerning the Kansas open meetings act; relating to recording  
2 of proceedings; availability to public; amending K.S.A. 2018 Supp. 75-  
3 4318 and repealing the existing section.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2018 Supp. 75-4318 is hereby amended to read as  
7 follows: 75-4318. (a) Subject to the provisions of subsection ~~(g)~~ (h), all  
8 meetings for the conduct of the affairs of, and the transaction of business  
9 by, all legislative and administrative bodies and agencies of the state and  
10 political and taxing subdivisions thereof, including boards, commissions,  
11 authorities, councils, committees, subcommittees and other subordinate  
12 groups thereof, receiving or expending and supported in whole or in part  
13 by public funds shall be open to the public and no binding action by such  
14 public bodies or agencies shall be by secret ballot. Meetings of task forces,  
15 advisory committees or subcommittees of advisory committees created  
16 pursuant to a governor's executive order shall be open to the public in  
17 accordance with this act.

18 (b) Notice of the date, time and place of any regular or special  
19 meeting of a public body or agency designated in subsection (a) shall be  
20 furnished to any person requesting such notice, except that:

21 (1) If notice is requested by petition, the petition shall designate one  
22 person to receive notice on behalf of all persons named in the petition, and  
23 notice to such person shall constitute notice to all persons named in the  
24 petition;

25 (2) if notice is furnished to an executive officer of an employees'  
26 organization or trade association, such notice shall be deemed to have been  
27 furnished to the entire membership of such organization or association;  
28 and

29 (3) the public body or agency may require that a request to receive  
30 notice must be submitted again to the public body or agency prior to the  
31 commencement of any subsequent fiscal year of the public body or agency  
32 during which the person wishes to continue receiving notice, but, prior to  
33 discontinuing notice to any person, the public body or agency must notify  
34 the person that notice will be discontinued unless the person resubmits a  
35 request to receive notice.

36 (c) It shall be the duty of the presiding officer or other person calling

1 the meeting, if the meeting is not called by the presiding officer, to furnish  
2 the notice required by subsection (b).

3 (d) Prior to any meeting mentioned by subsection (a), any agenda  
4 relating to the business to be transacted at such meeting shall be made  
5 available to any person requesting the agenda.

6 (e) The use of cameras, photographic lights and recording devices  
7 shall not be prohibited at any meeting mentioned by subsection (a), but  
8 such use shall be subject to reasonable rules designed to insure the orderly  
9 conduct of the proceedings at such meeting.

10 (f) Except as provided by section 22 of article 2 of the constitution of  
11 the state of Kansas, interactive communications in a series shall be open if  
12 they collectively involve a majority of the membership of the public body  
13 or agency, share a common topic of discussion concerning the business or  
14 affairs of the public body or agency, and are intended by any or all of the  
15 participants to reach agreement on a matter that would require binding  
16 action to be taken by the public body or agency.

17 (g) *A public body or agency designated in subsection (a) shall record*  
18 *audio or video of any meeting described in subsection (a) that is required*  
19 *to be open to the public and shall make such audio or video recording*  
20 *accessible to the public within 24 hours after such meeting.*

21 (h) The provisions of the open meetings law shall not apply:

22 (1) To any administrative body that is authorized by law to exercise  
23 quasi-judicial functions when such body is deliberating matters relating to  
24 a decision involving such quasi-judicial functions;

25 (2) to the prisoner review board when conducting parole hearings or  
26 parole violation hearings held at a correctional institution;

27 (3) to any impeachment inquiry or other impeachment matter referred  
28 to any committee of the house of representatives prior to the report of such  
29 committee to the full house of representatives; and

30 (4) if otherwise provided by state or federal law or by rules of the  
31 Kansas senate or house of representatives.

32 Sec. 2. K.S.A. 2018 Supp. 75-4318 is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its  
34 publication in the statute book.