



Ninety-Ninth Legislature - First Session - 2005
Committee Statement
LB 591

Hearing Date: February 10, 2005

Committee On: Government, Military and Veterans Affairs

Introducer(s): (Preister)

Title: Change provisions relating to public records and open meetings law

Roll Call Vote – Final Committee Action:

Advanced to General File

Advanced to General File with Amendments

X Indefinitely Postponed

Vote Results:

7	Yes	Senators Brown, Burling, Fischer, Mines, Pahls, Schimek, Wehrbein
0	No	
1	Present, not voting	Senator Langemeier
0	Absent	

Proponents:

Senator Don Preister
Jeffrey Pokorny
Dave McReynolds
George Bray
Laura Krebsbach
James McKenzie
William Williams
Melissa Konocky
Jarel Vinduska
John Knapp
Lorus Luetkenhaus
Paul Randazzo
Lynn Moorer

Representing:

Introducer
Self
Self
Great Plains Environmental Law Center
Sierra Club
Self
Buffalo County Veterans Service
Self
Self
Self
Self
Self
WQEC
ENACT

Opponents:

John Bonaiuto
Dana Roper

Representing:

Nebraska Association of School Boards
City of Lincoln
Lincoln/Lancaster Public Building Commission
Metropolitan Utilities District of Omaha

Laura Peterson

Dept. of Administrative Services and Code
Agencies

Jack Cheloha

City of Omaha

William Mueller

Nebraska State Bar Association

Mary Sommermeyer

League of Nebraska Municipalities

John Miyoshi

Nebraska Association of Resources Districts

Lower Platte North NRD

Sherry Schweitzer

Nebraska Association of County Clerks, Register
of Deeds, and Election Commissioners

Sandra Stelling

Clerks/Register of Deeds/Election
Commissioners

Neutral:

Alan Peterson

Jack Gould

Representing:

Media of Nebraska

Common Cause Nebraska

Summary of purpose and/or changes:

The bill makes several changes to the public records and open meetings laws.

In the open records section, language is added providing that fees for making copies may not include overhead costs and the public body will not charge more than the cost of the lowest paid employee for retrieving the records.

If the copying costs are more than \$50, the agency may charge the requester a deposit of no more than 30% of the costs prior to fulfilling the request.

The bill allows a citizen to petition the county attorney, in addition to the Attorney General, to review the matter of records being withheld. Also, criminal penalties are added for subsequent violations.

In the open meetings section, the bill adds a definition for public business which means any function upon which the agency is empowered or authorized to take official action.

A public body will keep detailed minutes of all discussions, persons present and action occurring at a closed session as well as tape record all of the closed session. The minutes and tape recording will be sealed and not open to public inspection unless there is an action filed challenging the closed session. The court may review the documents and recording in camera to determine what part of the minutes should be disclosed. Agencies are required to keep these records and tape for at least one year following the meeting.

The notice and agenda of the public body will contain at least a one-line description or explanation of each agenda item, including the reason and explanation for any proposed closed session.

The bill eliminates the provision that a public body is not required to allow the public to speak at each meeting. It also eliminates the provision that no public body is deemed in violation if it holds its meeting in its traditional meeting place.

If a court declares a policy, decision or final action of an agency void, then the agency will not subsequently act upon the voided subject matter until the subject matter has been given substantial reconsideration at a meeting or meetings.

The bill allows any citizen to file a suit challenging an open meetings violation, regardless of whether or not they attended the meeting at which the alleged violation occurred, or if the citizen did attend the meeting, whether or not the citizen raised objections during the meeting. The court will determine the matter de novo and the burden is on the public body to sustain its action.

Proceedings arising when a provision of the Open Meetings Act is violated will take precedence over other cases and will be assigned for hearing, trial or argument at the earliest practicable date.

The bill adds a provision that a member of a public body is subject to removal or impeachment for violation of the Open Meetings Act. Penalty provisions are changed.

Explanation of amendments, if any:

Senator DiAnna R. Schimek, Chairperson