



STATE OF KANSAS

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CURT T. SCHNEIDER
Attorney General

September 17, 1975

ATTORNEY GENERAL OPINION NO. 75-362

The Honorable E. Richard Brewster
State Representative
5324 S. W. Wanamaker
Topeka, Kansas 66610

Re: Open Meetings--Legislature--Caucuses

Synopsis: The caucus conducted by members of the Democratic political party holding office in the Kansas House of Representatives for the purpose of filling a vacancy in the position of House minority leader pursuant to K.S.A. 1974 Supp. 46-1601(b) is subject to the Kansas open meeting law, K.S.A. 1974 Supp. 75-4317 *et seq.*, as amended, and must be open to the public, with no binding action therein taken by secret ballot.

* * *

Dear Representative Brewster:

You inquire whether the Kansas open meeting law, K.S.A. 1974 Supp. 75-4317 *et seq.*, as amended by ch. 455, L. 1975, applies to a caucus of Democratic members of the Kansas House of Representatives which is presently scheduled to be held September 18, 1975, pursuant to K.S.A. 1975 Supp. 46-1601(b) for the purpose of filling the vacancy in the position of House minority leader resulting from the resignation of Representative Richard C. (Pete) Loux to become a member of the Kansas Corporation Commission.

K.S.A. 1974 Supp. 46-1601(b) states thus:

"When a vacancy occurs in the office of majority leader or minority leader of the house of representatives or the senate

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and the legislature is adjourned to a date more than thirty (30) days after the occurrence, there shall be a party caucus of the appropriate party and house within thirty (30) days to fill the vacancy. Such caucus shall be called within ten (10) days of such occurrence by the assistant majority or minority leader, as the case may be, for a time not less than ten (10) days and not more than twenty (20) days after the date of the call."

Under subparagraph (d), members of the legislature attending this caucus shall receive compensation, expense allowances and mileage pursuant to K.S.A. 1973 Supp. 75-3212 and amendments thereto.

The public policy of this state was declared by the 1972 Legislature thus:

"In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the policy of this state that meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public." K.S.A. 1974 Supp. 75-4317(a).

K.S.A. 1975 Supp. 75-4318(a) states thus:

"Except as otherwise provided by law, all meetings for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the state, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds shall be open to the public and no binding action by such bodies shall be by secret ballot."

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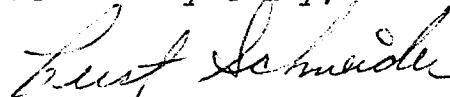
In Opinion No. 75-334, I concluded that a caucus of Republican members of the Kansas Senate, convened to nominate candidates for election as Senate President, was a meeting subject to the open meeting law. The same reasoning compels the same conclusion here. This caucus differs from that considered earlier in only one respect. Here, the Democratic members meet to select a House minority leader, whereas the senators met to select candidates for presiding officer of the entire house. It may be argued that the purpose of this caucus is to select a party officer, rather than an officer of the legislative body. That is not so. This caucus is an integral part of the legislative process. It is one specifically prescribed by law, for the selection of a member to hold a specific legislative position, for which specific additional compensation is allowed by state law. Members are paid from state funds for attending the caucus, and the person selected is not an officer of a political party, but a member holding a specific organizational position of the legislature.

The Democratic caucus of House members is a meeting of a subordinate group of the House of Representatives, specifically required to be held by state law, and for which members are paid from public funds for attendance. The meeting thus falls squarely within the public meeting law, in my opinion.

Moreover, the criteria followed by Judge Adrian Allen of the Shawnee County District Court in his decision in the recent case involving the Kansas Senate Republican caucus, controls on this question. I am aware that a stay pending appeal was granted in that case by Justice Alex Fromme, thus freeing the Senate Republican caucus from the constraints of the open meeting law. I do not understand that decision as intimating any view of the merits, however, contrary to the decision of the Shawnee County District Court.

It is accordingly my opinion that the caucus of House Democrats held on September 18, 1975, to select a person for the position of House minority leader is subject to the Kansas open-meeting law and all requirements thereof.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj