

SESSION OF 2004

## SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2601

As Amended by House Committee on  
Local Government

### **Brief\***

HB 2601 would amend the Kansas Open Records Act (KORA) to extend the time frame for when attorneys fees may be assessed the party whom the court determines acted wrongly and changes the standard for awarding the attorneys fees against a party. The bill extends the time frame for when attorneys fees can be awarded to "for services rendered in such action, including proceedings on appeal." Further, the bill provides attorney fees shall be awarded when either the denial of the records or the records request itself is deemed by a judge not to be made in good faith or (current law uses "and") was made without a reasonable basis in fact or law.

The House Committee amended the bill to make a clarifying amendment to the attorney fee criteria for both the public agency and the records requestor.

### **Background**

The bill was supported by Representative Ward Loyd to address the ruling in a 2003 Kansas Supreme Court decision *Telegram Publishing Company v Kansas Department of Transportation* (2003), which held attorney fees under KORA could only be awarded for activities prior to the filing of a suit. Attorney fees for conduct by a party after a lawsuit has been filed are governed by KSA 60-211, a part of the Code of Civil Procedure.

The bill was also supported by the Kansas Press Association. A League of Kansas Municipalities representative expressed concern

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

about the provision which would provide a more relaxed standard for awarding attorneys fees.