

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2134**

As Agreed to March 24, 2025

Brief*

HB 2134 would limit the fees that could be charged by a public agency in response to Kansas Open Records Act (KORA) requests and allow a requester to appeal a fee's reasonableness to the Secretary of Administration (Secretary) if the responding public agency is within the Executive Branch.

The bill would also exempt disclosure of certain closed investigations, change the date for counties or district attorneys to report complaints regarding KORA and the Kansas Open Meetings Act (KOMA), and amend provisions concerning public meetings in KOMA.

Fees for Public Records

The bill would amend law prohibiting an agency from charging a fee in excess of the actual cost of furnishing copies of requested records. The bill would specify that actual costs include the cost to review requests and redact the requested records. The bill would prohibit any incidental costs incurred by the public agency not attributable to furnishing the requested records from being included.

If the public agency incurs costs for staff time to provide access to or furnish copies of public records, the bill would require the agency to use in good faith the lowest cost category of staff reasonably necessary to provide such access or copies. The bill would require charges for staff time be based on the employee's salary or hourly wage, not including the cost of employee benefits.

The bill would require executive agency heads to establish fees for access to or for copies of the agency records.

Cost Estimates

The bill would require a public agency to make reasonable efforts to contact the requester and engage in interactive communication about mitigating request costs when the staff time

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needed to respond would exceed five hours or the estimated actual cost for staff time exceeds \$200.

If the public agency has made reasonable efforts to contact the requester, and the requester fails to respond by the end of the third business day, the bill would consider such request to be withdrawn until a subsequent contact has been made by the requester to the agency. "Reasonable efforts" would mean contacting the requester through the means of communication the requester provided as their preferred method.

The bill would require the public agency, upon request of the person requesting access to or copies of public records under KORA, to provide an itemized statement of costs incurred by the public agency and charged to the requester. Such statement would be required to include, but would not be limited to, the hourly rates for each employee involved in making the records available, and an itemized list of any other fees charged to provide access to or copies of the requested records.

Appeals

Under continuing law, persons who feel a KORA request fee is unreasonable may appeal the estimate to the Secretary of Administration. The bill would clarify that such appeals would only apply to records within the Executive Branch.

Certain Records Not Subject to Disclosure

The bill would amend law concerning records that a public agency is not required to disclose under KORA to exempt the disclosure of formally closed investigations of violations of civil law or administrative rules and regulations when no violations were found.

The bill would also exempt records of a public agency that contain material that is obscene, as that term is defined by the Kansas Criminal Code.

Reports of KORA and KOMA Complaints

The bill would change the date from January 15 to October 15 of each year by which the county or district attorney of each county must report to the Attorney General all KORA and KOMA complaints received during the previous fiscal year.

Changes Applicable to Public Meetings

Subordinate Groups Subject to KOMA

The bill would provide that whenever a majority of a subcommittee or other subordinate group created by a public body or agency meets, such subcommittee or group meeting would be considered an open meeting subject to KOMA.

A private entity would be considered a subordinate group of a legislative or administrative body of the State or a political and taxing subdivision only if they are under the direct or indirect control of such body.

Livestreaming

The bill would provide that a public body or agency that voluntarily elects to livestream a meeting must ensure that all aspects of the meeting are available through the selected medium for the public to observe. The bill would specify that an unintentional technological failure or an action taken by the provider of the selected medium that disrupts or prevents the livestream would not constitute a KOMA violation under the bill.

Conference Committee Action

The Conference Committee agreed to remove the provisions of HB 2134, as amended by the Senate Committee on Judiciary, and to insert the provisions of SB 70, as amended by the House Committee on Judiciary. The Conference Committee made an additional amendment by inserting provisions to require public agencies, upon request, to provide an itemized cost statement for costs related to fulfilling a KORA request.

Background

The Conference Committee removed the contents of HB 2134, inserted the provisions of SB 70, as amended by the House Committee on Judiciary, and added provisions regarding itemized cost statements for KORA requests.

[*Note:* HB 2134, as amended by the Senate Committee of the Whole, would have amended KORA to limit fees charged by a public agency fulfilling a request and to allow a requester to appeal a fee's reasonableness to the Secretary of Administration, if the responding public agency is within the Executive Branch. These provisions, with the exception of the itemized cost statement provisions, were not retained by the Conference Committee.]

SB 70 (KORA and KOMA Provisions)

SB 70 was introduced by the Senate Committee on Judiciary at the request of Senator Shane.

Senate Committee on Judiciary

In the Senate Committee hearing, representatives of the Kansas Association of Counties (KAC) and League of Kansas Municipalities (LKM) and five private citizens provided **proponent** testimony. The proponents generally stated the bill would improve transparency in local government and bring fees charged for electronic copies in line with fees charged for physical copies.

Written-only proponent testimony was provided by a private citizen.

Neutral testimony was provided by representatives of the Office of the Attorney General (OAG) and the Kansas Association of School Boards (KASB). The neutral conferees generally stated the bill would require some clarification and suggested changes to that effect.

Written-only neutral testimony was provided by representatives of the cities of Topeka and Overland Park.

Opponent testimony was provided by a representative of the Kansas Policy Institute (KPI). The opponent stated the bill would allow taxpayers to be charged for receiving electronic copies of documents and this should not be allowed.

No other testimony was provided.

The Senate Committee amended the bill to:

- Remove a provision concerning what fee may be charged for electronic copies;
- Add a provision clarifying when fees may be charged for staff time, electronic copies, and printed copies;
- Change the date by which the county or district attorney of each county shall report KORA and KOMA complaints received during the previous fiscal year;
- Clarify a provision providing rules for determining a majority in subordinate groups.

[*Note:* The Conference Committee did not retain these amendments.]

Senate Committee of the Whole

The Senate Committee of the Whole adopted a technical amendment to update the name of an agency referenced in the bill. [*Note:* The Conference Committee retained this amendment.]

House Committee on Judiciary

In the House Committee hearing, the representative of KPI provided **proponent** testimony that was substantially similar to the testimony provided in the Senate Committee hearing. Written-only proponent testimony was provided by a representative of the Kansas Register of Deeds Association.

Neutral testimony was provided by a representative of LKM, who expressed support for the fee provisions contained in HB 2134 over the fee provisions contained in SB 70. A private citizen also provided neutral testimony on the bill, expressing concerns regarding the exemption for disclosure of records involving violations of civil or administrative law. Written-only neutral testimony was provided by representatives of the City of Overland Park, KAC, KASB, and OAG.

No other testimony was provided.

The House Committee amended the bill to:

- Remove the contents of Section 1, concerning fees for public records, and insert the contents of HB 2134, as amended by the House Committee on Judiciary, concerning fees for public records, in its place;
- Add an exemption for disclosure of records of a public agency that contain obscene material;
- Clarify that unintended technical failures or actions by a provider associated with a meeting that is being livestreamed would not constitute a violation of the bill; and
- Remove a five-minute grace period for concluding closed or executive meetings.

[*Note:* The Conference Committee retained these amendments.]

Fiscal Information

SB 70 (KORA and KOMA Provisions)

According to the fiscal note prepared by the Division of the Budget on SB 70, as introduced, the Department of Revenue, Kansas Department of Wildlife and Parks, Kansas Insurance Department, Board of Nursing, Department for Children and Families, Office of the Secretary of State, and Department of Corrections indicate enactment of the bill would have a minimal fiscal effect on the agencies.

The OAG, Department of Administration, Department of Health and Environment, Kansas Department for Aging and Disability Services, State Board of Healing Arts, Department of Labor, Kansas Bureau of Investigation, Kansas Highway Patrol, State Department of Education, and Legislative Administrative Services indicate enactment of the bill would have no fiscal effect on the agencies.

KAC and LKM indicate enactment of the bill could have some fiscal effect on the counties and cities but such effect cannot be estimated.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2026 Governor's Budget Report*.

Kansas Open Records Act; Kansas Open Meetings Act; disclosure; public records; fees

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