

HOUSE BILL No. 2134

By Committee on Judiciary

Requested by Mike O'Neal on behalf of Kansas Policy Institute

1-28

1 AN ACT concerning the open records act; limiting certain charges for
2 copies of records by the state executive branch and other public
3 agencies excluding the legislative and judicial branch of state
4 government; amending K.S.A. 45-219 and repealing the existing
5 section.
6

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

8 Section 1. K.S.A. 45-219 is hereby amended to read as follows: 45-
9 219. (a) Any person may make abstracts or obtain copies of any public
10 record to which such person has access under this act. If copies are
11 requested, the public agency may require a written request and advance
12 payment of the prescribed fee. A public agency shall not be required to
13 provide copies of radio or recording tapes or discs, video tapes or films,
14 pictures, slides, graphics, illustrations or similar audio or visual items or
15 devices, unless such items or devices were shown or played to a public
16 meeting of the governing body thereof, ~~but except that~~ the public agency
17 shall not be required to provide such items or devices ~~which~~ that are
18 copyrighted by a person other than the public agency.

19 (b) Copies of public records shall be made while the records are in
20 the possession, custody and control of the custodian or a person designated
21 by the custodian and shall be made under the supervision of such
22 custodian or person. ~~When practical~~ *Whenever practicable*, copies shall be
23 made in the place where the records are kept. If it is ~~impractical~~ *not*
24 *practicable* to do so, the custodian shall allow arrangements to be made for
25 use of other facilities. If it is necessary to use other facilities for copying,
26 the cost thereof shall be paid by the person desiring a copy of the records.
27 In addition, the public agency may charge the same fee for the services
28 rendered in supervising the copying as for furnishing copies under
29 subsection (c) and may establish a reasonable schedule of times for
30 making copies at other facilities.

31 (c) Except as provided by subsection (f) or where fees for inspection
32 or for copies of a public record are prescribed by statute, each public
33 agency may prescribe reasonable fees for providing access to or furnishing
34 copies of public records, subject to the following:

35 (1) In the case of fees for copies of records, the fees shall not exceed

1 the actual cost of furnishing copies, including the cost of staff time
2 required to make the information available.

3 (2) In the case of fees for providing access to records maintained on
4 computer facilities, the fees shall include only the cost of any computer
5 services, including staff time required.

6 (3) Fees for access to or copies of public records of public agencies
7 within the legislative branch of the state government shall be established in
8 accordance with K.S.A. 46-1207a, and amendments thereto.

9 (4) Fees for access to or copies of public records of public agencies
10 within the judicial branch of the state government shall be established in
11 accordance with rules of the supreme court.

12 (5) Fees for access to or copies of public records of a public agency
13 ~~within the executive branch of the state government not described in~~
14 *paragraph (3) or (4) shall be established by the agency head as follows:*

15 *(A) For printed copies of public records, a fee that is equal to \$.25*
16 *per page. No such fee shall be charged for electronic copies; or*

17 *(B) for the cost of employee time required to provide access to or*
18 *furnish copies of public records, a fee that shall not exceed the lowest*
19 *hourly rate of an employee qualified to provide the requested records plus*
20 *the actual cost of printing copies of public records. No such fee shall be*
21 *charged for electronic copies.*

22 *(d) (1) Any person requesting records within the executive branch*
23 *may appeal the reasonableness of the fees charged for providing access to*
24 *or furnishing copies of such records to the secretary of administration,*
25 *whose decision shall be final. ~~A fee for copies of public records which is~~*
26 *equal to or less than \$.25 per page shall be deemed a reasonable fee.*

27 *(2) Any person requesting records of a political or taxing subdivision*
28 *may appeal the reasonableness of the fees charged for providing access to*
29 *or furnishing copies of such records to the governing body of such*
30 *political or taxing subdivision, whose decision shall be final.*

31 ~~(d)~~*(e) Except as otherwise authorized pursuant to K.S.A. 75-4215,*
32 *and amendments thereto, each public agency within the executive branch*
33 *of the state government shall remit all moneys received by or for it from*
34 *fees charged pursuant to this section to the state treasurer in accordance*
35 *with K.S.A. 75-4215, and amendments thereto. Unless otherwise*
36 *specifically provided by law, the state treasurer shall deposit the entire*
37 *amount thereof in the state treasury and credit the same to the state general*
38 *fund or an appropriate fee fund as determined by the agency head.*

39 ~~(e)~~*(f) Each public agency of a political or taxing subdivision shall*
40 *remit all moneys received by or for it from fees charged pursuant to this*
41 *act to the treasurer of such political or taxing subdivision at least monthly.*
42 *Upon receipt of any such moneys, such treasurer shall deposit the entire*
43 *amount thereof in the treasury of the political or taxing subdivision and*

1 credit the same to the general fund thereof, unless otherwise specifically
2 provided by law.

3 ~~(f)~~(g) Any person who is a certified shorthand reporter may charge
4 fees for transcripts of such person's notes of judicial or administrative
5 proceedings in accordance with rates established pursuant to rules of the
6 Kansas supreme court.

7 ~~(g)~~(h) Nothing in the open records act shall require a public agency to
8 electronically make copies of public records by allowing a person to obtain
9 copies of a public record by inserting, connecting or otherwise attaching
10 an electronic device provided by such person to the computer or other
11 electronic device of the public agency.

12 Sec. 2. K.S.A. 45-219 is hereby repealed.

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