

SESSION OF 2025

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2134**

As Amended by Senate Committee on Judiciary

**Brief\***

HB 2134, as amended, 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.

***Fee Limitations***

The bill would amend current law provisions 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 to be based on the employee's salary or hourly wage, not including the cost of employee benefits.

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

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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 <https://klrd.gov/>

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.

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 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.

### ***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.

The bill would also make technical changes.

## **Background**

The bill was introduced by the House Committee on Judiciary at the request of a representative of the Kansas Policy Institute (KPI).

### ***House Committee on Judiciary***

In the House Committee hearing, **proponent** testimony was provided by a representative of KPI. The proponent generally stated the bill would provide clarity and consistency on fees for KORA request processing.

Written-only proponent testimony was provided by representatives of the Kansas Association of Broadcasters, Kansas Press Association, and a private citizen.

**Opponent** testimony was provided by representatives of the cities of Overland Park and Topeka; Kansas Association of School Boards (KASB); Kansas Association of Chiefs of Police and Kansas Sheriffs Association; and the League of Kansas Municipalities (LKM). The opponents generally stated the bill would not reasonably cover the costs associated with large requests, expressed uncertainty about who is qualified to provide records, and noted the bill does not account for various reviews required for specific requests.

Written-only opponent testimony was provided by representatives from the cities of Maize and Shawnee; the Unified Government of Wyandotte County and Kansas City, Kansas; and the Kansas Association of Counties (KAC).

Written-only neutral testimony was provided by representatives of the Office of the Attorney General (OAG) and the City of Manhattan.

No other testimony was provided.

The Committee amended the bill to:

- Include the cost to review and redact the requested records to the agency's actual costs;
- Require staff time to be calculated in good faith at the lowest cost category reasonably necessary to respond to the request and preclude costs of employee benefits;
- Apply the fee limits to the Judicial and Legislative branches;
- Require public agency heads to establish fees for Executive Branch requests;
- Revise the process for mitigating costs and contacting the requester about such mitigation; and
- Make technical changes to implement the amendments.

### ***Senate Committee on Judiciary***

In the Senate Committee hearing, **proponent** testimony was provided by representatives of KPI; LKM; and OAG. The proponents stated that enactment of the bill would create an obligation for recouping only the costs incurred for printing and providing answers to KORA requests.

Written-only proponent testimony was provided by representatives of the KAC; the Kansas Register of Deeds Association; and the City of Topeka; and a representative of the Kansas Association of Chiefs of Police and the Kansas Sheriffs Association.

Neutral testimony was provided by a representative of the Office of Secretary of State. The representative stated general support for the bill but is neutral because enactment of the bill would not effect the office directly.

Written-only neutral testimony was provided by a representative of the City of Overland Park.

No other testimony was provided.

The Senate Committee amended the bill to allow a person requesting access to or copies of public records under KORA to request an itemized statement of costs incurred by the public agency and charged to the requester.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Bureau of Investigation (KBI) indicates that while it does not charge a per-page cost for the production of electronic records, it does charge to determine whether there may be records available for a particular request that are subject to release under KORA.

Some requests require the KBI to search criminal investigation files stored off-site in paper format. The agency is required to pay \$28 for the first file box, and \$3 for each subsequent box to a third party vendor when it recalls records from off-site storage. The agency indicates it recalls boxes from long-term storage for such requests due to storage limitations and to access digital audio and video files which are kept only on removable media. Records requests for digital files still require review and redaction in addition to staff time to create queries to search databases.

In FY 2024, the KBI indicates requests varied from a simple search with minimal staff time, which is not charged, to searches that take considerable staff time. The KBI notes enactment of the bill would result in many requests that are currently withdrawn going forward and would increase the number of reviews for possible records the agency conducts. The KBI utilizes one attorney for routine correspondence, records searches, and review along with a legal assistant and

an intern. The KBI indicates that if time to review and redact electronic records cannot be assessed for a fee, it would need \$136,455 from the State General Fund (SGF) beginning in both FY 2026 and 2027 for 2.0 FTE positions to ensure proper processing of requests in a timely manner. Of this amount, \$90,064 would be for salaries and wages and \$46,391 would be for benefits.

The OAG indicates enactment of the bill would have a fiscal effect on the agency's operations, because the bill would eliminate fees for providing electronic copies of records. The agency estimates additional SGF expenditures of \$385,972 in FY 2026 and \$405,271 in FY 2027 for an additional 3.0 FTE positions. Of the additional positions, two would be for attorneys to handle an increase in KORA requests and complaints. The other position would be for an office assistant to support the two additional attorneys. The agency also indicates enactment of the bill could result in litigation; however the agency does not have enough information to estimate the cost of any litigation. The agency also estimates a loss of fee revenue of \$3,000 in FY 2026 and FY 2027.

The State Board of Regents, Department of Administration, Department for Aging and Disability Services, Department for Children and Families, Department of Health and Environment, Department of Revenue, and Department of Transportation indicate enactment of the bill would not have a fiscal effect on agency operations.

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

Kansas Open Records Act; fees; Executive Branch; Legislative Branch; Judicial Branch