



ABOVE AND BEYOND. BY DESIGN.

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Senate Committee on Federal & State Affairs
Hearing on Senate Bill 10
March 13, 2013
Statement by Dick Carter, Jr.

Good morning Chairman Ostmeyer and members of the Senate Committee on Federal & State Affairs. My name is Dick Carter, and I appear before you today on behalf of the City of Overland Park (City).

The City opposes SB 10, which would amend the current Kansas Open Records Act (KORA) by limiting the amount a public agency may charge for copies of public records; and would prohibit the reasonable recovery of any fees charged for staff time utilized to fulfill a KORA request.

We appreciate the spirit in which the bill is offered, and take pride in providing open and accessible government to our residents, taxpayers and others who desire access to the records of the City. However, the limitations suggested in SB 10 are unrealistic and potentially sets up a system where City staff could be regularly and continuously supplying information pursuant to KORA requests, with no procedure for the City to recover the cost of the often significant time of the employees processing the request. The current KORA provisions that permit the recovery of costs related to the staff-time spent providing access to public documents is consistent with the fees charged for other governmental services, such as permit and licensing fees. The assessment of such fees is an important component of municipal, county, state and federal government entities, not only in Kansas, but throughout the country. It is nearly universally true that public libraries, archives, museums and other records repositories in this country charge a fee to recover the reasonable costs related to staff members processing requests for documents maintained by those entities.

KORA requests received by the City may be as simple as printing the minutes from a meeting or as technical as conducting a comprehensive forensic search through thousands of hard copy and electronic records. Depending on the scope and nature of the information requested, responses can require City-wide searches by multiple members of the staff. These types of comprehensive requests can take many hours and sometimes days of staff time to research the existence of the records, compile the documents requested, and make copies of the materials requested. It must also be acknowledged that it is not unusual for a municipality to receive a KORA request from companies, not-for-profit organizations, educational institutions and individuals from around the country relating to research projects, government surveys, marketing surveys and other extensive studies of municipal records. These types of KORA requests require significant staff time and

effort. Effective and equitable use of limited taxpayer dollars merits and arguably demands the legal authority to recover the costs associated with KORA requests.

Whether the records request is simple and requires only a few minutes or complex requiring many days and multiple members of the City staff, the City enthusiastically supports the right of the public to access these public records. However, it is equally important to the effective and efficient administration of public budgets to continue to provide for the reasonable recovery of costs associated with providing the requested records. I've attached a copy of the KORA form and fee schedule which the City uses to assist citizens in requesting records maintained by the City.

In summary, the City of Overland Park continues to support and champion the opportunity to provide open and transparent government, to specifically include providing access to public records maintained by the City. However, it is imperative that the City have the legal authority to recover the reasonable costs associated with public records request and thus effectively manage the limited tax dollars available to provide all City services. For the reasons stated above the City respectfully opposes SB 10.

1. Basic Charges:

Photocopies (per standard or legal size page)	\$0.25
Photocopies (per non-standard size page)	\$0.25 per square foot
Photocopies (per arrest report)	\$3.00
Photocopies (per accident report)	\$2.00
Photocopies (per fingerprint card)	\$5.00
Hard copy domestic fax transmission (per page)	\$0.65
Computer printouts (per page)	\$0.25
Copies to computer "floppy" disc (per diskette)	\$2.50
E-mail attachments and electronic fax trans.	\$0.00
Copy of photographs (per 8" X 10" color print)	\$9.00
Copy of videotapes (per tape) and DVDs (per DVD)	\$25.00
Copy of compact discs (per compact disc)	\$10.00

The basic charge is principally assessed to reimburse the City for routine costs of retrieving and copying records which are requested with specificity and are held within the City's current file system. It does not include the cost of more than five minutes (one-twelfth of an hour) of staff time needed to determine the location of records not readily accessible, to determine what records meet request criteria, to segregate public from non-public records, to compile records, to retrieve records from archives, to actively oversee the inspection of records, to actively operate computers needed to retrieve records, to actively operate computers needed to print records in hard copy or to copy records in electronic format, to actively operate video cassette recorders, DVD recorders and audio tape recorders needed to locate and copy the records in those formats, and to perform other similar necessary services.

2. Hourly Charges:

Most records can be retrieved and made available for inspection and copying within the initial five minute (one-twelfth hour) increment; however, records requests which take longer than five minutes (one-twelfth hour) to fulfill will incur a per hour charge based on the hourly rate of compensation and benefits of the City employee performing the necessary services. Hourly charges will be billed by the twelfth of an hour.

B. Fee Waiver and Fee Discretion.

1. The fee for searching for, compiling, providing access to, overseeing inspection of and copying of open public records shall be waived for each records request that requires no more than five minutes (one-twelfth hour) to fulfill and is for five or fewer pages.

APPENDIX A
REQUEST FOR RECORD INSPECTION AND/OR COPY
CITY OF OVERLAND PARK, KANSAS

To Be Completed by Requester:

NAME: _____

ADDRESS: _____

DAYTIME PHONE: _____

E-MAIL ADDRESS: _____

COPIES SOUGHT: Please provide as specific a description as possible of the record(s) you desire to
(___ inspect) (___ copy). Include record titles, dates, and number of copies desired:

<u>Record Title/Date/Description</u>	<u>No. of Copies</u>
1. _____	_____
2. _____	_____
3. _____	_____

CHARGES: A charge for providing copies of public records is authorized by state law and has been established by the City Governing Body. These charges are set at a level to compensate the City for the actual costs incurred in honoring your request. The fee schedule established by the City is posted in this office.

SIGNATURE: _____

Your copy of this form is your receipt.

CERTIFICATION

I understand that K.S.A. 45-230, as amended, provides that except to the extent otherwise authorized, "No person shall knowingly sell, give or receive, for the purpose of selling or offering for sale any property or service to persons listed therein, any list of names and addresses contained in and derived from public records."

I also understand that a knowing violation of K.S.A. 45-230, as amended, can lead to imposition of a civil penalty up to \$500 for each violation.

I hereby certify that I do not intend to, and will not: (A) Use any list of names or addresses contained in or derived from the records or information for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; or (B) sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed.

SIGNATURE: _____

(Required only for records that contain a list of names and addresses, or from which a list of names and addresses can be derived.)

FOR OFFICIAL USE ONLY: (To Be Completed by Record Custodian)

Time of Request: Date _____
Time ____:____ AM PM

Time Access Provided: Date _____
Time ____:____ AM PM

The charge to you for copy(s) of the record(s) you request is: \$: _____

_____ Prepaid
_____ Paid
_____ Billed

_____ Based upon the posted formula
_____ Based upon non-office reproduction costs

Records Custodian

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