

February 27, 2013

The Honorable Lance Kinzer, Chairperson
House Committee on Judiciary
Statehouse, Room 165-W
Topeka, Kansas 66612

Dear Representative Kinzer:

SUBJECT: Fiscal Note for HB 2346 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2346 is respectfully submitted to your committee.


HB 2346 would permit a person to request a review or investigation of allegations when either the Open Meetings Act or Open Records Act was violated. To handle these requests, the Attorney General would be required to create an Open Government Unit. Upon receiving a request, the Attorney General would consult with the county or district attorney to determine if there is a planned or pending investigation on the same matter. If so the Attorney General would defer to the county or district attorney. If no local investigation is pending, and a further investigation is warranted, the Attorney General would conduct one. The bill would give the Attorney General the authority needed to investigate. There would be discretion allowed to resolve the request by mediation, filing an enforcement action, or by means other than issuing a final order. If the person making the request initiates legal proceedings to pursue a remedy, the person would have to notify the Attorney General, who would take no further action. Prior to completion of the investigation, the public agency subject to the complaint would have an opportunity to respond. After receipt of the response, the Attorney General may issue a final order based on the examination of the issues and records gathered during the investigation. The final order would make findings of fact and conclusions of law, and be binding on the requester and the public agency. The final order would include any provisions the Attorney General determined were appropriate. The agency would be required to comply with the directive or initiate judicial review by filing an action in the District Court of Shawnee County, Kansas.

The Attorney General would have the authority to promulgate rules and regulations to implement and administer the act. Subject to appropriations, the Attorney General would provide and coordinate statewide training to promote knowledge on and compliance with the Open Meetings or Open Records Acts. The Attorney General would appoint an advisory board to assist with the Attorney General's duties under the Open Meetings Act or Open Records Act.

Estimated State Fiscal Effect				
	FY 2013 SGF	FY 2013 All Funds	FY 2014 SGF	FY 2014 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$161,403	\$161,403
FTE Pos.	--	--	--	2.00

If HB 2346 were passed, the new Open Government Unit in the Attorney General's Office would require the assignment of an attorney/director to perform legal work, as well as an investigator. The bill may increase the number of complaints filed with the Attorney General seeking administrative review of denials of access to records or challenges to the cost of obtaining copies of records under the Open Records Act, challenges to the use of executive sessions or lack of notice under the Open Meetings Act, and other matters related to both acts. The increase in the number of complaints cannot be determined. For the first year of the Unit, revenue from the State General Fund would be required while recovery of costs in future years would be paid by the non-prevailing party. Personnel costs would be \$142,000 for the attorney and investigator and \$19,403 for setup and operating costs for a total of \$161,403. Providing and coordinating statewide training to promote knowledge on and compliance with the Open Meetings or Open Records Acts would be subject to appropriations. Any fiscal effect associated with HB 2346 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Willie Prescott, Attorney General's Office