

HB 2325	Sub for HB 2325
<i>Kansas Open Meetings Act</i>	<i>Kansas Open Meetings Act</i>
GROUPS COVERED: Both state agencies and labor organizations representing their employees and school districts and labor organizations representing teachers and respective agents	GROUPS COVERED: <u>School teachers (Sec. 1)</u> CURRENT LAW (K.S.A. 72-5423): School districts and labor organizations representing school teachers and their representatives. <u>State employees (Sec. 2)</u> Public employee organizations and state agencies and respective representatives.
MEETINGS COVERED: Applies to "collective bargaining sessions."	MEETINGS COVERED: <u>School teachers (Sec. 1)</u> CURRENT LAW (K.S.A. 72-5423). Applies to "every meeting conference, consultation and discussion . . . during the course of professional negotiation and every hearing conducted by the secretary . . . for determination of the question of the existence of impasse." <u>State employees (Sec. 2)</u> "Every meeting, conference, consultation and discussion between a public employer . . . and an employee organization . . . in the course of meeting and conferring for the purpose of determining the conditions of employment . . ."
LANGUAGE APPLYING KOMA TO MEETINGS: "Collective bargaining sessions . . . are public meetings subject to the provisions of the Kansas open meetings act."	LANGUAGE APPLYING KOMA TO MEETINGS: <u>School teachers (Sec. 1)</u> CURRENT LAW: (K.S.A. 72-5423) "is subject to the provisions of the Kansas open meetings law." <u>State employees (Sec. 2)</u> "Shall be subject to the provisions of the Kansas open meetings act, except that the exception under K.S.A. 75-4319(b)(3) shall not apply." (Exception = "matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the public body or agency")
LIMITATIONS ON DISCLOSURE: Section shall not apply to "grievance, mediation, or arbitration proceedings with labor organizations, or that portion of a meeting during which a public employer is planning or adopting the strategy or	LIMITATIONS ON DISCLOSURE: <u>School teachers (Sec. 1)</u> CURRENT LAW: (K.S.A. 72-5423) "Meetings, conferences, consultations and discussions held by the secretary . . . for investigation of the . . ."

position to be taken during the course of any collective bargaining, grievance, mediation, arbitration proceedings, or meetings, conferences, consultations and discussions held by the secretary of labor exempted from the Kansas open meetings law pursuant to the provisions of K.S.A. 72-5423.	existence of impasse, and meetings, conferences, consultations and discussions held during the course of and in connection with, and the meeting required at the conclusion of, impasse resolution proceedings are exempted from KOMA. <u>State employees (Sec. 2)</u> "Except as otherwise provided in this act . . ." Exceptions in K.S.A. 75-4332 for "all verbal or written information transmitted between any party to a dispute and a mediator conducting the proceeding, or the staff of an approved program under K.S.A. 5-501 et seq., and amendments thereto, shall be confidential communications. No admission, representation or statement made in the proceeding shall be admissible as evidence or subject to discovery. A mediator shall not be subject to process requiring the disclosure of any matter discussed during the proceedings unless all the parties consent to a waiver. . . ." Certain exceptions to confidentiality are noted in the statute.
OTHER PROVISIONS: Notice in the manner prescribed by KOMA must be given at least 24-hours before the collective bargaining session.	OTHER PROVISIONS: None.

HB 2325	Sub for HB 2325
<i>Kansas Open Records Act</i>	<i>Kansas Open Records Act</i>
GROUPS COVERED Both state agencies and labor organizations representing their employees and school districts and labor organizations representing teachers and respective agents	GROUPS COVERED <u>School teachers (Sec. 1)</u> School districts and labor organizations representing school teachers and their representatives. <u>State employees (Sec. 2)</u> Public employee organizations and state agencies and respective representatives.
DOCUMENTS COVERED: "Any documents created or presented by the public employer during collective bargaining sessions, or received from the labor organization by the public employer in the course of collective bargaining"	DOCUMENTS COVERED: <u>School teachers (Sec. 1)</u> "Offers and counteroffers and any document discussed, referred to or distributed by or to either party during the course of professional negotiations between a professional employees' organization . . . and a board of education . . ." <u>State employees (Sec. 2)</u> "offers, counteroffers, memoranda of agreement or any other document discussed, referred to or distributed by or to either party during the course of meet and confer meetings or negotiations between a public employer . . and an employee organization."
LANGUAGE APPLYING KORA TO DOCUMENTS: "are public records subject to KORA . . ."	LANGUAGE APPLYING KORA TO DOCUMENTS: <u>School teachers (Sec. 1)</u> "shall be subject to the provisions of the Kansas open records act, except that the exceptions to public disclosure . . . shall not apply. (Exceptions are: (1) records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319; (2) records which represent and constitute the work product of an attorney. K.S.A. 45-221.) <u>State employees (Sec. 2)</u> "shall be subject to the provisions of the Kansas

	open records act, except that the exceptions to public disclosure . . . shall not apply." (Exceptions are: (1) records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319; (2) records which represent and constitute the work product of an attorney. K.S.A. 45-221.)
LIMITATIONS ON DISCLOSURE: "Such documents shall not be open for inspection . . . until the public employer . . . and labor organization . . . agree to the terms of a written collective bargaining agreement." However tentative agreements open for inspection.	LIMITATIONS ON DISCLOSURE: <u>School teachers</u> "All verbal or written information transmitted between any party to a dispute and a mediator conducting the proceeding, or the staff of an approved program under K.S.A. 5-501 et seq., and amendments thereto, shall be confidential communications." K.S.A. 72-5427. <u>State employees</u> "Except as otherwise provided in this act . . ." "All verbal or written information transmitted between any party to a dispute and a mediator conducting the proceeding, or the staff of an approved program under K.S.A. 5-501 et seq., and amendments thereto, shall be confidential communications." K.S.A. 75-4332.
OTHER PROVISIONS: Preamble – "Taxpayers deserve to . . . even participate in the processes by which public contracts are negotiated . . ." <u>Website</u> Public employer must operate a web site or contract for a web site that allows public access to all tentative and finalized collective bargaining agreements.	OTHER PROVISIONS: No preamble. <u>Website</u> <u>School teachers</u> Board of education and teachers' employee organization to place documents on respective websites within 30 days of the document being discussed, referred to or distributed. If no website, documents to be provided in electronic format upon request. <u>State employees</u> Same provision.

Questions:

Applicability to Judicial Branch

Judicial branch employees are not within the coverage of Public Employer-Employee Relations Act.

Kansas Ass'n of Pub. Employees v. Pub. Employee Relations Bd., 13 Kan. App. 2d 657, 778 P.2d 377 (1989)

All employees of the courts are unclassified under K.S.A. 2015 Supp. 75-2935(1)(k).

Applicability of Sub for HB 2325 to public agencies other than state agencies

Except for specified sections, K.S.A. 75-4335 provides the Public Employer-Employee Relations Act is not applicable to public employers such as cities or counties that have adopted by ordinance or resolution their own provisions and procedures, approved by the Public Employee Relations Board, that are reasonably equivalent to the provisions of the act. K.S.A. 75-4327 (Section 2 of Sub for HB 2325) is one of the specified sections that applies in any case. Therefore the amendments would apply to cities or counties and other public agencies as defined in the act.