



TESTIMONY OF THE KANSAS ASSOCIATION OF COUNTIES
TO THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE
ON SB 98

February 10, 2015

Mr. Chairman and Members of the Committee:

KAC supports open government and we encourage and educate our counties to follow Kansas laws pertaining to open meetings and open records. We believe the current law is good – *it just needs to be enforced.*

Amendments to KOMA - Requirement for Minutes

KAC is not opposed to the requirement that governing bodies take minutes, as required in new subsection (e) on page 5. When we teach parliamentary procedure to county commissioners we include discussion on taking minutes. The County Clerk is required to take minutes of the Board of County Commissioner meetings by statute already (KSA 19-305). We believe minutes are a valuable record for the public to determine what happened at a public meeting.

However, we would prefer that the local unit of government determine the format, as some local governments prefer more detail in their minutes than others, and the Secretary of State has no specialized knowledge about taking minutes.

We would point out to the committee that SB 98 requires *any body* that falls under KOMA to take minutes, including the really small governmental units, like watershed districts, drainage districts, townships, etc. We question whether these small entities will learn of the new law and whether prosecutors will bother prosecuting them for violations. If they are ignorant of the new law and there is no enforcement, then there is little point to the law.

Amendments to KORA – No Charges for Staff Time and Copy Work

SB 98 requires a public agency that falls under KORA to provide free copies and free staff time in filling open record requests. As currently written, KORA is based on a service fee: the customer who requests the record pays the fee. While we appreciate the viewpoint that county offices should be staffed to the level necessary to provide one hour of time, the reality is that counties do not have employees with this level of free time to make copies. Therefore, to provide this level of service, counties will need to hire additional staff, and thus, all taxpayers will pay for the cost of filling record requests.

The bill also does not contemplate the situation involving an abusive request where the requestor is intentionally creating a burden on the public agency. This bill encourages misuse

by allowing a requesting party one free hour and free copies. Counties can attest to those repeat requestors who will use this provision to repeatedly ask for copies.

Our County Clerks, Registers of Deeds and other county offices cannot afford to lose one hour of staff time without some compensation. Budgets are just too tight to lose that much productivity. A recent email from a small rural county noted that their Road and Bridge Department had recently received seven KORA requests. If each of those requests were granted one hour of staff time to provide records, that would equate to practically one full day for an office that employs only one person.

If the state legislature decides to advance SB 98, we ask that the committee amend the various state statutes that call for much higher fees for state records. Vital statistic records are a good example of a common and frequent record request by the public (birth, marriage, death certificates), yet these records cost \$15 and SB 98 does nothing to reduce the cost of these records for the public. Copies from the Secretary of State's Office are priced at \$1 per page. In other words, if the legislature decides to lower the fees associated with county open records, we ask you apply the same standards to state records. I have attached amendments to effect those changes.

Conclusion

We believe the real problem besmirching open government is lack of enforcement, which ultimately comes from lack of funding. The current KORA requirement for copies is a fee that reflects "actual costs of furnishing copies" with the presumption of \$.25 as a reasonable fee for a copy. The current law is fair and reasonable to both sides – it needs to be enforced. For this reason, we would support legislation that creates an Open Government Unit within the Attorney General's Office, or budgetary enhancements to the Attorney General to cover the cost of investigation and enforcement.

We appreciate the concerns raised about open government. We want to do our part to ensure open government, but we do not agree with the methods given in SB 98. We look forward to working out another method of achieving the intent of the legislation.

Melissa Wangemann
General Counsel/Director of Legislative Services
Wangemann@kansascounties.org
785-272-2585, Ext 307

Amendments to SB 98

Office of Vital Statistics

K.S.A. 65-2418. (a) (1) The secretary shall fix and charge by rules and regulations the fees to be paid for certified copies or abstracts of certificates or for search of the files for birth, death, fetal death, marriage or divorce records when no certified copy or abstract is made. *Except that any record requests that can be provided with less than one hour of staff time or less than 25 pages shall be provided at no charge.* Except as otherwise provided in this section, the secretary shall remit all moneys received by or for the secretary from fees, charges or penalties, under the uniform vital statistics act, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the civil registration and health statistics fee fund created by K.S.A. 2013 Supp. 65-2418e, and amendments thereto. . .

Kansas Secretary of State

K.S.A. 75-438. (a) There is hereby created the information and services fee fund in the state treasury. The secretary of state shall charge and collect an information and services fee. The secretary of state shall adopt rules and regulations fixing the fees to be charged and collected under this section. If fees or charges for such information-related duties and services otherwise are authorized by law, the information and service fees may be charged in addition to the existing information-related or service fee or charge. The secretary of state shall remit all moneys received from fees and charges under this section, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the information and services fee fund. . .

(d) Any record request made to the secretary of state that can be provided with less than one hour of staff time or less than 25 pages shall be provided at no charge.

All State Agencies

New Section. Any record request made to a state agency that can be provided with less than one hour of staff time or less than 25 pages shall be provided at no charge.