

SENATE BILL No. 98

By Senator LaTurner

1-28

Proposed Amendments to SB 98
February 23, 2015
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Office of Revisor of Statutes

1 AN ACT concerning openness in government; amending K.S.A. 2014
2 Supp. 45-219, 46-1207a and 75-4318 and repealing the existing
3 sections.

4 Be it enacted by the Legislature of the State of Kansas:

5 New Section 1. (a) Record requests under the Kansas open records
6 act that can be provided with less than one hour of staff time or less than
7 25 pages shall be provided at no charge. For requests that exceed one hour
8 of staff time or exceed 25 pages or require records to be mailed or faxed,
9 the following rates shall be the maximum that may be charged: (1) \$.25
10 per page; (2) for mailed records, \$.50 for the first five pages, and \$.25 for
11 additional five-page or less increments; and (3) \$.65 per 10-page or fewer
12 faxes and \$.25 for additional five-page or less increment faxes.

13 (b) Staff time may be charged at the rate of pay for each person
14 whose time is used in order to assist or respond to a specific request. This
15 may include the time spent to access records maintained on computer
16 facilities, to review records to determine whether closure exceptions apply
17 and to redact open from closed information.

18 Attorney time may be charged at no more than \$60 per hour. Clerical
19 time may be charged at no more than \$18 per hour. Information
20 technology (IT) services may be charged at no more than \$38 per hour.

21 (c) Any other costs incurred by the public agency in connection with
22 complying with a record request may be assessed to the requester. The
23 public agency shall provide an estimate of the fees which shall be paid
24 prior to such agency gathering the records. However, in order to assure
25 payment, the final cost of providing access to or furnishing copies may be
26 required to be paid before the records are provided. If the final cost is less
27 than the estimate, the requester shall be reimbursed for the difference.

28 (d) Records may be faxed if the request is for 15 pages or less and fax
29 time and facilities are readily available. More than 15 pages may be faxed
30 at the discretion of the records custodian. If records for air express delivery
31 are requested, the requester shall arrange for pick-up and packaging of the
32 records and all associated costs for such delivery shall be paid by the
33 requester. The records custodian has sole discretion as to whether to honor
34 requests for faxing or express delivery.

35 (e) This section shall be a part of and supplemental to the Kansas
36

Charges for public records requests under the Kansas open record act shall be subject to the following:

- (1) Charges for copies of public records which may be provided on a standard size pages shall not exceed \$.25 per page;
 - (2) all other public records provided shall be charged at no more than the cost to the public agency to provide the public records to the records requestor; and
 - (3) staff time shall be charged at the lowest hourly rate of the person who is qualified to provide the public record.
- (b) "Standard size" means 8 1/2 x 11 inches or 21.59 x 27.94 centimeters.

black and white

1 open records act.

2 Sec. 2. K.S.A. 2014 Supp. 45-219 is hereby amended to read as
3 follows: 45-219. (a) Any person may make abstracts or obtain copies of
4 any public record to which such person has access under this act. If copies
5 are requested, the public agency may require a written request and advance
6 payment of the prescribed fee. A public agency shall not be required to
7 provide copies of radio or recording tapes or discs, video tapes or films,
8 pictures, slides, graphics, illustrations or similar audio or visual items or
9 devices, unless such items or devices were shown or played to a public
10 meeting of the governing body thereof, but the public agency shall not be
11 required to provide such items or devices which are copyrighted by a
12 person other than the public agency.

13 (b) Copies of public records shall be made while the records are in the
14 possession, custody and control of the custodian or a person designated by
15 the custodian and shall be made under the supervision of such custodian or
16 person. When practical, copies shall be made in the place where the
17 records are kept. If it is impractical to do so, the custodian shall allow
18 arrangements to be made for use of other facilities. If it is necessary to use
19 other facilities for copying, the cost thereof shall be paid by the person
20 desiring a copy of the records. In addition, the public agency may charge
21 the same fee for the services rendered in supervising the copying as for
22 furnishing copies under subsection (c) and may establish a reasonable
23 schedule of times for making copies at other facilities.

24 (c) Except as provided by subsection (f) or where fees for inspection
25 or for copies of a public record are prescribed by statute, each public
26 agency may prescribe reasonable fees for providing access to or furnishing
27 copies of public records, subject to the following:

28 (1) In the case of fees for copies of records, the fees shall not exceed
29 the actual cost of furnishing copies, including the cost of staff time
30 required to make the information available.

31 (2) In the case of fees for providing access to records maintained on
32 computer facilities, the fees shall include only the cost of any computer
33 services, including staff time required.

34 (3) Fees for access to or copies of public records of public agencies
35 within the legislative branch of the state government shall be established in
36 accordance with K.S.A. 46-1207a, and amendments thereto.

37 (4) Fees for access to or copies of public records of public agencies
38 within the judicial branch of the state government shall be established in
39 accordance with rules of the supreme court.

40 (5) Fees for access to or copies of public records of a public agency
41 within the executive branch of the state government shall be established by
42 the agency head. Any person requesting records may appeal the
43 reasonableness of the fees charged for providing access to or furnishing

1 copies of such records to the secretary of administration whose decision
2 shall be final. A fee for copies of public records which is equal to or less
3 than \$-.25 per page shall be deemed a reasonable fee in accordance with
4 section 1, and amendments thereto.

5 (d) Except as otherwise authorized pursuant to K.S.A. 75-4215, and
6 amendments thereto, each public agency within the executive branch of
7 the state government shall remit all moneys received by or for it from fees
8 charged pursuant to this section to the state treasurer in accordance with
9 K.S.A. 75-4215, and amendments thereto. Unless otherwise specifically
10 provided by law, the state treasurer shall deposit the entire amount thereof
11 in the state treasury and credit the same to the state general fund or an
12 appropriate fee fund as determined by the agency head.

13 (e) Each public agency of a political or taxing subdivision shall remit
14 all moneys received by or for it from fees charged pursuant to this act to
15 the treasurer of such political or taxing subdivision at least monthly. Upon
16 receipt of any such moneys, such treasurer shall deposit the entire amount
17 thereof in the treasury of the political or taxing subdivision and credit the
18 same to the general fund thereof, unless otherwise specifically provided by
19 law.

20 (f) Any person who is a certified shorthand reporter may charge fees
21 for transcripts of such person's notes of judicial or administrative
22 proceedings in accordance with rates established pursuant to rules of the
23 Kansas supreme court.

24 (g) Nothing in the open records act shall require a public agency to
25 electronically make copies of public records by allowing a person to obtain
26 copies of a public record by inserting, connecting or otherwise attaching
27 an electronic device provided by such person to the computer or other
28 electronic device of the public agency.

29 Sec. 3. K.S.A. 2014 Supp. 46-1207a is hereby amended to read as
30 follows: 46-1207a. (a) The legislative coordinating council may provide
31 for sale or other disposition of copies of any publication, document or
32 other paper, information or record, regardless of form or characteristics,
33 produced by or under the legislative branch, whether such copies are
34 printed or reproduced in any other manner. Such council may fix charges
35 for sale of any such copies, and such charges may include costs of making
36 reproduction and other expenses as provided in section 1, and amendments
37 thereto. Whenever such council provides for the sale of copies under this
38 section, the same shall be sold and distributed by or through the director of
39 legislative administrative services or such other state officer as such
40 council specifies. All amounts received under this section by or for any
41 such sales shall be remitted to the state treasurer in accordance with the
42 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
43 each such remittance, the state treasurer shall deposit the entire amount in

1 the state treasury to the credit of the legislative special revenue fund. The
2 provisions of this section shall not apply to the sale or distribution of the
3 Kansas Statutes Annotated, the session laws of Kansas or other
4 publications, documents or papers the sale of which is specifically
5 provided for by law.

6 (b) At the conclusion of each legislative session, the officers of each
7 house may deposit for safekeeping with the secretary of state such
8 legislative documents and other papers as they may determine.

9 (c) All moneys received by the director of legislative administrative
10 services for the disposition of surplus property of any office or agency of
11 the legislative branch shall be deposited in the state treasury to the credit
12 of the legislative special revenue fund.

13 (d) The legislative coordinating council may provide for additional
14 legislative stationery or other printed material supplies for members of the
15 legislature to be provided at cost as determined by the council. All moneys
16 received by the director of legislative administrative services under this
17 subsection shall be remitted to the state treasurer in accordance with the
18 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
19 each such remittance, the state treasurer shall deposit the entire amount in
20 the state treasury to the credit of the legislative special revenue fund.

21 (e) Except as otherwise specifically provided by statute on or after the
22 effective date of this act, all moneys received by the director of legislative
23 administrative services on or after November 18, 1991, under this or any
24 other statute shall be remitted to the state treasurer in accordance with the
25 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
26 each such remittance, the state treasurer shall deposit the entire amount in
27 the state treasury to the credit of the legislative special revenue fund and
28 any such moneys deposited in the state treasury to the credit of the state
29 general fund shall be transferred from the state general fund to the
30 legislative special revenue fund by the director of accounts and reports
31 upon certification by the director of legislative administrative services of
32 the amount to be transferred.

33 Sec. 4. K.S.A. 2014 Supp. 75-4318 is hereby amended to read as
34 follows: 75-4318. (a) Subject to the provisions of subsection ~~(g)~~ (h), all
35 meetings for the conduct of the affairs of, and the transaction of business
36 by, all legislative and administrative bodies and agencies of the state and
37 political and taxing subdivisions thereof, including boards, commissions,
38 authorities, councils, committees, subcommittees and other subordinate
39 groups thereof, receiving or expending and supported in whole or in part
40 by public funds shall be open to the public and no binding action by such
41 bodies shall be by secret ballot. Meetings of task forces, advisory
42 committees or subcommittees of advisory committees created pursuant to
43 a governor's executive order shall be open to the public in accordance with

1 this act.

2 (b) Notice of the date, time and place of any regular or special
3 meeting of a public body designated hereinabove shall be furnished to any
4 person requesting such notice, except that:

5 (1) If notice is requested by petition, the petition shall designate one
6 person to receive notice on behalf of all persons named in the petition, and
7 notice to such person shall constitute notice to all persons named in the
8 petition;

9 (2) if notice is furnished to an executive officer of an employee's
10 organization or trade association, such notice shall be deemed to have been
11 furnished to the entire membership of such organization or association;
12 and

13 (3) the public body may require that a request to receive notice must
14 be submitted again to the body prior to the commencement of any
15 subsequent fiscal year of the body during which the person wishes to
16 continue receiving notice, but, prior to discontinuing notice to any person,
17 the public body must notify the person that notice will be discontinued
18 unless the person resubmits a request to receive notice.

19 (c) It shall be the duty of the presiding officer or other person calling
20 the meeting, if the meeting is not called by the presiding officer, to furnish
21 the notice required by subsection (b).

22 (d) Prior to any meeting hereinabove mentioned, any agenda relating
23 to the business to be transacted at such meeting shall be made available to
24 any person requesting the agenda.

25 (e) *It shall be the duty of the presiding officer of the meeting to ensure*
26 *that minutes are kept at each meeting. The secretary of state shall*
27 *determine the format of the minutes.*

28 (e)-(f) The use of cameras, photographic lights and recording devices
29 shall not be prohibited at any meeting mentioned by subsection (a), but
30 such use shall be subject to reasonable rules designed to insure the orderly
31 conduct of the proceedings at such meeting.

32 (f)-(g) Except as provided by section 22 of article 2 of the constitution
33 of the state of Kansas, interactive communications in a series shall be open
34 if they collectively involve a majority of the membership of the body or
35 agency, share a common topic of discussion concerning the business or
36 affairs of the body or agency, and are intended by any or all of the
37 participants to reach agreement on a matter that would require binding
38 action to be taken by the body or agency.

39 ~~(g)-(h)~~ The provisions of the open meetings law shall not apply:

40 (1) To any administrative body that is authorized by law to exercise
41 quasi-judicial functions when such body is deliberating matters relating to
42 a decision involving such quasi-judicial functions;

43 (2) to the prisoner review board when conducting parole hearings or

;
(1)

; and
(2) to determine the format of the minutes

1 parole violation hearings held at a correctional institution:

2 (3) to any impeachment inquiry or other impeachment matter referred
3 to any committee of the house of representatives prior to the report of such
4 committee to the full house of representatives; and

5 (4) if otherwise provided by state or federal law or by rules of the
6 Kansas senate or house of representatives,

7 Sec. 5. K.S.A. 2014 Supp. 45-219, 46-1207a and 75-4318 are
8 hereby repealed.

9 Sec. 6. This act shall take effect and be in force from and after its
10 publication in the statute book.