

SENATE BILL No. 98

By Senator LaTurner

1-28

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

5 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

1 *following:*

2 *(1) Charges for copies of public records which may be provided on*
 3 *black and white standard size pages shall not exceed \$.25 per page;*

4 *(2) all other public records provided shall be charged at no more*
 5 *than the cost to the public agency to provide the public records to the*
 6 *records requestor; and*

7 *(3) staff time shall be charged at the lowest hourly rate of the*
 8 *person who is qualified to provide the public records.*

9 *(b) "Standard size" means 8½ x 11 inches or 21.59 x 27.94*
 10 *centimeters.*

11 ~~(e)~~ (c) This section shall be a part of and supplemental to the Kansas
 12 open records act.

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

24 (b) Copies of public records shall be made while the records are in
 25 the possession, custody and control of the custodian or a person designated
 26 by the custodian and shall be made under the supervision of such
 27 custodian or person. When practical, copies shall be made in the place
 28 where the records are kept. If it is impractical to do so, the custodian shall
 29 allow arrangements to be made for use of other facilities. ~~If it is necessary~~
 30 ~~to use other facilities for copying, the cost thereof shall be paid by the~~
 31 ~~person desiring a copy of the records. In addition, the public agency may~~
 32 ~~charge the same fee for the services rendered in supervising the copying as~~
 33 ~~for furnishing copies under subsection (c) and may establish a reasonable~~
 34 ~~schedule of times for making copies at other facilities.~~

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

39 ~~(1) In the case of fees for copies of records, the fees shall not exceed~~
 40 ~~the actual cost of furnishing copies, including the cost of staff time~~
 41 ~~required to make the information available.~~

42 ~~(2) In the case of fees for providing access to records maintained on~~
 43 ~~computer facilities, the fees shall include only the cost of any computer~~

1 services, including staff time required.

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

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

8 ~~(5) Fees for access to or copies of public records of a public agency~~
9 ~~within the executive branch of the state government shall be established by~~
10 ~~the agency head. Any person requesting records may appeal the~~
11 ~~reasonableness of the fees charged for providing access to or furnishing~~
12 ~~copies of such records to the secretary of administration whose decision~~
13 ~~shall be final. A fee for copies of public records which is equal to or less~~
14 ~~than \$.25 per page shall be deemed a reasonable fee in accordance with~~
15 ~~section 1, and amendments thereto.~~

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

24 (e) Each public agency of a political or taxing subdivision shall remit
25 all moneys received by or for it from fees charged pursuant to this act to
26 the treasurer of such political or taxing subdivision at least monthly. Upon
27 receipt of any such moneys, such treasurer shall deposit the entire amount
28 thereof in the treasury of the political or taxing subdivision and credit the
29 same to the general fund thereof, unless otherwise specifically provided by
30 law.

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

35 (g) Nothing in the open records act shall require a public agency to
36 electronically make copies of public records by allowing a person to obtain
37 copies of a public record by inserting, connecting or otherwise attaching
38 an electronic device provided by such person to the computer or other
39 electronic device of the public agency.

40 Sec. 3. K.S.A. 2014 Supp. 46-1207a is hereby amended to read as
41 follows: 46-1207a. (a) The legislative coordinating council may provide
42 for sale or other disposition of copies of any publication, document or
43 other paper, information or record, regardless of form or characteristics,

1 produced by or under the legislative branch, whether such copies are
2 printed or reproduced in any other manner. Such council may fix charges
3 ~~for sale of any such copies, and such charges may include costs of mailing,~~
4 ~~reproduction and other expenses as provided in section 1, and amendments~~
5 *thereto*. Whenever such council provides for the sale of copies under this
6 section, the same shall be sold and distributed by or through the director of
7 legislative administrative services or such other state officer as such
8 council specifies. All amounts received under this section by or for any
9 such sales shall be remitted to the state treasurer in accordance with the
10 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
11 each such remittance, the state treasurer shall deposit the entire amount in
12 the state treasury to the credit of the legislative special revenue fund. The
13 provisions of this section shall not apply to the sale or distribution of the
14 Kansas Statutes Annotated, the session laws of Kansas or other
15 publications, documents or papers the sale of which is specifically
16 provided for by law.

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

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

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

32 (e) Except as otherwise specifically provided by statute on or after the
33 effective date of this act, all moneys received by the director of legislative
34 administrative services on or after November 18, 1991, under this or any
35 other statute shall be remitted to the state treasurer in accordance with the
36 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
37 each such remittance, the state treasurer shall deposit the entire amount in
38 the state treasury to the credit of the legislative special revenue fund and
39 any such moneys deposited in the state treasury to the credit of the state
40 general fund shall be transferred from the state general fund to the
41 legislative special revenue fund by the director of accounts and reports
42 upon certification by the director of legislative administrative services of
43 the amount to be transferred.

1 Sec. 4. K.S.A. 2014 Supp. 75-4318 is hereby amended to read as
2 follows: 75-4318. (a) Subject to the provisions of subsection—~~(g)~~ *(h)*, all
3 meetings for the conduct of the affairs of, and the transaction of business
4 by, all legislative and administrative bodies and agencies of the state and
5 political and taxing subdivisions thereof, including boards, commissions,
6 authorities, councils, committees, subcommittees and other subordinate
7 groups thereof, receiving or expending and supported in whole or in part
8 by public funds shall be open to the public and no binding action by such
9 bodies shall be by secret ballot. Meetings of task forces, advisory
10 committees or subcommittees of advisory committees created pursuant to
11 a governor's executive order shall be open to the public in accordance with
12 this act.

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

16 (1) If notice is requested by petition, the petition shall designate one
17 person to receive notice on behalf of all persons named in the petition, and
18 notice to such person shall constitute notice to all persons named in the
19 petition;

20 (2) if notice is furnished to an executive officer of an employees'
21 organization or trade association, such notice shall be deemed to have been
22 furnished to the entire membership of such organization or association;
23 and

24 (3) the public body may require that a request to receive notice must
25 be submitted again to the body prior to the commencement of any
26 subsequent fiscal year of the body during which the person wishes to
27 continue receiving notice, but, prior to discontinuing notice to any person,
28 the public body must notify the person that notice will be discontinued
29 unless the person resubmits a request to receive notice.

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

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

36 (e) *It shall be the duty of the presiding officer of the meeting: (1) To*
37 *ensure that minutes are kept at each meeting—*~~*The secretary of state shall*~~
38 ~~*determine the format of the minutes; and*~~

39 ***(2) to determine the format of the minutes.***

40 ~~(e)~~*(f)* The use of cameras, photographic lights and recording devices
41 shall not be prohibited at any meeting mentioned by subsection (a), but
42 such use shall be subject to reasonable rules designed to insure the orderly
43 conduct of the proceedings at such meeting.

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

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

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

12 (2) to the prisoner review board when conducting parole hearings or
13 parole violation hearings held at a correctional institution;

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

17 (4) if otherwise provided by state or federal law or by rules of the
18 Kansas senate or house of representatives.

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

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