

SESSION OF 2016

SUPPLEMENTAL NOTE ON SENATE BILL NO. 361

As Amended by Senate Committee on Judiciary

Brief*

SB 361 would amend definitions included in the Kansas Open Records Act (KORA).

The bill would amend the definition of “public record” to clarify that the specified recorded information would fall under the definition regardless of the location of the information. The bill also would add to this definition any recorded information that is made, maintained, kept by, or is in the possession of, any officer or employee of a public agency pursuant to the officer’s or employee’s official duties, and is related to the functions, activities, programs or operations of any public agency.

The bill would specify that the definition of “private person” used in defining records that are not public shall not include an officer or employee of a public agency who is acting pursuant to the officer’s or employee’s official duties.

The bill also would remove “officer” from the definition of “public agency” and would no longer exempt from this definition officers or employees of the State or localities who have their offices open to the public fewer than 35 hours a week.

Finally, the bill would make additional technical and non-substantive structural changes.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Baumgardner. At the hearing before the Committee, proponents testifying in support of the bill included: Kansas Attorney General Derek Schmidt; Senator Baumgardner; Senator Hensley; representatives of the Kansas Association of Broadcasters, Kansas Press Association, and Kansas Association of Counties; and a private citizen. Providing written testimony in support of the bill were representatives of the Kansas Judicial Council and the League of Kansas Municipalities. No opponent or neutral testimony was presented.

The Senate Committee amended the bill to adjust the phrasing of the addition to the definition of “public record” of records of officers or employees of a public agency. The Senate Committee also amended the bill to clarify the term “private person.”

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Attorney General (Office) states there could be legal challenges by officers or employees who are required to produce records under the bill, requiring expenses of approximately \$10,000. The Office indicates these could be handled by existing staff. The Office also indicates an increased number of phone calls and requests for opinions and training may result from the passage of the bill, and if these requests exceed the current workload capacity of the Office, it may be necessary to hire additional attorneys. Finally, the Office expects an increase in KORA complaints if the bill is passed, but the fiscal effect of such an increase is difficult to estimate with any precision. Any fiscal effect associated with the bill is not reflected in *The FY 2017 Governor’s Budget Report*.