

SENATE BILL No. 86

By Committee on Federal and State Affairs

1-25

1 AN ACT concerning the Kansas open records act; relating to openness in
2 government; ***Kansas open meetings act; relating to the recording of***
3 ***minutes of meetings***; amending ***K.S.A. 45-218 and K.S.A. 2016 Supp.***
4 ***45-219, 46-1207a and 75-4318 and repealing the existing sections.***

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

7 New Section 1. (a) Charges for public records requests under the
8 Kansas open records act shall be subject to the following:

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

11 (2) all other public records provided shall be charged at no more than
12 the cost to the public agency to provide the public records to the records
13 requestor; and

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

16 (b) "Standard size" means 8½ x 11 inches or 21.59 x 27.94
17 centimeters.

18 (c) ***The provisions of this section shall not apply to charges assessed***
19 ***by a public agency for providing records for individuals other than***
20 ***citizens of Kansas.***

21 (d) This section shall be a part of and supplemental to the Kansas
22 open records act.

23 ***Sec. 2. K.S.A. 45-218 is hereby amended to read as follows: 45-218.***

24 ***(a) All public records shall be open for inspection by any person citizen***
25 ***of the state of Kansas, except as otherwise provided by this act, and***
26 ***suitable facilities shall be made available by each public agency for this***
27 ***purpose. Records requests made by persons other than citizens of Kansas***
28 ***must be made on behalf of a Kansas citizen and include the name, legal***
29 ***address and signature of a Kansas citizen who supports the request. No***
30 ***person shall removal remove original copies of public records from the***
31 ***office of any public agency without the written permission of the***
32 ***custodian of the record. The custodian may require the requestor to***
33 ***provide their name and legal address.***

34 ***(b) Upon request in accordance with procedures adopted under***
35 ***K.S.A. 45-220, and amendments thereto, any person may inspect public***
36 ***records during the regular office hours of the public agency and during***

1 *any additional hours established by the public agency pursuant to K.S.A.*
2 *45-220, and amendments thereto.*

3 *(c) If the person to whom the request is directed is not the custodian*
4 *of the public record requested, such person shall so notify the requester*
5 *and shall furnish the name and location of the custodian of the public*
6 *record, if known to or readily ascertainable by such person.*

7 *(d) Each request for access to a public record shall be acted upon*
8 *as soon as possible, but not later than the end of the third business day*
9 *following the date that the request is received. If access to the public*
10 *record is not granted immediately, the custodian shall give a detailed*
11 *explanation of the cause for further delay and the place and earliest time*
12 *and date that the record will be available for inspection. If the request*
13 *for access is denied, the custodian shall provide, upon request, a written*
14 *statement of the grounds for denial. Such statement shall cite the*
15 *specific provision of law under which access is denied and shall be*
16 *furnished to the requester not later than the end of the third business*
17 *day following the date that the request for the statement is received.*

18 *(e) The custodian may refuse to provide access to a public record,*
19 *or to permit inspection, if a request places an unreasonable burden in*
20 *producing public records or if the custodian has reason to believe that*
21 *repeated requests are intended to disrupt other essential functions of the*
22 *public agency. However, refusal under this subsection must be sustained*
23 *by preponderance of the evidence.*

24 *(f) A public agency may charge and require advance payment of a*
25 *fee for providing access to or furnishing copies of public records, subject*
26 *to K.S.A. 45-219, and amendments thereto.*

27 Sec. ~~2~~. 3. K.S.A. 2016 Supp. 45-219 is hereby amended to read as
28 follows: 45-219. (a) Any person may make abstracts or obtain copies of
29 any public record to which such person has access under this act. If copies
30 are requested, the public agency may require a written request and advance
31 payment of the prescribed fee. A public agency shall not be required to
32 provide copies of radio or recording tapes or discs, video tapes or films,
33 pictures, slides, graphics, illustrations or similar audio or visual items or
34 devices, unless such items or devices were shown or played to a public
35 meeting of the governing body thereof, but the public agency shall not be
36 required to provide such items or devices which are copyrighted by a
37 person other than the public agency.

38 (b) Copies of public records shall be made while the records are in
39 the possession, custody and control of the custodian or a person designated
40 by the custodian and shall be made under the supervision of such
41 custodian or person. When practical, copies shall be made in the place
42 where the records are kept. If it is impractical to do so, the custodian shall
43 allow arrangements to be made for use of other facilities. ~~If it is necessary~~

1 to use other facilities for copying, the cost thereof shall be paid by the
2 person desiring a copy of the records. In addition, the public agency may
3 charge the same fee for the services rendered in supervising the copying as
4 for furnishing copies under subsection (c) and may establish a reasonable
5 schedule of times for making copies at other facilities.

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

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

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

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

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

22 (5) Fees for access to or copies of public records of a public agency
23 within the executive branch of the state government shall be established by
24 the agency head. Any person requesting records may appeal the
25 reasonableness of the fees charged for providing access to or furnishing
26 copies of such records to the secretary of administration whose decision
27 shall be final. A fee for copies of public records which is equal to or less
28 than \$.25 per page shall be deemed a reasonable fee pursuant to section 1,
29 and amendments thereto.

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

38 (e) Each public agency of a political or taxing subdivision shall remit
39 all moneys received by or for it from fees charged pursuant to this act to
40 the treasurer of such political or taxing subdivision at least monthly. Upon
41 receipt of any such moneys, such treasurer shall deposit the entire amount
42 thereof in the treasury of the political or taxing subdivision and credit the
43 same to the general fund thereof, unless otherwise specifically provided by

1 law.

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

6 (g) Nothing in the open records act shall require a public agency to
7 electronically make copies of public records by allowing a person to obtain
8 copies of a public record by inserting, connecting or otherwise attaching
9 an electronic device provided by such person to the computer or other
10 electronic device of the public agency.

11 Sec. ~~3~~. 4. K.S.A. 2016 Supp. 46-1207a is hereby amended to read as
12 follows: 46-1207a. (a) The legislative coordinating council may provide
13 for sale or other disposition of copies of any publication, document or
14 other paper, information or record, regardless of form or characteristics,
15 produced by or under the legislative branch, whether such copies are
16 printed or reproduced in any other manner. Such council may fix charges
17 ~~for sale of any such copies, and such charges may include costs of mailing,~~
18 ~~reproduction and other expenses pursuant to section 1, and amendments~~
19 ~~thereto.~~ Whenever such council provides for the sale of copies under this
20 section, the same shall be sold and distributed by or through the director of
21 legislative administrative services or such other state officer as such
22 council specifies. All amounts received under this section by or for any
23 such sales shall be remitted to the state treasurer in accordance with the
24 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
25 each such remittance, the state treasurer shall deposit the entire amount in
26 the state treasury to the credit of the legislative special revenue fund. The
27 provisions of this section shall not apply to the sale or distribution of the
28 Kansas Statutes Annotated, the session laws of Kansas or other
29 publications, documents or papers the sale of which is specifically
30 provided for by law.

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

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

38 (d) The legislative coordinating council may provide for additional
39 legislative stationery or other printed material supplies for members of the
40 legislature to be provided at cost as determined by the council. All moneys
41 received by the director of legislative administrative services under this
42 subsection shall be remitted to the state treasurer in accordance with the
43 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of

1 each such remittance, the state treasurer shall deposit the entire amount in
2 the state treasury to the credit of the legislative special revenue fund.

3 (e) Except as otherwise specifically provided by statute on or after the
4 effective date of this act, all moneys received by the director of legislative
5 administrative services on or after November 18, 1991, under this or any
6 other statute shall be remitted to the state treasurer in accordance with the
7 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
8 each such remittance, the state treasurer shall deposit the entire amount in
9 the state treasury to the credit of the legislative special revenue fund and
10 any such moneys deposited in the state treasury to the credit of the state
11 general fund shall be transferred from the state general fund to the
12 legislative special revenue fund by the director of accounts and reports
13 upon certification by the director of legislative administrative services of
14 the amount to be transferred.

15 ~~Sec. 4.~~ 5. K.S.A. 2016 Supp. 75-4318 is hereby amended to read as
16 follows: 75-4318. (a) Subject to the provisions of subsection ~~(g)~~ (h), all
17 meetings for the conduct of the affairs of, and the transaction of business
18 by, all legislative and administrative bodies and agencies of the state and
19 political and taxing subdivisions thereof, including boards, commissions,
20 authorities, councils, committees, subcommittees and other subordinate
21 groups thereof, receiving or expending and supported in whole or in part
22 by public funds shall be open to the public and no binding action by such
23 public bodies or agencies shall be by secret ballot. Meetings of task forces,
24 advisory committees or subcommittees of advisory committees created
25 pursuant to a governor's executive order shall be open to the public in
26 accordance with this act.

27 (b) Notice of the date, time and place of any regular or special
28 meeting of a public body or agency designated in subsection (a) shall be
29 furnished to any person requesting such notice, except that:

30 (1) If notice is requested by petition, the petition shall designate one
31 person to receive notice on behalf of all persons named in the petition, and
32 notice to such person shall constitute notice to all persons named in the
33 petition;

34 (2) if notice is furnished to an executive officer of an employees'
35 organization or trade association, such notice shall be deemed to have been
36 furnished to the entire membership of such organization or association;
37 and

38 (3) the public body or agency may require that a request to receive
39 notice must be submitted again to the public body or agency prior to the
40 commencement of any subsequent fiscal year of the public body or agency
41 during which the person wishes to continue receiving notice, but, prior to
42 discontinuing notice to any person, the public body or agency must notify
43 the person that notice will be discontinued unless the person resubmits a

1 request to receive notice.

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

5 (d) Prior to any meeting mentioned by subsection (a), any agenda
6 relating to the business to be transacted at such meeting shall be made
7 available to any person requesting the agenda.

8 (e) *It shall be the duty of the presiding officer of the meeting to*
9 *ensure that minutes are kept at each meeting and to determine the format*
10 *of the minutes.*

11 ~~(f)~~ (f) The use of cameras, photographic lights and recording devices
12 shall not be prohibited at any meeting mentioned by subsection (a), but
13 such use shall be subject to reasonable rules designed to insure the orderly
14 conduct of the proceedings at such meeting.

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

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

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

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

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

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

33 Sec.-5: 6. ***K.S.A. 45-218 and*** K.S.A. 2016 Supp. 45-219, 46-1207a
34 and 75-4318 are hereby repealed.

35 Sec.-6: 7. This act shall take effect and be in force from and after its
36 publication in the statute book.