

February 27, 2020

The Honorable Elaine Bowers, Chairperson
Senate Committee on Ethics, Elections and Local Government
Statehouse, Room 223A-E
Topeka, Kansas 66612

Dear Senator Bowers:

SUBJECT: Fiscal Note for SB 434 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 434 is respectfully submitted to your committee.

SB 434 would allow a public agency in receipt of a Kansas Open Records Act (KORA) request to request advance payment for staff time required to provide access or furnish copies of public records. A public agency would not be required to provide copies of “public records maintained on computer facilities,” unless the agency has the means to make copies. The bill specifies that the rate for staff time could not exceed the lowest hourly rate of the person who is qualified to provide the requested records. The agency could not charge a fee for the time spent to search if the records exist. The custodian could waive or reduce fees under certain circumstances specified in the bill.

The Office of Judicial Administration indicates enactment of the bill would have no fiscal effect on expenditures of the Judicial Branch. However, enactment of the bill could have a fiscal effect on revenues. The bill’s provisions restrict the rate charged to the lowest hourly rate of an employee who is qualified to provide the requested records. In addition, the bill’s provisions do not allow a fee to be charged for an employee’s time to search to determine whether the requested records exist. Both of these provisions would decrease the amount of revenue received for open records request. According to the Office, a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill’s provisions.

The Department of Revenue indicates it collects \$25 per hour for a search charge and \$60 per hour for computer staff time. Changing the above rates to the lowest hourly rate of the employee who is qualified to provide the records would decrease the amount of revenue received for open records requests.

The Office of the Attorney General indicates the agency could no longer charge staff time to search for requested records. The agency currently receives many open records requests from out-of-state law firms looking for information on complaints or cases the agency is investigating. If searching for information becomes a free service, the agency estimates the number of open records requests would increase. The agency estimates additional expenditures of \$41,400 from the State General Fund in FY 2021 for a KORA Request Intake Specialist 0.5 FTE position. Of that amount, \$34,386 would be for salaries and wages and \$7,014 would be for other operating expenditures. Any fiscal effect associated with SB 434 is not reflected in *The FY 2021 Governor's Budget Report*.

Both the League of Kansas Municipalities and the Kansas Association of Counties indicate enactment of the bill would have a fiscal effect on local governments because numerous hours are spent locating records in response to records requests from citizens, companies, and the press. Limiting these fees means that some records requests would be done without being able to properly compensate for lost staff time.

Sincerely,



Larry L. Campbell
Division of the Budget

cc: Lynn Robinson, Department of Revenue
Dan Thimmesch, Health & Environment
Ben Cleaves, Transportation
Willie Prescott, Office of the Attorney General
Mary Rinehart, Judiciary
Trey Cocking, League of Municipalities
Jay Hall, Association of Counties