



Feb. 6, 2024

To: House Judiciary Committee

From: Emily Bradbury, Executive Director, Kansas Press Association  
Allison Mazzei, Kansas Association of Broadcasters

Re: Proponent Testimony for HB2599

Rep. Humphries and Members of the Committee:

The Kansas Press Association and Kansas Association of Broadcasters are in full support of HB 2599 because transparency should not be cost-prohibitive.

One of the biggest impediments to obtaining public records in Kansas is that it is one of only a few states that allows a public agency to charge requesters for the time it takes agency employees to make the requested records available. Under the Kansas Open Records Act, public agencies are permitted to charge a fee that “shall not exceed the actual cost of furnishing copies, including the cost of staff time required to make the information available.” [K.S.A. 45-219\(c\)\(1\)](#).

Many states, such as Oklahoma and Kentucky, limit an agency’s ability to charge for staff time in some manner, such as by reducing fees for journalists and members of the public seeking records related to matters of public concern. Other states, such as Nevada and California, prohibit agencies from charging staff time at all.

KORA’s inability to regulate staff time gives agencies an avenue to effectively deny requests by charging an exorbitant fee and thwart transparency in the process. The [city of Frontenac employed this tactic in 2019](#), when it responded to an open records request by seeking to charge the media requesters over \$3,000 for requested records. Then-Attorney General Derek Schmidt’s office [found the charges in that case were “per se unreasonable.”](#) But the city’s response still allowed it to stonewall for months, depriving Kansans access to information about matters of public concern in real time.

Frontenac’s response is just one example of how KORA’s failure to expressly define “cost of staff time required to make the information available” has unfortunately resulted in a public and news media [“at the mercy of some public bodies](#) that charge rates that are so outrageous that public records are closed by default because no one—including many of the newspapers in Kansas—can afford to pay.”

HB 2599 solves the problem by specifically providing that although public agencies are able to charge the public for the time it takes employees to “make the information available”, those fees must “not exceed the lowest hourly rate of an employee qualified to provide the requested records”, and no fees are permitted to be assessed either for the public agency’s “search to determine whether the requested records exist or for any employee or administrator review of records.” HB 2599, 2, ln. 14-22.

Were HB 2599 to become law, public agencies would be only permitted to charge the public for the time it takes agency employees to make copies of records responsive to KORA requests, not for searching or document review. Enactment of this bill would bring Kansas in step with the majority of states that limit the manner in which public agencies assess costs for responding to records requests.

Our organizations respectfully request that the committee advance HB 2599.



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