

HB 2599 Proponet Testimony - in person
KORA charges
House Judiciary Committee
Dave Trabert, CEO
February 5, 2024



Chairperson Humphries and Members of the Committee,

We appreciate this opportunity to testify in support of HB 2599, which is designed to prevent public agencies from overcharging people for public records under the Kansas Open Records Act (KORA).

K.S.A. 45-219(c)(1) says fees for copies of records “shall not exceed the actual cost” of fulfilling KORA requests. The KORA statute also says “a fee for copies of public records which is equal to or less than \$.25 per page shall be deemed a reasonable fee.” The actual cost of printing one page is less than a nickel, as documented in the attachments to our testimony. Since fees cannot exceed actual costs and the cost of printing a page is only a nickel or less, it seems that the legislative intent of allowing \$.25 per page would cover the cost of printing and employee time.

However, some public agencies charge \$.25 per page plus employee time. Other instances of excess charges include:

- Charging hourly rates for highly-compensated employees when the work can be performed by employees who are paid less.
- Charging hourly rates for administrative staff or outside attorneys to review information in addition to employee charges for gathering records.
- Imposing per-page charges for electronic copies, which cost nothing to send.

[USD 257](#) Iola charges \$1 per page to individuals and a \$300 corporate flat fee.

USD 231 Gardner-Edgerton charged us an hourly rate of \$69.28 for pay and benefits, even though the district has no increased cost for employee benefits as a result of a KORA request. They charged for a paper print we did not request or receive, and charged \$.12 for a one-page email.

Breakdown of Costs

- 1 hour of labor (Admin. Research) @ the staff member’s fully-loaded hourly rate: 1 hour at \$69.28=\$69.28
- .25c X # pages (1) for printed copies up to 8 1/2 by 11 inch = \$.25
- .12c X # pages (1) for electronic copies = \$.12

Total Cost = \$69.53 for printed copies or \$69.40 for electronic copies

USD 266 Maize charged \$65 for an administrator to review information gathered by an employee (and also charged for employee time).

USD 265 Goddard also charges \$65 per hour for management review in addition to employee time.

Several years ago, Kansas State University requested \$9,600 to determine whether it had any of the records we requested. Additional charges would apply to provide the documents.

These are just a few examples of government agencies charging more than the actual cost to fulfill KORA requests.

The proposed changes in HB 2599 will prevent people from being overcharged:

- ✓ No per-page charge for electronic copies.
- ✓ \$.25 per page may be charged but not employee time, or the actual cost of printing plus employee time.
- ✓ Employee time to be charged at the lowest hourly rate of an employee who is qualified to fulfill the request.
- ✓ No charge for a search to determine whether records exist
- ✓ No charge for administrative review

Finally, we ask the Committee to explore a possible amendment to the bill. The changes listed above are in K.S.A. 45-219(c)(5) and references charges imposed by a public agency within the executive branch. In order to ensure that the changes to KORA charges apply to all state and local government entities, it may be necessary to move them to another section.

Thank you for your consideration of these important improvements to prevent people from being overcharged for access to public records.