

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; amending K.S.A. 2016 Supp. 45-219, 46-1207a and 75-
3 4318 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

17 (c) This section shall be a part of and supplemental to the Kansas
18 open records act.

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

30 (b) Copies of public records shall be made while the records are in
31 the possession, custody and control of the custodian or a person designated
32 by the custodian and shall be made under the supervision of such
33 custodian or person. When practical, copies shall be made in the place
34 where the records are kept. If it is impractical to do so, the custodian shall
35 allow arrangements to be made for use of other facilities. ~~If it is necessary~~
36 ~~to use other facilities for copying, the cost thereof shall be paid by the~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the state treasury to the credit of the legislative special revenue fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 Sec. 5. K.S.A. 2016 Supp. 45-219, 46-1207a and 75-4318 are hereby
33 repealed.

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