

SESSION OF 2015

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 98**

As Amended by Senate Committee on Federal  
and State Affairs

**Brief\***

SB 98 would establish specific charges for public records requests under the Kansas Open Records Act (KORA) and require minutes to be taken at meetings under the Kansas Open Meetings Act (KOMA).

Charges for copies of requested public records that are provided on standard size pages (8 ½ x 11 in. or 21.59 x 27.94 cm), in black and white, could not exceed \$.25 per page. All other copies of requested public records could be charged at a rate of no more than the cost to the public agency to provide the records to the requestor. Staff time would be charged at the lowest hourly rate of the person who is qualified to provide the public record.

The bill would require the presiding officer of a meeting where KOMA applies to determine the format of the minutes and to ensure that minutes are kept at each meeting.

**Background**

The bill was introduced by Senator Jacob LaTurner.

At the Senate Committee hearing on the bill, proponents included Senator LaTurner. Written proponent testimony was provided by representatives of the Kansas Press Association and the Kansas Policy Institute. Opponents included representatives of the Kansas Association of Counties,

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Kansas Register of Deeds Association, Inc., League of Kansas Municipalities, and Saline County Register of Deeds; and the Johnson County Sheriff and Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association. Written testimony in opposition to the bill was provided by representatives of the Kansas Highway Patrol; Norton County, Rush County Commission, Sedgwick County Clerk, and Unified Government of Wyandotte County-Kansas City; and the City of Overland Park, City of Prairie Village, and City of Shawnee. There was no neutral testimony provided at the time of the hearing.

The proponents testified about concerns that current KORA law allows governmental institutions to charge excessive fees for requesting information. In addition, the proponents stated the minutes vary widely from committee to committee and that the bill would assist in standardizing minutes under KOMA.

The opponents testified that mandating fees on a universal level would erode local control, but creates an unfunded mandate on local governments. Many opponents expressed concern that public records requests can be very complex and require much staff time. The opponents also stated the Secretary of State has no specialized knowledge about taking minutes.

The Senate Committee amended the bill by striking all the language in New Section 1 and replacing it with language addressing the cost of standard-size copies of public records and other records requiring staff time. The Committee also deleted the requirement that the Secretary of State determine the format of the minutes.

The fiscal note prepared by the Division of the Budget on the bill, as introduced, states the following agencies and organizations were requested to provide fiscal information:

- Office of the Attorney General notes the bill would not have a fiscal effect on agency operations.

- Office of Judicial Administration notes it is likely the bill would have a fiscal effect on the Judiciary. Currently, clerks of the district court spend a significant amount of time responding to requests for documents. Current law allows for copy and research fees to be established in accordance with Supreme Court rule that, in turn, permits the cost to be set by local rule. No fee is charged to government agencies. The Office states while the fees charged in most counties are similar to those prescribed in the bill, it is anticipated there would be an increase in requests of less than 25 pages or that can be provided with less than one hour of staff time. It also is possible persons requesting court documents would structure their request in a manner that keeps the request under the 25 pages or the one hour level, but that a subsequent request would be made for additional documents for the same case or for the same purpose. Nothing in the bill limits the number of requests that may be made within a specified time period by a requesting party.
- Board of Regents states the bill would have a fiscal effect on its operations and the state universities. Currently, the Board does not charge for simple requests; however, for more in-depth and involved requests, the Board charges actual costs for staff time. The amount charged varies greatly depending on which agency staff gathers the records or spends time on preparing the requested information. Board staff involved in responding to a request could be clerical, attorneys, directors, or vice-presidents. While the limit on the amount the agency could charge for specific staff time in the bill, it could reduce the amount the agency recovers from the requester. The agency would no longer be recovering the actual cost of responding to the request. Since every request is different, it is

difficult to estimate how much less the agency might collect with the changes proposed by the bill.

- The Secretary of State indicates the bill would have a fiscal effect on the agency. It would cause the loss of discretion to set fees for e-data transfers by disc and would impact the practice of charging \$50 for a CD of election data. The bill also would cap the hourly rate at \$18, which would affect the \$36 to \$38 per hour rate currently charged for the Deputy Director's time. In addition, the Secretary of State would have the responsibility of drafting and posting the acceptable forms for keeping meeting minutes. The legal and information technology time required for such a project would be approximately \$500.
- The Kansas Association of Counties currently can charge fees no greater than the cost of obtaining the copy. Under the bill, the counties could not charge these costs when the record is under 25 pages and takes less than an hour to procure. The precise amount of unrecovered costs cannot be determined.

Any fiscal effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.