

SESSION OF 2020

SUPPLEMENTAL NOTE ON SENATE BILL NO. 454

As Amended by Senate Committee on Ethics,
Elections and Local Government

Brief*

SB 454, as amended, would amend an exception to the Kansas Open Records Act (KORA) to add provisions related to cybersecurity at public agencies.

Current law does not require an agency to disclose records of emergency or security information or procedures of a public agency if disclosure would jeopardize security of the public agency, building, or facility. The bill would not require a public agency to disclose records of emergency or security information or procedures if disclosure would jeopardize public safety, including records of or procedures related to cybersecurity plans, cybersecurity assessments, and cybersecurity vulnerabilities.

The bill would define three terms for KORA purposes:

- “Cybersecurity plan” to mean information about a person’s information systems, network security, encryption, network mapping, access control, passwords, authentication practices, computer hardware or software, or response to cybersecurity incidents;
- “Cybersecurity assessment” to mean an investigation undertaken by a person, governmental body, or other entity to identify vulnerabilities in cybersecurity plans; and

*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>

- “Cybersecurity vulnerability” to mean a deficiency within computer hardware or software, or within a computer network or information system, that could be exploited by unauthorized parties for use against an individual computer user or a computer network or information system.

Background

The bill was introduced by the Committee on Federal and State Affairs at the request of a representative of the Secretary of State.

Representatives of the Secretary of State and the League of Kansas Municipalities provided proponent testimony, and a representative of the Kansas Association of Counties provided written-only proponent testimony. Proponents stated the bill would ensure a public agency would not be required to disclose details of system weaknesses or vulnerabilities, such as in election-related infrastructure.

A private citizen provided opponent testimony requesting the proposed exceptions be more narrowly defined. A representative of ACLU Kansas provided neutral testimony with concerns about the broadness of the exemptions proposed.

The Senate Committee amended the bill to remove the exemptions in the bill as introduced, regarding records of election security information or procedures and records of cybersecurity threats to public agencies, and modify an exemption on security information of a public agency, as described above.

The KORA defines “public agency” as the State or any political or taxing subdivision or office thereof, or any entity that receives or expends public funds appropriated by the State or a political or taxing subdivision of the state.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Secretary of State and Attorney General both reported enactment of the bill would have no fiscal effect.