

HOUSE BILL No. 2836

By Committee on Ethics and Elections

2-12

AN ACT concerning public records; relating to inspection of certain records kept by public agencies; amending K.S.A. 45-217 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Each state agency which funds or causes to be funded with state moneys any grant or contract for any goods or services may prequalify the applicant for such grant or contract in substantially the manner prescribed in K.S.A. 75-37,104 and amendments thereto. The prequalification procedure may include inspection of the applicant's business and financial records to the extent necessary for the state agency to insure that the applicant has sufficient administrative and accounting controls to insure compliance with any requirements of the grant or contract.

(b) During the term of any grant or contract funded with state moneys, the state agency which funded or caused to be funded such grant or contract has reason to believe that the recipient of such grant or contract has not complied with the terms of such grant or contract, the state agency may inspect or cause to be inspected the recipient's business and financial records to ensure compliance with the terms of such grant or contract.

(c) For the purposes of this section, the term "state agency" shall have the meaning ascribed to it in K.S.A. 75-3701 and amendments thereto.

(d) For the purposes of this section, the term "state moneys" shall have the meaning ascribed to it in K.S.A. 75-4201 and amendments thereto.

Sec. 2. K.S.A. 45-217 is hereby amended to read as follows: 45-217. As used in the open records act, unless the context otherwise requires:

(a) "Business day" means any day other than a Saturday, Sunday or day designated as a holiday by the congress of the United States, by the legislature or governor of this state or by the respective political subdivision of this state.

(b) "Criminal investigation records" means records of an investigatory agency or criminal justice agency as defined by K.S.A. 22-4701 and amendments thereto, compiled in the process of preventing, detecting or investigating violations of criminal law, but does not include police blotter

1 entries, court records, rosters of inmates of jails or other correctional or
2 detention facilities or records pertaining to violations of any traffic law
3 other than vehicular homicide as defined by K.S.A. 21-3405 and amend-
4 ments thereto.

5 (c) “Custodian” means the official custodian or any person designated
6 by the official custodian to carry out the duties of custodian of this act.

7 (d) “Official custodian” means any officer or employee of a public
8 agency who is responsible for the maintenance of public records, regard-
9 less of whether such records are in the officer’s or employee’s actual
10 personal custody and control.

11 (e) (1) “Public agency”:

12 ~~(A) Means the state or any political or taxing subdivision of the state~~
13 ~~or any office, officer, agency or instrumentality thereof, or any other entity~~
14 ~~receiving or expending and supported in whole or in part by the public~~
15 ~~funds appropriated by the state or by public funds of any political or taxing~~
16 ~~subdivision of the state including any entity providing property, goods or~~
17 ~~services of such entity to the state of Kansas or any state agency as defined~~
18 ~~by K.S.A. 75-3701, and amendments thereto; or~~

19 *(B) any political or taxing subdivision of the state or any office, offi-*
20 *cer, agency or instrumentality thereof, or any other entity receiving or*
21 *expending and supported in whole or in part by public funds of any*
22 *political or taxing subdivision of the state.*

23 (2) “Public agency” shall not include:

24 (A) Any entity solely by reason of payment from public funds, *other*
25 *than public funds paid by the state of Kansas or any state agency as*
26 *defined by K.S.A. 75-3701, and amendments thereto*, for property, goods
27 or services of such entity; (B) any municipal judge, judge of the district
28 court, judge of the court of appeals or justice of the supreme court; or
29 (C) any officer or employee of the state or political or taxing subdivision
30 of the state if the state or political or taxing subdivision does not provide
31 the officer or employee with an office which is open to the public at least
32 35 hours a week.

33 (f) (1) “Public record” means any recorded information, regardless
34 of form or characteristics, which is made, maintained or kept by or is in
35 the possession of any public agency including, but not limited to, an agree-
36 ment in settlement of litigation involving the Kansas public employees
37 retirement system and the investment of moneys of the fund.

38 (2) “Public record” shall not include records which are owned by a
39 private person or entity and are not related to functions, activities, pro-
40 grams or operations funded by public funds or records which are made,
41 maintained or kept by an individual who is a member of the legislature
42 or of the governing body of any political or taxing subdivision of the state.

43 (3) “Public record” shall not include records of employers related to

1 the employer's individually identifiable contributions made on behalf of
2 employees for workers compensation, social security, unemployment in-
3 surance or retirement. The provisions of this subsection shall not apply
4 to records of employers of lump-sum payments for contributions as de-
5 scribed in this subsection paid for any group, division or section of an
6 agency.

7 (g) "Undercover agent" means an employee of a public agency re-
8 sponsible for criminal law enforcement who is engaged in the detection
9 or investigation of violations of criminal law in a capacity where such
10 employee's identity or employment by the public agency is secret.

11 Sec. 3. K.S.A. 45-217 is hereby repealed.

12 Sec. 4. This act shall take effect and be in force from and after its
13 publication in the statute book.

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