

SENATE BILL No. 10

By Senator LaTurner

1-11

1 AN ACT concerning openness in government; amending K.S.A.—2012—
2 **2013** Supp. 45-219, 46-1207a and 75-4318 and repealing the existing
3 sections.

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

6 ***New Section 1. (a) Record requests under the Kansas open records***
7 ***act that can be provided with less than one hour of staff time or less than***
8 ***25 pages shall be provided at no charge. For requests that exceed one***
9 ***hour or 25 pages or require records to be mailed or faxed, the following***
10 ***rates shall apply: (1) \$.25 per page; (2) for mailed records, \$.50 for the***
11 ***first five pages, and \$.25 for additional five-page or less increments; and***
12 ***(3) \$.65 per 10-page or fewer faxes and \$.25 for additional five-page or***
13 ***less increments faxes.***

14 ***(b) Staff time may be charged at the rate of pay for each person***
15 ***whose time is used in order to assist or respond to a specific request.***
16 ***This may include the time spent to access records maintained on***
17 ***computer facilities, to review records to determine whether closure***
18 ***exceptions apply and to redact open from closed information.***

19 ***Attorney time may be charged at no more than \$60 per hour. Clerical***
20 ***time may be charged at no more than \$18 per hour. Information***
21 ***technology (IT) services may be charged at no more than \$38 per hour.***

22 ***(c) Any other costs incurred by the public agency in connection***
23 ***with complying with a record request may be assessed to the requester.***
24 ***The public agency shall provide an estimate of the fees which shall be***
25 ***paid prior to such agency gathering the records. However, in order to***
26 ***assure payment, the final cost of providing access to or furnishing copies***
27 ***may be required to be paid before the records are provided. If the final***
28 ***cost is less than the estimate, the requester shall be reimbursed for the***
29 ***difference.***

30 ***(d) Records may be faxed if the request is for 15 pages or less and***
31 ***fax time and facilities are readily available. If records for air express***
32 ***delivery are requested, the requester shall arrange for pick-up and***
33 ***packaging of the records and all associated costs for such delivery shall***
34 ***be paid by the requester. The records custodian has sole discretion as to***
35 ***whether to honor requests for faxing or express delivery.***

36 ***(e) This section shall be a part of and supplemental to the Kansas***

1 *open records act.*

2 Section ~~1~~. **Sec. 2.** K.S.A. ~~2012~~ **2013** Supp. 45-219 is hereby amended
3 to read as follows: 45-219. (a) Any person may make abstracts or obtain
4 copies of any public record to which such person has access under this act.
5 If copies are requested, the public agency may require a written request
6 and advance payment of the prescribed fee. A public agency shall not be
7 required to provide copies of radio or recording tapes or discs, video tapes
8 or films, pictures, slides, graphics, illustrations or similar audio or visual
9 items or devices, unless such items or devices were shown or played to a
10 public meeting of the governing body thereof, but the public agency shall
11 not be required to provide such items or devices which are copyrighted by
12 a person other than the public agency.

13 (b) Copies of public records shall be made while the records are in
14 the possession, custody and control of the custodian or a person designated
15 by the custodian and shall be made under the supervision of such
16 custodian or person. When practical, copies shall be made in the place
17 where the records are kept. If it is impractical to do so, the custodian shall
18 allow arrangements to be made for use of other facilities. ~~If it is necessary~~
19 ~~to use other facilities for copying, the cost thereof shall be paid by the~~
20 ~~person desiring a copy of the records. In addition, the public agency may~~
21 ~~charge the same fee for the services rendered in supervising the copying as~~
22 ~~for furnishing copies under subsection (c) and may establish a reasonable~~
23 ~~schedule of times for making copies at other facilities.~~

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

28 ~~(1) In the case of fees for copies of records, the fees shall not exceed~~
29 ~~the actual cost of furnishing copies, including. The cost of staff time~~
30 ~~required to make the information available shall not be charged to the~~
31 ~~requester.~~

32 ~~(2) In the case of fees for providing access to records maintained on~~
33 ~~computer facilities, the fees shall include only the cost of any computer~~
34 ~~services, including but shall not include staff time required.~~

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

38 ~~(4) Fees for access to or copies of public records of public agencies~~
39 ~~within the judicial branch of the state government shall be established in~~
40 ~~accordance with rules of the supreme court, but may not exceed a fee of~~
41 ~~\$.25 per page. Staff time may not be included in the fee.~~

42 ~~(5) Fees for access to or copies of public records of a public agency~~
43 ~~within the executive branch of the state government shall be established by~~

1 ~~the agency head. Any person requesting records may appeal the~~
2 ~~reasonableness of the fees charged for providing access to or furnishing~~
3 ~~copies of such records to the secretary of administration whose decision~~
4 ~~shall be final. A fee for copies of public records which is equal to or less~~
5 ~~than shall not exceed \$.25 per page shall be deemed a reasonable fee in~~
6 ~~accordance with section 1, and amendments thereto.~~

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

15 (e) Each public agency of a political or taxing subdivision shall
16 ~~charge a fee not to exceed \$.25 per page. Such fee shall not include staff~~
17 ~~time. The public agency shall~~ remit all moneys received by or for it from
18 fees charged pursuant to this act to the treasurer of such political or taxing
19 subdivision at least monthly. Upon receipt of any such moneys, such
20 treasurer shall deposit the entire amount thereof in the treasury of the
21 political or taxing subdivision and credit the same to the general fund
22 thereof, unless otherwise specifically provided by law.

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

27 (g) Nothing in the open records act shall require a public agency to
28 electronically make copies of public records by allowing a person to obtain
29 copies of a public record by inserting, connecting or otherwise attaching
30 an electronic device provided by such person to the computer or other
31 electronic device of the public agency.

32 ~~Sec. 2. 3. K.S.A. 2012~~ **2013** Supp. 46-1207a is hereby amended to
33 read as follows: 46-1207a. (a) The legislative coordinating council may
34 provide for sale or other disposition of copies of any publication,
35 document or other paper, information or record, regardless of form or
36 characteristics, produced by or under the legislative branch, whether such
37 copies are printed or reproduced in any other manner. Such council may
38 ~~fix charges for sale of any such copies, and such charges may include costs~~
39 ~~of mailing, and reproduction and other expenses. Such cost shall not~~
40 ~~exceed \$.25 per page as provided in section 1, and amendments thereto.~~
41 Whenever such council provides for the sale of copies under this section,
42 the same shall be sold and distributed by or through the director of
43 legislative administrative services or such other state officer as such

1 council specifies. All amounts received under this section by or for any
2 such sales shall be remitted to the state treasurer in accordance with the
3 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
4 each such remittance, the state treasurer shall deposit the entire amount in
5 the state treasury to the credit of the legislative special revenue fund. The
6 provisions of this section shall not apply to the sale or distribution of the
7 Kansas Statutes Annotated, the session laws of Kansas or other
8 publications, documents or papers the sale of which is specifically
9 provided for by law.

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

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

17 (d) The legislative coordinating council may provide for additional
18 legislative stationery or other printed material supplies for members of the
19 legislature to be provided at cost as determined by the council. All moneys
20 received by the director of legislative administrative services under this
21 subsection shall be remitted to the state treasurer in accordance with the
22 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
23 each such remittance, the state treasurer shall deposit the entire amount in
24 the state treasury to the credit of the legislative special revenue fund.

25 (e) Except as otherwise specifically provided by statute on or after the
26 effective date of this act, all moneys received by the director of legislative
27 administrative services on or after November 18, 1991, under this or any
28 other statute shall be remitted to the state treasurer in accordance with the
29 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
30 each such remittance, the state treasurer shall deposit the entire amount in
31 the state treasury to the credit of the legislative special revenue fund and
32 any such moneys deposited in the state treasury to the credit of the state
33 general fund shall be transferred from the state general fund to the
34 legislative special revenue fund by the director of accounts and reports
35 upon certification by the director of legislative administrative services of
36 the amount to be transferred.

37 ~~Sec. 3.~~ **4.** K.S.A. ~~2012~~ **2013** Supp. 75-4318 is hereby amended to
38 read as follows: 75-4318. (a) Subject to the provisions of subsection (g),
39 all meetings for the conduct of the affairs of, and the transaction of
40 business by, all legislative and administrative bodies and agencies of the
41 state and political and taxing subdivisions thereof, including boards,
42 commissions, authorities, councils, committees, subcommittees and other
43 subordinate groups thereof, receiving or expending and supported in whole

1 or in part by public funds shall be open to the public and no binding action
2 by such bodies shall be by secret ballot. Meetings of task forces, advisory
3 committees or subcommittees of advisory committees created pursuant to
4 a governor's executive order shall be open to the public in accordance with
5 this act.

6 (b) Notice of the date, time and place of any regular or special
7 meeting of a public body designated hereinabove shall be furnished to any
8 person requesting such notice, except that:

9 (1) If notice is requested by petition, the petition shall designate one
10 person to receive notice on behalf of all persons named in the petition, and
11 notice to such person shall constitute notice to all persons named in the
12 petition;

13 (2) if notice is furnished to an executive officer of an employees'
14 organization or trade association, such notice shall be deemed to have been
15 furnished to the entire membership of such organization or association;
16 and

17 (3) the public body may require that a request to receive notice must
18 be submitted again to the body prior to the commencement of any
19 subsequent fiscal year of the body during which the person wishes to
20 continue receiving notice, but, prior to discontinuing notice to any person,
21 the public body must notify the person that notice will be discontinued
22 unless the person resubmits a request to receive notice.

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

26 (d) Prior to any meeting hereinabove mentioned, any agenda relating
27 to the business to be transacted at such meeting shall be made available to
28 any person requesting the agenda.

29 *(e) It shall be the duty of the presiding officer of the meeting to insure*
30 *that minutes are kept at each meeting. The secretary of state shall*
31 *determine the format of the minutes.*

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

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

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

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

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

6 (3) to any impeachment inquiry or other impeachment matter referred
7 to any committee of the house of representatives prior to the report of such
8 committee to the full house of representatives; and

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

11 ~~Sec.-4: 5.~~ K.S.A.-~~2012~~ **2013** Supp. 45-219, 46-1207a and 75-4318 are
12 hereby repealed.

13 ~~Sec.-5: 6.~~ This act shall take effect and be in force from and after its
14 publication in the statute book.