

HOUSE BILL No. 2049

By Legislative Post Audit Committee

1-12

1 AN ACT concerning the legislative division of post audit; relating to
2 audits; prohibiting a public agency from charging a fee under the open
3 records act for records requested therefor; amending K.S.A. 2020 Supp.
4 45-219 and repealing the existing section.

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

7 Section 1. K.S.A. 2020 Supp. 45-219 is hereby amended to read as
8 follows: 45-219. (a) Any person may make abstracts or obtain copies of
9 any public record to which such person has access under this act. If copies
10 are requested, the public agency may require a written request and advance
11 payment of the prescribed fee. A public agency shall not be required to
12 provide copies of radio or recording tapes or discs, video tapes or films,
13 pictures, slides, graphics, illustrations or similar audio or visual items or
14 devices, unless such items or devices were shown or played to a public
15 meeting of the governing body thereof, but the public agency shall not be
16 required to provide such items or devices ~~which~~ that are copyrighted by a
17 person other than the public agency.

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

29 (c) Except as provided by ~~subsection~~ subsections (f) and (g) or where
30 fees for inspection or for copies of a public record are prescribed by
31 statute, each public agency may prescribe reasonable fees for providing
32 access to or furnishing copies of public records, subject to the following:

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

36 (2) In the case of fees for providing access to records maintained on

1 computer facilities, the fees shall include only the cost of any computer
2 services, including staff time required.

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

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

9 (5) Fees for access to or copies of public records of a public agency
10 within the executive branch of the state government shall be established by
11 the agency head. Any person requesting records may appeal the
12 reasonableness of the fees charged for providing access to or furnishing
13 copies of such records to the secretary of administration whose decision
14 shall be final. A fee for copies of public records which is equal to or less
15 than \$.25 per page shall be deemed a reasonable fee.

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

24 (e) Each public agency of a political or taxing subdivision shall remit
25 all moneys received by or for it from fees charged pursuant to this act to
26 the treasurer of such political or taxing subdivision at least monthly. Upon
27 receipt of any such moneys, such treasurer shall deposit the entire amount
28 thereof in the treasury of the political or taxing subdivision and credit the
29 same to the general fund thereof, unless otherwise specifically provided by
30 law.

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

35 (g) *No public agency shall charge a fee for access to or copies of*
36 *records if the request for such access to or copies of such records is made*
37 *by the post auditor or an employee of the legislative division of post audit*
38 *for the purpose of conducting an audit pursuant to the legislative post*
39 *audit act, K.S.A. 46-1101 et seq., and amendments thereto, or any other*
40 *law.*

41 (h) Nothing in the open records act shall require a public agency to
42 electronically make copies of public records by allowing a person to obtain
43 copies of a public record by inserting, connecting or otherwise attaching

1 an electronic device provided by such person to the computer or other
2 electronic device of the public agency.

3 Sec. 2. K.S.A. 2020 Supp. 45-219 is hereby repealed.

4 Sec. 3. This act shall take effect and be in force from and after its
5 publication in the statute book.