

SENATE BILL No. 10

By Senator LaTurner

1-11

Proposed Amendments to SB10 #2
Offered by: Senator LaTurner
March 11, 2013
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Office of Revisor of Statutes

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

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

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

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

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

provisions of section 4, and amendments thereto,

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1 computer facilities, the fees shall include only the cost of any computer
2 services, ~~including but shall not include 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, but may not exceed a fee of
9 \$.25 per page. Staff time may not be included in the fee.~~

10 (5) ~~Fees for access to or copies of public records of a public agency
11 within the executive branch of the state government shall be established by
12 the agency head. Any person requesting records may appeal the
13 reasonableness of the fees charged for providing access to or furnishing
14 copies of such records to the secretary of administration whose decision
15 shall be final. A fee for copies of public records which is equal to or less
16 than shall not exceed \$.25 per page shall be deemed a reasonable fee.~~

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

25 (e) Each public agency of a political or taxing subdivision shall
26 ~~charge a fee not to exceed \$.25 per page. Such fee shall not include staff
27 time. The public agency shall remit all moneys received by or for it from
28 fees charged pursuant to this act to the treasurer of such political or taxing
29 subdivision at least monthly. Upon receipt of any such moneys, such
30 treasurer shall deposit the entire amount thereof in the treasury of the
31 political or taxing subdivision and credit the same to the general fund
32 thereof, unless otherwise specifically provided by law.~~
33 (f) Any person who is a certified shorthand reporter may charge fees
34 for transcripts of such person's notes of judicial or administrative
35 proceedings in accordance with rates established pursuant to rules of the
36 Kansas supreme court.

37 (g) Nothing in the open records act shall require a public agency to
38 electronically make copies of public records by allowing a person to obtain
39 copies of a public record by inserting, connecting or otherwise attaching
40 an electronic device provided by such person to the computer or other
41 electronic device of the public agency.

42 Sec. 2. K.S.A. 2012 Supp. 46-1207a is hereby amended to read as
43 follows: 46-1207a. (a) The legislative coordinating council may provide

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be subject to the fee schedule established in section 4, and amendments thereto

1 for sale or other disposition of copies of any publication, document or
 2 other paper, information or record, regardless of form or characteristics,
 3 produced by or under the legislative branch, whether such copies are
 4 printed or reproduced in any other manner. Such council may fix charges
 5 for sale of any such copies, and such charges may include costs of mailing,
 6 ~~and reproduction and other expenses. Such cost shall not exceed \$.25 per~~
 7 ~~page.~~ Whenever such council provides for the sale of copies under this
 8 section, the same shall be sold and distributed by or through the director of
 9 legislative administrative services or such other state officer as such
 10 council specifies. All amounts received under this section by or for any
 11 such sales shall be remitted to the state treasurer in accordance with the
 12 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
 13 each such remittance, the state treasurer shall deposit the entire amount in
 14 the state treasury to the credit of the legislative special revenue fund. The
 15 provisions of this section shall not apply to the sale or distribution of the
 16 Kansas Statutes Annotated, the session laws of Kansas or other
 17 publications, documents or papers the sale of which is specifically
 18 provided for by law.

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

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

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

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

fees shall not exceed the fee schedule established
 in section 4, and amendments thereto

1 upon certification by the director of legislative administrative services of
2 the amount to be transferred.

3 Sec. 3. K.S.A. 2012 Supp. 75-4318 is hereby amended to read as
4 follows: 75-4318. (a) Subject to the provisions of subsection (g), all
5 meetings for the conduct of the affairs of, and the transaction of business
6 by, all legislative and administrative bodies and agencies of the state and
7 political and taxing subdivisions thereof, including boards, commissions,
8 authorities, councils, committees, subcommittees and other subordinate
9 groups thereof, receiving or expending and supported in whole or in part
10 by public funds shall be open to the public and no binding action by such
11 bodies shall be by secret ballot. Meetings of task forces, advisory
12 committees or subcommittees of advisory committees created pursuant to
13 a governor's executive order shall be open to the public in accordance with
14 this act.

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

18 (1) If notice is requested by petition, the petition shall designate one
19 person to receive notice on behalf of all persons named in the petition, and
20 notice to such person shall constitute notice to all persons named in the
21 petition;

22 (2) If notice is furnished to an executive officer of an employees'
23 organization or trade association, such notice shall be deemed to have been
24 furnished to the entire membership of such organization or association;
25 and

26 (3) the public body may require that a request to receive notice must
27 be submitted again to the body prior to the commencement of any
28 subsequent fiscal year of the body during which the person wishes to
29 continue receiving notice, but, prior to discontinuing notice to any person,
30 the public body must notify the person that notice will be discontinued
31 unless the person resubmits a request to receive notice.

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

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

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

41 (f) The use of cameras, photographic lights and recording devices
42 shall not be prohibited at any meeting mentioned by subsection (a), but
43 such use shall be subject to reasonable rules designed to insure the orderly

1 conduct of the proceedings at such meeting.

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

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

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

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

15 (3) to any impeachment inquiry or other impeachment matter referred
16 to any committee of the house of representatives prior to the report of such
17 committee to the full house of representatives; and

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

20 Sec. 4. K.S.A. 2012 Supp. 45-219, 46-1207a and 75-4318 are hereby
21 repealed.

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

New Sec. 4. The fees for providing copies of public records under provisions of the Kansas open records act shall not exceed the following schedule:

- (a) The charge for providing paper copies of public records shall not exceed 10 cents per single page.
- (b) the first hour of staff time shall be free of charge.
- (c) The charge for staff time exceeding one hour shall not exceed the following:
 - (1) Clerical or secretarial staff, \$20 per hour;
 - (2) computer programmers, systems analysts and similar staff, \$30 per hour; and
 - (3) attorneys, \$50 per hour.

And by redesignating sections accordingly