

SENATE BILL No. 386

By Committee on Ways and Means

1-25

1 AN ACT concerning the Kansas open records act; relating to copies of
2 records; limiting fees charged for copying and staff time; providing for
3 waiver or reduction of such fees; amending K.S.A. 45-219 and
4 repealing the existing section.

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

7 Section 1. K.S.A. 45-219 is hereby amended to read as follows: 45-
8 219. (a) (1) Any person may make abstracts or obtain copies of any public
9 record to which such person has access under this act.

10 (2) If copies are requested, the public agency may require a written
11 request and advance payment of the prescribed fee *for staff time required*
12 *to provide access to or furnish copies of public records.*

13 (3) A public agency ~~shall not be is not~~ required to provide copies of
14 *public records maintained on computer facilities*, radio or recording tapes
15 or discs, video tapes or films, pictures, slides, graphics, illustrations or
16 similar audio or visual items or devices, ~~unless if:~~ (A) *The agency has the*
17 *means to make copies; or (B) such items or devices were shown or played*
18 *to a public meeting of the governing body thereof, but the. A public agency*
19 ~~shall not be is not~~ required to provide *copies of* such items or devices
20 ~~which that were not disclosed at a public meeting and are subject to an~~
21 *exception from disclosure under this act or that* are copyrighted by a
22 person other than the public agency.

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

34 (c) Except as provided by subsection (f), or where fees for inspection
35 or for copies of a public record are prescribed by statute, each public
36 agency may prescribe reasonable fees for providing access to or furnishing

1 copies of public records, subject to the following:

2 (1) In the case of fees for copies of records, the fees shall not exceed
3 the actual cost of ~~furnishing copies~~ *copying*, ~~including the cost of staff~~
4 ~~time required to make the information available.~~ ***Fees shall not be***
5 ***charged for copies of blank forms or of pages with all information***
6 ***redacted.***

7 (2) In the case of fees for providing access to records maintained on
8 computer facilities, the fees shall include only the cost of any computer
9 services, including staff time required.

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

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

16 (5) Fees for access to or copies of public records of a public agency
17 within the executive branch of the state government shall be established by
18 the agency head. Any person requesting records may appeal the
19 reasonableness of the fees charged for providing access to or furnishing
20 copies of such records to the secretary of administration whose decision
21 shall be final. A fee for copies of public records ~~which~~ *that* is equal to or
22 less than \$.25 per page shall be deemed a reasonable fee.

23 ~~(6) In the case of fees for staff time required to make records-~~
24 ~~available, the rate shall not exceed the lowest hourly rate of the person-~~
25 ~~who is qualified to provide the requested records.~~ ***In the event an agency***
26 ***incurs costs for staff time to provide access to or furnish copies of public***
27 ***records, public agencies shall in good faith use the lowest-cost category***
28 ***of staff reasonably necessary to provide access to or furnish copies of***
29 ***public records.***

30 ~~(7) Notwithstanding any other provision of law, a fee shall not be~~
31 ~~charged for a search to determine whether the requested records exist.~~

32 ~~(8) The custodian may exercise discretion to waive or reduce any fee~~
33 ~~described in this section if the waiver or reduction of the fee would be in~~
34 ~~the public interest because disclosure of the requested records is: (A)~~
35 ~~Likely to contribute significantly to public understanding of the operations~~
36 ~~or activities of the government; and (B) not primarily in the commercial~~
37 ~~interest of the person requesting the records.~~

38 (d) Except as otherwise authorized pursuant to K.S.A. 75-4215, and
39 amendments thereto, each public agency within the executive branch of
40 the state government shall remit all moneys received by or for it from fees
41 charged pursuant to this section to the state treasurer in accordance with
42 K.S.A. 75-4215, and amendments thereto. Unless otherwise specifically
43 provided by law, the state treasurer shall deposit the entire amount thereof

1 in the state treasury and credit the same to the state general fund or an
2 appropriate fee fund as determined by the agency head.

3 (e) Each public agency of a political or taxing subdivision shall remit
4 all moneys received by or for it from fees charged pursuant to this act to
5 the treasurer of such political or taxing subdivision at least monthly. Upon
6 receipt of any such moneys, such treasurer shall deposit the entire amount
7 thereof in the treasury of the political or taxing subdivision and credit the
8 same to the general fund thereof, unless otherwise specifically provided by
9 law.

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

14 (g) Nothing in the open records act shall require a public agency to
15 electronically make copies of public records by allowing a person to obtain
16 copies of a public record by inserting, connecting or otherwise attaching
17 an electronic device provided by such person to the computer or other
18 electronic device of the public agency.

19 Sec. 2. K.S.A. 45-219 is hereby repealed.

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