

HOUSE BILL No. 2822

By Committee on Federal and State Affairs

Requested by Mike O'Neal on behalf of Kansas Policy Institute

3-7

1 AN ACT concerning the open records act; extending limitations on fees
2 charged for records by state agencies to include fees charged for
3 records by political and taxing subdivisions; amending K.S.A. 45-219
4 and 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) Any person may make abstracts or obtain copies of any public
9 record to which such person has access under this act. If copies are
10 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 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—(f) (g) or where fees for
30 inspection or for copies of a public record are prescribed by statute, each
31 public agency may prescribe reasonable fees for providing access to or
32 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.

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

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

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

10 (5) Fees for access to or copies of public records of a public agency
11 ~~within the executive branch of the state government not described in~~
12 ~~paragraph (3) or (4) shall be established by the agency head as follows:~~

13 (A) *For printed copies of public records, a fee that is equal to \$.25*
14 *per page. No such fee shall be charged for electronic copies; or*

15 (B) *for the cost of employee time required to provide access to or*
16 *furnish copies of public records, a fee that shall not exceed the lowest*
17 *hourly rate of an employee qualified to provide the requested records plus*
18 *the actual cost of printing copies of public records. No such fee shall be*
19 *charged for electronic copies.*

20 (d) (1) Any person requesting records may appeal the reasonableness
21 of the fees charged for providing access to or furnishing copies of such
22 records *within the executive branch of state government* to the secretary of
23 administration, whose decision shall be final. ~~A fee for copies of public~~
24 ~~records which is equal to or less than \$.25 per page shall be deemed a~~
25 ~~reasonable fee.~~

26 (2) *Any person requesting records of a political or taxing subdivision*
27 *may appeal the reasonableness of the fees to the governing body of such*
28 *political or taxing subdivision, whose decision shall be final.*

29 ~~(d)~~(e) Except as otherwise authorized pursuant to K.S.A. 75-4215,
30 and amendments thereto, each public agency within the executive branch
31 of the state government shall remit all moneys received by or for it from
32 fees charged pursuant to this section to the state treasurer in accordance
33 with K.S.A. 75-4215, and amendments thereto. Unless otherwise
34 specifically provided by law, the state treasurer shall deposit the entire
35 amount thereof in the state treasury and credit the same to the state general
36 fund or an appropriate fee fund as determined by the agency head.

37 ~~(e)~~(f) Each public agency of a political or taxing subdivision shall
38 remit all moneys received by or for it from fees charged pursuant to this
39 act to the treasurer of such political or taxing subdivision at least monthly.
40 Upon receipt of any such moneys, such treasurer shall deposit the entire
41 amount thereof in the treasury of the political or taxing subdivision and
42 credit the same to the general fund thereof, unless otherwise specifically
43 provided by law.

1 ~~(f)~~(g) Any person who is a certified shorthand reporter may charge
2 fees for transcripts of such person's notes of judicial or administrative
3 proceedings in accordance with rates established pursuant to rules of the
4 Kansas supreme court.

5 ~~(g)~~(h) Nothing in the open records act shall require a public agency to
6 electronically make copies of public records by allowing a person to obtain
7 copies of a public record by inserting, connecting or otherwise attaching
8 an electronic device provided by such person to the computer or other
9 electronic device of the public agency.

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

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