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Date: February 3, 2025
To: Chairwoman Humphries and the House Committee on Judiciary
From: City of Overland Park
Re: Testimony in Opposition to HB 2134

The City of Overland Park submits this testimony in opposition to HB 2134. The City fully supports the transparency promoted by the Kansas Open Records Act (KORA), but HB 2134 transforms the KORA into a burdensome unfunded mandate by severely limiting the ability of taxpayers to recover the costs incurred to respond to records requests.

The most troubling part of the current bill is new section (c)(5)(B), which states, “No such fee shall be charged for electronic copies” in relation to the access and furnishing of electronic copies of records. The Kansas Supreme Court has said that the phrase “furnishing copies” includes reviewing and redacting records,¹ so new section (c)(5)(B) would require local taxpayers to pay for the cost of reviewing and redacting information from electronic records (rather than allowing local governments to require requestors to reimburse such costs). Local governments are required to redact certain information (e.g. social security numbers and names of sex crime victims) and may redact other information (medical records and emergency security information). By prohibiting cities from being able to require requestors to reimburse the actual cost of employee time required to provide access or furnish copies of electronic records, HB 2134 creates an expensive unfunded mandate on local taxpayers who have to assume that cost.

The bill also gives a requester the right to appeal the reasonableness of fees charged to the governing body of such political subdivision. This would inundate governing body meetings with appeals related to records request fees, when such matters may already be appealed to the Office of the Attorney General and district courts. This additional unfunded mandate is especially hypocritical since the state allows its own appeals to be considered by an administrative officer.

Additionally, the bill would require that local governments only charge staff time at the lowest hourly rate of the person who is qualified to provide the records. This vague requirement ignores the fact that certain personnel may be “qualified” to provide a record, but doing so is not part of their job description or they aren’t available.

In 2024, the City received over 2,200 KORA requests, and over 80% of those were made to our Police Department. The KORA as currently written does not allow a public agency to charge unreasonable fees, and agencies may only charge the actual cost of responding to a request. The City would submit that the current structure provides the proper balance of access to the records

¹*Data Tree, LLC v. Meek*, 279 Kan. 445, 465 (2005) (“Redaction of information in public records not subject to disclosure is an act that would be included in the “actual cost of furnishing copies.” Nothing in the KORA requires or contemplates shifting any portion of the actual cost of furnishing copies of the requested records from the requester to the custodian of the records.”).

without placing overly burdensome costs on the agency. HB 2134 would disrupt that balance by creating increased administrative and financial burdens on municipalities (and especially police departments), and therefore we believe the legislation is poor public policy.

For the stated reasons, the City respectfully requests that the Committee not advance HB 2134 to the full House. If the Committee does decide to advance HB 2134, we request the Committee adopt the amendment shown below. This amendment establishes the “local taxpayer reimbursement fund,” ensuring the state pays for the unfunded mandate created by HB 2134 rather than local taxpayers. It also prevents local governing bodies from having to hear hundreds of fee appeals each year, which is another burdensome unfunded mandate.

Thank you for your consideration.

HB 2134

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Proposed Amendment

1 the actual cost of furnishing copies, including the cost of staff time
2 required to make the information available.

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

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

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

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

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

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

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

27 (2) Any person requesting records of a political or taxing subdivision
28 may appeal the reasonableness of the fees charged for providing access to
29 or furnishing copies of such records to the governing body of such

(6) (A) Prior to January 31, 2026, and annually on that date thereafter, the governing body of each political or taxing subdivision shall certify to the director of accounts and reports the amount in the prior calendar year that is equal to the difference between the actual cost of the political or taxing subdivision's employee time required to provide access to or furnish copies of public records, and the fees that the political or taxing subdivision is allowed to collect for such costs under subsection (c). Prior to March 1 of each year, the director of accounts and reports shall certify to the state treasurer each amount certified by the political or taxing subdivisions under this section for the prior calendar year and shall transfer from the state general fund to the local taxpayer reimbursement fund the aggregate of all amounts so certified. Prior to April 15 of each year, the state treasurer shall pay from the local taxpayer reimbursement fund to each political or taxing subdivision certifying an amount to the director of accounts and reports under this section for the prior calendar year the amount so certified.

(B) There is hereby created the local taxpayer reimbursement fund, which shall be administered by the state treasurer. All expenditures from the local taxpayer reimbursement fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or a person or persons designated by the state treasurer.

chief administrative officer