

HOUSE BILL No. 2599

By Committee on K-12 Education Budget

Requested by Representative Thomas

1-25

1 AN ACT concerning the open records act; relating to charges for public
2 records requested thereunder; prohibiting charges for electronic copies
3 and determinations of whether a record exists; limiting charges for
4 employee time required to make records available; amending K.S.A.
5 45-219 and repealing the existing section.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

34 (1) In the case of fees for copies of records, the fees shall not exceed
35 the actual cost of ~~furnishing copies~~ *copying*, including the cost of staff

1 time required to make the information available.

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

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

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

11 (5) (A) Fees for access to or copies of public records of a public
12 agency within the executive branch of the state government shall be
13 established by the agency head *as follows*:

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

17 (ii) *for the cost of employee time required to make records available,*
18 *a fee that shall not exceed the lowest hourly rate of an employee qualified*
19 *to provide the requested records.*

20 (B) *No fees shall be charged for a search to determine whether the*
21 *requested records exist or for any employee or administrator review of*
22 *records.*

23 (C) Any person requesting records may appeal the reasonableness of
24 the fees charged for providing access to or furnishing copies of such
25 records to the secretary of administration whose decision shall be final.

26 ~~A fee for copies of public records which is equal to or less than \$.25 per~~
27 ~~page shall be deemed a reasonable fee.~~

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

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

43 (f) Any person who is a certified shorthand reporter may charge fees

1 for transcripts of such person's notes of judicial or administrative
2 proceedings in accordance with rates established pursuant to rules of the
3 Kansas supreme court.

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

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

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