

SESSION OF 2014

SUPPLEMENTAL NOTE ON SENATE BILL NO. 10

As Amended by Senate Committee on Federal
and State Affairs

Brief*

SB 10, as amended, would revise provisions in the Kansas Open Records and the Kansas Open Meetings laws that apply to public entities.

Specifically, the bill would eliminate current law that sets a flat, \$0.25-per-page limit on copies and distinguishes between fees charged based on the entity to which the request is made and facilities used to fulfill the request, and would replace this language with the following that would:

- Direct that open records requests be provided at no charge when requests would require less than one hour of staff time or less than 25 pages;
- Establish fees that must apply when open records requests exceed 25 pages or one hour or require records to be mailed or faxed; and
- Require that minutes be kept for all open public meetings of any entity supported in whole or in part by public funds.

The bill would require open records requests requiring less than one hour of staff time or less than 25 pages of copying to be provided at no charge. A person making any request that exceeds one hour or 25 pages or would be mailed or faxed would pay the following rates:

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- \$0.25 per page;
- For mailed records, \$0.50 for the first five pages and \$0.25 for each additional five-page increment or less ; and
- For faxed records, \$0.65 for up to a ten-page increment, and \$0.25 for each additional increment of five-pages or less.

The bill would provide that staff time may be charged based on the assisting person's pay rate and time used in meeting the request. However, attorney time may be charged at no more than \$60.00 per hour, clerical time at no more than \$18.00 per hour, and information technology services at no more than \$38.00 per hour. Charging for any other costs incurred in responding to the request also would be permitted. The bill further would allow the records custodian's sole discretion in honoring requests for fax services and express delivery. Records may be faxed if 15 or fewer pages are requested, and both fax time and facilities are available.

Finally, the bill would require that minutes be kept by all open public meetings by all legislative and administrative bodies and agencies of the state and political and taxing subdivisions, including boards, commissions, authorities, councils, committees, subcommittees, and other subordinate groups, if the entity is supported in whole or in part by public funds, must keep minutes. The bill would direct the presiding officer of such meetings to insure that minutes are kept at each meeting, and that such minutes be in the format determined by the Secretary of State.

Background

The original bill had a hearing during the 2013 Session in the Senate Federal and State Affairs Committee. The bill, as introduced, would have set a maximum fee of \$0.25 per page for copy expenses associated with public records

requests and would have required minutes be kept for all open public meetings by all entities supported in whole or part by public funds.

Proponents in 2013 included Senator LaTurner, representatives of the Kansas Press Association, the *Topeka Capital-Journal* and the Kansas Policy Institute, and four individuals. The publisher of the *Gardner News* provided written testimony in support of the bill.

In 2013, opponents included representatives of the League of Kansas Municipalities, the Kansas Association of Counties, the City of Wichita, the City of Lenexa, Crawford County, Johnson County, Sedgwick County, and the Kansas Association of School Boards. Written testimony opposing the bill was provided by Barton County, Cherokee County, Cowley County, the City of Shawnee, and the City of Overland Park. Neutral testimony was provided by the Kansas State Board of Healing Arts.

The Senate Committee amended the bill by technically updating citations for the 2014 Session. The Senate Committee added a new section to permit certain open records requests to be provided at no charge and to establish a method of determining fees for open records requests that exceed certain thresholds or that must be faxed or mailed. Language establishing the \$0.25 per page fee in the original bill was removed from all sections, and new references were substituted for the stricken language, referring to the new section in the bill.

The Senate Committee also retained a new provision addressing the open meetings law that certain meetings of any entity funded wholly or partially by public funds would be required to keep minutes. The entities to which the open meetings law does not apply (current law exceptions) would not be required to keep minutes [enumerated in Sec. 3(h) of 2014 SB 10, as amended].

For the bill, as introduced, the 2013 fiscal note reported that by sampling state agencies, it was determined the bill would have far-reaching effects, and due to the complexity and nature of open records requests, the amount of staff time and additional copying requirements could not be predicted. The League of Kansas Municipalities and the Kansas Association of Counties each indicated that the bill could have a fiscal effect on local governments if they were no longer able to charge for staff time spent on open records requests. No fiscal note was available for the bill as amended by the Senate Committee in 2014.