



214 SW 6th Ave., #300
Topeka KS 66603
(785) 235-1307
allison@kab.net
www.kab.net

Date: January 27, 2021
To: Senate Transparency and Ethics
From: Allison Mazzei, President of the Kansas Association of Broadcasters
RE: Written Testimony on SB 17 – Opposing

Good Afternoon Senator Bowers and members of the Committee,

I'm Allison Mazzei, president of the Kansas Association of Broadcasters. I represent the 260 broadcast stations that are members of the KAB.

I write today to express opposition to SB17 because it gives special treatment to a state agency while denying the same benefits to members of the public, journalists, newspapers, broadcast stations, and others seeking access to public records.

We believe SB17 should be expanded beyond just the Legislative Division of Post Audit. We propose it be expanded to include language from SB 434, introduced last year. It did not receive a hearing due to the shortened session. (See document attached).

SB 434 would grant governmental agencies the discretion to treat requests made in the "public interest" differently from other requests. "Public interest" is defined as (A) Likely to contribute significantly to public understanding of the operations or activities of the government; and (B) not primarily in the commercial interest of the person requesting the records.

Broadcasters, and other journalists, also need affordable access to public records in order to provide accurate, unbiased information to the public.

I appreciate your time in discussing this important matter. Thank you.

SENATE BILL No. 434

By Committee on Assessment and Taxation

2-13

1 AN ACT concerning the Kansas open records act; relating to copies of
2 records; staff time; fees; amending K.S.A. 2019 Supp. 45-219 and
3 repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2019 Supp. 45-219 is hereby amended to read as
7 follows: 45-219. (a) (1) Any person may make abstracts or obtain copies of
8 any public record to which such person has access under this act.

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

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

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

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

35 (1) In the case of fees for copies of records, the fees shall not exceed
36 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) Fees for access to or copies of public records of a public agency
12 within the executive branch of the state government shall be established by
13 the agency head. Any person requesting records may appeal the
14 reasonableness of the fees charged for providing access to or furnishing
15 copies of such records to the secretary of administration whose decision
16 shall be final. A fee for copies of public records ~~which~~ *that* is equal to or
17 less than \$.25 per page shall be deemed a reasonable fee.

18 (6) *In the case of fees for staff time required to make records*
19 *available, the rate shall not exceed the lowest hourly rate of the person*
20 *who is qualified to provide the requested records.*

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

23 (8) *The custodian may exercise discretion to waive or reduce any fee*
24 *described in this section if the waiver or reduction of the fee would be in*
25 *the public interest because disclosure of the requested records is: (A)*
26 *Likely to contribute significantly to public understanding of the operations*
27 *or activities of the government; and (B) not primarily in the commercial*
28 *interest of the person requesting the records.*

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

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

1 (f) Any person who is a certified shorthand reporter may charge fees
2 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) 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. 2019 Supp. 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.