

SENATE BILL No. 17

By Legislative Post Audit Committee

1-12

Proposed Amendments to SB 17
Senate Transparency & Ethics Committee
Prepared by: Office of Revisor of Statutes
February 1, 2021

1 AN ACT concerning the legislative division of post audit; relating to
2 audits; prohibiting a public agency from charging a fee under the open
3 records act for records requested therefor; amending K.S.A. 2020 Supp.
4 45-219 and repealing the existing section.

strike

46-1114

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

7 Section 1. ~~K.S.A. 2020 Supp. 45-219 is hereby amended to read as~~
8 ~~follows: 45-219. (a) Any person may make abstracts or obtain copies of~~
9 ~~any public record to which such person has access under this act. If copies~~
10 ~~are 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 that are copyrighted by a~~
17 ~~person other than the public agency.~~

Strike
K.S.A. 46-1114 is hereby amended...see page 3

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 subsections (f) and (g) or where~~
30 ~~fees for inspection or for copies of a public record are prescribed by~~
31 ~~statute, each public agency may prescribe reasonable fees for providing~~
32 ~~access to or 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.~~

36 (2) ~~In the case of fees for providing access to records maintained on~~

1 ~~computer facilities, the fees shall include only the cost of any computer~~
2 ~~services, including staff time required.~~

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

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

9 ~~(5) Fees for access to or copies of public records of a public agency~~
10 ~~within the executive branch of the state government shall be established by~~
11 ~~the agency head. Any person requesting records may appeal the~~
12 ~~reasonableness of the fees charged for providing access to or furnishing~~
13 ~~copies of such records to the secretary of administration whose decision~~
14 ~~shall be final. A fee for copies of public records which is equal to or less~~
15 ~~than \$.25 per page shall be deemed a reasonable fee.~~

16 ~~(d) Except as otherwise authorized pursuant to K.S.A. 75-4215, and~~
17 ~~amendments thereto, each public agency within the executive branch of~~
18 ~~the state government shall remit all moneys received by or for it from fees~~
19 ~~charged pursuant to this section to the state treasurer in accordance with~~
20 ~~K.S.A. 75-4215, and amendments thereto. Unless otherwise specifically~~
21 ~~provided by law, the state treasurer shall deposit the entire amount thereof~~
22 ~~in the state treasury and credit the same to the state general fund or an~~
23 ~~appropriate fee fund as determined by the agency head.~~

24 ~~(e) Each public agency of a political or taxing subdivision shall remit~~
25 ~~all moneys received by or for it from fees charged pursuant to this act to~~
26 ~~the treasurer of such political or taxing subdivision at least monthly. Upon~~
27 ~~receipt of any such moneys, such treasurer shall deposit the entire amount~~
28 ~~thereof in the treasury of the political or taxing subdivision and credit the~~
29 ~~same to the general fund thereof, unless otherwise specifically provided by~~
30 ~~law.~~

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

35 ~~(g) No public agency shall charge a fee for access to or copies of~~
36 ~~records if the request for such access to or copies of such records is made~~
37 ~~by the post auditor or an employee of the legislative division of post audit~~
38 ~~for the purpose of conducting an audit pursuant to the legislative post~~
39 ~~audit act, K.S.A. 46-1101 et seq., and amendments thereto, or any other~~
40 ~~law.~~

41 ~~(h) Nothing in the open records act shall require a public agency to~~
42 ~~electronically make copies of public records by allowing a person to obtain~~
43 ~~copies of a public record by inserting, connecting or otherwise attaching~~

1 ~~an electronic device provided by such person to the computer or other~~
2 ~~electronic device of the public agency.~~

3 Sec. 2. K.S.A. 2020 Supp. 45-219 is hereby repealed.

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

K.S.A. 46-1114 is hereby amended to read as follows: 46-1114. (a) The legislative post audit committee is hereby authorized to direct the post auditor and the division of post audit to make an audit of any type described in K.S.A. 46-1106 or 46-1108, and amendments thereto, of any records or matters of any person specified in this section, and may direct the object in detail of any such audit.

(b) Upon receiving any such direction, the post auditor with the division of post audit, shall make such audit and shall have access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, to the same extent permitted under K.S.A. 46-1106(e), and amendments thereto, except that such access shall be subject to the limitations established under subsection (d).

(c) Audits authorized by this section are the following:

(1) Audit of any local subdivision of government or agency or instrumentality thereof which receives any distribution of moneys from or through the state.

(2) Audit of any person who receives any grant or gift from or through the state.

(3) Audit of the contract relationships and the fiscal records related thereto of any person who contracts with the state.

(4) Audit of any person who is regulated or licensed by any state agency or who operates or functions for the benefit of any state institution except that any audit of any person regulated by the state corporation commission shall address only compliance with laws or regulations, collection or remittance of taxes or fees, or other matters related directly to state government programs or functions. Any such audit authorized under this subsection shall not address corporate governance or financial issues except as they may relate directly to state government programs or functions. This subsection shall not apply to public utilities as described in K.S.A. 66-1,187(l), and amendments thereto.

(d) (1) Access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, as authorized under subsection (b) of any nongovernmental person audited under authority of subsection (c)(2) shall be limited to those books, accounts, records, files, documents and correspondence, confidential or otherwise, of such person to which the state governmental agency that administers the grant or gift and provides for the disbursement thereof is authorized under law to have access.

(2) Access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, as authorized under subsection (b) of any nongovernmental person audited under authority of subsection (c)(3) shall be limited to those books, accounts, records, files, documents and correspondence, confidential or otherwise, of such person to which the state governmental agency that contracts with such person is authorized under law to have access.

(3) Access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, as authorized under subsection (b) of any nongovernmental person audited under authority of subsection (c)(4) shall be limited to those books, accounts, records, files, documents and correspondence, confidential or otherwise, of such person to which the state governmental agency that regulates or licenses such person or the state institution on whose behalf such person operates or functions is authorized under law to have access.

(e) Notwithstanding any other provision of law, no public agency that is the subject of an audit pursuant to this section or any other law shall charge a fee for copies of or access to the records described in subsection (b).