
**State Government, Elections &
Information Technology Committee**

HB 1595

Brief Description: Concerning costs associated with responding to public records requests.

Sponsors: Representatives Nealey, McBride, Senn, Springer, Koster, Klippert, Dye, Schmick, J. Walsh, Haler, Manweller, Harris, Dent, Peterson, Bergquist, Gregerson, Clibborn, Fey, Fitzgibbon, Dolan, Wilcox, Lytton, Griffey, Hayes, Muri, Goodman, Robinson, Sells, Steele, Kraft, Smith, Tharinger, Stanford, Kloba, Jinkins, Hargrove, Slatter and Kagi.

Brief Summary of Bill

- Authorizes agencies to charge for providing copies of electronically produced public records and sets a default fee schedule for such records
- Authorizes a customized service charge for locating and preparing public records for exceptional complex requests.
- Provides that a request for all or substantially all agency records is not a valid request for identifiable records under the Public Records Act.
- Allows agencies to deny frequent automatically generated requests for public records that would interfere with the other essential functions of the agency.

Hearing Date: 2/10/17

Staff: Sean Flynn (786-7124).

Background:

Public Records Act

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request, unless the information fits into

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one of the various specific exemptions in the PRA or as otherwise provided in law. The stated policy of the PRA favors disclosure and requires narrow application of the listed exemptions.

Agencies must respond to a records request within five business days. The response must provide the record, deny the request, or provide an estimate of time when the records will be available. An agency may ask the requester to clarify what information the requester is seeking. If the requester fails to clarify the request, the agency is not obligated to respond. The Attorney General publishes model rules to assist agencies on PRA compliance issues, including providing assistance to requesters, fulfilling large requests and requests for electronic records, as well as other issues.

Agencies must make their facilities available for the copying of public records, unless it would unreasonably disrupt the operations of the agency. An agency may not charge a fee for locating and making records available for inspection. However, an agency may establish a charge for the actual cost of copying the records. Copying costs include a per page rate, as well as costs directly related to copying may be included, such as the labor for making copies and shipping costs, but general administrative and overhead costs are excluded. If it is too burdensome for an agency to determine the actual costs for copying records, the agency may charge a default rate up to 15 cents per page. The agency may require a deposit up to 10 percent of the estimated actual copy costs for a request.

Summary of Bill:

Public Records Charges.

Agencies are authorized to charge for providing copies of electronically produced records. The charge may include the actual costs for the electronic production or file transfer of the record, the use of a cloud-based storage and processing service, and the cost of transmitting the records in an electronic format. If determining its own actual costs would be unduly burdensome, the agency may charge up to the following amounts for electronic copies:

- Ten cents per page scanned into an electronic format;
- Ten cents per minute of audio or video recording;
- Forty cents for every 25 electronic attachments uploaded to an electronic delivery system; and
- Ten cents per gigabyte transmitting records electronically.

An agency may charge a flat fee of \$5 as an alternative to the authorized default fees.

An agency may assess a customized service charge for exceptionally large records requests that require staff and resources beyond what is normally available to the agency. The fee is in addition to the authorized copying costs, and may include reimbursement for the actual costs of providing the records. A customized service charge is warranted if:

- fulfilling the request requires extensive use of information technology resources to identify, locate, format, or translate a record, or provide electronic access services, or
- the request requires specialized analytical, research, or supervisory assistance to identify, locate compile, or transfer the records.

An agency may not assess a customized service charge unless the agency notifies the requester and explains the reason for the charge and provides a cost estimate. The requester may amend his or her request to avoid or reduce the costs. Agencies may require a deposit up to 10 percent of the estimated customize service charge costs. Also, agencies may waive any fee for a request if the agency determines the fee is unwarranted. An agency may enter into a contract or other agreement with a requester who provides an alternative fee arrangement to the authorized charges or in response to a voluminous or frequently occurring request.

Excessive Requests

A request for all or substantially all records of an agency is not a valid request for identifiable records under the PRA. An agency may deny multiple automatically generated (bot) requests that come from the same source within a 24-hour period, if the requests cause excessive interference with the other essential functions of the agency.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.