

# FINAL BILL REPORT

## EHB 1595

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### C 304 L 17

Synopsis as Enacted

**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.

**House Committee on State Government, Elections & Information Technology**  
**Senate Committee on State Government**

#### **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 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, and 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

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charge a default rate up to 15 cents per page. The agency may require a deposit of up to 10 percent of the estimated actual copy costs for a request.

## **Summary:**

### Public Records Charges.

*Electronic Records.* 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:

- 10 cents per page scanned into an electronic format;
- 5 cents for every 4 electronic attachments uploaded to an electronic delivery system; and
- 10 cents per gigabyte transmitting records electronically.

An agency may charge a flat fee of \$2 as an alternative to the authorized default fees, if the agency reasonably estimates that the copying costs are more than \$2.

*Custom Service Charge.* An agency may assess a customized service charge for records requests that require the preparation of data compilations or customized electronic access services that are not used by the agency for other purposes. The fee is in addition to the authorized copying costs, and may include reimbursement for the actual costs of providing the records.

An agency may not assess a customized service charge unless the agency notifies the requester with the reason for the charge and provides a cost estimate of the charge. The requester may amend his or her request to avoid or reduce the costs. A requester may seek judicial review of the reasonableness of an agency's estimate for copying charges.

Agencies may require a deposit of up to 10 percent of the estimated customized 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 not relating to a particular topic 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.

## **Votes on Final Passage:**

House	75	22	
Senate	43	4	(Senate amended)
House	80	18	(House concurred)

**Effective:** July 23, 2017