

# SENATE BILL No. 67

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-14-3; IC 5-15-5.1-5.

**Synopsis:** Fees for legislative documents. Provides that a public agency within the legislative department of state government shall charge fees for copies of public records under policies established by the legislative council.

**Effective:** July 1, 1998.

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Wyss, Lewis

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January 6, 1998, read first time and referred to Committee on Public Policy.

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Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

## SENATE BILL No. 67

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-14-3-2, AS AMENDED BY P.L.50-1995,  
2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 1998]: Sec. 2. As used in this chapter:  
4 "Copy" includes transcribing by handwriting, photocopying,  
5 xerography, duplicating machine, duplicating electronically stored data  
6 onto a disk, tape, drum, or any other medium of electronic data storage,  
7 and reproducing by any other means.  
8 "Direct cost" means one hundred five percent (105%) of the sum of the  
9 cost of:  
10 (1) the initial development of a program, if any;  
11 (2) the labor required to retrieve electronically stored data; and  
12 (3) any medium used for electronic output;  
13 for providing a duplicate of electronically stored data onto a disk, tape,  
14 drum, or other medium of electronic data retrieval under section ~~8(g)~~ **8(h)**  
15 of this chapter, or for reprogramming a computer system under section  
16 6(c) of this chapter.  
17 "Electronic map" means copyrighted data provided by a public agency

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- 1 from an electronic geographic information system.
- 2 "Enhanced access" means the inspection of a public record by a person  
3 other than a governmental entity and that:
- 4 (1) is by means of an electronic device other than an electronic  
5 device provided by a public agency in the office of the public  
6 agency; or
- 7 (2) requires the compilation or creation of a list or report that does  
8 not result in the permanent electronic storage of the information.
- 9 "Facsimile machine" means a machine that electronically transmits  
10 exact images through connection with a telephone network.
- 11 "Inspect" includes the right to do the following:
- 12 (1) Manually transcribe and make notes, abstracts, or memoranda.  
13 (2) In the case of tape recordings or other aural public records, to  
14 listen and manually transcribe or duplicate, or make notes, abstracts,  
15 or other memoranda from them.
- 16 (3) In the case of public records available:
- 17 (A) by enhanced access under section 3.5 of this chapter; or  
18 (B) to a governmental entity under section 3(c)(2) of this  
19 chapter;
- 20 to examine and copy the public records by use of an electronic  
21 device.
- 22 (4) In the case of electronically stored data, to manually transcribe  
23 and make notes, abstracts, or memoranda or to duplicate the data  
24 onto a disk, tape, drum, or any other medium of electronic storage.
- 25 "Investigatory record" means information compiled in the course of the  
26 investigation of a crime.
- 27 "Patient" has the meaning set out in IC 16-18-2-272(c).
- 28 "Person" means an individual, a corporation, a limited liability  
29 company, a partnership, an unincorporated association, or a governmental  
30 entity.
- 31 "Provider" has the meaning set out in IC 16-18-2-295(b) and includes  
32 employees of the state department of health or local boards of health who  
33 create patient records at the request of another provider or who are social  
34 workers and create records concerning the family background of children  
35 who may need assistance.
- 36 "Public agency" means the following:
- 37 (1) Any board, commission, department, division, bureau,  
38 committee, agency, office, instrumentality, or authority, by whatever  
39 name designated, exercising any part of the executive,  
40 administrative, judicial, or legislative power of the state.
- 41 (2) Any:
- 42 (A) county, township, school corporation, city, or town, or any



- 1 board, commission, department, division, bureau, committee,  
 2 office, instrumentality, or authority of any county, township,  
 3 school corporation, city, or town;  
 4 (B) political subdivision (as defined by IC 36-1-2-13); or  
 5 (C) other entity, or any office thereof, by whatever name  
 6 designated, exercising in a limited geographical area the  
 7 executive, administrative, judicial, or legislative power of the  
 8 state or a delegated local governmental power.
- 9 (3) Any entity or office that is subject to:  
 10 (A) budget review by either the state board of tax commissioners  
 11 or the governing body of a county, city, town, township, or  
 12 school corporation; or  
 13 (B) an audit by the state board of accounts.
- 14 (4) Any building corporation of a political subdivision that issues  
 15 bonds for the purpose of constructing public facilities.
- 16 (5) Any advisory commission, committee, or body created by  
 17 statute, ordinance, or executive order to advise the governing body  
 18 of a public agency, except medical staffs or the committees of any  
 19 such staff.
- 20 (6) Any law enforcement agency, which means an agency or a  
 21 department of any level of government that engages in the  
 22 investigation, apprehension, arrest, or prosecution of alleged  
 23 criminal offenders, such as the state police department, the police or  
 24 sheriff's department of a political subdivision, prosecuting attorneys,  
 25 members of the excise police division of the alcoholic beverage  
 26 commission, conservation officers of the department of natural  
 27 resources, and the security division of the state lottery commission.
- 28 (7) Any license branch staffed by employees of the bureau of motor  
 29 vehicles commission under IC 9-16.
- 30 (8) The state lottery commission, including any department, division,  
 31 or office of the commission.
- 32 (9) The Indiana gaming commission established under IC 4-33,  
 33 including any department, division, or office of the commission.
- 34 (10) The Indiana horse racing commission established by IC 4-31,  
 35 including any department, division, or office of the commission.
- 36 "Public record" means any writing, paper, report, study, map,  
 37 photograph, book, card, tape recording, or other material that is created,  
 38 received, retained, maintained, used, or filed by or with a public agency  
 39 and which is generated on paper, paper substitutes, photographic media,  
 40 chemically based media, magnetic or machine readable media,  
 41 electronically stored data, or any other material, regardless of form or  
 42 characteristics.



1 "Standard-sized documents" includes all documents that can be  
 2 mechanically reproduced (without mechanical reduction) on paper sized  
 3 eight and one-half (8 1/2) inches by eleven (11) inches or eight and  
 4 one-half (8 1/2) inches by fourteen (14) inches.

5 "Trade secret" has the meaning set forth in IC 24-2-3-2.

6 "Work product of an attorney" means information compiled by an  
 7 attorney in reasonable anticipation of litigation and includes the  
 8 attorney's:

9 (1) notes and statements taken during interviews of prospective  
 10 witnesses; and

11 (2) legal research or records, correspondence, reports, or  
 12 memoranda to the extent that each contains the attorney's opinions,  
 13 theories, or conclusions.

14 This definition does not restrict the application of any exception under  
 15 section 4 of this chapter.

16 SECTION 2. IC 5-14-3-8, AS AMENDED BY P.L.78-1995,  
 17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 1998]: Sec. 8. (a) **This section does not apply to a public  
 19 agency in the legislative department of state government.**

20 (b) For the purposes of this section, "state agency" has the meaning set  
 21 forth in IC 4-13-1-1.

22 ~~(b)~~ (c) Except as provided in this section, a public agency may not  
 23 charge any fee under this chapter:

24 (1) to inspect a public record; or

25 (2) to search for, examine, or review a record to determine whether  
 26 the record may be disclosed.

27 ~~(c)~~ (d) The Indiana department of administration shall establish a  
 28 uniform copying fee for the copying of one (1) page of a standard-sized  
 29 document by state agencies. The fee may not exceed the average cost of  
 30 copying records by state agencies or ten cents (\$0.10) per page,  
 31 whichever is greater. A state agency may not collect more than the  
 32 uniform copying fee for providing a copy of a public record. However, a  
 33 state agency shall establish and collect a reasonable fee for copying  
 34 nonstandard-sized documents.

35 ~~(d)~~ (e) This subsection applies to a public agency that is not a state  
 36 agency. The fiscal body (as defined in IC 36-1-2-6) of the public agency,  
 37 or the governing body, if there is no fiscal body, shall establish a fee  
 38 schedule for the certification, copying, or facsimile machine transmission  
 39 of documents. The fee may not exceed the actual cost of certifying,  
 40 copying, or facsimile transmission of the document by the agency and the  
 41 fee must be uniform throughout the public agency and uniform to all  
 42 purchasers.



- 1           ~~(e)~~ **(f)** If:
- 2           (1) a person is entitled to a copy of a public record under this
- 3           chapter; and
- 4           (2) the public agency which is in possession of the record has
- 5           reasonable access to a machine capable of reproducing the public
- 6           record;
- 7           the public agency must provide at least one (1) copy of the public record
- 8           to the person. However, if a public agency does not have reasonable
- 9           access to a machine capable of reproducing the record or if the person
- 10          cannot reproduce the record by use of enhanced access under section 3.5
- 11          of this chapter, the person is only entitled to inspect and manually
- 12          transcribe the record. A public agency may require that the payment for
- 13          copying costs be made in advance.
- 14          ~~(f)~~ **(g)** Notwithstanding subsection ~~(b)~~; (c), (d), ~~(e)~~, ~~(g)~~; (h), ~~or~~ (i) or
- 15          **(j)**, a public agency shall collect any certification, copying, facsimile
- 16          machine transmission, or search fee that is specified by statute or is
- 17          ordered by a court.
- 18          ~~(g)~~ **(h)** Except as provided by subsection ~~(h)~~; **(i)**, for providing a
- 19          duplicate of a computer tape, computer disc, microfilm, or similar or
- 20          analogous record system containing information owned by the public
- 21          agency or entrusted to it, a public agency may charge a fee, uniform to all
- 22          purchasers, that does not exceed the sum of the following:
- 23                (1) The agency's direct cost of supplying the information in that
- 24                form.
- 25                (2) The standard cost for selling the same information to the public
- 26                in the form of a publication if the agency has published the
- 27                information and made the publication available for sale.
- 28                ~~(3) In the case of the legislative services agency, a reasonable~~
- 29                ~~percentage of the agency's direct cost of maintaining the system in~~
- 30                ~~which the information is stored. However, the amount charged by~~
- 31                ~~the legislative services agency under this subdivision may not~~
- 32                ~~exceed the sum of the amounts it may charge under subdivisions (1)~~
- 33                ~~and (2).~~
- 34          ~~(h)~~ **(i)** This subsection applies to the fee charged by a public agency
- 35          for providing enhanced access to a public record. A public agency may
- 36          charge any reasonable fee agreed on in the contract under section 3.5 of
- 37          this chapter for providing enhanced access to public records.
- 38          ~~(i)~~ **(j)** This subsection applies to the fee charged by a public agency for
- 39          permitting a governmental entity to inspect public records by means of an
- 40          electronic device. A public agency may charge any reasonable fee for the
- 41          inspection of public records under this subsection or the public agency
- 42          may waive any fee for the inspection.



1           ~~(j)~~ **(k)** Except as provided in subsection ~~(k)~~, **(l)**, a public agency may  
 2 charge a fee, uniform to all purchasers, for providing an electronic map  
 3 that is based upon a reasonable percentage of the agency's direct cost of  
 4 maintaining, upgrading, and enhancing the electronic map and for the  
 5 direct cost of supplying the electronic map in the form requested by the  
 6 purchaser. If the public agency is within a political subdivision having a  
 7 fiscal body, the fee is subject to the approval of the fiscal body of the  
 8 political subdivision.

9           ~~(l)~~ **(i)** The fee charged by a public agency under subsection ~~(j)~~ **(k)** to  
 10 cover costs for maintaining, upgrading, and enhancing an electronic map  
 11 shall be waived by the public agency if the electronic map for which the  
 12 fee is charged will be used for a noncommercial purpose, including the  
 13 following:

- 14           (1) Public agency program support.
- 15           (2) Nonprofit activities.
- 16           (3) Journalism.
- 17           (4) Academic research.

18           SECTION 3. IC 5-14-3-8.1 IS ADDED TO THE INDIANA CODE  
 19 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
 20 1, 1998]: **Sec. 8.1. (a) This section applies only to a public agency in  
 21 the legislative department of state government.**

22           **(b) A public agency shall charge fees for copies of public records  
 23 under policies established by the legislative council.**

24           SECTION 4. IC 5-14-3-8.3 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8.3. (a) The fiscal body  
 26 of a political subdivision having a public agency that charges a fee under  
 27 section ~~8(h)~~ **or 8(i) or 8(j)** of this chapter shall adopt an ordinance  
 28 establishing an enhanced access fund. The ordinance must specify that the  
 29 fund consists of fees collected under section ~~8(h)~~ **or 8(i) or 8(j)** of this  
 30 chapter. The fund shall be administered by the public agency or officer  
 31 designated in the ordinance or resolution. Money in the fund must be  
 32 appropriated and expended in the manner authorized in the ordinance.

33           (b) The fund is a dedicated fund with the following purposes:

- 34           (1) The replacement, improvement, and expansion of capital  
 35 expenditures.
- 36           (2) The reimbursement of operating expenses incurred in providing  
 37 enhanced access to public information.

38           SECTION 5. IC 5-14-3-8.5 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8.5. (a) The fiscal body  
 40 of a political subdivision having a public agency that charges a fee under  
 41 section ~~8(j)~~ **8(k)** of this chapter shall adopt an ordinance establishing an  
 42 electronic map generation fund. The ordinance must specify that the fund



1 consists of fees collected under section ~~8(j)~~ **8(k)** of this chapter. The fund  
2 shall be administered by the public agency that collects the fees.

3 (b) The electronic map generation fund is a dedicated fund with the  
4 following purposes:

5 (1) The maintenance, upgrading, and enhancement of the electronic  
6 map.

7 (2) The reimbursement of expenses incurred by a public agency in  
8 supplying an electronic map in the form requested by a purchaser.

9 SECTION 6. IC 5-15-5.1-5, AS AMENDED BY P.L.49-1997,  
10 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 1998]: Sec. 5. (a) Subject to approval by the oversight  
12 committee on public records created by section 18 of this chapter, the  
13 commission shall do the following:

14 (1) Establish a forms management program for state government and  
15 approve the design, typography, format, logo, data sequence, form  
16 analysis, form number, and agency file specifications of each form.

17 (2) Establish a central state form numbering system and a central  
18 cross index filing system of all state forms, and standardize,  
19 consolidate, and eliminate, wherever possible, forms used by state  
20 government.

21 (3) Approve, provide, and in the manner prescribed by IC 5-22,  
22 purchase photo-ready copy for all forms.

23 (4) Establish a statewide records management program, prescribing  
24 the standards and procedures for record making and record keeping;  
25 however, the investigative and criminal history records of the state  
26 police department are exempted from this requirement.

27 (5) Coordinate utilization of all micrographics equipment in state  
28 government.

29 (6) Assist the Indiana department of administration in coordinating  
30 utilization of all duplicating and printing equipment in the executive  
31 and administrative branches.

32 (7) Advise the Indiana department of administration with respect to  
33 the purchase of all records storage equipment.

34 (8) Establish and operate a distribution center for the receipt,  
35 storage, and distribution of all material printed for an agency.

36 (9) Establish and operate a statewide archival program to be called  
37 the Indiana state archives for the permanent government records of  
38 the state, provide consultant services for archival programs, conduct  
39 surveys, and provide training for records coordinators.

40 (10) Establish and operate a statewide record preservation  
41 laboratory.

42 (11) Prepare, develop, and implement record retention schedules.



- 1 (12) Establish and operate a central records center to be called the  
2 Indiana state records center, which shall accept all records  
3 transferred to it, provide secure storage and reference service for the  
4 same, and submit written notice to the applicable agency of intended  
5 destruction of records in accordance with approved retention  
6 schedules.
- 7 (13) Demand, from any person or organization or body who has  
8 illegal possession of original state or local government records,  
9 those records, which shall be delivered to the commission.
- 10 (14) Have the authority to examine all forms and records housed or  
11 possessed by state agencies for the purpose of fulfilling the  
12 provisions of this chapter.
- 13 (15) In coordination with the data processing oversight commission  
14 created under IC 4-23-16, establish standards to ensure the  
15 preservation of adequate and permanent computerized and auxiliary  
16 automated information records of the agencies of state government.
- 17 (16) Notwithstanding IC 5-14-3-8, establish a schedule of fees for  
18 services provided to patrons of the Indiana state archives. A copying  
19 fee established under this subdivision may exceed the copying fee  
20 set forth in ~~IC 5-14-3-8(e)~~: **IC 5-14-3-8(d)**.
- 21 (b) In implementing a forms management program, the commission  
22 shall follow procedures and forms prescribed by the federal government.
- 23 (c) Fees collected under subsection (a)(16) shall be deposited in the  
24 state archives preservation and reproduction account established by  
25 section 5.3 of this chapter.

