



February 26, 1999

SENATE BILL No. 321

DIGEST OF SB 321 (Updated February 24, 1999 5:46 pm - DI 87)

Citations Affected: IC 5-14; IC 36-2.

Synopsis: Public records copying fees and uses. Provides that the actual cost that public agencies, other than state agencies, may charge for the certification, copying, or facsimile machine transmission of documents may not include labor costs or overhead costs. (The introduced version of this bill was prepared by the interim study committee on state government issues.)

Effective: July 1, 1999.

Skillman, Alexa

January 11, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.
February 25, 1999, amended, reported favorably — Do Pass.

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SB 321—LS 6799/DI 44+



February 26, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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SENATE BILL No. 321

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

- 1 SECTION 1. IC 5-14-3-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) For the purposes of this
3 section, "state agency" has the meaning set forth in IC 4-13-1-1.
4 (b) Except as provided in this section, a public agency may not
5 charge any fee under this chapter:
6 (1) to inspect a public record; or
7 (2) to search for, examine, or review a record to determine
8 whether the record may be disclosed.
9 (c) The Indiana department of administration shall establish a
10 uniform copying fee for the copying of one (1) page of a standard-sized
11 document by state agencies. The fee may not exceed the average cost
12 of copying records by state agencies or ten cents (\$0.10) per page,
13 whichever is greater. A state agency may not collect more than the
14 uniform copying fee for providing a copy of a public record. However,
15 a state agency shall establish and collect a reasonable fee for copying
16 nonstandard-sized documents.
17 (d) This subsection applies to a public agency that is not a state

SB 321—LS 6799/DI 44+



1 agency. The fiscal body (as defined in IC 36-1-2-6) of the public
 2 agency, or the governing body, if there is no fiscal body, shall establish
 3 a fee schedule for the certification, copying, or facsimile machine
 4 transmission of documents. The fee may not exceed the actual cost of
 5 certifying, copying, or facsimile transmission of the document by the
 6 agency and the fee must be uniform throughout the public agency and
 7 uniform to all purchasers. **As used in this subsection, "actual cost"**
 8 **does not include labor costs or overhead costs.**

9 (e) If:

10 (1) a person is entitled to a copy of a public record under this
 11 chapter; and

12 (2) the public agency which is in possession of the record has
 13 reasonable access to a machine capable of reproducing the public
 14 record;

15 the public agency must provide at least one (1) copy of the public
 16 record to the person. However, if a public agency does not have
 17 reasonable access to a machine capable of reproducing the record or if
 18 the person cannot reproduce the record by use of enhanced access
 19 under section 3.5 of this chapter, the person is only entitled to inspect
 20 and manually transcribe the record. A public agency may require that
 21 the payment for copying costs be made in advance.

22 (f) Notwithstanding subsection (b), (c), (d), (g), (h), or (i), a public
 23 agency shall collect any certification, copying, facsimile machine
 24 transmission, or search fee that is specified by statute or is ordered by
 25 a court.

26 (g) Except as provided by subsection (h), for providing a duplicate
 27 of a computer tape, computer disc, microfilm, or similar or analogous
 28 record system containing information owned by the public agency or
 29 entrusted to it, a public agency may charge a fee, uniform to all
 30 purchasers, that does not exceed the sum of the following:

31 (1) The agency's direct cost of supplying the information in that
 32 form.

33 (2) The standard cost for selling the same information to the
 34 public in the form of a publication if the agency has published the
 35 information and made the publication available for sale.

36 (3) In the case of the legislative services agency, a reasonable
 37 percentage of the agency's direct cost of maintaining the system
 38 in which the information is stored. However, the amount charged
 39 by the legislative services agency under this subdivision may not
 40 exceed the sum of the amounts it may charge under subdivisions
 41 (1) and (2).

42 (h) This subsection applies to the fee charged by a public agency for

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1 providing enhanced access to a public record. A public agency may
 2 charge any reasonable fee agreed on in the contract under section 3.5
 3 of this chapter for providing enhanced access to public records.

4 (i) This subsection applies to the fee charged by a public agency for
 5 permitting a governmental entity to inspect public records by means of
 6 an electronic device. A public agency may charge any reasonable fee
 7 for the inspection of public records under this subsection or the public
 8 agency may waive any fee for the inspection.

9 (j) Except as provided in subsection (k), a public agency may charge
 10 a fee, uniform to all purchasers, for providing an electronic map that is
 11 based upon a reasonable percentage of the agency's direct cost of
 12 maintaining, upgrading, and enhancing the electronic map and for the
 13 direct cost of supplying the electronic map in the form requested by the
 14 purchaser. If the public agency is within a political subdivision having
 15 a fiscal body, the fee is subject to the approval of the fiscal body of the
 16 political subdivision.

17 (k) The fee charged by a public agency under subsection (j) to cover
 18 costs for maintaining, upgrading, and enhancing an electronic map
 19 shall be waived by the public agency if the electronic map for which
 20 the fee is charged will be used for a noncommercial purpose, including
 21 the following:

- 22 (1) Public agency program support.
- 23 (2) Nonprofit activities.
- 24 (3) Journalism.
- 25 (4) Academic research.

26 SECTION 2. IC 36-2-7-10 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The county
 28 recorder shall tax and collect the fees prescribed by this section for
 29 recording, filing, copying, and other services the recorder renders, and
 30 shall pay them into the county treasury at the end of each calendar
 31 month. The fees prescribed and collected under this section supersede
 32 all other recording fees required by law to be charged for services
 33 rendered by the county recorder.

34 (b) The county recorder shall charge the following:

- 35 (1) Six dollars (\$6) for the first page and two dollars (\$2) for each
 36 additional page of any document the recorder records if the pages
 37 are not larger than eight and one-half (8 1/2) inches by fourteen
 38 (14) inches.
- 39 (2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for
 40 each additional page of any document the recorder records, if the
 41 pages are larger than eight and one-half (8 1/2) inches by fourteen
 42 (14) inches.



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- 1 (3) For attesting to the release, partial release, or assignment of
 2 any mortgage, judgment, lien, or oil and gas lease contained on a
 3 multiple transaction document, the fee for each transaction after
 4 the first is the amount provided in subdivision (1) plus the amount
 5 provided in subdivision (4) and one dollar (\$1) for marginal
 6 mortgage assignments or marginal mortgage releases.
- 7 (4) One dollar (\$1) for each cross-reference of a recorded
 8 document.
- 9 (5) Three dollars (\$3) per page for furnishing typewritten copies
 10 of records.
- 11 (6) One dollar (\$1) per page not larger than eight and one-half (8
 12 ½) inches by fourteen (14) inches for furnishing copies of records
 13 produced by a photographic process, and two dollars (\$2) per
 14 page that is larger than eight and one-half (8 1/2) inches by
 15 fourteen (14) inches.
- 16 (7) Five dollars (\$5) for acknowledging or certifying to a
 17 document plus fifty cents (\$0.50) per page for proofreading any
 18 copy presented for certification.
- 19 (8) One dollar (\$1) for each deed the recorder records, in addition
 20 to other fees for deeds, for the county surveyor's corner
 21 perpetuation fund for use as provided in IC 32-1-1-10 or
 22 IC 36-2-12-11(e).
- 23 (9) A fee in an amount authorized under IC 5-14-3-8 for
 24 transmitting a copy of a document by facsimile machine.
- 25 (10) A fee in an amount authorized by an ordinance adopted by
 26 the county legislative body for duplicating a computer tape, a
 27 computer disk, an optical disk, microfilm, or similar media. This
 28 fee may not cover making a handwritten copy or a photocopy or
 29 using xerography or a duplicating machine.
- 30 (11) A supplemental fee **of three dollars (\$3)** for recording a
 31 document ~~in an amount authorized by an ordinance adopted by~~
 32 ~~the county legislative body that~~
 33 ~~(A) is paid at the time of recording. and~~
 34 ~~(B) does not exceed three dollars (\$3) for recording a single~~
 35 ~~document.~~
- 36 The fee under this subdivision is in addition to other fees
 37 provided by law for recording a document.
- 38 (c) The county treasurer shall establish a recorder's records
 39 perpetuation fund. All revenue received under subsection (b)(5), (b)(6),
 40 (b)(9), (b)(10), and (b)(11) shall be deposited in this fund. The county
 41 recorder may use any money in this fund without appropriation for the
 42 preservation of records and the improvement of record keeping systems

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- 1 and equipment.
- 2 (d) As used in this section, "record" or "recording" includes the
- 3 functions of recording, filing, and filing for record.
- 4 (e) The county recorder shall post the fees set forth in subsection (b)
- 5 in a prominent place within the county recorder's office where the fee
- 6 schedule will be readily accessible to the public.
- 7 (f) The county recorder may not tax or collect any fee for:
- 8 (1) recording an official bond of a public officer, a deputy, an
- 9 appointee, or an employee; or
- 10 (2) performing any service under any of the following:
- 11 (A) IC 6-1.1-22-2(c).
- 12 (B) IC 8-23-7.
- 13 (C) IC 8-23-23.
- 14 (D) IC 10-5-4-3.
- 15 (E) IC 10-5-7-1(a).
- 16 (F) IC 12-14-13.
- 17 (G) IC 12-14-16.
- 18 (g) The state and its agencies and instrumentalities are required to
- 19 pay the recording fees and charges that this section prescribes.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill No. 321, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 2.

Page 3, line 27, after "labor costs" delete "," and insert "or".

Page 3, line 27, delete ", or profit".

Page 5, after line 2, begin a new paragraph and insert:

"SECTION 3. IC 36-2-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars (\$6) for the first page and two dollars (\$2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar (\$1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar (\$1) for each cross-reference of a recorded document.

(5) Three dollars (\$3) per page for furnishing typewritten copies of records.

(6) One dollar (\$1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process, and two dollars (\$2) per

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page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(7) Five dollars (\$5) for acknowledging or certifying to a document plus fifty cents (\$0.50) per page for proofreading any copy presented for certification.

(8) One dollar (\$1) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-1-1-10 or IC 36-2-12-11(e).

(9) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(10) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(11) A supplemental fee **of three dollars (\$3)** for recording a document ~~in an amount authorized by an ordinance adopted by the county legislative body that~~

~~(A) is paid at the time of recording. and~~

~~(B) does not exceed three dollars (\$3) for recording a single document.~~

The fee under this subdivision is in addition to other fees provided by law for recording a document.

(c) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection (b)(5), (b)(6), (b)(9), (b)(10), and (b)(11) shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

(d) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(e) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(f) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.



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- (D) IC 10-5-4-3.
- (E) IC 10-5-7-1(a).
- (F) IC 12-14-13.
- (G) IC 12-14-16.

(g) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 321 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 6, Nays 0.

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