

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1379 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-14-3-8 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) For the purposes
- 5 of this section, "state agency" has the meaning set forth in IC 4-13-1-1.
- 6 (b) Except as provided in this section, a public agency may not
- 7 charge any fee under this chapter:
- 8 (1) to inspect a public record; or
- 9 (2) to search for, examine, or review a record to determine
- 10 whether the record may be disclosed.
- 11 (c) The Indiana department of administration shall establish a
- 12 uniform copying fee for the copying of one (1) page of a standard-sized
- 13 document by state agencies. The fee may not exceed the average cost
- 14 of copying records by state agencies or ten cents (\$0.10) per page,
- 15 whichever is greater. A state agency may not collect more than the
- 16 uniform copying fee for providing a copy of a public record. However,
- 17 a state agency shall establish and collect a reasonable fee for copying
- 18 nonstandard-sized documents.
- 19 (d) This subsection applies to a public agency that is not a state
- 20 agency. The fiscal body (as defined in IC 36-1-2-6) of the public
- 21 agency, or the governing body, if there is no fiscal body, shall establish
- 22 a fee schedule for the certification, copying, or facsimile machine
- 23 transmission of documents. The fee **for certification of documents**
- 24 **may not exceed five dollars (\$5) per document. The fee for copying**
- 25 **or facsimile machine transmission of documents** may not exceed the
- 26 actual cost of certifying, copying, or facsimile transmission of the
- 27 document by the agency and the fee must be uniform throughout the
- 28 public agency and uniform to all purchasers. As used in this subsection,
- 29 "actual cost" means the cost of paper and the per-page cost for use of
- 30 copying or facsimile equipment and does not include labor costs or
- 31 overhead costs: **the greater of ten cents (\$0.10) per page or the**

1 **actual cost to the agency of copying or transmitting the document**
2 **by facsimile. A fee established under this subsection must be**
3 **uniform throughout the public agency and uniform to all**
4 **purchasers.**

5 (e) If:

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

8 (2) the public agency which is in possession of the record has
9 reasonable access to a machine capable of reproducing the public
10 record;

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

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

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

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

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

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

38 (h) This subsection applies to the fee charged by a public agency for
39 providing enhanced access to a public record. A public agency may
40 charge any reasonable fee agreed on in the contract under section 3.5
41 of this chapter for providing enhanced access to public records.

42 (i) This subsection applies to the fee charged by a public agency for
43 permitting a governmental entity to inspect public records by means of
44 an electronic device. A public agency may charge any reasonable fee
45 for the inspection of public records under this subsection, or the public
46 agency may waive any fee for the inspection.

47 (j) Except as provided in subsection (k), a public agency may charge

1 a fee, uniform to all purchasers, for providing an electronic map that is
 2 based upon a reasonable percentage of the agency's direct cost of
 3 maintaining, upgrading, and enhancing the electronic map and for the
 4 direct cost of supplying the electronic map in the form requested by the
 5 purchaser. If the public agency is within a political subdivision having
 6 a fiscal body, the fee is subject to the approval of the fiscal body of the
 7 political subdivision.

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

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

17 Page 3, between lines 8 and 9, begin a new paragraph and insert:

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

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

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

- 24 (1) recording an official bond of a public officer, a deputy, an
 25 appointee, or an employee; or
- 26 (2) performing any service under any of the following:
 - 27 (A) IC 6-1.1-22-2(c).
 - 28 (B) IC 8-23-7.
 - 29 (C) IC 8-23-23.
 - 30 (D) IC 10-17-2-3.
 - 31 (E) IC 10-17-3-2.
 - 32 (F) IC 12-14-13.
 - 33 (G) IC 12-14-16.

- 1 (h) The state and its agencies and instrumentalities are required to
- 2 pay the recording fees and charges that this section prescribes."
- 3 Renumber all SECTIONS consecutively.
(Reference is to EHB 1379 as printed March 23, 2007.)

Senator STEELE