
SENATE BILL No. 125

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14.

Synopsis: Public records and public meetings. Provides that an officer or management level employee of a public agency who knowingly or intentionally: (1) violates the open door law; or (2) denies or interferes with a person's request for inspection or copying of a public record or charges a copying fee that exceeds the amount permitted by law; commits a Class C infraction and is personally liable for the judgment and costs. Prohibits a public agency from charging a fee for a public record transmitted by electronic mail except for a fee charged: (1) for reprogramming a computer system if required to separate the disclosable information from nondisclosable information; or (2) for providing an electronic map.

Effective: July 1, 2011.

Holdman

January 5, 2011, read first time and referred to Committee on Rules and Legislative Procedure.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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SENATE BILL No. 125



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 5-14-1.5-7.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: **Sec. 7.5. An officer or management**
4 **level employee of a public agency who knowingly or intentionally**
5 **violates this chapter commits a Class C infraction and is personally**
6 **liable for the judgment and costs.**

7 SECTION 2. IC 5-14-3-8, AS AMENDED BY P.L.16-2008,
8 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2011]: Sec. 8. (a) For the purposes of this section, "state
10 agency" has the meaning set forth in IC 4-13-1-1.

11 (b) Except as provided in this section, a public agency may not
12 charge any fee under this chapter **for the following:**

- 13 (1) To inspect a public record. ☞
- 14 (2) To search for, examine, or review a record to determine
15 whether the record may be disclosed.
- 16 (3) **A public record transmitted by electronic mail. This**
17 **subdivision does not apply to an electronic record for which**



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a public agency may charge a fee under subsection (j) or section 6(c) of this chapter.

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

(d) This subsection applies to a public agency that is not a state agency. The fiscal body (as defined in IC 36-1-2-6) of the public agency, or the governing body, if there is no fiscal body, shall establish a fee schedule for the certification or copying of documents. The fee for certification of documents may not exceed five dollars (\$5) per document. The fee for copying documents may not exceed the greater of:

- (1) ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or
- (2) the actual cost to the agency of copying the document.

As used in this subsection, "actual cost" means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs. A fee established under this subsection must be uniform throughout the public agency and uniform to all purchasers.

(e) If:

- (1) a person is entitled to a copy of a public record under this chapter; and
- (2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the public record;

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

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

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1 (g) **This subsection does not apply to a public record delivered**
2 **by electronic mail.** Except as provided by subsection (h), for providing
3 a duplicate of a computer tape, computer disc, microfilm, or similar or
4 analogous record system containing information owned by the public
5 agency or entrusted to it, a public agency may charge a fee, uniform to
6 all purchasers, that does not exceed the sum of the following:

- 7 (1) The agency's direct cost of supplying the information in that
8 form.
- 9 (2) The standard cost for selling the same information to the
10 public in the form of a publication if the agency has published the
11 information and made the publication available for sale.
- 12 (3) In the case of the legislative services agency, a reasonable
13 percentage of the agency's direct cost of maintaining the system
14 in which the information is stored. However, the amount charged
15 by the legislative services agency under this subdivision may not
16 exceed the sum of the amounts it may charge under subdivisions
17 (1) and (2).

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

22 (i) This subsection applies to the fee charged by a public agency for
23 permitting a governmental entity to inspect public records by means of
24 an electronic device. A public agency may charge any reasonable fee
25 for the inspection of public records under this subsection, or the public
26 agency may waive any fee for the inspection.

27 (j) Except as provided in subsection (k), a public agency may charge
28 a fee, uniform to all purchasers, for providing an electronic map that is
29 based upon a reasonable percentage of the agency's direct cost of
30 maintaining, upgrading, and enhancing the electronic map and for the
31 direct cost of supplying the electronic map in the form requested by the
32 purchaser. If the public agency is within a political subdivision having
33 a fiscal body, the fee is subject to the approval of the fiscal body of the
34 political subdivision.

35 (k) The fee charged by a public agency under subsection (j) to cover
36 costs for maintaining, upgrading, and enhancing an electronic map may
37 be waived by the public agency if the electronic map for which the fee
38 is charged will be used for a noncommercial purpose, including the
39 following:

- 40 (1) Public agency program support.
- 41 (2) Nonprofit activities.
- 42 (3) Journalism.

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1 (4) Academic research.
2 SECTION 3. IC 5-14-3-9.5 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2011]: **Sec. 9.5. An officer or management level employee of a**
5 **public agency who knowingly or intentionally:**
6 **(1) denies or interferes with a person's request for inspection**
7 **or copying of a public record; or**
8 **(2) charges a copying fee that exceeds the amount permitted**
9 **by this chapter;**
10 **commits a Class C infraction and is personally liable for the**
11 **judgment and costs.**

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