

Adopted Rejected

# COMMITTEE REPORT

YES: 9  
NO: 1

## MR. SPEAKER:

Your Committee on Government and Regulatory Reform, to which was referred House Bill 1175, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-14-3-3, AS AMENDED BY P.L.134-2012,
- 4 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2013]: Sec. 3. (a) Any person may inspect and copy the public
- 6 records of any public agency during the regular business hours of the
- 7 agency, except as provided in section 4 of this chapter. A request for
- 8 inspection or copying must:
- 9 (1) identify with reasonable particularity the record being
- 10 requested; and
- 11 (2) be, at the discretion of the agency, in writing on or in a form
- 12 provided by the agency.
- 13 No request may be denied because the person making the request
- 14 refuses to state the purpose of the request, unless such condition is
- 15 required by other applicable statute.
- 16 (b) A public agency may not deny or interfere with the exercise of

1 the right stated in subsection (a). Within a reasonable time after the  
2 request is received by the agency, the public agency shall either:

3 (1) provide the requested copies to the person making the request;

4 or

5 (2) allow the person to make copies:

6 (A) on the agency's equipment; or

7 (B) on the person's own equipment.

8 (c) Notwithstanding subsections (a) and (b), a public agency may or  
9 may not do the following:

10 (1) In accordance with a contract described in section 3.5 of this  
11 chapter, permit a person to inspect and copy through the use of  
12 enhanced access public records containing information owned by  
13 or entrusted to the public agency.

14 (2) Permit a governmental entity to use an electronic device to  
15 inspect and copy public records containing information owned by  
16 or entrusted to the public agency.

17 (d) Except as provided in subsection (e), a public agency that  
18 maintains or contracts for the maintenance of public records in an  
19 electronic data storage system shall make reasonable efforts to provide  
20 to a person making a request a copy of all disclosable data contained  
21 in the records on paper, disk, tape, drum, or any other method of  
22 electronic retrieval if the medium requested is compatible with the  
23 agency's data storage system. This subsection does not apply to an  
24 electronic map.

25 (e) A state agency may adopt a rule under IC 4-22-2, and a political  
26 subdivision may enact an ordinance, prescribing the conditions under  
27 which a person who receives information on disk or tape under  
28 subsection (d) may or may not use the information for commercial  
29 purposes, including to sell, advertise, or solicit the purchase of  
30 merchandise, goods, or services, or sell, loan, give away, or otherwise  
31 deliver the information obtained by the request to any other person for  
32 these purposes. Use of information received under subsection (d) in  
33 connection with the preparation or publication of news, for nonprofit  
34 activities, or for academic research is not prohibited. A person who  
35 uses information in a manner contrary to a rule or ordinance adopted  
36 under this subsection may be prohibited by the state agency or political  
37 subdivision from obtaining a copy or any further data under subsection  
38 (d).

1 (f) Notwithstanding the other provisions of this section, a public  
2 agency is not required to create or provide copies of lists of names and  
3 addresses (including electronic mail account addresses) unless the  
4 public agency is required to publish such lists and disseminate them to  
5 the public under a statute. However, if a public agency has created a  
6 list of names and addresses (excluding electronic mail account  
7 addresses) it must permit a person to inspect and make memoranda  
8 abstracts from the list unless access to the list is prohibited by law. The  
9 lists of names and addresses (including electronic mail account  
10 addresses) described in subdivisions (1) through (3) may not be  
11 disclosed by public agencies to any individual or entity for political  
12 purposes and may not be used by any individual or entity for political  
13 purposes. In addition, the lists of names and addresses (including  
14 electronic mail account addresses) described in subdivisions (1)  
15 through (3) may not be disclosed by public agencies to commercial  
16 entities for commercial purposes and may not be used by commercial  
17 entities for commercial purposes. The prohibition in this subsection  
18 against the disclosure of lists for political or commercial purposes  
19 applies to the following lists of names and addresses (including  
20 electronic mail account addresses):

- 21 (1) A list of employees of a public agency.  
22 (2) A list of persons attending conferences or meetings at a state  
23 educational institution or of persons involved in programs or  
24 activities conducted or supervised by the state educational  
25 institution.  
26 (3) A list of students who are enrolled in a public school  
27 corporation if the governing body of the public school corporation  
28 adopts a policy:
- 29 (A) with respect to disclosure related to a commercial purpose,  
30 prohibiting the disclosure of the list to commercial entities for  
31 commercial purposes;
  - 32 (B) with respect to disclosure related to a commercial purpose,  
33 specifying the classes or categories of commercial entities to  
34 which the list may not be disclosed or by which the list may  
35 not be used for commercial purposes; or
  - 36 (C) with respect to disclosure related to a political purpose,  
37 prohibiting the disclosure of the list to individuals and entities  
38 for political purposes.

1 A policy adopted under subdivision (3)(A) or (3)(B) must be uniform  
 2 and may not discriminate among similarly situated commercial entities.  
 3 For purposes of this subsection, "political purposes" means influencing  
 4 the election of a candidate for federal, state, legislative, local, or school  
 5 board office or the outcome of a public question or attempting to solicit  
 6 a contribution to influence the election of a candidate for federal, state,  
 7 legislative, local, or school board office or the outcome of a public  
 8 question.

9 (g) A public agency may not enter into or renew a contract or an  
 10 obligation:

11 (1) for the storage or copying of public records; or

12 (2) that requires the public to obtain a license or pay copyright  
 13 royalties for obtaining the right to inspect and copy the records  
 14 unless otherwise provided by applicable statute;

15 if the contract, obligation, license, or copyright unreasonably impairs  
 16 the right of the public to inspect and copy the agency's public records.

17 (h) If this section conflicts with IC 3-7, the provisions of IC 3-7  
 18 apply.

19 (i) **This subsection applies to a public record that is in an**  
 20 **electronic format. This subsection does not apply to a public record**  
 21 **recorded in the office of the county recorder. The public agency**  
 22 **shall provide an electronic copy or a paper copy, at the option of**  
 23 **the person making the request for a public record. This subsection**  
 24 **does not require a public agency to change the format of a public**  
 25 **record."**

26 Page 1, line 6, delete ":" and insert "**for the following:**".

27 Page 1, line 7, delete "to" and insert "To".

28 Page 1, line 7, delete ";" and insert ".".

29 Page 1, line 8, delete "to" and insert "**To**".

30 Page 1, line 9, delete "hours; or" and insert "**hours**".

31 Page 1, line 10, after "(3)" delete "to" and insert "To".

32 Page 1, between lines 11 and 12, begin a new line block indented  
 33 and insert:

34 "**(4) An electronic copy of a public record transmitted by**  
 35 **electronic mail. However, a public agency may charge a fee**  
 36 **for a public record transmitted by electronic mail if the fee**  
 37 **for the public record is authorized under:**

38 (A) subsection (f) or (j); or

- 1                   **(B) section 6(c) of this chapter."**
- 2           Page 2, line 31, strike "(b)," and insert "**(b)(1), (b)(2), (b)(3),"**
- 3           Page 2, line 34, after "court." insert "**Notwithstanding subsection**
- 4           **(b)(4), a public agency shall collect any certification or search fee**
- 5           **that is specified by statute or is ordered by a court."**
- 6           Page 3, line 42, before "The fee" insert "**A public agency charging**
- 7           **an hourly fee under this subsection for searching for a record may**
- 8           **charge only for time that the person making the search actually**
- 9           **spends in searching for the record, and may not charge for**
- 10           **computer run time."**
- 11           Renumber all SECTIONS consecutively.  
              (Reference is to HB 1175 as introduced.)

**and when so amended that said bill do pass.**

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Representative Mahan