

# HOUSE BILL No. 1175

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-14-3-8.

**Synopsis:** Search fee for public records requests. Allows a state or local government public agency to charge a fee for any records search in excess of two hours. Provides that the search fee must be an hourly fee that does not exceed the lesser of: (1) the hourly rate of the person making the search; or (2) \$20 per hour. Requires the fee to be prorated to reflect any search time of less than an hour.

**Effective:** July 1, 2013.

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**Friend, Richardson, Saunders**

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January 10, 2013, read first time and referred to Committee on Government and Regulatory Reform.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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# HOUSE BILL No. 1175



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, AS AMENDED BY P.L.16-2008,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2013]: Sec. 8. (a) For the purposes of this section, "state  
4 agency" has the meaning set forth in IC 4-13-1-1.  
5 (b) Except as provided in this section, a public agency may not  
6 charge any fee under this chapter:  
7 (1) to inspect a public record; ~~or~~  
8 **(2) to search for a record, if the search does not exceed two (2)**  
9 **hours; or**  
10 ~~(2) (3) to search for~~, examine or review a record to determine  
11 whether the record may be disclosed.  
12 (c) The Indiana department of administration shall establish a  
13 uniform copying fee for the copying of one (1) page of a standard-sized  
14 document by state agencies. The fee may not exceed the average cost  
15 of copying records by state agencies or ten cents (\$0.10) per page,  
16 whichever is greater. A state agency may not collect more than the  
17 uniform copying fee for providing a copy of a public record. However,



1 a state agency shall establish and collect a reasonable fee for copying  
2 nonstandard-sized documents.

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

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

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

18 (e) If:

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

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

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

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

- 40 (1) The agency's direct cost of supplying the information in that  
41 form.  
42 (2) The standard cost for selling the same information to the

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1 public in the form of a publication if the agency has published the  
2 information and made the publication available for sale.

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

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

13 (i) This subsection applies to the fee charged by a public agency for  
14 permitting a governmental entity to inspect public records by means of  
15 an electronic device. A public agency may charge any reasonable fee  
16 for the inspection of public records under this subsection, or the public  
17 agency may waive any fee for the inspection.

18 (j) Except as provided in subsection (k), a public agency may charge  
19 a fee, uniform to all purchasers, for providing an electronic map that is  
20 based upon a reasonable percentage of the agency's direct cost of  
21 maintaining, upgrading, and enhancing the electronic map and for the  
22 direct cost of supplying the electronic map in the form requested by the  
23 purchaser. If the public agency is within a political subdivision having  
24 a fiscal body, the fee is subject to the approval of the fiscal body of the  
25 political subdivision.

26 (k) The fee charged by a public agency under subsection (j) to cover  
27 costs for maintaining, upgrading, and enhancing an electronic map may  
28 be waived by the public agency if the electronic map for which the fee  
29 is charged will be used for a noncommercial purpose, including the  
30 following:

- 31 (1) Public agency program support.
- 32 (2) Nonprofit activities.
- 33 (3) Journalism.
- 34 (4) Academic research.

35 **(l) A public agency may not charge a fee for the first two (2)**  
36 **hours required to search for a record. A public agency may charge**  
37 **a search fee for any time in excess of two (2) hours. If the public**  
38 **agency charges a search fee, the agency shall charge an hourly fee**  
39 **that does not exceed the lesser of:**

- 40 **(1) the hourly rate of the person making the search; or**
- 41 **(2) twenty dollars (\$20) per hour.**

42 **The fee shall be prorated to reflect any search time of less than an**

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