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SENATE BILL 388

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO PUBLIC RECORDS; ALLOWING A CUSTODIAN OF PUBLIC RECORDS TO CHARGE A REASONABLE FEE FOR ELECTRONIC DOCUMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 14-2-9 NMSA 1978 (being Laws 1993, Chapter 258, Section 6, as amended) is amended to read:

"14-2-9. PROCEDURE FOR INSPECTION.--

A. Requested public records containing information that is exempt and nonexempt from disclosure shall be separated by the custodian prior to inspection, and the nonexempt information shall be made available for inspection. If necessary to preserve the integrity of computer data or the confidentiality of exempt information contained in a database, a partial printout of data containing public records or information may be furnished in lieu of an entire database.

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1 Exempt information in an electronic document shall be removed
2 along with the corresponding metadata prior to disclosure by
3 utilizing methods or redaction tools that prevent the recovery
4 of exempt information from a redacted electronic document.

5 B. A custodian shall provide a copy of a public
6 record in electronic format if the public record is available
7 in electronic format and an electronic copy is specifically
8 requested. However, a custodian is only required to provide
9 the electronic record in the file format in which it exists at
10 the time of the request.

11 C. Unless otherwise provided by law, a custodian:

12 (1) may charge ~~[reasonable fees for copying~~
13 ~~the public records, unless a different fee is otherwise~~
14 ~~prescribed by law]~~ a fee for providing a copy of a public
15 record, but such fee shall not exceed the actual cost to the
16 public body to provide the copy of the public record;

17 (2) shall not charge fees in excess of [~~one~~
18 ~~dollar (\$1.00)] ten cents (\$.10) per printed page for documents
19 eleven inches by seventeen inches in size or smaller;~~

20 (3) may charge the actual costs associated
21 with downloading copies of public records to a computer disk or
22 storage device, including the actual cost of the computer disk
23 or storage device; however, such charge shall not exceed ten
24 dollars (\$10.00);

25 (4) may charge the actual costs associated

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1 with transmitting copies of public records by mail, electronic
2 mail or facsimile;

3 (5) may require advance payment of the fees
4 before making copies of public records;

5 (6) shall not charge a fee for the cost of
6 determining whether any public record is subject to disclosure;
7 and

8 (7) shall provide a receipt, upon request.

9 D. As used in this section, "actual cost" does not
10 include labor costs or overhead costs.

11 [~~D.~~] E. Nothing in this section regarding the
12 provision of public data in electronic format shall limit the
13 ability of the custodian to engage in the sale of data as
14 authorized by Sections 14-3-15.1 and 14-3-18 NMSA 1978,
15 including imposing reasonable restrictions on the use of the
16 database and the payment of a royalty or other consideration."

17 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
18 provisions of this act is July 1, 2021.

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