

1 **Senate Bill No. 478**

2 (By Senators Minard and Wells)

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4 [Introduced February 9, 2011; referred to the Committee on the
5 Judiciary; and then to the Committee on Finance.]
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10 A BILL to amend and reenact §29B-1-3 of the Code of West Virginia,
11 1931, as amended, relating to prohibiting a public body from
12 charging a fee for an electronic copy of a public record under
13 the state's public records law unless the fee has been
14 specifically authorized by the Legislature in the code or a
15 legislative rule.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §29B-1-3 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 1. PUBLIC RECORDS.**

20 **§29B-1-3. Inspection and copying.**

21 (1) Every person has a right to inspect or copy any public
22 record of a public body in this state, except as otherwise
23 expressly provided by section four of this article.

24 (2) A request to inspect or copy any public record of a public
25 body shall be made directly to the custodian of such public record.

26 (3) The custodian of any public records, unless otherwise
27 expressly provided by statute, shall furnish proper and reasonable

1 opportunities for inspection and examination of the records in his
2 or her office and reasonable facilities for making memoranda or
3 abstracts therefrom, during the usual business hours, to all
4 persons having occasion to make examination of them. The custodian
5 of the records may make reasonable rules ~~and regulations~~ necessary
6 for the protection of the records and to prevent interference with
7 the regular discharge of his or her duties. If the records
8 requested exist in magnetic, electronic or computer form, the
9 custodian of the records shall make such copies available on
10 magnetic or electronic media, if so requested.

11 (4) All requests for information must state with reasonable
12 specificity the information sought. The custodian, upon demand for
13 records made under this statute, shall as soon as is practicable
14 but within a maximum of five days not including Saturdays, Sundays
15 or legal holidays:

16 (a) Furnish copies of the requested information;
17 (b) Advise the person making the request of the time and place
18 at which he or she may inspect and copy the materials; or
19 (c) Deny the request stating in writing the reasons for such
20 denial.

21 Such a denial shall indicate that the responsibility of the
22 custodian of any public records or public body to produce the
23 requested records or documents is at an end, and shall afford the
24 person requesting them the opportunity to institute proceedings for
25 injunctive or declaratory relief in the circuit court in the county
26 where the public record is kept.

27 (5) The public body may establish fees reasonably calculated

1 to reimburse it for its actual cost in making reproductions of such
2 records. A public body may not charge a fee for an electronic copy
3 of a public record unless the fee has been specifically authorized
4 by a provision of this code or a legislative rule.

NOTE: The purpose of this bill is to prohibit a public body from charging a fee under the state's Freedom of Information law for an electronic copy of a public record unless the fee has been specifically authorized by the Legislature in the code or a legislative rule.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.