

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/19/09
LAST UPDATED 03/07/09 **HB** 534/aHJC

SPONSOR Chavez, Eleanor

SHORT TITLE Electronic Public Records Requests **SB** _____

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	(Minimal)	(Minimal)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Commission of Public Records (CPR)
- Attorney General's Office (AGO)
- Taxation and Revenue Department (TRD)
- Department of Finance and Administration (DFA)
- Aging and Long Term Services (ALTSO)
- Public Education Department (PED)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 534 strikes most of the changes proposed in the original bill with the exception of the change allowing either a written or electronic request for public records.

Synopsis of Original Bill

House Bill 534 amends the Inspection of Public Records Act (“IPRA”), which governs requests to inspect and copy public records maintained by state and local public bodies. The bill provides that written requests to inspect public records may be made in electronic or paper form; requires public bodies to maintain information on how to make inspection requests on a publicly accessible website; and requires public bodies to make public records available in electronic format accessible from a remote location, upon request.

SIGNIFICANT ISSUES

According to the Attorney General’s Office, this bill’s treatment of electronic inspection requests as written for purposes of IPRA is beneficial.

Since the majority of the language from the original bill was removed by the HJC amendment, the concerns raised by agencies have been addressed.

ADMINISTRATIVE IMPLICATIONS

According to TRD, the Attorney General’s Compliance Guide for Inspection of Public Records states: “The Act does not define “written request.” This raises a question regarding the status of requests that are submitted to a records custodian via electronic mail, commonly know as “e-mail.” Because of this ambiguity in the law, each public body should review the issue and adopt policies for handling e-mail requests.” TRD recently decided to accept e-mail requests as written requests under IPRA.

CONFLICT

The bill conflicts with HB507 and HB598, both of which have amendments that allow inspection requests by email and facsimile.

OTHER SUBSTANTIVE ISSUES

Many agencies report that they already adopted a policy to accept electronic correspondence as a written request.

EO/svb