

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 160

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO PUBLIC RECORDS; PROVIDING FOR DELIVERY OF COPIES OF
PUBLIC RECORDS IN ELECTRONIC FORMAT; REQUIRING A PUBLIC BODY TO
DISPLAY PROCEDURES FOR REQUESTING PUBLIC RECORDS FROM AND
CONTACT INFORMATION FOR THE PUBLIC RECORDS CUSTODIAN ON A WEB
SITE.

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

SECTION 1. Section 14-2-6 NMSA 1978 (being Laws 1993,
Chapter 258, Section 3) is amended to read:

"14-2-6. DEFINITIONS.--As used in the Inspection of
Public Records Act:

A. "custodian" means any person responsible for the
maintenance, care or keeping of a public body's public records,
regardless of whether the records are in that person's actual
physical custody and control;

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1 B. "file format" means the internal structure of an
2 electronic file that defines the way it is stored and used;

3 ~~[B.]~~ C. "inspect" means to review all public
4 records that are not excluded in Section 14-2-1 NMSA 1978;

5 ~~[C.]~~ D. "person" means any individual, corporation,
6 partnership, firm, association or entity;

7 ~~[D.]~~ E. "public body" means the executive,
8 legislative and judicial branches of state and local
9 governments and all advisory boards, commissions, committees,
10 agencies or entities created by the constitution or any branch
11 of government that receives any public funding, including
12 political subdivisions, special taxing districts, school
13 districts and institutions of higher education; and

14 ~~[E.]~~ F. "public records" means all documents,
15 papers, letters, books, maps, tapes, photographs, recordings
16 and other materials, regardless of physical form or
17 characteristics, that are used, created, received, maintained
18 or held by or on behalf of any public body and relate to public
19 business, whether or not the records are required by law to be
20 created or maintained."

21 **SECTION 2.** Section 14-2-7 NMSA 1978 (being Laws 1993,
22 Chapter 258, Section 4, as amended) is amended to read:

23 "14-2-7. DESIGNATION OF CUSTODIAN--DUTIES.--Each public
24 body shall designate at least one custodian of public records
25 who shall:

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1 A. receive [~~and respond to~~] requests, including
2 electronic mail or facsimile, to inspect public records;

3 B. respond to requests in the same medium,
4 electronic or paper, in which the request was made in addition
5 to any other medium that the custodian deems appropriate;

6 ~~[B.]~~ C. provide proper and reasonable opportunities
7 to inspect public records;

8 ~~[C.]~~ D. provide reasonable facilities to make or
9 furnish copies of the public records during usual business
10 hours; and

11 ~~[D.]~~ E. post in a conspicuous location at the
12 administrative office and on the publicly accessible web site,
13 if any, of each public body a notice describing:

14 (1) the right of a person to inspect a public
15 body's records;

16 (2) procedures for requesting inspection of
17 public records, including the contact information for the
18 custodian of public records;

19 (3) procedures for requesting copies of public
20 records;

21 (4) reasonable fees for copying public
22 records; and

23 (5) the responsibility of a public body to
24 make available public records for inspection."

25 SECTION 3. Section 14-2-9 NMSA 1978 (being Laws 1993,

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1 Chapter 258, Section 6) is amended to read:

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

3 A. Requested public records containing information
4 that is exempt and nonexempt from disclosure shall be separated
5 by the custodian prior to inspection, and the nonexempt
6 information shall be made available for inspection. If
7 necessary to preserve the integrity of computer data or the
8 confidentiality of exempt information contained in a database,
9 a partial printout of data containing public records or
10 information may be furnished in lieu of an entire database.
11 Exempt information in an electronic document shall be removed
12 along with the corresponding metadata prior to disclosure by
13 utilizing methods or redaction tools that prevent the recovery
14 of exempt information from a redacted electronic document.

15 B. A custodian shall provide a copy of a public
16 record in electronic format if the public record is available
17 in electronic format and an electronic copy is specifically
18 requested. However, a custodian is only required to provide
19 the electronic record in the file format in which it exists at
20 the time of the request.

21 [~~B.~~] C. A custodian:

22 (1) may charge reasonable fees for copying the
23 public records, unless a different fee is otherwise prescribed
24 by law;

25 (2) shall not charge fees in excess of one

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1 dollar (\$1.00) per printed page for documents eleven inches by
2 seventeen inches in size or smaller;

3 (3) may charge the actual costs associated
4 with downloading copies of public records to a computer disk or
5 storage device, including the actual cost of the computer disk
6 or storage device;

7 (4) may charge the actual costs associated
8 with transmitting copies of public records by mail, electronic
9 mail or facsimile;

10 [~~3~~] (5) may require advance payment of the
11 fees before making copies of public records;

12 [~~4~~] (6) shall not charge a fee for the cost
13 of determining whether any public record is subject to
14 disclosure; and

15 [~~5~~] (7) shall provide a receipt, upon
16 request."