

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 52

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.

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;

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

~~B.~~ C. "inspect" means to review all public

1 records that are not excluded in Section 14-2-1 NMSA 1978;

2 ~~[G-]~~ D. "person" means any individual, corporation,
3 partnership, firm, association or entity;

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

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

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

20 "14-2-9. PROCEDURE FOR INSPECTION.--

21 A. Requested public records containing information
22 that is exempt and nonexempt from disclosure shall be separated
23 by the custodian prior to inspection, and the nonexempt
24 information shall be made available for inspection. If
25 necessary to preserve the integrity of computer data or the

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1 confidentiality of exempt information contained in a database,
2 a partial printout of data containing public records or
3 information may be furnished in lieu of an entire database.
4 Exempt information in an electronic document shall be removed
5 along with the corresponding metadata prior to disclosure by
6 utilizing methods or redaction tools that prevent the recovery
7 of exempt information from a redacted electronic document.

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

14 ~~[B-]~~ C. A custodian:

15 (1) may charge reasonable fees for copying the
16 public records, unless a different fee is otherwise prescribed
17 by law;

18 (2) shall not charge fees in excess of one
19 dollar (\$1.00) per printed page for documents eleven inches by
20 seventeen inches in size or smaller;

21 (3) may charge the actual costs associated
22 with downloading copies of public records to a computer disk or
23 storage device, including the actual cost of the computer disk
24 or storage device;

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

5 [~~4~~] (6) shall not charge a fee for the cost
6 of determining whether any public record is subject to
7 disclosure; and

8 [~~5~~] (7) shall provide a receipt, upon
9 request."