

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 353

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO PUBLIC RECORDS; INSERTING AN INTERNAL REFERENCE
REGARDING THE SALE OF DATA; RECONCILING MULTIPLE AMENDMENTS TO
THE SAME SECTION OF LAW IN LAWS 2011; DECLARING AN EMERGENCY.

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, as amended by Laws 2011, Chapter 134,
Section 3 and by Laws 2011, Chapter 181, Section 1 and also by
Laws 2011, Chapter 182, Section 1) 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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underscoring material = new
~~[bracketed material] = delete~~

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

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

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

7 ~~[D.]~~ E. "protected personal identifier information"
8 means:

9 (1) all but the last four digits of a:

10 (a) taxpayer identification number;

11 (b) financial account number; or

12 (c) driver's license number;

13 (2) all but the year of a person's date of
14 birth; and

15 (3) a social security number;

16 ~~[E.]~~ F. "public body" means the executive,
17 legislative and judicial branches of state and local
18 governments and all advisory boards, commissions, committees,
19 agencies or entities created by the constitution or any branch
20 of government that receives any public funding, including
21 political subdivisions, special taxing districts, school
22 districts and institutions of higher education; and

23 ~~[F.]~~ G. "public records" means all documents,
24 papers, letters, books, maps, tapes, photographs, recordings
25 and other materials, regardless of physical form or

1 characteristics, that are used, created, received, maintained
2 or held by or on behalf of any public body and relate to public
3 business, whether or not the records are required by law to be
4 created or maintained."

5 SECTION 2. Section 14-2-9 NMSA 1978 (being Laws 1993,
6 Chapter 258, Section 6, as amended by Laws 2011, Chapter 181,
7 Section 2 and by Laws 2011, Chapter 182, Section 3) is amended
8 to read:

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

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

22 B. A custodian shall provide a copy of a public
23 record in electronic format if the public record is available
24 in electronic format and an electronic copy is specifically
25 requested. However, a custodian is only required to provide

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1 the electronic record in the file format in which it exists at
2 the time of the request.

3 C. A custodian:

4 (1) may charge reasonable fees for copying the
5 public records, unless a different fee is otherwise prescribed
6 by law;

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

10 (3) may charge the actual costs associated
11 with downloading copies of public records to a computer disk or
12 storage device, including the actual cost of the computer disk
13 or storage device;

14 (4) may charge the actual costs associated
15 with transmitting copies of public records by mail, electronic
16 mail or facsimile;

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

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

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

23 D. Nothing in this section regarding the provision
24 of public data in electronic format shall limit the ability of
25 the custodian to engage in the sale of data as authorized by

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1 [Section] Sections 14-3-15.1 and 14-3-18 NMSA 1978, including
2 imposing reasonable restrictions on the use of the database and
3 the payment of a royalty or other consideration."

4 SECTION 3. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect immediately.

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