SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 232

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO PUBLIC RECORDS; PROVIDING A PUBLIC BODY WITH

ADDITIONAL TIME TO RESPOND TO REQUESTS THAT ARE EXCESSIVELY

BURDENSOME OR BROAD; ALLOWING A PUBLIC BODY TO PETITION THE

DISTRICT COURT FOR ADDITIONAL TIME OR TO DENY A REQUEST THAT IS

AN UNDUE HARDSHIP ON THE PUBLIC BODY.

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

SECTION 1. Section 14-2-10 NMSA 1978 (being Laws 1993,

Chapter 258, Section 7) is amended to read:

"14-2-10. PROCEDURE [FOR]--EXCESSIVELY BURDENSOME OR

BROAD REQUESTS--UNDUE HARDSHIP.--

A. If a custodian determines that a written request

is excessively burdensome or broad, an additional reasonable

period of time shall be allowed to comply with the request.

The custodian shall provide written notification to the

underscored material = new
[bracketed material] = delete

1   requester within fifteen days of receipt of the request that

2   additional time will be needed to respond to the written

3   request. In the absence of an order from the district court as

4   provided in Subsection B of this section, the public body shall

5   permit inspection as soon as practicable but no later than

6   forty-five days from receipt of the request. The requester may

7   deem the request denied and may pursue the remedies available

8   pursuant to the Inspection of Public Records Act if the

9   custodian does not permit the records to be inspected [in a

10 reasonable period of time] within forty-five days; provided

11 that the period of time for a public body to permit inspection

12 shall be tolled upon the filing of a petition pursuant to

13 Subsection B of this section.

14   B. If a custodian determines that a written request

15 is an undue hardship on the public body and more than forty-

16 five days are needed to respond to the request, the public body

17 may petition the district court to allow additional time to

18 respond or for a determination that the request may be denied.

19 The public body shall serve the petition on the requester in

20 the manner specified by the Rules of Civil Procedure for the

21 District Courts. If the district court finds by a

22 preponderance of the evidence that the written request is an

23 undue hardship on the public body, it shall issue an order

24 allowing the public body an additional reasonable period of

25 time to respond or, in its discretion, an order that the public

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1   body may deny the request in whole or in part."

2   SECTION 2. Section 14-2-11 NMSA 1978 (being Laws 1993,

3   Chapter 258, Section 8) is amended to read:

4   "14-2-11. PROCEDURE FOR DENIED REQUESTS.--

5   A. Unless a written request has been determined to

6   be excessively burdensome or broad or an undue hardship, a

7   written request for inspection of public records that has not

8   been permitted within fifteen days of receipt by the office of

9   the custodian may be deemed denied. The person requesting the

10   public records may pursue the remedies provided in the

11   Inspection of Public Records Act.

12   B. If a written request has been denied, the

13   custodian shall provide the requester with a written

14   explanation of the denial. The written denial shall:

15   (1) describe the records sought;

16   (2) set forth the names and titles or

17   positions of each person responsible for the denial; and

18   (3) be delivered or mailed to the person

19   requesting the records within fifteen days after the request

20   for inspection was received.

21   C. A custodian who does not deliver or mail a

22   written explanation of denial within fifteen days after receipt

23   of a written request for inspection is subject to an action to

24   enforce the provisions of the Inspection of Public Records Act

25   and the requester may be awarded damages. Damages shall:

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(1)   be awarded if the failure to provide a timely explanation of denial is determined to be unreasonable;

(2)   not exceed one hundred dollars ($100) per day;

(3)   accrue from the day the public body is in noncompliance until a written denial is issued; and

(4)   be payable from the funds of the public body."

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