

Sixty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1306

Introduced by

Representatives Kasper, Henderson, Kempenich, S. Olson, D. Ruby

Senators Magrum, Paulson

1 A BILL for an Act to amend and reenact subsection 2 of section 44-04-18 of the North Dakota
2 Century Code, relating to fees assessed for open records requests.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Subsection 2 of section 44-04-18 of the North Dakota Century
5 Code is amended and reenacted as follows:

6 2. Upon request for a copy of specific public records, any entity subject to subsection 1
7 shall furnish the requester one copy of the public records requested. ~~An~~ in accordance
8 with the following:

9 a. An initial request need not be made in person or in writing, and the copy must be
10 mailed upon request.

11 b. A public entity may require written clarification of the request to determine what
12 records are being requested, but may not ask for the motive or reason for
13 requesting the records or for the identity of the person requesting public records.

14 c. A public entity may charge up to twenty-five cents per impression of a paper
15 copy. As used in this section, "paper copy" means a one-sided or two-sided
16 duplicated copy of a size not more than eight and one-half by fourteen inches
17 [19.05 by 35.56 centimeters]. For any copy of a record that is not a paper copy as
18 defined in this section, the public entity may charge a reasonable fee for making
19 the copy. As used in this section, "reasonable fee" means the actual cost to the
20 public entity of making the copy, including labor, materials, and equipment.

21 d. The entity may charge for the actual cost of postage to mail a copy of a record.
22 An entity may require payment before locating, redacting, making, or mailing the
23 copy.

- 1 e. The public entity may withhold records pursuant to a request until such time as a
2 requester provides payment for any outstanding balance for prior requests.
- 3 f. An entity may impose a fee not exceeding twenty-five dollars per hour per
4 request, excluding the initial hour, for locating records, including electronic
5 records, if locating the records requires more than one hour. An entity may
6 impose a fee not exceeding twenty-five dollars per hour per request, excluding
7 the initial hour, for excising confidential or closed material under section
8 44-04-18.10 from the records, including electronic records. If a public entity
9 receives five or more requests from the same requester within seven days, the
10 public entity may treat the requests as one request in computing the time it takes
11 to locate and excise the records.
- 12 g. Notwithstanding subdivision f, an entity shall furnish one request per requester
13 per year free of charge for locating records and excising confidential or closed
14 material from the records, if:
- 15 (1) Production of the request does not exceed forty hours; and
16 (2) The requester is a citizen of the state.
- 17 h. If the entity is not authorized to use the fees to cover the cost of providing or
18 mailing the copy, or both, or if a copy machine is not readily available, the entity
19 may make arrangements for the copy to be provided or mailed, or both, by
20 another entity, public or private, and the requester shall pay the fee to that other
21 entity.
- 22 i. This subsection does not apply to copies of public records for which a different
23 fee is specifically provided by law.