

## Vermont Draft Legislative Language on Inspection of Public Records

[1 V.S.A. § 316](#) is amended as follows:

Subsection (b) is amended to add the following language within the second sentence: The agency may also charge and collect from the person making a request **for copies of a public record**, the costs associated with mailing or transmitting the record by facsimile or other electronic means.

Subsection (c) is amended to add the following language at the end of the subsection: **An agency may not charge or collect the cost of staff time spent in complying with a request to inspect public records.**

Subsection (g) is amended as follows:

- In sentence one, “A public agency having the equipment necessary to copy its public records shall utilize its equipment to produce copies, **except as set forth in this subsection.**”
- The language “to use or permit the use of copying equipment other than its own” is removed in the second sentence;
- The word **physical** is added between the words “permit” and “removal” in the second sentence to allow physical removal of the public record for copying purposes.
- The following sentence is added to the end of the subsection: **Regardless of whether an agency has or does not have the equipment necessary to copy its public records, it shall permit a person inspecting a copy of a public record to make a copy of such record using the person’s own equipment, including but not limited to photographing, video recording, scanning, or copying the record by other method. An agency may not charge for or collect any fee for a requester using the requester’s own equipment to make a copy of an inspected record.**

Subsection (i) is amended by adding the words “**inspection and**” before the word ‘copying’ in the first sentence.

Applicable Statute: 1 V.S.A. § 316

§ 316. Access to public records and documents

(a) Any person may inspect or copy any public record of a public agency, as follows:

(1) For any agency, board, department, commission, committee, branch, instrumentality, or authority of the State, a person may inspect a public record on any day other than a Saturday, Sunday, or a legal holiday, between the hours of nine o'clock and 12 o'clock in the forenoon and between one o'clock and four o'clock in the afternoon.

(2) For any agency, board, committee, department, instrumentality, commission, or authority of a political subdivision of the State, a person may inspect a public record during customary business hours.

(b) If copying equipment maintained for use by a public agency is used by the agency to copy the public record or document requested, the agency may charge and collect from the person requesting the copy the actual cost of providing the copy. The agency may also charge and collect from the person making **a request for copies of a public record**, the costs associated with mailing or transmitting the record by facsimile or other electronic means. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of public records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

(c) Unless otherwise provided by law, in the following instances an agency may also charge and collect the cost of staff time associated with complying with a request for a copy of a public record: (1) the time directly involved in complying with the request exceeds 30 minutes; (2) the agency agrees to create a public record; or (3) the agency agrees to provide the public record in a nonstandard format and the time directly involved in complying with the request exceeds 30 minutes. The agency may require that requests subject to staff time charges under this subsection be made in writing and that all charges be paid, in whole or in part, prior to delivery of the copies. Upon request, the agency shall provide an estimate of the charge. **An agency may not charge or collect the cost of staff time spent in complying with a request to inspect public records.**

(d) The Secretary of State, after consultation with the Secretary of Administration, shall establish the actual cost of providing a copy of a public record that may be charged by State agencies. The Secretary shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine "actual cost," the Secretary shall consider the following only: the cost of the paper or the electronic media onto which a public record is copied, a prorated amount for maintenance and replacement of the machine or equipment used to copy the record, and any utility charges directly associated with copying a record. The Secretary of State shall adopt, by rule, a uniform schedule of public record charges for State agencies.

(e) After public hearing, the legislative body of a political subdivision shall establish actual cost charges for copies of public records. The legislative body shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine actual cost charges, the legislative body shall use the same factors used by the Secretary of State. If a legislative body fails to establish a uniform schedule of charges, the charges for that political subdivision shall be the uniform schedule of charges established by the Secretary of State until the local legislative body establishes such a schedule. A schedule of public records charges shall be posted in prominent locations in the town offices.

(f) State agencies shall provide receipts for all monies received under this section. Notwithstanding any provision of law to the contrary, a State agency may retain monies collected under this section to the extent such charges represent the actual cost incurred to provide copies under this subchapter. Amounts collected by a State agency under this section for the cost of staff time associated with providing copies shall be deposited in the General Fund, unless another disposition or use of revenues received by that agency is

specifically authorized by law. Charges collected under this section shall be deposited in the agency's operating account or the General Fund, as appropriate, on a monthly basis or whenever the amount totals \$100.00, whichever occurs first.

(g) A public agency having the equipment necessary to copy its public records shall utilize its equipment to produce copies, **except as set forth in this subsection**. If the public agency does not have such equipment, nothing in this section shall be construed to require the public agency to provide or arrange for copying service, ~~to use or permit the use of copying equipment other than its own~~, to permit operation of its copying equipment by other than its own personnel, to permit **physical** removal of the public record by the requesting person for purposes of copying, or to make its own personnel available for making handwritten or typed copies of the public record or document requested. **Regardless of whether an agency has or does not have the equipment necessary to copy its public records, it shall permit a person inspecting a copy of a public record to make a copy of such record using the person's own equipment, including but not limited to photographing, video recording, scanning, or copying the record by other method. An agency may not charge for or collect any fee for a requester using the requester's own equipment to make a copy of an inspected record.**

(h) Standard formats for copies of public records shall be as follows: for copies in paper form, a photocopy of a paper public record or a hard copy print-out of a public record maintained in electronic form; for copies in electronic form, the format in which the record is maintained. Any format other than the formats described in this subsection is a nonstandard format.

(i) If an agency maintains public records in an electronic format, nonexempt public records shall be available for **inspection and** copying in either the standard electronic format or the standard paper format, as designated by the party requesting the records. An agency may, but is not required to, provide copies of public records in a nonstandard format, to create a public record, or to convert paper public records to electronic format.

(j) A public agency may make reasonable rules to prevent disruption of operations, to preserve the security of public records or documents, and to protect them from damage.

(k) Information concerning facilities and sites for the treatment, storage, and disposal of hazardous waste shall be made available to the public under this subchapter in substantially the same manner and to the same degree as such information is made available under the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. chapter 82, subchapter 3, and the Federal Freedom of Information Act, 5 U.S.C. section 552 et seq. In the event of a conflict between the provisions of this subchapter and the cited federal laws, federal law shall govern. (Added 1975, No. 231 (Adj. Sess.), § 1; amended 1987, No. 85, § 5, eff. June 9, 1987; 1995, No. 159 (Adj. Sess.), § 1; 2003, No. 158 (Adj. Sess.), § 4; 2011, No. 59, § 2.)