

1 S.114

2 Introduced by Senator Brennan

3 Referred to Committee on

4 Date:

5 Subject: General provisions; common law; general rights; access to public

6 records; Public Records Act; charges for actual cost of staff time

7 complying with request

8 Statement of purpose of bill as introduced: This bill proposes to authorize

9 public agencies to charge and collect the actual cost of staff time associated

10 with complying with a request to inspect a public record.

11 An act relating to charging for actual cost under Vermont's Public Records  
12 Act

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 1 V.S.A. § 316 is amended to read:

15 § 316. ACCESS TO PUBLIC RECORDS AND DOCUMENTS

16 (a) Inspection during hours of operation. Any person may inspect or copy  
17 any public record of a public agency, as follows:

18 (1) For any agency, board, department, commission, committee, branch,  
19 instrumentality, or authority of the State, a person may inspect a public record  
20 on any day other than a Saturday, Sunday, or a legal holiday, between the

1 hours of nine o'clock and 12 o'clock in the forenoon and between one o'clock  
2 and four o'clock in the afternoon.

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

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

16 (c) Charges for staff time associated with inspection or copying. Unless  
17 otherwise provided by law, in the following instances an agency may also  
18 charge and collect the cost of staff time associated with complying with a  
19 request ~~for a~~ to inspect or copy of a public record: (1) the time directly  
20 involved in complying with the request exceeds 30 minutes; (2) the agency  
21 agrees to create a public record; or (3) the agency agrees to provide the public

1 record in a nonstandard format and the time directly involved in complying  
2 with the request exceeds 30 minutes. The agency may require that requests  
3 subject to staff time charges under this subsection be made in writing and that  
4 all charges be paid, in whole or in part, prior to ~~delivery of the~~ making the  
5 records available for inspection or delivering copies of the records. Upon  
6 request, the agency shall provide an estimate of the charge.

7 (d) Secretary of State; uniform schedule of public records charges. The  
8 Secretary of State, after consultation with the Secretary of Administration,  
9 shall establish the actual cost of providing a copy of a public record that may  
10 be charged by State agencies. The Secretary shall also establish the amount  
11 that may be charged for staff time spent complying with a request to copy or  
12 inspect a record, when ~~such a~~ the charge is authorized under this section. To  
13 determine “actual cost,” the Secretary shall consider the following only: the  
14 cost of the paper or the electronic media onto which a public record is copied,  
15 a prorated amount for maintenance and replacement of the machine or  
16 equipment used to copy the record, and any utility charges directly associated  
17 with copying a record. The Secretary of State shall adopt, by rule, a uniform  
18 schedule of public record charges for State agencies.

19 (e) Political subdivisions; schedule of charges. After public hearing, the  
20 legislative body of a political subdivision shall establish actual cost charges for  
21 copies of public records. The legislative body shall also establish the amount

1 that may be charged for staff time spent complying with a request to copy or  
2 inspect a record, when ~~such a~~ the charge is authorized under this section. To  
3 determine actual cost charges, the legislative body shall use the same factors  
4 used by the Secretary of State. If a legislative body fails to establish a uniform  
5 schedule of charges, the charges for that political subdivision shall be the  
6 uniform schedule of charges established by the Secretary of State until the  
7 local legislative body establishes such a schedule. A schedule of public  
8 records charges shall be posted in prominent locations in the town offices.

9 (f) State agencies; collection and deposit of monies. State agencies shall  
10 provide receipts for all monies received under this section. Notwithstanding  
11 any provision of law to the contrary, a State agency may retain monies  
12 collected under this section to the extent ~~such~~ the charges represent the actual  
13 cost incurred to provide copies or for staff time spent complying with a  
14 request to copy or inspect a record under this ~~subchapter~~ section. ~~Amounts~~  
15 ~~collected by a State agency under this section for the cost of staff time~~  
16 ~~associated with providing copies shall be deposited in the General Fund, unless~~  
17 ~~another disposition or use of revenues received by that agency is specifically~~  
18 ~~authorized by law.~~ Charges collected under this section shall be deposited in  
19 the agency's operating account ~~or the General Fund, as appropriate, on a~~  
20 ~~monthly basis or whenever the amount totals \$100.00, whichever occurs first.~~

1       (g) Use of public agency equipment. A public agency having the  
2       equipment necessary to copy its public records shall utilize its equipment to  
3       produce copies. If the public agency does not have such equipment, nothing in  
4       this section shall be construed to require the public agency to provide or  
5       arrange for copying service, to use or permit the use of copying equipment  
6       other than its own, to permit operation of its copying equipment by other than  
7       its own personnel, to permit removal of the public record by the requesting  
8       person for purposes of copying, or to make its own personnel available for  
9       making handwritten or typed copies of the public record or document  
10      requested.

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

17      (i) Duty to provide electronic records in standard format. If an agency  
18      maintains public records in an electronic format, nonexempt public records  
19      shall be available for copying in either the standard electronic format or the  
20      standard paper format, as designated by the party requesting the records. If  
21      requested by the party requesting the records, an agency may, but is not

1 required to, provide copies of public records in a nonstandard format, create a  
2 public record, or convert paper public records to electronic format.

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

6 (k) Hazardous waste information; federal law shall govern. Information  
7 concerning facilities and sites for the treatment, storage, and disposal of  
8 hazardous waste shall be made available to the public under this subchapter in  
9 substantially the same manner and to the same degree as such information is  
10 made available under the Resource Conservation and Recovery Act of 1976, as  
11 amended, 42 U.S.C. chapter 82, subchapter 3, and the Federal Freedom of  
12 Information Act, 5 U.S.C. ~~section~~ § 552 et seq. In the event of a conflict  
13 between the provisions of this subchapter and the cited federal laws, federal  
14 law shall govern.

15 Sec. 2. EFFECTIVE DATE

16 This act shall take effect on July 1, 2025.