

To: Chair Matt Birong, House Committee on Government Operations

Cc: Members of the House Committee on Government Operations

From: Josh Hanford, Director of Intergovernmental Relations; Samantha Sheehan, Municipal Policy and Advocacy Specialist

Date: January 8, 2026

RE: Modernization of Vermont Public Records Act

Thank you for supporting and championing the interests of so many communities throughout Vermont. As we begin the new legislative biennium, the VLCT team looks forward to working in partnership with you to help Vermont's cities and towns meet the obligations and functions of today's local government and take the action needed to solve the challenges of the 21st century.

The number of Public Records Act (PRA) requests received by municipalities seems to be increasing exponentially, as are the types and volumes of records that municipal officials are obligated to maintain. VLCT advocates modernizing reforms to the PRA that will help municipalities comply with the law, ensure transparency, and allow municipalities to recuperate the true cost of producing records.

VLCT Recommendations

These recommendations have arisen directly from questions, concerns, and confusion from municipal staff, boards, and commissions attempting to comply with the law and through discussions with VLCT's Municipal Assistance Center Attorney's as well private attorneys who advise and defend Vermont municipalities on matters related to the PRA.

Changes to support municipal compliance and the administration of public records

1. Extend number of days to respond: Amend 1 V.S.A. § 318 (a)(1) to allow for up to 14 business days from receipt of a request.
2. Clarify act of denial: Strike 1 V.S.A. § 318 (a)(1)(2) "*A custodian or head of the agency who fails to comply with the applicable time limit provisions of this section shall be deemed to have denied the request or the appeal upon the expiration of the time limit*". This allows a requester to escalate an appeal without an affirmative denial by the municipality, often creating needless public costs and liability in the case of a late response. Consider language that prescribes a clear act of denial for which the requester may appeal.
3. Clarify process of appeal at municipal level: Amend 1 V.S.A. § 318 (c)(1) "*Any denial of access by the custodian of a public record may be appealed to the head of the agency. The head of the agency shall make a written determination on an appeal within five business days after the receipt of the appeal.*" For various forms of municipal government in Vermont, it is rarely obvious which municipal officials may serve as the "head of agency" for the purpose of deciding

an appeal. The law should prescribe a clear municipal process for designating an official to receive and decide appeals.

4. Allow municipalities to recover the true cost of producing records and redaction: Amend 1 V.S.A. § 316 (c) to allow municipalities to charge and collect the costs of staff time and associated professional costs to produce all public records, including time spent in collecting the records for inspection and redaction.

Under numerous chapters, state law requires that certain types of information be exempted from public records. This necessitates the careful inspection of each and every record prior to release for appropriate redaction, often by several separate officials, and in consultation with a qualified attorney. This is the primary driver of the public costs associated with producing public records. Currently, the law allows municipalities and state agencies to “*charge and collect the cost of staff time associated with complying with a **request for a copy** of a public record*”.

The amendments should:

- allow municipalities to charge and collect the costs of staff time and associated professional costs to produce all public records, including time spent in collecting the records for inspection and redaction, including attorney's fees
- provide requesters with the choice of either not receiving a document that is subject to redaction or pay for the actual costs of redacting the record
- allow for municipalities to require the completion of a request form in order to “start the clock”
- permit municipalities to provide an estimate of costs incurred for inspection and require confirmation that the requestor will pay costs before proceeding
- allow municipalities to require a that a reasonable deposit be paid prior to beginning the work

Changes to provide relief from abuse of the law

1. Create relief from vexatious requests: Last session, VLCT and the Committee heard from several Vermont municipalities that have been subjected to excessive, abusive, or harassing public records requests that have created excessive public costs and inhibited the ability of town government to function under repeated, voluminous requests. As a solution, VLCT proposes a new protection similar to the Maine law [1 M.R.S.A. 408-A\(4-A\)](#) that would create an action for protection from vexatious requests:
 - a. Define a vexatious public records request
 - b. Allow a municipality to seek an order of vexatious request in superior court
 - c. Upon court order, relieve the municipality of its obligation to comply with the request and may consolidate appeals under the same action