

CS for EHB 1329

1 THE STATE SENATE  
2 Wednesday, April 13, 2005

3 Committee Substitute for  
4 ENGROSSED

5 House Bill No. 1329

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1329 - By:  
7 REYNOLDS of the House and REYNOLDS of the Senate.

8 [ open records and public finance - technology - convenience  
9 fee - electronic/on-line transactions - effective date ]

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 51 O.S. 2001, Section 24A.5, is  
12 amended to read as follows:

13 Section 24A.5 A. All records of public bodies and public  
14 officials shall be open to any person for inspection, copying,  
15 and/or mechanical reproduction during regular business hours;  
16 provided:

17 1. The Oklahoma Open Records Act, Section 24A.1 et seq. of this  
18 title, does not apply to records specifically required by law to be  
19 kept confidential including:

- 20 a. records protected by a state evidentiary privilege  
21 such as the attorney-client privilege, the work  
22 product immunity from discovery and the identity of  
23 informer privileges, or

- 1           b. records of what transpired during meetings of a public  
2           body lawfully closed to the public such as executive  
3           sessions authorized under the Oklahoma Open Meeting  
4           Act, Section 301 et seq. of Title 25 of the Oklahoma  
5           Statutes, or  
6           c. personal information within driver records as defined  
7           by the Driver's Privacy Protection Act, 18 United  
8           States Code, Sections 2721 through 2725, or  
9           d. information in the files of the Board of Medicolegal  
10          Investigations obtained pursuant to Sections 940 and  
11          941 of Title 63 of the Oklahoma Statutes that may be  
12          hearsay, preliminary unsubstantiated investigation-  
13          related findings, or confidential medical information.

14          2. Any reasonably segregable portion of a record containing  
15          exempt material shall be provided after deletion of the exempt  
16          portions, provided however, the Oklahoma Department of Public Safety  
17          shall not be required to assemble for the requesting person specific  
18          information requested from the Oklahoma Department of Public  
19          Safety's Driver License file relating to persons whose names and  
20          dates of birth or whose driver license numbers are not furnished by  
21          the requesting person. The Oklahoma State Bureau of Investigation  
22          shall not be required to assemble for the requesting person any

1 criminal history records relating to persons whose names and dates  
2 of birth are not furnished by the requesting person.

3 3. Any request for a record which contains individual records  
4 of persons and the cost of copying, reproducing or certifying such  
5 individual record which is otherwise prescribed by state law, the  
6 cost may be assessed for each individual record, or portion thereof  
7 requested as prescribed by state law. Otherwise, a public body may  
8 charge a fee only for recovery of the reasonable, direct costs of  
9 document copying, or mechanical reproduction. Notwithstanding any  
10 state or local provision to the contrary, in no instance shall said  
11 document copying fee exceed twenty-five cents (\$0.25) per page for  
12 documents having the dimensions of eight and one-half (8 1/2) by  
13 fourteen (14) inches or smaller, or a maximum of One Dollar (\$1.00)  
14 per copied page for a certified copy. However, if the request:

- 15 a. is solely for commercial purpose, or  
16 b. would clearly cause excessive disruption of the public  
17 body's essential functions,

18 then the public body may charge a reasonable fee to recover the  
19 direct cost of document search; however, publication in a newspaper  
20 or broadcast by news media for news purposes shall not constitute a  
21 resale or use of data for trade or commercial purpose and charges  
22 for providing copies of electronic data to the news media for a news  
23 purpose shall not exceed the direct cost of making the copy.

1 Any public body establishing fees under this act shall post a  
2 written schedule of said fees at its principal office and with the  
3 county clerk.

4 In no case shall a search fee be charged when the release of  
5 said documents is in the public interest, including, but not limited  
6 to, release to the news media, scholars, authors and taxpayers  
7 seeking to determine whether those entrusted with the affairs of the  
8 government are honestly, faithfully, and competently performing  
9 their duties as public servants.

10 The fees shall not be used for the purpose of discouraging  
11 requests for information or as obstacles to disclosure of requested  
12 information.

13 4. The land description tract index of all recorded instruments  
14 concerning real property required to be kept by the county clerk of  
15 any county shall be available for inspection or copying in  
16 accordance with the provisions of the Oklahoma Open Records Act;  
17 provided, however, such index shall not be copied and/or  
18 mechanically reproduced for the purpose of sale of such information.

19 5. A Upon receipt of a request for a record, a public body must  
20 provide prompt, reasonable access to its records ~~but~~ and shall  
21 provide the record, if the record exists, within thirty (30) days  
22 from the date the public body received the request. If the public  
23 body cannot provide the record within thirty (30) days, it shall

1 provide written notification to the person requesting the record  
2 within the thirty-day period stating the reason for the delay in its  
3 response. The notification shall also provide an estimate of the  
4 time required to provide the record which shall not exceed sixty  
5 (60) days from the date of the original request. If a record which  
6 is responsive to a request exists, the public body shall provide the  
7 record within sixty (60) days from the date of the original request.  
8 If no record exists which is responsive to the request, the public  
9 body shall provide written notification within thirty (30) days of  
10 the request that no such record exists. The public body may  
11 establish reasonable procedures which protect the integrity and  
12 organization of its records and to prevent excessive disruptions of  
13 its essential functions.

14 6. A public body shall designate certain persons who are  
15 authorized to release records of the public body for inspection,  
16 copying, or mechanical reproduction. At least one such person shall  
17 be available at all times to release records during the regular  
18 business hours of the public body.

19 B. Any record that is open to a person for inspection shall be  
20 available to that person for copying or reproduction in the same  
21 medium as the record was available to the person for inspection.

22 SECTION 2. AMENDATORY 62 O.S. 2001, Section 41.5q, is  
23 amended to read as follows:

1 Section 41.5q A. Subject to review and adoption as outlined in  
2 Section 4 41.5s of this ~~act~~ title, a state agency, board,  
3 commission, or authority is hereby authorized to charge a  
4 convenience fee for any electronic/on-line transaction. A  
5 convenience fee shall apply to electronic/on-line transactions only  
6 and shall not apply when accessing information provided through  
7 state government websites. If a state entity sets a convenience fee  
8 for electronic/on-line transactions, the fee shall be reviewed by  
9 the State Governmental Internet Applications Review Board as  
10 provided for in Section 4 41.5s of this ~~act~~ title. Each state  
11 entity shall keep a record of how the convenience fee has been  
12 determined. A state agency, board, commission, or authority may  
13 periodically adjust a convenience fee as needed upon review and  
14 adoption as provided for in Section 4 41.5s of this ~~act~~ title.

15 B. For purposes of this section, "convenience fee" shall mean  
16 any charge that is necessary to process an electronic/on-line  
17 transaction with a state agency, board, commission or authority.  
18 The fee may be in excess of any fee charged for the service or  
19 product being provided by such state entity. This ~~may~~ shall include  
20 reasonable charges for the cost of the electronic/on-line service  
21 including recovery of costs incurred in the development and  
22 implementation of the service or system, cost of sustaining and

1 upgrading the electronic/on-line service, and future expansion of  
2 the electronic/on-line services.

3 C. If a state agency, board, commission, or authority enters  
4 into a contract or agreement with a vendor or another state agency  
5 for the development of a portal system as defined in Section 41.5p  
6 of this title or development of Internet-based electronic/on-line  
7 transactions or applications for connection to a portal system, the  
8 contract or agreement shall provide that any convenience fee, as  
9 defined in this section, shall first be applied to recover costs  
10 charged by the vendor or state agency.

11 SECTION 3. This act shall become effective November 1, 2005.

12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-6-05 - DO  
13 PASS, As Amended.