STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2416 By: Reynolds

AS INTRODUCED

An Act relating to records and technology; amending 51 O.S. 2001, Section 24A.5, as amended by Section 1, Chapter 223, O.S.L. 2005 (51 O.S. Supp. 2005, Section 24A.5), which relates to the Oklahoma Open Records Act; modifying duty and procedure for a public body to respond to a request for a public record; clarifying availability of records for copying or reproduction; amending 62 O.S. 2001, Section 41.5q, which relates to convenience fees for electronic/on-line transactions; requiring convenience fees to be applied to certain costs; and providing an effective date.

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

SECTION 1. AMENDATORY 51 O.S. 2001, Section 24A.5, as amended by Section 1, Chapter 223, O.S.L. 2005 (51 O.S. Supp. 2005, Section 24A.5), is amended to read as follows:

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

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

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

b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting

Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, or

c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, or

d. information in the files of the Board of Medicolegal Investigations obtained pursuant to Sections 940 and 941 of Title 63 of the Oklahoma Statutes that may be hearsay, preliminary unsubstantiated investigation-related findings, or confidential medical information.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions, provided however, the Oklahoma Department of Public Safety shall not be required to assemble for the requesting person specific information requested from the Oklahoma Department of Public Safety's Driver License file relating to persons whose names and dates of birth or whose driver license numbers are not furnished by the requesting person. The Oklahoma State Bureau of Investigation shall not be required to assemble for the requesting person any criminal history records relating to persons whose names, dates of birth, and other identifying information required by the Oklahoma State Bureau of Investigation pursuant to administrative rule are not furnished by the requesting person.

3. Any request for a record which contains individual records of persons and the cost of copying, reproducing or certifying such individual record which is otherwise prescribed by state law, the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of document copying, or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no instance shall said document copying fee exceed twenty-five cents ($0.25) per page for

documents having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One Dollar ($1.00) per copied page for a certified copy. However, if the request:

a. is solely for commercial purpose, or

b. would clearly cause excessive disruption of the public body's essential functions,

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

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

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

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

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

5. ~~A~~ Upon receipt of a request for a record, a public body ~~must provide prompt, reasonable access to its records but~~ shall provide

the record, if the record exists, within thirty (30) days from the date the public body received the request. If the public body cannot provide the record within thirty (30) days, it shall provide written notification to the person requesting the record within the thirty-day period stating the reason for the delay in its response. The notification shall also provide an estimate of the time required to provide the record which shall not exceed sixty (60) days from the date of the original request. If a record which is responsive to a request exists, the public body shall provide the record within sixty (60) days from the date of the original request. If no record exists which is responsive to the request, the public body shall provide written notification within thirty (30) days of the request that no such record exists. The public body may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

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

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

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

Section 41.5q. A. Subject to review and adoption as outlined in Section ~~4~~ 41.5s of this ~~act~~ title, a state agency, board, commission, or authority is hereby authorized to charge a convenience fee for any electronic/on-line transaction. A convenience fee shall apply to electronic/on-line transactions only and shall not apply when accessing information provided through

state government websites. If a state entity sets a convenience fee for electronic/on-line transactions, the fee shall be reviewed by the State Governmental Internet Applications Review Board as provided for in Section ~~4~~ 41.5s of this ~~act~~ title. Each state entity shall keep a record of how the convenience fee has been determined. A state agency, board, commission, or authority may periodically adjust a convenience fee as needed upon review and adoption as provided for in Section ~~4~~ 41.5s of this ~~act~~ title.

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

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

SECTION 3. This act shall become effective November 1, 2006.

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