

ESB 990

THE HOUSE OF REPRESENTATIVES
Wednesday, April 1, 2009

ENGROSSED
Senate Bill No. 990
As Amended

ENGROSSED SENATE BILL NO. 990 - By: LASTER of the Senate and STEELE AND PITTMAN of the House.

(Open Records Act - inspection of records -
effective date)

1 SECTION 1. AMENDATORY 51 O.S. 2001, Section 24A.5, as last amended by
2 Section 34, Chapter 16, O.S.L. 2006 (51 O.S. Supp. 2008, Section 24A.5), is amended to
3 read as follows:

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

7 1. The Oklahoma Open Records Act, ~~Sections 24A.1 through 24A.28 of this title,~~
8 does not apply to records specifically required by law to be kept confidential including:

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

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

12 2. Any reasonably segregable portion of a record containing exempt material shall
13 be provided after deletion of the exempt portions; provided however, the Department of
14 Public Safety shall not be required to assemble for the requesting person specific
15 information, in any format, from driving records relating to any person whose name and
16 date of birth or whose driver license number is not furnished by the requesting person.
17 The Oklahoma State Bureau of Investigation shall not be required to assemble for the
18 requesting person any criminal history records relating to persons whose names, dates of
19 birth, and other identifying information required by the Oklahoma State Bureau of
20 Investigation pursuant to administrative rule are not furnished by the requesting
21 person.

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

- 10 a. is solely for commercial purpose, or
11 b. would clearly cause excessive disruption of the essential functions of
12 the public body,

13 then the public body may charge a reasonable fee to recover the direct cost of record
14 search and copying; however, publication in a newspaper or broadcast by news media for
15 news purposes shall not constitute a resale or use of a record for trade or commercial
16 purpose and charges for providing copies of electronic data to the news media for a news
17 purpose shall not exceed the direct cost of making the copy. The fee charged by the
18 Department of Public Safety for a copy in a computerized format of a record of the
19 Department shall not exceed the direct cost of making the copy unless the fee for the
20 record is otherwise set by law.

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

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

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

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

13 5. A public body must provide prompt, reasonable access to its records but may
14 establish reasonable procedures which protect the integrity and organization of its
15 records and to prevent excessive disruptions of its essential functions.

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

20 7. Notwithstanding any other provision of law, any document that is made
21 available for public inspection through online access shall have any social security

1 number or driver license number blocked from the document before being made available
2 to the public electronically.

3 SECTION 2. This act shall become effective November 1, 2009.

4 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION,
5 dated 03-31-09 - DO PASS, As Amended and Coauthored.