

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 3089

By: Reynolds

4
5 AS INTRODUCED

6 An Act relating to records and technology; amending
7 51 O.S. 2001, Section 24A.5, as last amended by
8 Section 34, Chapter 16, O.S.L. 2006 (51 O.S. Supp.
9 2009, Section 24A.5), which relates to the Oklahoma
10 Open Records Act; modifying records that are subject
11 to the Oklahoma Open Records Act; modifying duty and
12 procedure for a public body to respond to a request
13 for a public record; clarifying availability of
14 records for copying or reproduction; amending 62 O.S.
15 2001, Section 41.5q, as last amended by Section 4,
16 Chapter 322, O.S.L. 2009, and as renumbered by
17 Section 64, Chapter 441, O.S.L. 2009 (62 O.S. Supp.
18 2009, Section 34.25), which relates to convenience
19 fees for electronic or online transactions; requiring
20 that convenience fees for certain contracts be
21 applied to certain costs; and providing an effective
22 date.

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

24 SECTION 1. AMENDATORY 51 O.S. 2001, Section 24A.5, as
last amended by Section 34, Chapter 16, O.S.L. 2006 (51 O.S. Supp.
2009, Section 24A.5), is amended to read as follows:

Section 24A.5 A. All records of public bodies and public
officials, including private entities that enter into a contract or
agreement with any state agency, board, commission, or other state

1 authority, shall be open to any person for inspection, copying, or
2 mechanical reproduction during regular business hours; provided:

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

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

10 b. records of what transpired during meetings of a public
11 body lawfully closed to the public such as executive
12 sessions authorized under the Oklahoma Open Meeting
13 Act, Section 301 et seq. of Title 25 of the Oklahoma
14 Statutes,

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

18 d. information in the files of the Board of Medicolegal
19 Investigations obtained pursuant to Sections 940 and
20 941 of Title 63 of the Oklahoma Statutes that may be
21 hearsay, preliminary unsubstantiated investigation-
22 related findings, or confidential medical information.

23 2. Any reasonably segregable portion of a record containing
24 exempt material shall be provided after deletion of the exempt

1 portions; provided however, the Department of Public Safety shall
2 not be required to assemble for the requesting person specific
3 information, in any format, from driving records relating to any
4 person whose name and date of birth or whose driver license number
5 is not furnished by the requesting person.

6 The Oklahoma State Bureau of Investigation shall not be required to
7 assemble for the requesting person any criminal history records
8 relating to persons whose names, dates of birth, and other
9 identifying information required by the Oklahoma State Bureau of
10 Investigation pursuant to administrative rule are not furnished by
11 the requesting person.

12 3. ~~Any~~ For any request for a record which contains individual
13 records of persons, ~~and~~ when the cost of copying, reproducing or
14 certifying each individual record is otherwise prescribed by state
15 law, the cost may be assessed for each individual record, or portion
16 thereof requested as prescribed by state law. Otherwise, a public
17 body may charge a fee only for recovery of the reasonable, direct
18 costs of record copying, or mechanical reproduction.

19 Notwithstanding any state or local provision to the contrary, in no
20 instance shall the record copying fee exceed twenty-five cents
21 (\$.25) per page for records having the dimensions of eight and one-
22 half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One
23 Dollar (\$1.00) per copied page for a certified copy. However, if
24 the request:

- 1 a. is solely for commercial purpose, or
2 b. would clearly cause excessive disruption of the
3 essential functions of the public body,

4 then the public body may charge a reasonable fee to recover the
5 direct cost of record search and copying; however, publication in a
6 newspaper or broadcast by news media for news purposes shall not
7 constitute a resale or use of a record for trade or commercial
8 purpose and charges for providing copies of electronic data to the
9 news media for a news purpose shall not exceed the direct cost of
10 making the copy. The fee charged by the Department of Public Safety
11 for a copy in a computerized format of a record of the Department
12 shall not exceed the direct cost of making the copy unless the fee
13 for the record is otherwise set by law.

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

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

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

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

10 5. A Upon receipt of a request for a record, a public body must
11 provide prompt, reasonable access to its records but shall provide
12 the record, if the record exists, within thirty (30) days from the
13 date the public body received the request. If the public body
14 cannot provide the record within thirty (30) days, it shall provide
15 written notification to the person requesting the record within the
16 thirty-day period stating the reason for the delay in its response.
17 The notification shall also provide an estimate of the time required
18 to provide the record which shall not exceed sixty (60) days from
19 the date of the original request. If a record which is responsive
20 to a request exists, the public body shall provide the record within
21 sixty (60) days from the date of the original request. If no record
22 exists which is responsive to the request, the public body shall
23 provide written notification within thirty (30) days of the request
24 that no such record exists. The public body may establish

1 reasonable procedures which protect the integrity and organization
2 of its records and to prevent excessive disruptions of its essential
3 functions.

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

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

12 SECTION 2. AMENDATORY 62 O.S. 2001, Section 41.5q, as
13 last amended by Section 4, Chapter 322, O.S.L. 2009, and as
14 renumbered by Section 64, Chapter 441, O.S.L. 2009 (62 O.S. Supp.
15 2009, Section 34.25), is amended to read as follows:

16 Section 34.25 A. Subject to review and adoption as outlined in
17 Section ~~41.5s~~ 34.27 of this title, a state agency, board,
18 commission, or authority is hereby authorized to charge a
19 convenience fee for any electronic or online transaction. A
20 convenience fee shall apply to electronic or online transactions
21 only and shall not apply when accessing information provided through
22 state government websites. If a state entity sets a convenience fee
23 for electronic or online transactions, the fee shall be reviewed by
24 the State Governmental Internet Applications Review Board as

1 provided for in Section ~~41.5~~ 34.27 of this title. Each state
2 entity shall keep a record of how the convenience fee has been
3 determined. A state agency, board, commission, or authority may
4 periodically adjust a convenience fee as needed upon review and
5 adoption as provided for in Section ~~41.5~~ 34.27 of this title.

6 B. For purposes of this section, "convenience fee" shall mean a
7 charge that is necessary to process an electronic or online
8 transaction with a state agency, board, commission or authority.
9 The fee shall be limited to bank processing fees and financial
10 transaction fees, the cost of providing for secure transaction,
11 portal fees, and fees necessary to compensate for increased
12 bandwidth incurred as a result of providing for an online
13 transaction.

14 C. If a state agency, board, commission, or authority enters
15 into a contract or agreement with a vendor or another state agency
16 for the development of a portal system as defined in Section 34.24
17 of this title or development of Internet-based electronic or online
18 transactions or applications for connection to a portal system, the
19 contract or agreement shall provide that any convenience fee, as
20 defined in this section, shall first be applied to recover costs
21 charged by the vendor or state agency.

22 SECTION 3. This act shall become effective November 1, 2010.
23

24 52-2-9519 AM 01/13/10