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Amendment No. _____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

Signature of Sponsor

AMEND Senate Bill No. 328*

House Bill No. 315

by deleting all language following the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 10-7-503(a)(2), is amended by deleting subdivision (B) and substituting instead the following:

(B)

(i) The custodian of a public record or the custodian's designee shall promptly make available for inspection any public record not specifically exempt. If the custodian is not able to make the records available promptly, the custodian shall provide a reasonable explanation for the delay, as well as a projected time in which the public records will be available. Within five (5) days of a request to inspect a public record, the custodian or designee shall:

(a) Make the information available to the requestor;

(b) Contact the requestor with an explanation as to why more time is needed; or

(c) Deny the request in writing or by completing a records request response form developed by the office of open records counsel. The response shall include the specific legal exemption for every denied document and for each redaction.

SECTION 2. Tennessee Code Annotated, Section 10-7-503(a)(7), is amended by deleting subdivision (A) and substituting instead the following:

(A)



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(i) A records custodian may require a request to inspect records be in writing and must make available a copy of a request form provided by the office of open records counsel. A custodian may allow written requests to be received by email.

(ii) Except as provided in this subdivision (A), or in title 8, chapter 4, part 6, a records custodian may not assess a charge to view a public record.

(iii) The advisory committee on open government, with support from the office of open records counsel, shall develop and recommend to the next session of the 109th general assembly innovative ways to reduce the cost to government to fulfill voluminous requests for public records and balancing this with protecting the rights of citizen access to public records. Until the advisory committee on open government makes its recommendation to the 109th general assembly, a records custodian may require a requestor whose total number of requests to inspect records within a calendar month exceeds six (6) requests to pay the actual costs in producing the records for inspection under the policy established by the office of open records counsel for frequent and multiple requests. This subdivision (iii) shall cease to be effective twelve (12) months from the effective date of this act.

(iv) The advisory committee for open government with support from the office of open records counsel shall also develop and recommend to the next session of the 109th General Assembly methods to increase enforcement of the open records laws, compiled in title 10, chapter 7.

SECTION 3. Tennessee Code Annotated, Section 8-4-604, is amended by adding the following as new subsections:

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(d) The advisory committee, with the guidance and assistance of the office of open records counsel, shall recommend to the general assembly ways to reduce the cost to government and to the public in fulfilling public records requests, which may include but not be limited to, a schedule of reasonable charges for the inspection and obtaining copies of public records. In recommending guidelines to reduce the cost to government and the public, the advisory committee shall consider such factors as:

- (1) The impact of voluminous or frequent requests on a governmental entity;
- (2) The impact of fees on the requestor in hindering access to public records;
- (3) Best practices of records custodians that lead to the most efficient and satisfactory results;
- (4) Assistance provided to the requestor;
- (5) The adequacy of educational programs for records custodians;
- (6) The cost of redactions of confidential information and ways to reduce the cost of redactions;
- (7) The open records counsel's mediation role in voluminous requests; potential improvements to record-keeping and pro-active disclosure that improve efficiency and the free flow of government information;
- (8) The size, by population, of the county or municipality;
- (9) The complexity of the request;
- (10) The number of man hours involved in retrieving the documents;
- (11) The costs of duplication and the costs of mailing the documents if the requestor is not returning to retrieve the requested documents, and any other costs that the advisory committee deems appropriate; and
- (12) The principles presented by the study committee created by Acts 2006, ch. 887 as described in subdivision (a)(1)(A)(ii).

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(e) For the purposes of making recommendations by the advisory committee in subsection (d), the advisory committee shall adhere to the notice and public access requirements of the open meetings laws compiled in chapter 44 of this title. The members of the advisory committee shall develop written guidelines for governance, which its members would agree upon and adopt for this process. The office of open records counsel shall assist the advisory committee in preparing recommendations to present to the general assembly.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.