

Rep. Kuttab, Rock. 17
Rep. Kenney, Straf. 10
March 4, 2024
2024-0930h
05/06

Amendment to HB 1002

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 Right-to-Know; Fees for Records. Amend RSA 91-A:4, IV to read as follows:

4 IV.(a) Each public body or agency shall, upon request for any governmental record
5 reasonably described, make available for inspection and copying any such governmental record
6 within its files when such records are immediately available for such release.

7 (b) If a public body or agency is unable to make a governmental record available for
8 immediate inspection and copying the public body or agency shall, within 5 business days of a
9 request:

10 (1) Make such record available;

11 (2) Deny the request; or

12 (3) Provide a written statement of the time reasonably necessary to determine
13 whether the request shall be granted or denied and the reason for the delay, ***and an itemized***
14 ***estimate of the cost of making the record available if a charge would be incurred under***
15 ***paragraph VIII.***

16 (c) A public body or agency denying the request in whole or in part shall provide a
17 written statement of the specific exemption authorizing the withholding of the record and a brief
18 explanation of how the exemption applies to the record withheld.

19 (d) If a computer, photocopying machine, or other device maintained for use by a public
20 body or agency is used by the public body or agency to copy the governmental record requested, the
21 person requesting the copy may be charged the actual cost of providing the copy, which cost may be
22 collected by the public body or agency. No cost or fee shall be charged for the inspection or delivery,
23 without copying, of governmental records, whether in paper, electronic, or other form, ***unless the***
24 ***time to make the record available exceeds 10 hours, as provided in paragraph VIII.*** Nothing
25 in this section shall exempt any person from paying fees otherwise established by law for obtaining
26 copies of governmental records or documents, but if such fee is established for the copy, no additional
27 costs or fees shall be charged.

28 (e) ***A public body or agency may suggest to the requestor a reasonable***
29 ***modification of the scope of the request, if doing so would enable the body or agency to***
30 ***produce records sought more efficiently and affordably.***

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1 ***(f) A public body or agency responsible for responding to a records request shall***
2 ***not be liable for damages in a civil action caused by its fault or by fault attributable to it,***
3 ***arising out of disclosure of information exempt from disclosure pursuant to this chapter,***
4 ***provided that the public body or agency acted in good faith to redact any information that***
5 ***may be exempt from disclosure, unless the public body or agency can be shown to have***
6 ***acted in a wanton or reckless manner. The use of automated software to produce***
7 ***redactions or other automated processes to speed production in concert with spot checks***
8 ***shall qualify as good faith.***

9 2 New Paragraph; Fees for Records. Amend RSA 91-A:4 by inserting after paragraph VII the
10 following new paragraph:

11 VIII. A reasonable charge may be made for employee, contractor, or attorney time in excess
12 of 10 hours to make the record available to the requestor, including time to search, retrieve,
13 duplicate, redact, and otherwise make the record available for the requestor; provided that no charge
14 may be made for time spent with the requestor to review the records. Hourly costs shall not exceed
15 \$25 per hour, and no costs shall be charged for the first 10 hours. Prior to charging any fees, the
16 public body or agency shall create a policy so that practices are transparent, uniform, and consistent,
17 to include a provision for the waiver of such fees for requestors who are deemed indigent, or who can
18 demonstrate that such fees would present a financial hardship. Multiple requests from any person
19 or entity to the same public body within a 30 day time period shall be considered one request. If a
20 party believes the estimated number of hours or cost to make the records available is unreasonable,
21 the party may seek relief according to RSA 91-A:7-b for a determination of whether the estimate is
22 reasonable. The burden shall be on the public body in establishing that the hours and/or cost to
23 make the records available are reasonable. A determination shall be made within 10 business days.

24 3 Effective Date. This act shall take effect 60 days after its passage.