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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Office

H.B. 314  
(1\_136\_3295-2)  
136<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 314's Bill Analysis](#)

**Version:** In House Judiciary

**Primary Sponsors:** Reps. Isaacsohn and Ray

**Local Impact Statement Procedure Required:** No

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### Highlights

- As public record holders, state and local public agencies may see a decrease in complicated or time-consuming public records requests resulting in a decrease in administrative expenses offset somewhat by a reduction in public records fees and the cost of any civil court action including attorney's fees and costs recovered by successful defendants.
- Courts of common pleas could see a minimal at most increase in civil case filings if additional actions are filed related to harassing or disruptive public records requests. Any increase in cases and resultant workload will be absorbed using existing staff and appropriated resources and offset in part by revenues in the form of court costs and fees.

### Detailed Analysis

The bill allows public records keepers (1) to initiate civil action in a court of common pleas to limit or deny harassing or disruptive public records requests, (2) to engage a private contractor to respond to voluminous public records requests, and (3) to include the cost of a private contractor's services in calculating the cost of providing the copy of the public record. Additionally, the bill establishes a fee structure and fee estimate procedure for public records requests and specifies that an email address kept by a public school of any current or former student, or such student's parent, is not a public record subject to disclosure.

### Public records keepers

To the extent that harassing or disruptive public records requests are curtailed under the bill, public record holders, including state and local governments, may see a decrease in complicated or time-consuming public records requests resulting in a decrease in administrative expenses. The bill allows a requester, upon a successful defense, to recover reasonable attorney's

fees and costs arising out of a harassing-requester action which could increase costs for public agencies in instances where a claim is filed by the agency and won by the requester.

The bill's provision to allow public offices to engage a private contractor to respond to voluminous public records requests and to allow for the cost of the contractor to be passed on to the requester will likely be fiscally neutral as costs are passed through as fees. Some administrative efficiencies could be realized if staff resources are unencumbered as a result of utilizing the services of a contractor.

## Fees

The bill permits a public office or person responsible for public records to adopt a fee schedule based on the total number of hours to prepare and produce records for a requester. When an agency adopts a fee schedule, the bill requires the office or person to (1) provide each requester with an estimate of the fee and an opportunity to amend or cancel the request, and (2) require a requester to provide payment before releasing any requested public records. The following table shows the fee schedule set by the bill. These fee limits also apply to fees charged for work done by private contractors.

**H.B. 314 Public Records Fee Schedule**

Hours Required to Prepare and Produce Records	Fee
1 to 10	No charge
11 to 20	Up to \$25
21 to 30	Up to \$50
31 to 40	Up to \$100
More than 40	Up to \$200

The bill includes fee exemptions for journalists, pro se litigants, state agencies, and public defenders.

Under current law, a public office must make public records available for copying at cost. The fiscal impact of the proposed fee structure could impact revenues for some public entities depending on how the entity currently calculates cost. For those that are able to complete a request within one to ten hours, there would be a potential revenue loss for each request completed.

## Private contractors

The bill's provision to allow public offices to engage a private contractor to respond to voluminous public records requests will likely be fiscally neutral as costs are passed through as fees. Some administrative efficiencies could be realized if staff resources are unencumbered as a result of utilizing the services of a contractor.

## Civil case filings

Courts of common pleas may see a minimal at most increase in civil cases filed if the bill results in additional actions related to harassing or disruptive public records requests. Any increase in cases and workload will be absorbed using existing staff and appropriated resources and offset in part by revenues in the form of court costs and fees assessed to parties in the case.

Indirectly, it is also possible that certain enforcement actions that could be filed by requesters against a public records holder may be interrupted or prevented entirely. Under current law, unchanged by the bill, if a public records requester believes that a public office violated the Public Records Act, the person can file a lawsuit against the office. Before filing a lawsuit, a requester must first serve a complaint on the public office or person responsible for public records on a form prescribed by the Clerk of the Court of Claims. If the complaint is not resolved, the requester may choose to either file a complaint in the Court of Claims or file a mandamus action in a court of common pleas, court of appeals, or the Supreme Court of Ohio.

## Synopsis of Fiscal Effect Changes

The fiscal effects of the substitute bill (I\_136\_3295-2) are likely to be substantially similar to the effects of the bill as introduced. The following provisions may result in minimal fiscal effect relative to the bill as introduced:

- The substitute bill adds a fee structure for records requests fulfilled by an agency or by a private contractor which may affect future fee revenues depending on the actual cost of using a private contractor.
- The substitute bill allows a requester, upon a successful defense, to recover reasonable attorney's fees and costs arising out of a harassing-requester action which could increase costs for public agencies.
- The substitute bill includes fee exemptions for journalists, pro se litigants, state agencies, and public defenders which may reduce fee revenue.