

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1310 (Delegate McConkey, *et al.*)
Health and Government Operations

State Government - Access to Public Records - Photographs

This bill requires a custodian of a public record to give an authorized applicant access to a public record for the purpose of making a photograph.

Fiscal Summary

State Effect: To the extent the bill results in additional staffing responsibility associated with monitoring documents, expenditures may increase. However, for some State agencies that do not charge fees for copies of documents, expenditures may decrease as fewer paper copies may be requested. To the extent the bill reduces fee revenue from providing public records, revenues decrease.

Local Effect: To the extent the bill results in additional staffing responsibility associated with document oversight and reduced document copying responsibility, local expenditures are impacted. To the extent the bill reduces fee revenue from providing public records, local government revenues decrease. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Current Law/Background: The Maryland Public Information Act grants the public a broad right of access to records that are in the possession of State and local government agencies. The Act's basic mandate is to enable people to have access to government records without unnecessary cost or delay. Custodians have a responsibility to provide such access unless the requested records fall within one of the exceptions in the statute.

An applicant who is authorized to inspect a public record may have a copy, printout, or photograph of the public record; or, if the custodian does not have facilities to reproduce the public record, access to the public record to make the copy, printout, or photograph.

The copy, printout, or photograph must be made while the public record is in the custody of the custodian; and, whenever practicable, where the public record is kept. The official custodian may set a reasonable time schedule to make copies, printouts, or photographs.

An applicant may not have a copy of a judgment until the time for appeal expires; or if an appeal is noted, the appeal is dismissed or adjudicated.

State Fiscal Effect: To ensure public documents are not lost, altered, or otherwise impacted while being photographed, the bill may result in additional staffing expenditures associated with monitoring documents.

The Maryland State Archives (MSA) derives approximately 80% of its operating revenue from fees for service and other State agencies also generate revenue from fees associated with the provision of public records. To the extent the bill reduces fees associated with the provision of public records, State general and special fund revenues decrease. However, some State agencies that do not charge fees for copies of documents may experience a reduction in State expenditures, as fewer copies may be requested.

MSA advises the bill may make it easier for individuals to capture records of commercial value and provide them via the Internet for a fee. MSA is concerned the bill may require documents to be provided in a manner that is not in the best interest of the public and may hinder preservation and protection of permanent record material.

Small Business Effect: Small businesses may benefit to the extent the bill facilitates access to and use of public records.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Archives; Board of Public Works; Department of Budget and Management; Department of Natural Resources; Maryland Department of Planning; Maryland State Department of Education; Maryland Higher Education Commission; Department of Disabilities; Department of Health and Mental Hygiene; Department of Juvenile Services; Department of Labor, Licensing, and Regulation;

Department of State Police; Department of Aging; Department of Public Safety and Correctional Services; Maryland Department of Transportation; University System of Maryland; Department of Veterans Affairs; Department of Legislative Services

Fiscal Note History: First Reader - March 20, 2009
mlm/hlb

Analysis by: Amanda Mock

Direct Inquiries to:
(410) 946-5510
(301) 970-5510