

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 1389 (Delegates Carr and Pena-Melnyk)  
Health and Government Operations

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State Government - Access to Public Records - Electronic Documents

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This bill requires a custodian of public records to provide access to a public record in its original electronic format unless an applicant chooses to receive a copy, printout, or photograph of the record. This requirement only applies when an applicant is already authorized to inspect a public record and the public record was originally created in an electronic format.

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Fiscal Summary

**State Effect:** To the extent the bill requires State agencies to provide expanded access to original electronic records, expenditures may increase. To the extent the bill reduces fees associated with the provision of public records, revenues decrease.

**Local Effect:** To the extent the bill requires local governments to provide expanded access to original electronic records, expenditures may increase. To the extent the bill reduces fees associated with the provision of public records, revenues decrease. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Minimal.

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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:** The Maryland State Archives (MSA) derives approximately 80% of its operating revenue from fees for service and other State agencies also generate some 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 expenditures, as fewer paper copies may be requested.

MSA advises the original electronic format for some public records may no longer exist. Furthermore, since some public information is maintained in older computer programs and systems, the original electronic format may be difficult to utilize and interpret.

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

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Archives, State Ethics Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - March 20, 2009  
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