

From: [ScottMcNutt](#)
To: [OpenRecords Comments](#)
Subject: Do not charge fees to review public records
Date: Wednesday, August 12, 2015 1:32:32 PM

Inspecting public records should be free of charge.

Tennessee's current gubernatorial administration appears to be striving to make government less and less transparent, when good governance demands the reverse.

NO charge for reviews of public records.

From: [David Riley](#)
To: [OpenRecords Comments](#)
Subject: Charging for open records
Date: Wednesday, August 12, 2015 1:38:05 PM

Whereas I acknowledge that there are labor costs affiliated with facilitating a public record request, I find the premise of making government LESS transparent (or provide an obstacle to full transparency) to be extraordinarily poor judgement on the part of the government. This merely precipitates an existing prejudice against government as a arm of the elite vs a "for the people, by the people" governing body. The fiscal strain on the individual office by way of labor cost pales in comparison to the further disengagement of the constituency. If the cost is so onerous, they, too, can hold a bake sale at a local business on a Saturday.

Thanks for the forum to comment.

David Riley

Sent from my iPhone

From: [Greg Cochran](#)
To: [OpenRecords Comments](#)
Subject: inspection of public records
Date: Wednesday, August 12, 2015 2:46:49 PM

These records should remain free of charge for examining only. I can see a lawsuit in the making for indigent persons or those unable to pay. If you make it free for one then it should be free for all. If you want copies you should pay.

Greg Cochran
Bristol, TN

From: [Linda Noe](#)
To: [OpenRecords Comments](#)
Cc: lindacnoe@aol.com
Subject: Request to Speak
Date: Wednesday, August 12, 2015 3:46:34 PM

Speaker: Linda C. Noe Finkelstein, Kern, Steinberg & Cunningham Law Firm, P.O. Box 1, Knoxville, TN 37901 (865-862-9807—direct line or 423-277-9766—cell)

Organizational Affiliation: TCOG. Attorney who has represented and is currently representing a number of individuals in open records and open meetings suits. Citizen who has acquired public documents which were used 1) to institute change in state law; 2) to report and prevent bidding conflict of interest in a TDOT program; 3) and to confirm and report statutory violation of TCA 12-4-101.

Hearing Location: Knoxville

Linda C. Noe
Attorney
Finkelstein, Kern, Steinberg & Cunningham
1810 Ailor Avenue
Knoxville, Tennessee 37921
PHONE 865-862-9807 (direct line)
PHONE: 865-525-0238 (ext 237)
FAX: 865-523-5138
EMAIL: linda@fksclaw.com

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From: [Kurt Riley](#)
To: [OpenRecords Comments](#)
Subject: Please do not charge
Date: Thursday, August 13, 2015 1:54:19 AM

Do not charge to inspect records. This will clearly limit citizens from gaining access to data that they are entitled too.

Thanks,

Kurt Riley
113 Judson Dr
Hendersonville, Tn 37075

From: [Kurt Riley](#)
To: [OpenRecords Comments](#)
Subject: reminder
Date: Thursday, August 13, 2015 1:58:57 AM
Attachments: [city recorder letters 2015 03 13 17 10 51 796.pdf](#)

From: kurtriley@hotmail.com
To: open.records@cot.tn.gov
Subject: letter sent to city recorders
Date: Sat, 14 Mar 2015 00:36:30 -0500

In the attached letter it shows that Don Long of Hendersonville is using a private email address. When I requested those emails I was denied. This clearly shows Don Long's intent to evade the open records act. This is a problem all over this state and needs to be addressed. How on earth is Don Long on a committee who advises on open government when he clearly works to cover up his activity?

Thanks,

Kurt

From: Hedgepath, Debbie [mailto:HedgepathD@brentwood-tn.org]
Sent: Thursday, March 12, 2015 3:08 PM
Subject: Message from TAMCAR Board

Dear Members,

There is legislation being considered by the Tennessee General Assembly this session that would allow custodians of government records to assess a labor fee for the preparation of records for inspection. The Bill reference is HB315/SB928.

As you know, currently no fee can be assessed for a request to inspect records no matter the size or scope of the request or the number of hours required to prepare the records for inspection. Labor fees can only be assessed on a pro-rated basis when requests for copies of records is submitted.

There are an increasing number of cases where extremely large time consuming requests to inspect records is occurring and the requester is spending very little time actually looking at the records. In many instances they have failed to ever show up and inspect the records that have taken tens or hundreds of hours to prepare.

We, as Clerks & Records, have been asked to provide any information you may have as it regards to requests you have had to inspect records (small or large requests). Some of you may keep a detailed log of requests to inspect, others may not. If you don't have detailed records, if you could prepare an estimate of time spent, labor costs, or any other expense (hiring temps, etc) you have incurred to prepare records for inspection would be helpful.

Additionally, if you have any particular requests that stand out as being particularly voluminous or time consuming in nature, details of the request would be helpful.

Don Long with the City of Hendersonville is on a committee working on this and would like to have whatever information you can provide by close of business on Friday emailed to him at donlong.hville@gmail.com<mailto:donlong.hville@gmail.com>. Any

information received after Friday will also be compiled but not in the initial report that is being prepared.

You may read more about the legislation by clicking here<<http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB0315>>.

We also encourage you to contact your legislators and provide them on your opinion or insights to this Bill.

Debbie Hedgepath
City Recorder
City of Brentwood, TN
P. O. Box 788
Brentwood, TN 37024-0788
615-371-2200 ext 2310

From: ray@923wnpc.com
To: [OpenRecords Comments](#)
Subject: Public records
Date: Thursday, August 13, 2015 7:07:06 AM

Sirs,
Public records belong to the public. Why then should members of the public be charged for viewing them?
The proposal to charge for viewing a public record should be rejected.
Thank You.

Ray Snader
News Director, WNPC AM/FM, Newport
Correspondent, Morristown Citizen Tribune

From: [charles cureton](#)
To: [Richard Stevens](#); [Jim Tracy](#); [Steve McDaniel](#); [OpenRecords Comments](#)
Cc: [Jason Jenkins](#); [Dwain Etterling](#); [Lew Baggett](#); [Jerry Grasmick](#); [Joe Pitts](#); [Bill Powers](#); [Zola Kahn](#); [John Gannon](#); [Governor Bill Haslam](#); lt.gov.ron.ramsey@capitol.tn.gov; [Wallace Redd](#); [Brenda E. Radford](#); [Tommy Vallejos](#); [Ed Solomon](#); [Ron Sokol](#); [Roy Salinas](#); [Jay D. Reedy](#); [Mike Stewart](#); [Curtis Johnson](#); [Thomas Kujawa](#); [David Sarge Tucker](#); [Bob Grau](#); [Charles Abernathy](#); [Katie Barrett Spencer](#); [Deanna McLaughlin](#); [Mark Green](#); [Joann Garcia](#); [Barbara Miller](#); [Donna Kent](#); [Larry Bryant](#); [Louise Michalenko](#)
Subject: Comment on Public Records/Proposed charges
Date: Thursday, August 13, 2015 7:11:30 PM
Attachments: [2015-08-13_190857.pdf](#)

In reference to an article in The Leaf Chronicle dated 13 Aug 2015 pertaining to the Open Records Counsel on proposed bills that could make citizens pay "labor fees" to local and state governments BEFORE being allowed to inspect public records, I would like to offer my comments on this matter.

While I understand a small fee for the supplies, (normally paper and ink for the copier), is acceptable. However, wanting to charge a "labor fee" appears to be a way to limit the publics' access to what is supposed to be public records. Unless I am missing something, the "labor fees" would translate to a city, county, or state employee being paid twice for the job they are doing. The first pay would be the regular pay they receive for their duties. The second pay would be additional pay for performing the same or similar duties they have been hired to do. In most government job positions, there is a clause that states "and additional duties as may be required". I must agree with the TCOG, TPA and other citizen groups in opposing this proposed legislation because of the concerns the new "labor fees" would be used to block access to public records that provide government accountability and opens the door for abuse in the same manner copy fees have been abused.

Another concern that should enter into this proposed legislation has to do with the transparency of government agencies. The federal government in Washington, DC does not have the best record when it comes to transparency in many areas.

I am not saying it would, but it could open the door for some in the State of Tennessee to follow the secrecy and deniability of certain areas like the current federal government administration in Washington, DC.

I would ask that this legislation not be made in to law.

Respectfully,

Charles Cureton
Clarksville, TN. 37040
13 August 2015



RAY HOWZE/THE LEAF-CHRONICLE
Division headquarters at Fort Campbell.

Have your say on public records

Sept. 16 hearing seeks
input on proposed charges

RICHARD V. STEVENS
RSTEVENS@THELEAFCHRONICLE.COM

CLARKSVILLE, Tenn. — The Office of Open Records Counsel has set a public hearing for Sept. 16 in Nashville to gather input on proposed bills that could make citizens pay labor fees to local and state governments before being allowed to inspect public records.

Legislation was introduced in the 2015 Session of the 109th General Assembly that would permit charges for inspecting public records. While a records custodian is permitted to charge for copies of public records, inspection is generally free of charge.

Other hearings are set for Knoxville and Jackson. The OORC will prepare a report with recommendations on this issue to the General Assembly by Jan. 15, 2016, according to a press release Wednesday from the state comptrollers office

The hearing is being conducted after the Tennessee Coalition for Open Government and the Tennessee Press Association opposed bills that would allow for the first time local governments and state agencies to charge labor fees to provide public records for citizen inspection.

The closest hearing for Clarksville-Montgomery County residents will be from 10 a.m. to noon Wednesday, Sept. 16, at the James K. Polk State Office Building, 505 Deaderick St., 16th Floor, Video Conference Center, Nashville.

Currently, Tennessee law allows citizens free access to inspect public records, but allows charges if the citizen wants copies. TCOG, TPA and other citizen groups opposed the proposed legislation because of concerns that new fees would be used to block access to public

See Records, Page 4C

**The closest hearing for
Clarksville-Montgomery
County residents will be from
10 a.m. to noon Wednesday,
Sept. 16, at the James K. Polk**

New leader

Who: Brig. Gen. John E. Novallis II

Position: Deputy Commanding General for Support with the 101st Airborne Division

Born: Williamsport, Pa.

Education: Bachelor of science from the U.S. Military Academy. Master's degrees from Webster University and the National War College

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ers, the Cafaro organi-
zation owns and over-
sees more than 30 mil-
lion square feet of
commercial real estate
in 11 states. Founded by
the late William M. Ca-
faro in the 1940's, the
firm is now in its sev-
enth decade as a family
owned and managed
business. For more in-
formation, visit [cafaro-
company.com](http://cafaro-company.com).

Records

Continued from Page 1C

records that provide gov-
ernment accountability,
and be abused in the same
way copy fees have been
abused, TCOG said in a
press release.

Journalists and even a
college student have been
charged more than \$1,000
when they requested pub-
lic records for things such
as spending expenses,
TCOG's release said. A
few years ago, the Depart-
ment of Children's Ser-
vices tried to charge
media organizations more
than \$55,000 for records
dealing with child deaths,
which included mileage
and labor to drive the rec-

ords to Nashville from far
corners of the state.

The bills to allow addi-
tional public records fees
were sponsored by state
Sen. Jim Tracy, R-Shelby-
ville, and state Rep. Steve
McDaniel, R-Parkers
Crossroads, at the request
of the Tennessee Associa-
tion of School Boards.

The OORC has pre-
pared brief online sur-
veys to help gather input
from citizens and govern-
ment entities. The re-
sponses from these sur-
veys will help in the prepa-
ration of the final report.
Tennessee citizens can
submit a survey by click-
ing here.

Representatives of
government entities can
submit a survey at [https://
www.surveymon-
key.com/r/OORCcitizen](https://www.surveymonkey.com/r/OORCcitizen)

The OORC will hold the
three public hearings, in
conjunction with the Ad-
visory Committee on
Open Government, to
gather feedback on five
specific questions related
to these issues. Tennessee
citizens, government enti-
ties, and advocacy group
representatives are invit-
ed to participate by send-
ing written comments to
[comments.open.rec-
ords@cot.tn.gov](mailto:comments.open.records@cot.tn.gov) and by
attending one of the pub-
lic hearings.

Additional information
and guidelines regarding
the public hearings can be
found online at the OORC
website.

Reach News Director/
GM Richard V. Stevens at
931-245-0220 and on Twit-
ter @RichardS_leaf.

ing from A to Z

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From: [Dwain Etterling](#)
To: [Charles Cureton](#); [Richard Stevens](#); [Jim Tracy](#); "[Steve McDaniel](#)" <rep.steve.mcdaniel@capitol.tyn.gov>; [comments.open.records@](#)
Cc: [Jason Jenkins](#); [Lew Baggett](#); [Jerry Grasmick](#); [Joe Pitts](#); [Bill Powers](#); [Zola Kahn](#); [John Gannon](#); [Governor Bill Haslam](#); [lt.gov.ron.ramsey@capitol.tn.gov](#); [Wallace Redd](#); [Brenda E. Radford](#); [Tommy Vallejos](#); [Ed Solomon](#); [Ron Sokol](#); [Roy Salinas](#); [Jay D. Reedy](#); [Mike Stewart](#); [Curtis Johnson](#); [Thomas Kujawa](#); [David Sarge Tucker](#); [Bob Grau](#); [Charles Abernathy](#); [Katie Barrett Spencer](#); [Deanna Mclaughlin](#); [Mark Green](#); [Joann Garcia](#); [Barbara Miller](#); [Donna Kent](#); [larry bryant](#); [lmichalenko@yahoo.com](#)
Subject: RE: Comment on Public Records/Proposed charges
Date: Thursday, August 13, 2015 10:17:42 PM

I would like to say, I agree with Mr. Cureton on this matter. Seems to me that all we want to do is tax individuals over and above the norm. By the way, what is the norm these days? Tax and spend, no end in sight. Dwain J. Etterling

Date: Fri, 14 Aug 2015 00:13:01 +0000
From: charles__cureton@bellsouth.net
To: richardstevens@theleafchronicle.com; sen.jim.tracy@capitol.tn.gov; rep.steve.mcdaniel@capitol.tyn.gov; comments.open.records@cot.tn.gov
CC: ivanhoe143@msn.com; plantdaddy53@live.com; lewbaggett@att.net; jgrasmic@iglou.com; rep.joe.pitts@capitol.tn.gov; ward11@cityofclarksville.com; grandzola@yahoo.com; district1@montgomerycountyttn.org; bill.haslam@tn.gov; lt.gov.ron.ramsey@capitol.tn.gov; wallace.redd@cityofclarksville.com; beradford@montgomerycountyttn.org; electtommyvallejos@yahoo.com; ed.solomon@att.net; r_sokol@bellsouth.net; jefe64@hotmail.com; rep.jay.reedy@capitol.tn.gov; rep.mike.stewart@capitol.tn.gov; rep.curtis.johnson@capitol.tn.gov; hypnocop73@gmail.com; david.s.tucker.10@facebook.com; agrau4456@charter.net; crashabe1@aol.com; katiespencer1114@aol.com; dmclau9499@bellsouth.net; sen.mark.green@capitol.tn.gov; joannlgarcia@yahoo.com; jacjul@columbus.rr.com; mommamouse50@yahoo.com; larry_bryant@jenkinsandwynne.com; lmichalenko@yahoo.com
Subject: Comment on Public Records/Proposed charges

In reference to an article in The Leaf Chronicle dated 13 Aug 2015 pertaining to the Open Records Counsel on proposed bills that could make citizens pay "labor fees" to local and state governments BEFORE being allowed to inspect public records, I would like to offer my comments on this matter.

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fees have been abused.

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I am not saying it would, but it could open the door for some in the State of Tennessee to follow the secrecy and deniability of certain areas like the current federal government administration in Washington, DC.

I would ask that this legislation not be made in to law.

Respectfully,

Charles Cureton
Clarksville, TN. 37040
13 August 2015

From: [Sharon Boyce](#)
To: [OpenRecords Comments](#)
Subject: Open records law
Date: Friday, August 14, 2015 7:58:32 AM

It is extremely important that citizens and organizations be able to inspect public records without a fee. Without this right government can transact business, enact laws and policy, and make deals with no transparency. Yes, it takes time for employees to perform searches, but for our government to remain of the people, by the people and for the people it is necessary.

Sharon E Boyce
9520 Westland Drive
Knoxville, TN 37922
865-690-1125

Sent from my iPad

From: [Margaret](#)
To: [Open Records](#)
Subject: Prospect of Charges for Inspecting Public Records
Date: Friday, August 14, 2015 10:23:44 AM

To whom it may concern:

I was a state employee for 36 years and 6 months as designated by the Tennessee Consolidated Retirement System. I certainly understand charging for copies of public records, but employees across the state at city, county, and state levels are being paid from public tax money to serve the public. It seems ridiculous for state citizens to pay twice for the same service. Assisting the public falls within the purview of established and funded positions. If those in such positions cannot handle the responsibilities of their jobs or do not wish to do so, there are plenty of unemployed or underemployed individuals in Tennessee who probably would be happy to perform those duties and enjoy guaranteed salaries with benefits.

Thank you for consideration of these thoughts.

Margaret Ripley Wolfe, Ph.D.
Professor of History Emerita
East Tennessee State University

From: [Debbie Elaine Tipton Winters](#)
To: [OpenRecords Comments](#)
Subject: Open Records public response to proposed legislation
Date: Friday, August 14, 2015 3:56:06 PM

I read about the proposal to charge people for accessing public records. To charge for researching public records seems counterintuitive to maintaining an informed citizenry. The first population I see impeded by these charges will be students conducting legitimate research for assignments. We can then move to journalists, epidemiologists, architects, heirs, engineers, military service members and on.

Yes, paper copies of documents should be part of charged services, but in this age of digital media the faster and less costly means might be direct data transfer or mailing a compact disc or data drive to the researcher.

Hence, I oppose the proposed charges for accessing public records.

Respectfully,

Debbie Tipton Winters

RN, MSN, MSS

Colonel, United States Army Reserve (Retired)

Clarksville, Tennessee

[931-906-0131](tel:931-906-0131)

From: [John Fritts](#)
To: [OpenRecords Comments](#)
Subject: open records
Date: Saturday, August 15, 2015 2:32:15 PM

Any attempt to charge for open records is an attempt to close records to those who can not afford to pay. We should not close records based on whether or not you have the ability to pay. I would hope our representatives in our state government could see this with out someone bringing this to their attention.

From: asaemert@aol.com
To: [OpenRecords Comments](#)
Subject: Charges for Public Records
Date: Saturday, August 15, 2015 4:33:33 PM

Hello,

I do a lot of genealogy work for myself and for others wanting to join lineage societies. Will genealogical documents and records (older death certificates, old court cases, etc.) used solely for genealogical purposes be included in this system of charges?

Thank you,
Amy Emert

From: [Bob Niles](#)
To: [OpenRecords Comments](#)
Subject: Objections to charging for access to public records Robert Niles
Date: Sunday, August 16, 2015 10:23:04 AM

PUBLIC HEARINGS REGARDING INSPECTION OF PUBLIC RECORDS

1.

Should the TPRA permit record custodians to charge for inspection of public records? ABSOLUTELY NOT, FREE AND OPEN ACCESS SHOULD BE PROVIDED AS A MATTER OF LAW AND CONSTITUTIONAL RIGHT TO ANY CITIZEN OF TN EXCEPTING THOSE ALREADY EXCLUDED AS A MATTER OF LAW: PRISONERS COME TO MIND FIRST.

2.

If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not? WE ALREADY PAY THE GOVERNMENT COSTS, ACCESS SHOULD BE FREE, BUT FAIR & REASONABLE CHARGES FOR COSTS RELATED TO PRINTED MATERIAL COPIES ARE ALLOWABLE.

3.

If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why? FREE AND OPEN ACCESS TO ALL RECORDS THAT ARE TRULY PUBLIC. THERE ARE A RELATIVELY FEW EXCEPTIONS: RECORDS OF MINORS COME TO MIND AS AN EXAMPLE. NO, SEE ABOVE

4.

If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8604 related to charges for copies be considered for inspection? If not, SAME ANSWER, WHO IS SO AFRAID THAT THE PUBLIC WILL BE ABLE TO "SEE AND HEAR" ALL THAT GOES ON IN THE GOVERNMENT IT ELECTS AND PAYS FOR. THE TRITE OBJECTION OF "THEY WON'T UNDERSTAND" FALLS ON IT'S FACE IN FACT. IF YOU ARE AFRAID, DON'T SAY IT IN A PUBLIC FORUM! why not?

5.

What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why ALL PUBLIC RECORDS SHOULD BE DIGITIZED AND ACCESS TO THEM SHOULD BE FREE, UNOBSTRUCTED, AND FULL ACCESS . THE

COSTS BORNE BY SUCH AN UNDERTAKING IS MINIMAL WHEN SPREAD ACROSS THE CITIZENS OF TN. THEN, THERE ARE NO ADDITIONAL COSTS IN THE FUTURE BECAUSE ACCESS IS ONLINE, AVAILABLE TO ANYONE WITH A COMPUTER, A NEARBY LIBRARY, AND A VALID TN TAX ID #.

From: [Nancy](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Sunday, August 16, 2015 12:00:46 PM

Contact information:

Nancy Stinson
322 Tyree Springs Rd.
White House, TN 37188
home phone: 615-672-0930 (has voice mail)
cell phone: 615-545-1691
email: studio32@bellsouth.net

Organizational affiliation: None

Location: Nashville

Comments: I will submit a written version of my oral comments before the date of the meeting.

I appreciate the opportunity to speak. Sincerely, Nancy Stinson



This email has been checked for viruses by Avast antivirus software.
www.avast.com

Comptroller Inquiry

I wish to go on record regarding the plan or legislation suggesting that a fee should be charged to individuals who wish to review public records. This concept totally violates the meaning of "Open" . The idea that we would be required to pay a fee to inspect or view public records makes the term "public records" null and void. This should not be allowed. The idea of open records is just that, they are open to be viewed anytime your offices are available. ::: MerryAnne Pierson :::

merryanne@bellsouth.net

From: [Kenneth Clanton](#)
To: [Open Records](#)
Subject: Charge for Public records
Date: Monday, August 17, 2015 2:18:58 PM
Attachments: [image001.png](#)

There should never be a Charge to View Public Records or a charge for printing copies. it should only be the cost of the Paper and ink. as far as the public employee's time to do it. "It is Their JOB" its what they get paid to do. Serve the Public...!!! Somehow Government keeps forgetting this. Taxpayers already pay for this service and shouldn't be TAXED twice for it. I also think all public records should be available online for the public to view at any time. In my observation of Public Employees during my entire Life. i have never seen a single one of them that looks to be Overworked. They have plenty of time to do their Job and also provide any Citizen the public records that is being ask for.

Thank You,
Kenneth L. Clanton
Lead Electrician
Albéa
E-mail: Kenneth.Clanton@Albea-group.com



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From: kktlibrary@gmail.com on behalf of [Kathleen K. Thompson](#)
To: [Open Records](#)
Subject: OPEN Access to public records
Date: Monday, August 17, 2015 4:40:58 PM

Access to public records should be available to citizens at no additional charge, as taxes have already been assessed to cover expenses.

I think it is reasonable for individuals to pay for any copies desired, but not for access or assistance to the information itself.

Kathleen Thompson
1809 Beechwood Court
Alcoa, Tennessee 37701

From: 4235523989@vzwpix.com
To: [OpenRecords Comments](#)
Date: Monday, August 17, 2015 4:52:09 PM
Attachments: [text_0.txt](#)

Charging citizens to inspect public records?? Ridiculous! The public should have open & free access to "public" records! Is Tennessee forgetting we live in America?

Angie Clendenon
1210 Upland Ave.
Greeneville, TN. 37743

From: [Bill Young](#)
To: [OpenRecords Comments](#)
Subject: Changes to the Open Records Law
Date: Tuesday, August 18, 2015 8:35:37 AM

I wish to first thank you for allowing us an opportunity to comment on this important topic. Our municipal utility provides electric, gas, water, and sewer services to approximately 20,000 customers in Roane and Morgan counties. Many times over my 30+ years of employment we have had requests for records from customers, law enforcement, and other agencies. HUB has always attempted to provide the requested records in a timely and professional way. As GM I have no qualms about providing our records when there is a truly legitimate request. On a few occasions we have had a citizen to request massive amounts of diverse records for nothing more than trying to find something to publicly release through the media in the hopes of causing issues with our elected officials and customers. We have made these records available at often a substantial cost to our ratepayers for nothing more than “political” purposes. These type requests seem to occur in one of a couple of time frames: 1. When someone feels they have been mistreated by the utility in some way, or 2. When there is a local election and they want to use the utility as a campaign issue.

I would strongly encourage legislation to deal with these types of requests. I see no reason to charge fees for our normal business activities but these massive “fishing” requests should not be paid for by our rate payers.

Thank you for your consideration.

Bill Young, CPE
General Manager
Harriman Utility Board
P. O. Box 434
300 N. Roane Street
Harriman, TN 37748
865-882-3242 ext. 201

From: [John Rosσμαier](#)
To: [OpenRecords Comments](#)
Cc: [Kenny Martin](#); [Sheila Lockett](#)
Subject: Open Records comment
Date: Tuesday, August 18, 2015 9:18:19 AM

The City resists creating anything that does not exist meaning the citizen cannot dictate the format of a document i.e. a chart of the percentage of sales tax growth over the past 5 years that does not exist-city would expect to provide the raw data and citizen creates the chart. The City is at a bit of a loss on action to be taken when records are requested that do not exist because City does not use an available software feature that would provide such data.

Recently the city had a request for electronic copies of all purchase orders for the past 7 years. Such records do not actually exist in any form except paper. The request detailed above was for an out of state entity to which the city would have denied response but they employed a Tennessee citizen to make the request.

The City spent a few hours reviewing existing software and discovered a way to obtain electronic data that appeared to fulfill the request. The City provided what it had found a way to create and the requestor acknowledged that the data was satisfactory. It appears that the City could rightfully simply say the records requested did not exist BUT programs to create the data requested did exist though not used by the City nor is the program of use in the future.

Cities need better guidance within the law that will consider what must be produced electronically for citizens. We have citizens request data electronically that is not in electronic format but must be converted to such. The citizen wants to avoid the minimal copy cost but it takes the more time to produce an electronic copy than a paper copy. It results in a diversion and consumption of taxpayer resources for a single citizen rather than all citizens.

Finally, in reviewing the above request for the purchase orders, it has become evident that this company has attempted to get this data from all Tennessee cities and probably other states as well. It becomes obvious that the company is producing a product to sell and taxpayer resources are being used to create the underlying data that becomes the company's product. While it is possible that cities might benefit from the dissemination of this data, it still seems the open records law is being perverted to benefit a commercial entity that is not concerned with transparency. It seems there should be an avenue to prevent this event from occurring.

Your consideration is appreciated.

John Rosσμαier
Finance Director
City of Mt. Juliet

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From: [dwayne oxford](#)
To: [OpenRecords Comments](#)
Subject: Charging for access to public records
Date: Tuesday, August 18, 2015 9:39:20 AM

Another bad idea from inconsiderate people who have more money than they'll ever need. The government employees in records offices aren't overworked and already get paid for just being there. If there are people/organizations abusing the free access, penalize them and ONLY them.

Dwayne Oxford

From: [John Rosσμαier](#)
To: [OpenRecords Comments](#)
Subject: Cost of open records copies
Date: Tuesday, August 18, 2015 12:34:49 PM

There should be a fee for each copy of a page. It should be economical and appropriate and not designed to thwart transparency.

In addition, that same price per page should be applied to every page that is scanned to electronic format if it does not exist in that format before the open records request. The scanning is free neither in time nor equipment use. Citizens do not easily accept that scanning has a cost.

Your consideration is appreciated.

John Rosσμαier
Finance Director
City of Mt. Juliet

“This message may contain confidential and/or proprietary information and is intended for the person/entity to whom it was originally addressed. Any use by others is strictly prohibited.”

From: [Heather Mullinix](#)
To: [OpenRecords Comments](#)
Subject: Charging for inspection of public records
Date: Wednesday, August 19, 2015 9:20:18 AM

I believe allowing government entities to charge for simply inspecting the records is wrong. All the time we hear news from the comptroller of misuse of government funds. Such audits take a lot of time and usually only come about after someone has done some looking through records. You must have accountable leaders to shed light on these abuses, or an engaged and watchdog press or community group.

Allowing charges just to inspect records would stifle information that is available to the public. In this day and age, with all the many technological resources that are available, it is incomprehensible that we would be considering action that would allow less exchange of information, less accountability of our government leaders and workers, and less involvement by the public.

Give our local governments training on open records requests. Sadly, many just don't know what is a public record. Give them information on resources they can use to share information. My city and school legislative bodies have both taken to placing agenda items and supporting documents online several days in advance of a meeting. More of that should be taking place, not less.

Allowing charges, especially without clear guidelines for acceptable charges and documentation of the time it actually took to gather records, could be used in a punitive manner to those government entities feel are "fishing" for something. So many times, records requests can be handled by simply talking to the person, helping them define what it is they are looking for and then providing that information.

I am a member of a media organization, but I am first and foremost a citizen of this state, and that is the organization, group, or constituency this comment is meant to address.

Heather Mullinix
2025 Iowa Dr.
Crossville, TN

From: [Steven Currie](#)
To: [OpenRecords Comments](#)
Subject: Labor Charges to Citizens for Records Inspections
Date: Wednesday, August 19, 2015 2:14:13 PM

Comptroller:

I am adamantly opposed to the State of Tennessee, or any of its cities, counties or other governmental agencies charging citizens a labor charge to inspect government records. This is a not so subtle attempt to raise up the walls of government so that the citizens are prevented from knowing what our government is doing. This is the people's business and we should not be charged to learn what is going on inside the government agencies. From the tens of millions of dollars wasted on failed computer projects, to coverups of the death of children who were in DCS custody, to the waste in the DHS summer food program for children, there is plenty that we citizens need to know about. That is only the tip of the iceberg.

I have no problem with governmental agencies charging "reasonable" fees for the copying of documents. These copying charges need to be in line with what office supply stores charge for copying services. But charging for labor will only lead to outrageous charges to know what our own government is doing.

Sincerely,



Steven Currie

3350 John Taylor Rd.

Woodlawn TN 37191

stevencurrie2@gmail.com

From: [Marian Ott](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Thursday, August 20, 2015 10:41:44 AM

Marian Ott
President
League of Women Voters of Tennessee

Marian.ott@comcast.net

110 31st Ave N #1001
Nashville, TN 37203
(cell) 615-812-8462

Request to speak at the September 16 hearing in Nashville

From: [Susan Atchley](#)
To: [OpenRecords Comments](#)
Subject: open record
Date: Thursday, August 20, 2015 12:11:24 PM

Good Afternoon:

Please see the following:

1. Should the TPRA permit record custodians to charge for inspection of public records? **Yes**
2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not? **Yes**
3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why? **Yes. Public records are just as stated a public record so it should be permitted for inspection.**
4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not? **Yes**
5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to *duplication* of records? Why? **This Office agrees with current charges for duplication of records.**

Susan K. Atchley

Robertson County Clerk
511 South Brown Street
Springfield, Tennessee 37172
615-384-5895
susan.atchley@robertsoncountyttn.org

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From: [Harold Huber](#)
To: [OpenRecords Comments](#); [Justin Wilson](#); [Jason Mumpower](#)
Cc: [Mae Beavers](#); [Mark Pody](#); [Susan Lynn](#)
Subject: meeting September 16th.
Date: Thursday, August 20, 2015 3:45:46 PM

Ms. Ann Butterworth,

I would like to sign up to be a speaker at the Nashville meeting regarding charges for inspection of records to be held on September 16th, 10am to noon. Please advise me that I am on the list or, in case I have to sign up some other way, please advise me as to how to properly sign up.

Over the past 8 to 10 years I have made numerous requests for public records. During all of that time I cannot remember a single case where I requested records for anything wherein I didn't find that the County or City was doing something illegal or improper. Conversely, I have found issue after issue regarding the operations of government and how what the government was doing was improper, if not illegal or even criminal. Even now I have a request in for your input regarding the provision of information regarding the location of schools in Wilson County and I am awaiting your response. Wilson County has a long history of diabolical activity. It needs to have public scrutiny. Sunshine is nature's greatest disinfectant. Charging fees for inspection of records is one of the most heinous things government could do.

What we need is "MORE" transparency, not less.

The State General Assembly has a wonderful website where you can go, find legislation, read it, watch videos of deliberations, and see who voted for what and how the legislation is moving along. We need more of that. We need laws that require that all public records be scanned into a system, organized, redacted, and made available online free of charge. The state has a checkbook online so that we can see which companies are paid what. Counties and cities need the same thing. A citizen should have one clearing house, so to speak, where they can go and look in on government like a kid looking through a magnifying glass. We should have crystal clear clarity regarding all aspects of government. All minutes of meetings, all agenda items, all resolutions and ordinances, all proposals, all contracts, all agreements, all bond paperwork, all budgets, all checkbooks, videos of meetings, oaths of office, etc, should be online for the world to see. Only those things that are truly personal, like medical records, social security numbers, private phone numbers, etc should be exempted or redacted. All other records belong to the people, and as such should be online and available at all times for anyone to review. Not only should it be online, it should be well organized so that we can find it. If any elected public official can see it, we should be able to see it (with rare and few exceptions) and it shouldn't take us a lot of time to get to it. This state had more than \$700 million in waste, fraud, and abuse last year. Certainly we should be applauded for keeping an eye on government, we certainly should not be charged for doing it.

That having been said, there are exceptions to every rule. If someone is requesting documents that would take five people three years to find, that's something entirely different. There is a reasonable person theory to everything. However, if we start now and we put everything that comes in online for the world to see, in time this problem goes away because it will all be right there at their fingertips.

A state run, state developed, state paid for platform should be created that hosts all public records and it should be paid for from TVA PILOT Funds before such funds are distributed to Counties and cities. Every county and every city should be required to post videos of all meetings online. Equipment should be procured using TVA PILOT funds as the funding source to pay for such equipment. If you use PILOT funds the counties and cities can't refuse as you will be spending that money before they get their hands on it. If they can demonstrate that they have an adequate video system and their videos can be posted on the state run site, then they should be exempted and should receive their full share of TVA PILOT Funds.

If we have this level of transparency we can probably reduce waste, fraud, and abuse by \$100 to \$200 million per year, which surely would be a savings over and above the money spent on providing records. Keep in mind, when people like me are reviewing what the government is doing, the government receives our services free of charge.

Perhaps we should be paid for finding waste, fraud, and abuse.

Thank you

From: [joe.saino](#)
To: [OpenRecords Comments](#)
Cc: [eddie.settles@comcast.net](#); [k.welk.welch@linkpros.com](#); [eve@backinrivercity.com](#)
Subject: public comments
Date: Saturday, August 22, 2015 10:13:05 AM

1. Should the TPRA permit record custodians to charge for inspection of public records?

Answer: The answer is absolutely NO!!! We the taxpayers have paid for all these records and there should be no charge for inspection. They do not belong to the agencies, they belong to the citizens.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Charges for inspection should not be permitted. See #1.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

See answer to #1. All records including especially minutes, agendas, audit reports, salaries etc. etc. should be open and posted electronically promptly.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

See answer to #1. NO.

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to *duplication* of records? Why?

All charges for inspection should be zero. If paper copies should be requested, the charge should be the same as charged at places like UPS or any commercial copier company.

From: [joe.saino](#)
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Saturday, August 22, 2015 10:19:39 AM

My name is Joe Saino and I am President of memphisshelbyinform.com. I wish to speak at the Jackson, Tennessee session on September 17th.

I wish to speak against any additional charges for access to open records allowed by the Tennessee Open Records law. In addition I wish to propose the following changes to the existing open records law. The changes are shown in red and the deletions are shown crossed out.

Please acknowledge this request and confirm the request.

Joe Saino 901-7540699, 901-2402689, joe.saino@gmail.com, memphisshelbyinform@gmail.com

Tenn. Code Ann. § 10-7-503

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*** CURRENT THROUGH THE 2011 REGULAR SESSION ***

Title 10 Public Libraries, Archives And Records
Chapter 7 Public Records
Part 5 Miscellaneous Provisions

Tenn. Code Ann. § 10-7-503 (2011)

10-7-503. Records open to public inspection -- Schedule of reasonable charges -- Costs.

(a) (1) (A) As used in this part and title 8, chapter 4, part 6, "public record or records" or "state record or records" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

(B) "Public record or records" or "state record or records" does not include the device or equipment, including, but not limited to, a cell phone, computer or other electronic or mechanical device or equipment, that may have been used to create or store a public record or state record.

(2) (A) All state, county and municipal records shall, at all times during business hours, which for public hospitals shall be during the business hours of their administrative offices, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.

(B) The custodian of a public record or the custodian's designee shall promptly make available for inspection any public record not specifically exempt from disclosure. In the

event it is not practicable for the record to be promptly available for inspection, the custodian shall, within seven (7) business days:

(i) Make the information available to the requestor;

(ii) 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 basis for the denial; or

(iii) Furnish the requestor a completed records request response form developed by the office of open records counsel stating the time reasonably necessary to produce the record or information.

(C) [Deleted by code commission.]

(3) Failure to respond to the request as described in subdivision (a)(2) shall constitute a denial and the person making the request shall have the right to bring an action as provided in § 10-7-505.

(4) This section shall not be construed as requiring a governmental entity or public official to sort through files to compile information; however, a person requesting the information shall be allowed to inspect the nonexempt records.

(5) This section shall not be construed as requiring a governmental entity or public official to create a record that does not exist; however, the redaction of confidential information from a public record or electronic database shall not constitute a new record.

(6) A governmental entity is prohibited from avoiding its disclosure obligations by contractually delegating its responsibility to a private entity.

(7) (A) A records custodian may not require a written request or assess a charge to view a public record unless otherwise required by law; however, a records custodian may require a request for copies of public records to be in writing (electronic or paper) or that the request be made on a form developed by the office of open records counsel. The records custodian may also require any citizen making a request to view a public record or to make a copy of a public record to present a photo identification, if the person possesses a photo identification, issued by a governmental entity, that includes the person's address. If a person does not possess a photo identification, the records custodian may require other forms of identification acceptable to the records custodian. The requestor will only be required to furnish proof of Tennessee citizenship once for each office. Future open records requests from the same requestor will not require identification for a valid open records request.

(B) Any request for inspection or copying of a public record shall be sufficiently detailed to enable the records custodian to identify the specific records to be located or copied. If the record is in electronic form (e.g. excel, word, e mails, text messages, access or similar) the requested data will be provided to the requestor in that format is desired by the requestor. If redaction of personal information is required, this shall be done in the presence of the requestor on a no charge basis.

~~(C) (i) A records custodian may require a requestor to pay the custodian's reasonable costs incurred in producing the requested material and to assess the reasonable costs in the manner established by the office of open records counsel pursuant to § 8-4-604.~~

~~(ii) The records custodian shall provide a requestor an estimate of the reasonable costs to provide copies of the requested material.~~

(b) The head of a governmental entity may promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to maintain the confidentiality of records concerning adoption proceedings or records required to be kept confidential by federal statute or regulation as a condition for the receipt of federal funds or for participation in a federally funded program.

(c) (1) Except as provided in § 10-7-504(g), all law enforcement personnel records shall be open for inspection as provided in subsection (a); however, whenever the personnel records of a law enforcement officer are inspected as provided in subsection (a), the custodian shall make a record of such inspection and provide notice, within three (3) days from the date of the inspection, to the officer whose personnel records have been inspected:

(A) That such inspection has taken place;

(B) The name, address and telephone number of the person making such inspection;

(C) For whom the inspection was made; and

(D) The date of such inspection.

(2) Information made confidential by this chapter shall be redacted whenever possible, but the costs associated with redacting records or information, including the cost of copies and staff time to provide redacted copies, shall be borne as provided by current law.

(3) Any person making an inspection of such records shall provide such person's name, address, business telephone number, home telephone number, driver license number or other appropriate identification prior to inspecting such records.

(d) (1) All records of any association or nonprofit corporation described in § 8-44-102(b)(1)(E)(i) shall be open for inspection as provided in subsection (a); provided, that any such organization shall not be subject to the requirements of this subsection (d) so long as it complies with the following requirements:

(A) The board of directors of the organization shall cause an annual audit to be made of the financial affairs of the organization, including all receipts from every source and every expenditure or disbursement of the money of the organization, made by a disinterested person skilled in such work. Each audit shall cover the period extending back to the date of the last preceding audit and it shall be paid out of the funds of the organization;

(B) Each audit shall be conducted in accordance with the standards established by the comptroller of the treasury pursuant to § 4-3-304(9) for local governments;

(C) The comptroller of the treasury, through the department of audit, shall be responsible for ensuring that the audits are prepared in accordance with generally accepted governmental auditing standards, and determining whether the audits meet minimum audit standards which shall be prescribed by the comptroller of the treasury. No audit may be accepted as meeting the requirements of this section until such audit has been approved by the comptroller of the treasury;

(D) The audits may be prepared by a certified public accountant, a public accountant or by the department of audit. If the governing body of the municipality fails or refuses to have the audit prepared, the comptroller of the treasury may appoint a certified public accountant or public accountant or direct the department to prepare the audit. The cost of such audit shall be paid by the organization;

(E) Each such audit shall be completed as soon as practicable after the end of the fiscal

year of the organization. One (1) copy of each audit shall be furnished to the organization and one (1) copy shall be filed with the comptroller of the treasury. The copy of the comptroller of the treasury shall be available for public inspection. Copies of each audit shall also be made available to the press; and

(F) In addition to any other information required by the comptroller of the treasury, each audit shall also contain:

(i) A listing, by name of the recipient, of all compensation, fees or other remuneration paid by the organization during the audit year to, or accrued on behalf of, the organization's directors and officers;

(ii) A listing, by name of recipient, of all compensation and any other remuneration paid by the organization during the audit year to, or accrued on behalf of, any employee of the organization who receives more than twenty-five thousand dollars (\$25,000) in remuneration for such year;

(iii) A listing, by name of beneficiary, of any deferred compensation, salary continuation, retirement or other fringe benefit plan or program (excluding qualified health and life insurance plans available to all employees of the organization on a nondiscriminatory basis) established or maintained by the organization for the benefit of any of the organization's directors, officers or employees, and the amount of any funds paid or accrued to such plan or program during the audit year; and

(iv) A listing, by name of recipient, of all fees paid by the organization during the audit year to any contractor, professional advisor or other personal services provider, which exceeds two thousand five hundred dollars (\$2,500) for such year. Such listing shall also include a statement as to the general effect of each contract, but not the amount paid or payable thereunder.

The provisions of this subsection (d) shall not apply to any association or nonprofit corporation described in § 8-44-102(b)(1)(E)(i), that employs no more than two (2) full-time staff members.

(2) The provisions of this subsection (d) shall not apply to any association, organization or corporation that was exempt from federal income taxation under the provisions of § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) as of January 1, 1998, and which makes available to the public its federal return of organization exempt from income tax (Form 990) in accordance with the Internal Revenue Code and related regulations.

(e) All contingency plans of law enforcement agencies prepared to respond to any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident shall not be open for inspection as provided in subsection (a).

(f) All records, employment applications, credentials and similar documents obtained by any person in conjunction with an employment search for a director of schools or any chief public administrative officer shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. For the purposes of this subsection (f), the term "person" includes a natural person, corporation, firm, company, association or any other business entity.

HISTORY: Acts 1957, ch. 285, § 1; T.C.A., § 15-304; Acts 1981, ch. 376, § 1; 1984, ch. 929, §§ 1, 3; 1991, ch. 369, § 7; 1993, ch. 475, § 1; 1998, ch. 1102, §§ 2, 4; 1999, ch. 514, § 1; 2000, ch. 714, § 1; 2005, ch. 263, § 1; 2007, ch. 425, § 1; 2008, ch. 1179, § 1;

2011, ch. 353, § 1.

From: [Glen Ellis](#)
To: [OpenRecords Comments](#)
Subject: Open PUBLIC Records
Date: Tuesday, August 25, 2015 7:57:09 AM

It is outrageous and a prime example of bureaucratic arrogance to charge anything for public records.

After all, we, the taxpayers, paid for these services and records. The Public Records belong to us, not to the Tennessee Government

One day there **may** be a scandalous exposure along the lines of the **Ashley Madison of Public Records** and then the Tennessee Government will wish they had cleaned up this secretive behaviour earlier.

--

Glen Ellis

Memphis, TN

From: [Andrew Serri](#)
To: [OpenRecords Comments](#)
Subject: Comments: Open Records Laws
Date: Tuesday, August 25, 2015 8:04:10 AM

To Whom It May Concern:

I am writing to comment on open records laws and the proposal to charge for inspection of public records. I am providing my comments to the following proposed questions:

1. Should the TPRA permit record custodians to charge for inspection of public records?

Answer: No. The records belong to the tax payer and all records should be posted on the Internet.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Answer: No. Charges should not be permitted. Please see number 1 above.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

Answer: Please see answer to number 1 above. All records should be posted in electronic format on the Internet.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

Answer: No. Please see answer to number 1 above.

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

All charges for inspection should be zero. If paper copies are requested, the charge should be in line with the cost of copies at retail (approximately 10 cents per copy at UPS Store, FedEx Store, etc).

Regards,
Andrew Serri

From: [Neal Frazier](#)
To: [OpenRecords Comments](#)
Subject: inspection of public records
Date: Tuesday, August 25, 2015 10:25:54 AM

I emphatically feel that “public records” should be available to the “public” at no cost for review. Copies of documents should be available at a nominal cost, such as the going rate for b/w copies at an established business.

The “public” has become skeptical of politicians hiding behind rules/laws/regulations that prohibit or impede the public knowledge of their actions.

Transparency should be encouraged in every way. Politicians, elected officials and public service appointees serve “the public”.

They must be openly accountable and their records transparent.

Please protect the right of the public to have access to “public records” at no cost for inspection and a set nominal cost for making copies of such.

William O. Frazier, Jr.
30 Lynnfield St
Memphis, TN 38120

From: [John Maxwell](#)
To: [OpenRecords Comments](#)
Subject: charges for copies of public records
Date: Tuesday, August 25, 2015 11:54:36 AM

Making arbitrary charges discourages citizens from learning what their government is doing to govern them with their tax dollars.

There should be a right to view public records on a reasonable basis, and to obtain copies at minimum costs.

From: [Martinez, Michael T](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Tuesday, August 25, 2015 1:42:54 PM

Ann Butterworth:

This is to request to speak at the Public Hearing on public records fees.

Name of speaker and contact information: Michael T. Martinez, 865-687-2564,
spj.mike@gmail.com

Organizational affiliation: East Tennessee Society of Professional Journalists

Hearing location at which they wish to speak. Knoxville – 4-6 p.m., Tuesday, Sept. 15, 12

Oaks Executive Park, 5401 Kingston Pike, Building 2, Suite 350

Regards,
Michael T. Martinez
ETSPJ President

From: cranelljr@aol.com
To: [OpenRecords Comments](#)
Subject: No Fees
Date: Tuesday, August 25, 2015 4:50:49 PM

Sirs, It's time to stop hiding or charging fees for public records.
Last time I looked this country was still a democracy and
your attempts to deny public access sullies your reputation.
A concerned citizen,
Lawrence Crane
4640 Peppertree Ln
Memphis, TN. 38117

From: [Deborah Fisher](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Thursday, August 27, 2015 10:10:38 AM

I would like to speak at the Nashville public hearing on the proposal on public records fees.

I am executive director of Tennessee Coalition for Open Government.

My name and contact info is below.

Thank you,
Deborah

Deborah Fisher
Executive Director
Tennessee Coalition for Open Government
(615) 602-4080

Check out my open government blog at www.tcog.info

Or follow us on [Facebook](#)

Or twitter @TNOpenGovt

Phone Call Summary

8/27/2015

Dick Rau

Fairfield Glade, TN 38558

He does not support charging to inspect records because he would not be able to afford it and he is investigating corruption and would not be able to do so if he had to pay to inspect records. He went on to discuss some corruption and the fact that he has contacted the media, secret service, and other government officials.

Comptroller Inquiry

I am director of our local archives and am the Archivist on our local public records commission. Our records span the dates of 1792- present day. We have many people needing to access our public records and I do not believe they should be charged a fee for a look-up. ::: Lura B. Hinchey :::

luhinchey@charter.net

From: [Brenda Thakkar](#)
To: [OpenRecords Comments](#)
Cc: [Joe Saino](#)
Subject: Free Access to Public Records
Date: Thursday, August 27, 2015 12:33:22 PM

To Whom It May Concern:

I have been working since I was 19 years old and have paid taxes for all of those years. It seems to me that the taxes I pay help to support the Federal and State governments. As such, the people who work for the Federal and State governments actually work for the taxpaying citizens.

It really irks me to think that the state of Tennessee bureaucrats seek to deny access to public records by means of fees charged to the persons wanting access to those records. We pay for these services and records already with the taxes we have paid.

**Charges for inspection of public records should not be permitted.
Any charges for copies of public records should not be assessed at costs more than places like UPS, FedEx Office, or any other commercial paper copier company—about 10 cents per copy for black and white copies.**

I oppose any additional charges for either inspection of public records or additional charges for the copying of public records.

I ask for more transparency in government and zero cost for access to records.

Brenda Davis

From: [R. Feathers](#)
To: [OpenRecords Comments](#)
Date: Thursday, August 27, 2015 12:34:36 PM

Recently, we had a customer that did not like his citation. He appealed and did not like that either. He has requested three years of financials as well as a copy of the officers video from the lapel camera. I believe we need to add video cost.
Becky Feathers, Town Recorder for Rossville.

From: [cityofking](#)
To: [OpenRecords Comments](#)
Date: Thursday, August 27, 2015 12:34:55 PM

I am of the opinion that my time is worth as much to copy and redact records for inspection as it is to make copies. Sometimes it takes several hours or days to research and make copies just for inspection. I think we should be able to charge for either service. Thank you for your help in not letting this happen.

*Carolyn Brewer, CMFO
City of Kingston
900 Waterford Place
Kingston, TN 37763*

From: [Julie Turner](#)
To: [OpenRecords Comments](#)
Cc: [Sandy Garrett](#)
Subject: Written Comments to the Office of Open Records Counsel from the Board of Professional Responsibility
Date: Thursday, August 27, 2015 3:48:36 PM
Attachments: [Memo to OORC from Board of Professional Responsibility 8-27-2015.pdf](#)

Dear Counsel:

On behalf of Sandy Garrett, Chief Disciplinary Counsel for the Board of Professional Responsibility (Board), attached please find the Board's written comments to the Office of Open Records Counsel's questions.

Sincerely,

Julie Turner
Executive Assistant to Chief Disciplinary Counsel
Board of Professional Responsibility
of the Supreme Court of Tennessee
10 Cadillac Drive, Suite 220
Brentwood, TN 37027
Phone: 1-615-361-7500, ext. 209 or 1-800-486-5714
Fax: 1-615-367-2480
Email: jturner@tbpr.org

Please be advised that information relating to the investigation of complaints is confidential and privileged as provided in Tennessee Supreme Court Rule 9, Section 32.



BOARD OF PROFESSIONAL RESPONSIBILITY
of the
SUPREME COURT OF TENNESSEE

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A. RUSSELL WILLIS
DISCIPLINARY COUNSEL

TO: Office of Open Records Counsel (OORC)
FROM: Sandy Garrett, Chief Disciplinary Counsel
DATE: August 27, 2015
RE: Written Comments to OORC Questions

Sandy Garrett, Chief Disciplinary Counsel for the Board of Professional Responsibility (the Board) respectfully submits the following written comments to OORC's questions:

Question 1: Should the TPRA permit record custodians to charge for inspection of public records?

Response: Yes, the Board respectfully submits the Tennessee Public Records Act should permit government agencies to charge for inspection of public records that are voluminous, unreasonable or intended to disrupt the functioning of the government agency.

Question 2: If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Response: Yes, the Board asserts inspection charges should be governed in a manner similar to the schedule of reasonable charges for copies of public records.

Question 3: If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

Response: To ensure citizen's rights to access public records while protecting government agencies from harassing, voluminous requests, the Board submits a category of documents or a minimum number of documents should be provided at no charge if the time involved in gathering the documents is one hour or less.

Question 4: If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

Response: Yes, the Board respectfully asserts the factors listed in Tenn. Code Ann. Section 3-4-604 are appropriate considerations for charges to inspect public records.

Question 5: What amendments or changes should be made to the current Schedule for Reasonable Charges related to *duplication* of records? Why?

Response: The Board respectfully asserts the current Schedule of Reasonable Charges related to duplication should be amended to specifically incorporate the OORC Policy Related to Reasonable Charges a Records Custodian May Charge for Frequent and Multiple Requests for Public Records. In support of this position, the Board respectfully submits that the Board receives multiple requests for public records made by the same requestor and/or the requestor's agent while the requestor is being investigated and/or prosecuted by the Board. For instance, the following attorneys while being investigated and/or prosecuted by the Board, made the following public records requests:

- in 2011-2012, requestor H.M. made 12 public records requests;
- in 2012-2013, J.R. and/or his agent made 17 public records requests;
- in 2012-2013, C.R. made 11 public records requests;
- in 2012-2015, Y.S. made 52 public records requests.

Respectfully,

Sandy L. Garrett
Chief Disciplinary Counsel

SG/jt

From: [Chris Cawood](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Friday, August 28, 2015 9:31:59 AM

I wish to speak at the Sept 15 hearing in Knoxville. I am a licensed attorney who has experience in requesting records over a ten year period.

Tel is 865 719 5726

Email chriscawood@comcast.net

Sent from my iPhone

From: [McElroy, Jack](#)
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Friday, August 28, 2015 3:52:44 PM

Jack McElroy, (865) 342-6300, jack.mcelroy@knoxnews.com
Representing the Tennessee Press Association as president of the organization
Knoxville hearing location

From: [Elizabeth T Urquhart](#)
To: [OpenRecords Comments](#)
Subject: comments
Date: Saturday, August 29, 2015 6:40:39 PM

Sirs;

I strongly oppose the suggestion that there would be a charge for review of public records. It is a contradiction to the term "public". As citizens of this country, there are certain documents that every citizen should have access to. This is particularly so for legal documents that are required to be reported to certain entities and that are government, city, county related. Governments and cities already have the option to raise taxes if there is a need for cash flow. There should not be rules that would potentially exclude people without the means to pay for public records. It is ludicrous to think that information on any topic is available worldwide with google type search engines, but due to the "recording" requirement, it should automatically become...something to pay for seeing! We want to support accurate and timely reporting, or documentation, yet, you are suggesting that to do so, we would have to pay to see it? Come along to the modern world, and balance your budget in some other way....every other business has to!

Elizabeth Urquhart
960 Hilltop Lane
Kodak, Tn 37764

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From: [Kim Lauth](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Sunday, August 30, 2015 4:08:14 PM

Speaker: Kim Lauth, Second Vice President

Organization: League of Women Voters of Tennessee

Address: 117 Londonderry Rd.
Knoxville TN 37923

Phone: 865-216-6531

Email: Kim@KimLauth.com

Location: This request is for the Knoxville hearing to be held on Tuesday, September 15, 2016 from 4-6pm

Thank you.

Kim Lauth

From: tfredhome@comcast.net
To: [Open Records](#)
Subject: 2015-08-31 Fee Proposal Open Records
Date: Monday, August 31, 2015 9:23:18 AM

Re: New Fees for Open Records

I say NO, NO new and higher fees for us to access public records.

T Fred Miller
Chattanooga TN

From: [Sally Oglesby](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Monday, August 31, 2015 1:16:49 PM

I would like to speak at the public hearing in Knoxville on September 15.

Sally Oglesby, MMC
City Clerk
392 N. Main St.
Crossville, TN 38555
931-456-5680

From: [Chester, Tom](#)
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Monday, August 31, 2015 2:27:34 PM
Attachments: [image001.png](#)

Thomas F. Chester
O. 865-342-6344 C. 865-755-6327
Tom.chester@knoxnews.com

Managing Editor
The Knoxville News Sentinel/knoxnews.com

Sept. 15 hearing in Knoxville

Tom Chester
Managing Editor
Knoxville News Sentinel
2332 News Sentinel Drive
Knoxville, TN 37921
865-342-6344
865-342-6400 fax
865-755-6327 cell
Tom.Chester@knoxnews.com



From: sdtruit@mindspring.com
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Monday, August 31, 2015 4:35:38 PM

I wish to speak at the Public Hearing in Knoxville on Sept. 15th.

My name is Richard L. Truitt, 100 Turner Lane, Lenoir City, TN 37771, 865-988-8073 My email address is included with this email address.

thank you.

From: [Michael Lowry](#)
To: [OpenRecords Comments](#)
Subject: Re: Public Records Fees
Date: Monday, August 31, 2015 7:05:07 PM

Dear Sir/Madame:

Charging fees to view public records would prevent some citizens from viewing these record.
Do not change the law, as this would roll back the efforts of transparency in government.

Respectfully,

Michael Lowry
1 Brookwood DR
Chattanooga, TN 37411

From: [Franz Raetzer](#)
To: [OpenRecords Comments](#)
Subject: Keep open records open and free
Date: Tuesday, September 01, 2015 12:26:20 PM

Please do not charge people living in TN who want to read and study TN's public records. They should be readily available over the internet without having to pay for downloads. I bet the TEA Party is behind the push to charge regular people to see public records so it would be like a sales tax. The TEA Party's final goal is to abolish the IRS so the rich cannot be taxed on their huge income anymore.

Franz Raetzer
406 Westshore Driv
Harriman, TN 37748
e-mail: fraetzer@icx.net
Tel: 865-376-7112 (h)
865-607-7138 (c)

From: [Donald R. Miller](#)
To: [OpenRecords Comments](#)
Cc: OA@LWVTN.org
Subject: Fees for record inspection
Date: Tuesday, September 01, 2015 3:29:11 PM

Sirs:

I respectfully suggest new fees are not in the best interest of our state or country.

Record keeping is already paid for through taxes – it is responsibility of public entities to maintain records in an efficient way to respond to requests for public records

You might suggest each office streamline their retrieving process and authorize the state to develop a better computer tool for that purpose to reduce the cost of supplying information to tax payers.

Thank you,

Don Miller
Oak Ridge, TN
cell 776-5171

From: [Sidney Wooten](#)
To: [OpenRecords Comments](#)
Subject: Fees for records
Date: Tuesday, September 01, 2015 8:42:54 PM

I oppose any fees for records! Our taxes already pay for these to be available!
Sidney Wooten

Sent from my iPad

From: [Charlie Hensley](#)
To: [OpenRecords Comments](#)
Subject: Fees Should Be Charged!
Date: Wednesday, September 02, 2015 5:23:00 AM

Reasonable fees discourage frivolous requests intended to punish public officials who are pursuing policies who some may not agree with.

Sent from XFINITY Connect Mobile App

From: [Martha Gill](#)
To: [OpenRecords Comments](#)
Date: Wednesday, September 02, 2015 7:55:51 AM

We oppose charging the public for access to public records. Tax payers have already paid for the records to be kept, and access should not be limited to those who can afford to pay.

Martha Gill
James E. Gill
4109 Forest Glen Drive
Knoxville, TN 37919

From: [helen.jarvis](#)
To: [OpenRecords Comments](#)
Subject: Re: Public Records Fees (Proposed)
Date: Wednesday, September 02, 2015 12:30:27 PM

Charges for viewing public records? What is the TN School Boards Assn. thinking? Public records are just that: PUBLIC RECORDS! We, the public, own those records. We pay taxes in Tennessee, we vote in Tennessee, we live in Tennessee, and we have the right to view public records w/o cost. I am aware that we need to pay for copies, etc---that's not the point. I am totally opposed to paying to view public records! Please deny this ridiculous request!!

Frances Jarvis
Registered Voter in Rhea County, TN

Comptroller Inquiry

Office of Open Records Counsell oppose charging fees for inspection of public recordsA. Transparency is critical to democracyB. Citizens have the right to information to enable them to effectively participate/provide input into the decision making processC. Inspection of public records should NOT be limited to only those who can afford costsD. Governmental entities should be encouraged to make as much public information readily accessible as possible - - fees send the message that they are doing citizens a “favor” by providing informationE. Record keeping is already paid for through taxes – it is responsibility of public entities to maintain records in an efficient way to respond to requests for public recordsF. Many other states allow free inspection of public records. And some have gotten rid of search-and-retrieval fees for copies because of abuses. Respectfully, Alfred Denny 238 N Tulane Ave Oak Ridge, TN 37830-6308 :: Alfred Denny :: SHO4OG@GMAIL.COM

From: [Connie Kittrell \(City Recorder\)](#)
To: [OpenRecords Comments](#)
Subject: Suggestion
Date: Wednesday, September 02, 2015 4:12:35 PM
Attachments: [image001.png](#)

I would like to change the seven (7) day time limit to provide the copies. I would prefer at least 10 days to two (2) weeks.

There are times when seven (7) days does not allow enough time to provide the records. Some requests require information from several different departments and this usually requires a written notice.

Any assistance and consideration is appreciated.

Connie



Connie W. Kittrell
Gallatin City Recorder
132 West Main Street, Room 111
Gallatin, TN 37066

Telephone: 615.451.5895
Fax: 615.230.0785

This message may contain confidential and/or proprietary information and is intended for the person/entity to whom it was originally addressed. Any use by others is strictly prohibited.

From: [Pat Grant](#)
To: [OpenRecords Comments](#)
Subject: inspection charges
Date: Wednesday, September 02, 2015 5:13:05 PM

I think that charging citizens to inspect records is a way of discouraging people from monitoring government activities. I once traveled 150 miles to Nashville to examine some election contributions records because they confirmed my suspicion that a local man had bought his son out of criminal charges by contributing to the local district attorney general's election campaign. It would have added insult to injury if I had had to pay to obtain this information. Taxpayers buy the building, pay the utility bills, pay the employees salaries and pay to create the records. Why should we pay to inspect them.

From: [Linda Parrott](#)
To: [Open Records](#)
Subject: Open records survey request
Date: Wednesday, September 02, 2015 7:49:16 PM

I received the email asking me to participate in the survey, and have no problem doing so. I just want to understand the actual change proposed. I read the background pdf on the website, but I still don't get why this legislation is even being proposed which tells me I'm missing something or not understanding something. It sounds like the existing TCA allows you to charge under certain circumstances for access to public records, and I know that you already have a very reasonable fee for copies of public records. Is this somehow going to mandate that anyone requesting access (as opposed to copies) of public records will be required to pay a fee, or is it just expanding your ability to charge a fee as applicable?

Linda Parrott
3579 Blue Springs Road
Strawberry Plains, TN 37871
lindapintn@gmail.com

From: Homerfrnkln@aol.com
To: [OpenRecords Comments](#)
Subject: SR-840 - Records
Date: Wednesday, September 02, 2015 8:37:32 PM

Let me tell you my story about TDOT and open records, when TDOT was building SR-840 they built an excess road through my property, before this happened we had designs meetings and I ask again, and again how much will this road cost the tax payers? there reply was again, and again, " We Don't Know" so I got in touch with someone at TDOT, I wanted to know what this road cost, when they told me what the cost per page would be and the number of paper work for the pages, it would be costly even though I am a tax payer that gives them the money to provide this to the open public, this road cost more than the Purpose that it provides, even Demetria Kalodimos from channel 4 news came out and done a story on this road that she called "The Road To Knowhere", even she went to TDOT to find out the cost, all they said is that it cost this much and did not reveal any paper work on the actual cost the we all should have right to know, all I'am saying is that there needs to be an open door policy that says "here it is " and you can look at freely.

From: [Barbara Sturgeon](#)
To: [OpenRecords Comments](#)
Subject: Open records requests need to be made easier Not more onerous.
Date: Wednesday, September 02, 2015 9:38:42 PM

It is important for government to be accountable to who they serve, the people. Unfortunately, too frequently, government forgets they are a servant to the people and begins to act as if their role is one of Master with an attitude to manage or marginalize the public instead.

For a government of the people and by the people, it is extremely important that government records be open, easily accessible and uncensored of pertinent information. It is a key to keeping government accountable to the people. Government officials need to be responsive and cooperate with information requests in a timely fashion. Records should be kept with this in mind so that they are readily accessible when called for.

I have witnessed myself, uncooperative government officials, purposefully inflating the size of an information request to impede and frustrate the public's access. Snowing a requester with erroneous information to make the sought after information hard to find. Not allowing photocopying or pictures to be taken of open record documents. Having citizens spied on while examining open record materials. Another tactic is to jeavily REDACT so much of the documents that they can hardly be read of any useful information.

It is a frequent tactic to protest the labor involved to produce the requested information because they have purposefully inflated the size of the request with erroneous or overly expansive, nonsensical searches.

Requiring citizens to pay for this information is just one more tool in the effort to retard the public's access to open records. Strategy: Turn a request into a bigger issue than it needs to be, bigger than what the person requesting actually wanted or needed, then attach an unpleasant price tag to it to deter the public who doesn't have the largess of tax payer funds to pay for it. All the while, government employees access tax dollars to frustrate citizens requests or to litigate against them in court as in Sumner county.

Sumner refused a citizens request for basic information because it was emailed and not done face to face or written on paper? or whatever unnecessarily inconvenient fashion the government official insisted on as an excuse to ignore the request. Speaks volumes for the arrogance of government. Makes one wonder what they are so desperate to hide from the public.

When it comes to open records requests, the basic tactic by uncooperative government is to make it as hard and costly for the public as possible.

Barbara Sturgeon
Williamson County Commissioner

From: [Daniela Kunz](#)
To: [OpenRecords Comments](#)
Subject: Public Hearings with the Advisory Committee on Open Government,
Date: Wednesday, September 02, 2015 10:27:20 PM

Dear Sir or Madam,

Thank you for the message with a survey and the invitation of public hearings. In the past I had to heavily rely on the guidance of Mrs. Hodge, TN State Comptroller of Open Records. She was very helpful and I blind-copied her onto several e-mail exchanges with school officials who tried to evade, delay or cancel my Open Record requests in various ways.

I will attend your meeting in Nashville on September 15. Would it be possible to have supportive witnesses of the past happenings along with me?

Thank you for this opportunity.

Best regards,

Daniela Kunz

From: [Anne Garcia Garland](#)
To: [OpenRecords Comments](#)
Subject: Keep open records free to examine
Date: Wednesday, September 02, 2015 11:11:42 PM

Dear Officials,

Free examination of public records is one of the things which provides equal access to our government for rich and poor. It is fundamental to equal opportunity. Only a small percentage of citizens use the public records but when they do, it is most often deeply important. Like public libraries, schools, and streets, public records access is a building block for a healthy democratic government that needs to be paid for by public funds. Thank you for your serious attention to this matter and your public service.

Anne Garcia Garland
Oak Ridge, Tennessee

From: [Jerry Gonzalez](#)
To: [OpenRecords Comments](#)
Subject: Comment on Open Records Issues
Date: Thursday, September 03, 2015 8:59:58 AM

Public entities who do not charge for *inspecting* public records, including public records maintained on a computer where they cost nothing to display on a screen, are nonetheless charging for a citizen inspecting the records on the screen to take a photo with a smart phone. They are charging for “copies” even though no actual copies are being produced.

Recently, I asked to inspect records in the possession of Williamson County. Their legal counsel told me that I could inspect for free but if I snapped any photos I would be charged for “copies”. I asked if I could inspect the records using a magnifying glass app on my smart phone. Legal counsel had no problem with this and said I would not be charged. I then asked if I could take my little finger and touch a button on my phone while viewing the public record through the magnifying app that would take a photo of what I was viewing. At that point, I would be charged.

This is utterly nonsensical. It costs nothing for the county, either in paper costs or labor, to allow me to use my own equipment to snap a photo of a document nor to provide me with a digital copy on my own flash drive of what they are displaying on a screen (for example pdf files). They do this only to try to make money from the inspection and because more and more people no longer need paper copies because they can use their smart phones or their own scanners.

In Rutherford County, they likewise wanted to charge me for “copies” if I took a photo with my phone of a document they allowed me to inspect for free. However, their public affairs officer finally relented and let me take the photos when I insisted that they were not supplying me with “copies”.

I emailed Open Records counsel about this issue and the response was that the law says nothing about allowing one to take photos of what is inspected. But neither does the law allow a public entity to charge for “copies” when no copies are actually produced. Nor does the law define what a “copy” is. Does it have to be a paper copy? After all, the allowance of a charge for copies was originally intended to compensate for the “costs” of producing records. If the “copy” is digital and burned on to a media supplied by the citizen, there is no cost to compensate for other than perhaps labor.

This is a loophole currently used by many public entities to discourage public inspection and to increase the cost to citizens of this inspection. The law needs to be clarified regarding this issue.

Thank you.

Jerry Gonzalez, JD, MA
2441-Q Old Fort Parkway
No. 381
Murfreesboro TN 37128
615-360-6060 off
jgonzalez@jglaw.net

www.jglaw.net

From: [Susan Curlee](#)
To: [OpenRecords Comments](#)
Subject: REQUEST TO SPEAK - SEPT 16TH, NASHVILLE
Date: Thursday, September 03, 2015 9:37:10 AM

Susan Curlee
297 Dandridge Drive
Franklin, TN 37067
(615) 308-3710
curleesm@gmail.com

I'm a Williamson County resident, mother of school age children and a newly elected board member for our school district. My request was treated as that of a citizen, thus this email is made as a resident, taxpayer & mother, not in my official capacity as a board member.

I'm requesting to speak about this issue for multiple reasons. I did submit a request and was subjected to repeated pressure from district employees to "drop" my request. In my opinion, the district used the media in an attempt to intimidate myself and others who have particular political and religious views. I also witnessed tactics to intimidate other citizens who submitted requests. Not only were we both subjected to intimidation tactics, the number of documents reported by the district to local media was inflated. In my opinion, this was intentional to marginalize those making a request the district did not want to fulfill. Other requests were treated very differently.

It should be noted that I worked with requestors to modify parameters, reduce scope of their request, and the district still did not comply. Some parents received documents regarding their very own children that were so heavily redacted, one has to question what is being kept from parents & why.

As concerned parents, we deserve the right to to know what is going on in the schools. We also need to know that those employed by publicly funded institutions are doing their job, not engaging in questionable activities. Without open records, those actions would go unchecked.

From: [juliewest08](#)
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Thursday, September 03, 2015 10:54:00 AM
Attachments: [Screenshot_2015-09-02-12-32-34-1.png](#)

I am a parent and Williamson County who has made an open records request and felt absolutely targeted because of it. The results of my request, which was not filled in its entirety, reveal substantial evidence of extremely unethical if not illegal behavior. I think it's also noteworthy that those close to the central office joke about their behavior. The attached image, from Looney supporters connected to Williamson Strong, provides evidence to this effect. For these reasons and the others I would very much appreciate the opportunity to speak at the hearings on the 16th.

Thank you,

Julie West
Parents for Truth in Education



Sent on a Sprint Samsung Galaxy Note® 3

From: [Leean Tupper](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Thursday, September 03, 2015 10:57:25 AM

County Mayor, Mrs. Terry Frank - (865) 457-6200 or tfrank@andersontn.org
Anderson County Government - 100 North Main Street, Suite 208, Clinton, TN 37716-3617

Mayor Frank wishes to make comments at the Tuesday, Sept. 15, Public Hearing Regarding Inspection of Public Records that will be held from 4 to 6 p.m. in Knoxville, TN.

Thank you,

Leean R. Tupper
Assistant to the County Mayor
Certified Public Administrator

Anderson County Government
100 North Main Street, Suite 208
Clinton, TN 37716
(865) 457-6200
Fax: (865) 457-6270

From: [Pat Post](#)
To: [OpenRecords Comments](#)
Subject: OPPOSE fees for the inspection of public records
Date: Thursday, September 03, 2015 2:01:03 PM

To Whom It May Concern:

As a member of the League of Women Voters of Tennessee, I oppose fees for the inspection of public records for the following reasons:

- Transparency is critical to democracy.
- Citizens have the right to information to enable them to effectively participate in /provide input into public policy decision making.
- Inspection of public records should NOT be limited to those who can afford required fees.
- Governmental entities should be encouraged to make as much public information readily accessible as possible. Fees send the message that they are doing citizens a "favor" by providing information.
- Record keeping is already paid for through taxes. It is the responsibility of public entities to maintain records so that responses to requests for public records can be made efficiently.
- Many other states allow free inspection of public records, and some have gotten rid of search-and-retrieval fees for copies because of abuses.

Thank you for considering this comment.

Sincerely,

Patricia A. Post
6511 Grayson Ct.
Nashville, TN 37205-3033
615.356.9511
postpa@gmail.com

From: [Lynda](#)
To: [OpenRecords Comments](#)
Subject: Inspection Fees
Date: Thursday, September 03, 2015 6:18:24 PM

While there may from time to time be unreasonable requests with a purpose, we absolutely cannot begin charging fees for records....a slippery slope to say the least.

Lynda Burman
Hixson, TN

Sent from my iPad

From: [Jennifer Cash](#)
To: [OpenRecords Comments](#)
Subject: Public Records Fees Proposal
Date: Friday, September 04, 2015 9:06:54 AM

1. Should the TPRA permit record custodians to charge for inspection of public records?

Absolutely not! Please note the subject matter, 'PUBLIC RECORDS'. It is not 'HIDDEN' nor 'PRIVATE' nor 'CLASSIFIED' RECORDS.

On a daily basis we are reminded of how we need more transparency in government, and less government. Now with this proposal we are asked to give more governmental powers with less transparency. Folks, you can't have it both ways.

Any American citizen should have access to any unclassified government 'public' record at any level, city, state or Federal. If they are requesting copies of those records they should be charged a fee as is the current procedure.

I have grown rapidly weary as I have to show my birth certificate to get my drivers silence, and show my drivers license to get a voters card, and yet when I vote now I have to show a photo ID even though all that is on my drivers license. Not only is government making it more difficult for folks to vote, now you are proposing charging us to view government public records? With the multitude of issues that need our government's attention, this 'non-issue' is a waste of your time and the taxpayers \$\$\$.

I was actually very surprised to see this issue in the Savannah Courier, Sept. 3, 2015. I am a TN native and am more than dismayed at all levels of government taking steps to make ours a more exclusive society, when we should be more inclusive. This creates more divisiveness which any country can ill afford at any time. Pick up almost any American history book or the 'all time great history book, The Bible', to learn what our ancestors experienced when government ruled. Yes, it is possible for us to make history repeat itself. Give them a hand but not the upper hand.

Jennifer Cash
PO Box 133
Crump, TN 38327
xacldy10@yahoo.com
731-632-1004

From: [Ella Herron](#)
To: [OpenRecords Comments](#)
Subject: Public records.
Date: Saturday, September 05, 2015 12:30:47 PM

I don't think we should have to pay for public records.
Thank you. Ella Herron
Sent from my iPad

From: [Barbara Gay](#)
To: [OpenRecords Comments](#)
Subject: Please Keep Public Record Inspection Free
Date: Saturday, September 05, 2015 12:39:26 PM

Dear Committee,

Please keep the inspection of public records free to all citizens. Democracy depends upon transparency. Tax payers have already paid for record keeping and should be able to monitor government plans. Unreasonable requests should be handled with mediation. Thank you for your work and consideration.

Sincerely,
Barbara Gay

--

Barbara B. Gay, LMSW, SSWS
3910 General Bate Drive
Nashville, TN 37204

Phone: 615 297-4145

From: Ontj55a@aol.com
To: [OpenRecords Comments](#)
Subject: Charges
Date: Saturday, September 05, 2015 1:44:04 PM

We pay taxes to support the record keeping in TN. so now you want to charge us to inspect them? What's next, charges for public restrooms in state buildings, I've got it a "door tax"!!! Simple, you walk through a state building door and you pay a tax.

I can't wait until the genealogy shows on TV, that have become so popular, start showing where researchers have to pay our state a fee for viewing state records.

I really don't understand your special kind of stupidity, butt I do admire your commitment to it.

You really need to rethink this.

Sincerely,
Atax Payer

Sent with the Samsung Galaxy Exhilarate™, an AT&T 4G LTE smartphone.

From: [Debbie Atchley](#)
To: [OpenRecords Comments](#)
Subject: Open Records should remain OPEN and free to search
Date: Saturday, September 05, 2015 1:50:54 PM

As a hobbyist at genealogy since 1977, I hope you will keep the PUBLIC records free for us to search. The records should remain available and open.

Regards from a TN voter,
Deborah Atchley
Collierville, TN

From: [Gloria Howell](#)
To: [OpenRecords Comments](#)
Subject: Access to public records
Date: Saturday, September 05, 2015 2:25:46 PM

Public access to public records should not have fees attached. Perhaps there could be a set number of requests that are free before fees are charged.

[Sent from Yahoo Mail on Android](#)

From: [dbeastep](#)
To: [OpenRecords Comments](#)
Subject: Charges for inspection and copying of public records.
Date: Saturday, September 05, 2015 3:00:18 PM

There should absolutely be NO charge for this. Citizens are already paying the custodians their salaries through taxes and the pulling of the records and copying them is part of their job anyway.

From: [Candance Reaves](#)
To: [OpenRecords Comments](#)
Subject: open records
Date: Saturday, September 05, 2015 3:15:11 PM

Please keep marriage records free. Genealogists usually don't have a lot of money. Free records should remain free...and open.

Candance W. Reaves
Symour, TN 37865

From: [Roberts, Jerry](#)
To: [Open Records](#)
Subject: Public Records
Date: Saturday, September 05, 2015 3:18:34 PM

I say you can't charge the citizens for what already belongs to them. It is the law of this State to make available to any citizen that asked those items considered public record. Now your are simply saying you want to charge the citizens because the government has to comply with the law.

Please also remember that the citizens are already paying for the service....unless I've missed something my tax dollars cover all the costs of the government anyway.

Sent from my Verizon Wireless 4G LTE smartphone

From: [Harry Bryant](#)
To: [OpenRecords Comments](#)
Subject: open records
Date: Saturday, September 05, 2015 3:35:49 PM

I am not a business or official user of Tennessee public records, but I do genealogical research and often access public, marriage, death, will/probate, land, and other records. It is important that these resources are kept available, as much as possible online, but if not online they should be available for reading and digital imaging. These are public documents and should be freely available to the public. If I came to you wanting you to do research or make copies or mail materials to me then obviously there should be a charge, but not if I do the research and take digital picture of information to record it.

Regards,

Harry Bryant
936 Taylor Hill Rd.
Dandridge, TN 37725

From: [Donald Atkinson](#)
To: [OpenRecords Comments](#)
Subject: I pay taxes for this
Date: Saturday, September 05, 2015 3:57:36 PM

I pay my taxes for public records
Sent from my iPadi

From: [Linda Dick](#)
To: [OpenRecords Comments](#)
Cc: ["Mark Norris"](#)
Subject: Public Records response
Date: Saturday, September 05, 2015 6:37:17 PM

Re:

Posted: Saturday, September 5, 2015 12:00 am

By Joel Davis joeld@thedailytimes.com

Tennessee officials want to know the public's opinion on whether government offices should be able to charge citizens to inspect public records.

It's my opinion that charging for viewing public records would be over-kill. It's hard for me to believe that the system is so over-burdened and abused that fees are required. My bottom line falls within the confines of the Constitution and Bill of Rights.

Linda Dick
Collierville, Tn. 38017

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From: kutecatsz@gmail.com
To: [OpenRecords Comments](#)
Subject: NO
Date: Saturday, September 05, 2015 7:32:48 PM

NO !!! Public records are Public and should never be charged to view them. This is crazy to even ask this!!!! Absurd!!!!

From: [Lisa Williams](#)
To: [OpenRecords Comments](#)
Subject: DO NOT charge for access to public records!
Date: Saturday, September 05, 2015 10:06:36 PM

My tax money goes to pay for the operation of gov't, including public records. Charging a fee to access these records is like double taxation. Why does our gov't who is supposed to SERVE We the People, want to make it harder to gain access to public records? So these gov't officials cannot be easily scrutinized, of course! This is an absurd proposed law and should be stopped dead in its tracks! Do not pass this law. What are we becoming, Communist China???????????

Lisa L. Williams
Maryville, TN

From: [Sharon Fritz](#)
To: [OpenRecords Comments](#)
Subject: Chargers for public record"s
Date: Saturday, September 05, 2015 10:15:48 PM

I use public records for genealogy research. I do the records look up myself and pay the required fee for any copies I have made. If charges other than will hurt many people who need to access public records.

Regards.

From: [Yahoo](#)
To: [OpenRecords Comments](#)
Subject: Inspection of records
Date: Sunday, September 06, 2015 6:13:08 AM

Inspection of records needs to remain free of charge.

Lynne Hill

From: jmsrgm@aol.com
To: [OpenRecords Comments](#)
Date: Sunday, September 06, 2015 7:48:54 AM

Public records are just that, records that belong to the public. The people who are custodians of the records are paid by taxes paid by the public. To charge the public to view records that are the public's property and taken care of by persons paid by the public is, to me, double taxation and just creates a barrier to access to the records. The records custodian that provides access to the records is an employee of the public. They should serve the public without additional fees.

From: [jamesgreen630](#)
To: [OpenRecords Comments](#)
Subject: Charging for public records
Date: Sunday, September 06, 2015 9:58:06 AM

Please let the records policy remain the same. I don't know why you need or want to charge for public information.

J Green

Sent from my Verizon Wireless 4G LTE smartphone

From: [humstrum](#)
To: [OpenRecords Comments](#)
Subject: Open Records
Date: Sunday, September 06, 2015 10:56:50 AM

What the state, counties, and cities are trying to do is tantamount to dictatorship. Open records and transparency must prevail, or we will regret it the rest of our lives. This is one of the most politically driven attempts to totally control who gets to see what and if permitted, for outrageous fees. Enough is enough. **STOP THIS IMMEDIATELY.**

Jerry Jaffe
Loudon, TN

From: [humstrum](#)
To: [OpenRecords Comments](#)
Subject: Public records fees
Date: Sunday, September 06, 2015 11:03:11 AM

This is one of the most outlandish schemes the government is attempting, tantamount to becoming a dictatorship. It is politically driven to hide government business and nefarious acts. ***Open records must prevail.*** Blocking public access to government documents is scandalous. **STOP THIS NOW.** How do we go about stopping this other than at the voting booth?

Jerry Jaffe
Loudon, TN

From: hollybattle41@gmail.com
To: [OpenRecords Comments](#)
Subject: Charges to view public records
Date: Sunday, September 06, 2015 11:04:29 AM

I am sure this is a nice way to increase revenue, but has anyone thought of the consequences? If a citizen cannot afford to pay, then they cannot view public records. This could be the beginning of a slide down a slippery slope.

The point is, one should not be charged to participate in a free democracy. Fees that disenfranchise the poor weaken freedom, not strengthen it. When does it stop? Do we start charging for every right of the public? Do we start charging fees to vote, so only those with money can have a say?

This may sound like a ridiculous scenario, but I hope you get the point. Absolutely NOT IN FAVOR of fees to look at **PUBLIC records**.

Regards,

Holly Battle
Putnam County

Sent from Windows Mail

From: [Lyne Ball](#)
To: [OpenRecords Comments](#)
Subject: No Fees
Date: Sunday, September 06, 2015 2:26:43 PM

I do not want to see fees for just looking at records. We pay for enough as it is.

From: [Mary Smith](#)
To: [Open Records](#)
Subject: Fees to peruse public records
Date: Sunday, September 06, 2015 5:49:52 PM

Public records are created by public agencies paid for by taxpayers. Any attempt to make them less accessible by charging a fee to see them does a disservice to those citizens the agencies were created to service. Less access creates less open government which erodes our democracy.

Exemptions to open public records already exist and are probably too numerous now.

Do not permit fees for inspection of public records. Keep access to public records open to the citizens of Tennessee. This may cause more work for state and local governments but may also improve the service of these governments.

From: [Craig Mintz](#)
To: [OpenRecords Comments](#)
Subject: Open records
Date: Sunday, September 06, 2015 8:30:13 PM

Dear TN OORC,

As you assemble your report for the General Assembly regarding open records laws, please do whatever you can to advise against requiring fees to simply inspect records. Such a requirement would be unnecessary and restrictive for the public and media. It could potentially hinder access to public records therefore hindering private business endeavors and the media's ability to report what elected officials are doing.

In a democratic republic such as ours, reasonable access to public records is a must. Please do whatever is reasonable to stop such a measure.

Thank you for your time.

Craig Mintz
Sevierville, TN

Sent from my iPhone

From: [Sandra Bellflower](#)
To: [OpenRecords Comments](#)
Subject: Fees
Date: Monday, September 07, 2015 8:53:47 AM

I think it should be free because many researchers cannot afford these fees.

Sent from my iPhone

From: [James - Pandora Vreeland](#)
To: [OpenRecords Comments](#)
Cc: [Senator Randy McNally](#); [Wayne&Katie Schnell](#); [Jimmy Matlock](#)
Subject: PLEASE No fees for public record inspections
Date: Monday, September 07, 2015 2:02:45 PM
Attachments: [PANDORA VREELAND -final FEES FOR Record Inspections.docx](#)

Please read my letter attached. I am 100% against charging fees to inspect public records.

Thank you,

Pandora Vreeland

September 7, 2015

To: Office of Open Records Counsel

cc: Senator Randy McNally

Rep. Jimmy Matlock

From: Pandora Vreeland (Loudon County resident)

RE: Open Records and possible public record inspection fees

Dear Counsel Staff:

It is because of citizen involvement and citizen free inspection of public records that my county has saved MANY MILLIONS of dollars.

If my county starts charging for record inspections our taxes will skyrocket by virtue of the fact that involved citizens won't want to pay, and/or can't afford to pay, for access to the information that their own tax dollars have already paid for. If this *pro-fee* legislation is passed it will result in the dual deaths of open government and transparency in government.

Why don't you try this with your employer...

When your boss comes into your office and asks to look at some of your data- inform him that he will need to pay you to look at it. As he is already paying your salary for you to do your job; and, whereas he owns all of the work outputs you create while in his employ, you will either be sent to the corporate "shrink" for an immediate mental evaluation or fired on the spot.

Charging for access to knowledge is tantamount to hiding that knowledge from the people who cannot or will not pay for something they already are entitled to by virtue of paying taxes.

What Tennessee needs is legislation that requires 24/7 access to public records. These records can be put onto a county website that the public can access without "bothering" any public officials for them. And, if citizens want hard copies they can print them from wherever they are or be very specific in asking the county to make certain copies. Apparently, it isn't even necessary to scan new documents if they are saved as PDF files when they are created. Presently, Loudon County taxpayers pay for separate IT departments for county government and the board of education.

Here are some, by no means all, examples where free public record inspections in Loudon County have eventually led to saving MILLIONS of taxpayer dollars:

1. A couple of involved citizens asked for copies of the proposed jail plans. One of the three (3) options being considered was a \$47+million jail/office/court complex not including the necessary land acquisition. After the public was informed, they voiced their opposition, and the

plan today has scaled back to an expansion of the existing facility for ~ \$10 million (hopefully it can be cut back more before final plans are drawn.)

2. The new Greenback School was originally proposed to cost \$27 million. After records were inspected and further research was conducted by concerned citizens, and many citizens contacted local officials, the school project was reduced to \$24 million.
3. Audits about our county landfill were missing from our county website. Two astute concerned citizens finally got access to enough of the missing public records to alert county officials to a current shortfall and a projected shortfall the county was going to face when it was time to eventually close the landfill. The solid waste commission is now negotiating the contract with the landfill operator to catch up on the shortfall and ensure that it is not going to be a problem in the future. This is a multi-million dollar item.
4. The Board of Education has been repeatedly telling the Loudon County Commission and the local press that teachers need raises because teachers were leaving Loudon County schools for other counties that paid more money and had better benefits. When a citizen inspected public records and followed up on that information it was revealed that was not the reason behind many of the teachers leaving. Loudon County schools offer better insurance and pay 100% of insurance benefits, which is more than most surrounding school systems.
5. Record requests by concerned citizens on out of county students revealed that we were spending local tax dollars educating HUNDREDS of NON-TUITION PAYING OUT of COUNTY students. [We even built a grossly oversized school because the space needed for the future included space for out of county students.] In 2010 the school board, due for the most part to unrelenting citizen pressure, initiated a new policy to stop taking new out of county students. Since that policy was changed, our student enrollment has dropped by 550 students (FYI-Our out of pocket local tax dollars to pay for each out of county student is \$4,018 but **that figure does not even include our tax dollars to repay bonds for new school facilities and renovations.** [550 students x \$4018= \$2.2+ million yearly savings]

Government officials trying to handicap citizen knowledge and involvement in government by imposing fees to inspect public records is one of the most dangerous ideas I have ever heard of.

If this pro-fee bill is passed it will ultimately destroy our county's ability to maintain a low tax rate. It will infringe on the rights of all citizens and simultaneously disallow citizens' equal access to the knowledge their government has. Taxpaying citizens can become prohibited by their own public servants from gaining access to the information their taxes have paid for. This is unconscionable.

Loudon County has paid far too much to their attorney to do public record inspection requests. An attorney should RARELY have to become involved in a public record inspection requests.

Loudon County office staff /records custodians should receive training from agencies such as the Office of Open Records Counsel, or CTAS. They should be offered a tutorial or webinar class on “How To” properly handle public records requests. For Loudon County to pay their attorney \$250/hour to do clerical level work is patently absurd. It is so ridiculous I almost believe it is being done *intentionally* to make it look like free public record inspection requests are too expensive to allow!

I am 100% opposed to charging fees to inspect public records.

I would however support a per page charge for making copies of public records but that per page charge would be restricted to the same average per page copy charge from a local copy place.

Thank you for soliciting public opinion on this critical issue.

Respectfully Submitted,

Pandora Vreeland

218 Kiowa Point

Loudon, TN 37774

865-458-3141 mailbox 3

From: [janella carpenter](#)
To: [OpenRecords Comments](#)
Subject: public records comment
Date: Monday, September 07, 2015 4:20:33 PM

As a retired public school librarian, I want to go on record in opposition to the change which would allow local governments to charge citizens to inspect public records. Free access to public records is one of the bedrocks of our democratic republic.

Janella Carpenter
Newport, TN 37821

From: [Pat Hunter](#)
To: [OpenRecords Comments](#)
Subject: Request To Speak
Date: Monday, September 07, 2015 5:55:47 PM
Importance: High

Pat Hunter

Contact info: pchunter@charter.net

Tuesday Sept. 15th Knoxville Public Hearing

This is my request to video record the public meeting.

Thank you for your assistance.

From: [Cherry Flanary](#)
To: [OpenRecords Comments](#)
Subject: Public records
Date: Monday, September 07, 2015 6:21:39 PM

Cherry Fritts Flanary I don't mind paying a quarter a sheet for a copy but they are public records and they should stay that way. I also don't think it is right that I have to wait 70 years from time of death to get my grandparents death certificate.

Sent from Windows Mail

From: [Shirley Harrison](#)
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Monday, September 07, 2015 6:47:28 PM

Shirley Harrison
Contact info: elviswatson@bellsouth.net
Knoxville Public Hearing on Sept. 15

From: tona@breezeair.net
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Monday, September 07, 2015 7:08:27 PM

Dear Ms. Butterworth,
On September 15, I would like to speak regarding charging to inspect open records.

Sincerely,
Tona Monroe
853 Marble Lane
Greenback, TN 37742

From: [ECSS](#)
To: [OpenRecords Comments](#)
Subject: Open Records
Date: Monday, September 07, 2015 7:12:15 PM

This comment is in response to the issue regarding open records in Tennessee, but government offices should not be able to charge its citizens to inspect our government records. This is ridiculous

Sincerely,

Mrs Robert Miller

From: [Debby Gould](#)
To: [OpenRecords Comments](#)
Subject: Open access to public records.
Date: Monday, September 07, 2015 10:14:32 PM

In order for the public to have faith in a democratically elected leadership, it is important to maintain transparency. Open public records are key to maintaining that trust. However, when inspection of public records comes with a price tag, we have effectively curtailed access for some members in our community. The League of Women Voters believes that inspection fees undermine the entire purpose of open records laws.

Debby Gould, President

League of Women Voters of Nashville

debbygould@bellsouth.net

(615) 403-6478

Transparency is critical to democracy

- Citizens have the right to information to enable them to effectively participate/provide input into the decision making process
- Inspection of public records should NOT be limited to only those who can afford costs
- Governmental entities should be encouraged to make as much public information readily accessible as possible - - fees send the message that they are doing citizens a "favor" by providing information

From: cjh65@bellsouth.net
To: [OpenRecords Comments](#)
Subject: Proposed Charges for Open Records Look-Ups
Date: Monday, September 07, 2015 11:54:04 PM

I am a resident of Bartlett, Tennessee in Shelby County. All branches of my family has lived in Tennessee since (at least) 1807. It has come to my attention the proposal to permit charges for inspection of open records. And I do understand the necessity to charge when large amounts of government material are requested by the media and/or companies. However, I want to bring to your attention a number of us who are requesting open records to further our genealogical pursuits.

In our genealogical research, we often request records from the various county government offices. This may include deeds, marriage records, chancery and circuit court records. While many of these requests can be handled within the one hour and 25 copy rule which would exempt any charges, there may be times when the inspection and copying may exceed the one hour and 25 copy rule.

For example, I have a file from Moore County Circuit Court which is over 200 pages in length regarding the disposition of my great-great-grandfather's estate after his death. It was invaluable in giving me an over-all picture of why the family split and even the maiden name of my great-great-grandmother, which I had not been able to determine any other way. Also, many times probate files exceed 25 pages because they contain administrator's records, sales records and land records.

When I travel to various county seats in Tennessee, I often ask not only for deed records for my direct ancestors, but also for the deeds of all of their children to determine lineage. But as many family genealogists do, I have spent money in Tennessee on fuel, hotel expenses and food which bolsters the economy of the counties involved.

What I and many other genealogists are asking is that, if the proposed charges are enacted, that you make an exception for those of us who are researching our families. Perhaps the form for request of a record could indicate reason for the request, which would exempt a genealogist from paying beyond the cost of copying.

An additional note on this is that in many counties, older records are now housed in a county archives. Since these archives house many different types of older records, it is not unusual to spend several hours there requesting various records. While going to a courthouse, you may be visiting several departments for records (all falling under the one hour, 25 copy rule), when you visit a county archives, you may be requesting and viewing records of all types and would fall outside the one hour rule. The family genealogist currently must work around certain days and hours the archives is open, but now there will be an additional burden of being charged for the time spent in one place instead of several departments.

We ask that you consider exceptions if the charge rule is enacted.

Carolyn (Jean) Vaughn Hendricks
4324 Gracious Way Cv
Bartlett, TN 38135
901-487-1660
cjh65@bellsouth.net

Sent from Windows Mail

Comptroller Inquiry

I'm not certain if this comment belongs here so please forward it to correct department. It is vital that citizens have free access to records in TN counties. We need to be able to find our family histories, or learn what goes on at County Commissioner Meetings, without encumbrance. Thank you. ::: Gina Fox ::: ginablueeyes1958@aol.com

Comptroller Inquiry

I am opposed to the plan to charge Tennesseans for inspecting their state records. This is an unfair burden on the citizens of this state who already pay through their taxes to create, maintain, and make available these very records. The state is attempting to hide records they do not want the citizens of Tennessee to see. ::: Sue Murrian ::: suebobintn@aol.com

From: [Gwyn Nicole](#)
To: [OpenRecords Comments](#)
Subject: RE: Comments - Review of Issues Surrounding the Inspection of Public Records
Date: Tuesday, September 08, 2015 9:48:34 AM

I would highly recommend that there be charges for ALL inspections, regardless of the length of the time spent on the inspection. My main reason is the amount of employee labor that goes into assisting requesters before, during and after inspections. On some occasions, requestors call ahead to ask you pull numerous records so that they don't have any wait time (during their free hour of labor, that is). Yet, the amount of time spent in pulling those records is not recouped or accounted for during their one free hour of labor). Also, in meeting requestor's needs in the office during inspections, my staff not only must pull records for inspection, but must also be present during those inspections to ensure the safety of our records. That is employee labor that I would rather see spent in other office functions. Although an employee is paid an hourly wage to work for the city, records inspections involve that same employee working on the city's dollars to locate records for parties that aren't the city—sometimes law firms which are, in fact, suing the city and using the city's employees to help them research for their cases through the records inspection process.

In addition, if there were the ability to charge for all inspections, then it would help deter those "frequent requesters" who exert so much of staff's time every week already with numerous and various open records requests. These frequent requestors are entitled to request open records and enjoy exercising their freedom in doing so, regardless of the needs of this office. We had one frequent requesters who told a staff member that it was her job to do "whatever" he wanted her to do during inspection. He was intentional and blatant in sending my employee on wild records chases for an hour just because he could; we couldn't deny his requests. On another occasion, we had a someone request to inspect 100 years of ordinances; the only problem was—he didn't have the ordinance numbers he needed. These bad experiences do not describe all interactions that we have had with requestors, but I am still very much in favor of charging for all inspections, regardless of the length of the inspection and regardless of the validity of whatever ideas or cases the requestor may be pursuing.

Nicole S. Gwyn, CMC
Clerk to Council
Chattanooga City Council
1000 Lindsay Street
Chattanooga, TN 37402
Office: (423) 643-7170
Direct: (423) 643-7172
Fax: (423) 643-7199

From: OpenRecords Comments [mailto:comments.open.records@cot.tn.gov]
Sent: Wednesday, September 02, 2015 4:54 PM
To: OpenRecords Comments
Subject: Review of Issues Surrounding the Inspection of Public Records, Including Permitting Charges for Inspection

From: [Bobby Melton](#)
To: [OpenRecords Comments](#)
Cc: [Jimmy Gale](#); [Robert Melton](#); [Cruse, Carlie \(Corker\)](#); [Blackwell, Tonya](#); [Monica Greppin-Watts](#); [Paula Presley](#); [Douglas Worden](#); [Debbie Parrish](#); [Sam Dawson](#); [Monique Kasper](#); [Joe Schussler](#); [Justin Wilson](#)
Subject: Re: Review of Issues Surrounding the Inspection of Public Records, Including Permitting Charges for Inspection
Date: Tuesday, September 08, 2015 9:50:44 AM
Attachments: [20150812OORCPublicComment.pdf](#)

Good Morning

And thank you for the invitation to participate with the appointed advisory committee at the public record hearing in Nashville on Sept. 16, 2015; I will have a advisory member at that hearing to execute a 3 to 5 minute statement on his subject and in meantime I will attempt to comply with your survey form. However that form is not efficient information or appropriate compliance with The Freedom of Information Act, Open Government Act of 2007 and Open FOIA Act of 2009 Sec. 5-552.; The branches of lower government as agency's performance in implementing these acts have failed to designate a chief FOIA officer as section official of such agency or have a assistant secretary or equivalent level subject to the authority of the head of agency to have wide responsibility for efficient and appropriate compliance in implementing records under these acts. I'm suggesting that The State of Tennessee Comptroller, Risk Performance and State Audit Division, mandatorily enforce and conduct audits on administrative agencies in charge of the implementations of these acts; The Federal Disaster Mitigation Act of 2000 must be revised and enforced as a part of the State Hazard Mitigation planning, mandatorily put in place since 2004. The DHS Risk & Vulnerability assessment along with the Hazard Risk Management planning is a blueprint for reducing the potential irreparable damage and losses identified and as risk prevention to protect pre and post recovery assessments, especially in all concern to prevent discrimination, fraud and criminal conduct carried-out or during a major Federal Declaration recovery process or under a State of emergency response. These public records, mandated federal protection and assistance for reporting details of such audits or facts of finding. Its crucial to have excess to Public Records when requested and support from agencies for these needs of or for Public Records, made available in a timely manner under the electronic fling Act of 1999 and made available electronically in a timely manner went requested.

Thank You again for the request.

Robert H. Melton

On Wednesday, September 2, 2015 3:57 PM, OpenRecords Comments <comments.open.records@cot.tn.gov> wrote:

The [Office of Open Records Counsel](#) (OORC) has been asked by the Tennessee General Assembly to review issues surrounding the inspection of public records, and we are asking Tennesseans to weigh in.

Legislation was introduced in the 2015 Session of the 109th General Assembly that would permit charges for inspecting public records. While a records custodian is permitted to charge for *copies* of public records, inspection is generally free of charge. Our office will prepare a report with recommendations on this issue to the General Assembly by January 15, 2016.

Our office has prepared brief online surveys to help gather input from citizens and government entities. The responses from these surveys will help in the preparation of the final report.

Tennessee citizens can submit a survey by clicking [here](#).

From: [Cheryl Goodman](#)
To: [OpenRecords Comments](#)
Subject: Comments for OORC and Advisory Committee on Open Government
Date: Tuesday, September 08, 2015 11:11:25 AM

Below are my responses to the charges for inspection of public records.

1. Should the TPRA permit record custodians to charge for inspection of public records? Absolutely not. If not, why not? Maintaining public records for inspection is already paid for by the tax payers. It's the citizen taking time to inspect the record, not the government.

-
All the fee would accomplish is to pay for the government's own administrative burden (explaining the fee and payment policy to the requestor, receiving the payment and creating a receipt and the bookkeeping time to record the payment and make the deposit, etc.). I've personally encountered government offices that will only take cash, a cashier checks or money orders adding additional difficulty for citizens to just make the payment.

-
I have to assume the "inspection" fee is only being proposed for inspecting a record in person, but if its' intent is to meant to apply to telephone inquiries, then that has not been communicated and the definition needs clarification for everyone else to comment. So let me further state, if the intent is really an "inspection and search/inquiry fee as to whether a record exists, or simply inquiring what the costs would be to obtain copies from the record, the fee then creates a barrier to "government transparency and openness".

-
I do urge you not to change the law to require any fees for inspection and/or record inquiries. Good governance recognizes a bad idea is simply, a bad idea.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)?

No. If not, why not? I am opposed to charging anything for someone to inspect or simply inquire about whether the government has a record on a matter. I've personally encountered an "inspection fee or search fee" in other states and it is used as a "stonewall technique" to deter telephone inquiries as to whether or not a record exists. If the Tennessee law is changed to allow this fee, it will hinder citizens rights to easily obtain such information.

-
3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Same as No. 2 above. Why? No charge inspection or search fee should apply to any public record.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? Same as No. 2 above. If not, why not? No charge inspection or search fee should apply to any public record.

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? There is always a better and more efficient way to do things and government should reduce costs for citizens when applicable. Why? Technology has been

available for some time for providing electronic records at very little ongoing costs (internet, scanning and email). I would like to see Tennessee government at all levels provide records to requestors in electronic format at no cost, but if photocopying and mailing is involved, the current duplication costs are reasonable and should remain intact.

-
I would also like to see government agencies either accept credit card payments or send an invoice for payment with the mailed records in order to shorten the time it takes to receive records.

-
Thank you.

-
Cheryl Goodman
Murfreesboro, TN

From: [Brenda Headrick](#)
To: [OpenRecords Comments](#)
Subject: Public records
Date: Tuesday, September 08, 2015 2:55:12 PM

Please do not vote to charge money for public records! Those records have been available from courthouses all over the U.S. because they are public and have help genealogists find their relatives for decades for only a minimal copier charge. Public records should remain free. I and 3 friends came from AI to research at TN Archive for 3 days and spent money to eat, motel, buy gas etc, just to get public records ,so it boosts your economy!
Brenda Headrick

From: [Angi Agle](#)
To: [OpenRecords Comments](#)
Subject: PUBLIC COMMENTS REGARDING INSPECTION OF PUBLIC RECORDS
Date: Tuesday, September 08, 2015 4:38:09 PM

1. Should the TPRA permit record custodians to charge for inspection of public records?

Yes, where the records requested require significant staff time (> 1 hour) to assemble, utilizing the most efficient means. Where the requested records are in electronic form that are easily searchable (i.e. e-mail from X to Y in a given date range), the electronic search method should be used. Where possible, records should be provided in electronic form to minimize cost.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Yes, charges should be governed in a similar manner. If records are provided for inspection in electronic format, there should be no cost of duplication. If copies are requested, copies should be provided in electronic format (unless requested otherwise) with the only charge being the actual cost of the blank media (CD, USB drive, etc.).

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

Copies of records such as minutes, agendas, and audit reports should be stored in an area that is readily accessible to the public – either the public library, a public reading room in the local government offices, or posted online. There should be no charge for access to these records.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

Yes. However, labor charges for both inspection and copies should be assessed for the lowest-paid employee who is capable of performing the task, without regard to which employee actually performs the task. For example, if a citizen requests to view all e-mails from Councilman X to Staffmember Y in the month of August, it is acceptable to assume that any clerk or secretary can review the e-mails to redact confidential information (personal phone numbers, home addresses, etc.). It is not necessary for the local government attorney to perform the redactions.

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to *duplication* of records? Why?

As stated above, labor charges for both inspection and copies should be assessed for the lowest-paid employee who is capable of performing the task, without regard to which employee actually performs the task.

Angi Agle
Oak Ridge, TN
Member, Oak Ridge Board of Education

From: [Joy](#)
To: [Open Records](#)
Cc: sen.randy.mcnally@capitol.tn.gov; rep.jimmy.matlock@capitol.tn.gov
Subject: no fees on records
Date: Tuesday, September 08, 2015 4:45:39 PM

It is my opinion that no fees should be charged to look at public records!

Joy Cook
Lenoir City, TN

865-335-4040

From: [Alison Gerber](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Tuesday, September 08, 2015 5:12:19 PM

I wish to speak at the Sept. 15 Nashville OORC public hearing on legislation that would permit charges for inspection of public records.

Sincerely,

Alison Gerber

Editor, Chattanooga Times Free Press

agerber@timesfreepress.com

(423) 757-6408

Alison Gerber
Editor
Chattanooga Times Free Press
423-757-6408



From: [Kleppers](#)
To: [OpenRecords Comments](#)
Subject: Public Access to Public Records
Date: Tuesday, September 08, 2015 6:44:20 PM

I agree with Mr Ramsey's approach;
Ramsey said. "... My expectation is that we will probably try to amend that bill and try to protect the custodians' offices from excessive punitive requests and also protect the availability of public records for public inspection and reproduction."



This email has been checked for viruses by Avast antivirus software.
www.avast.com

From: [Christine McCaughin](#)
To: [OpenRecords Comments](#)
Subject: Keep Open Records Open
Date: Tuesday, September 08, 2015 10:11:31 PM

I oppose charging a "fee" for inspection of open records. Please send me your survey.
Thank you.

Christine B. McCaughin
508-631-9356
cbmccaughin@charter.net

From: [Coffman, Steve](#)
To: [OpenRecords Comments](#)
Subject: request to speak
Date: Wednesday, September 09, 2015 9:41:59 AM

To whom it may concern:

My name is Steve Coffman, and I am the executive editor of The Jackson Sun in Jackson, Tenn.

I am requesting to speak at the public hearing Sept. 17 in Jackson regarding issues surrounding the inspection of public records.

Thank you for your attention to this matter.

Steve Coffman

Steve Coffman
Executive editor/Director of content and audience development



Office: 731.425.9708
Mobile: 731.234.4110
scoffman@jacksonsun.com

www.jacksonsun.com

From: [Franklin Stidham](#)
To: [OpenRecords Comments](#)
Subject: Comments Re: Government charging for access to public records
Date: Wednesday, September 09, 2015 11:12:35 AM

Neither the local, nor the state should be allowed to charge for access to any public records. This is a basic and presumed right as a citizen of the United States. No public body should be allowed to collect such (fee) taxes without a referendum and one would expect such to be defeated by thinking citizens of the State.

To allow such fee charging would create another coffer subject to misuse by the extra staff required to implement and could hinder those with limited means to protect themselves re: records created about them.

Franklin D. Stidham

From: [Michael Williams](#)
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Wednesday, September 09, 2015 11:43:50 AM

To whom it may concern:

I wish to speak during the Office of Open Records Counsel's public hearing from 3-5 p.m. Thursday, Sept. 17, 2015, in Jackson.

I'll be speaking against proposed legislation to allow local governments to charge fees just to make government records available for public inspection.

Thank you,
Michael Williams
Editor & Publisher
The Paris Post-Intelligencer
mwilliams@parispi.net
(731) 642-1162

From: [b.chandler](#)
To: [OpenRecords Comments](#)
Subject: MY COMMENTS ON PUBLIC RECORDS
Date: Wednesday, September 09, 2015 12:36:19 PM

I am opposed to a "poll tax" being applied to accessing public records.

Kind regards, I am

Barbara Chandler
Post Office Box 50091
Knoxville, TN 37950
865-670-7464

From: [McAlister, Keli](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Wednesday, September 09, 2015 2:08:27 PM

Please, reserve a slot for Tom Britt - tbritt@wbbjtv.com or 731.424.4515 - with WBBJ-TV to speak on our behalf at the Public Hearing on Thursday, September 17, 2015 (3-5 pm) in Jackson.

Thank you!

Keli McAlister
News Anchor/Executive Producer
WBBJ - ABC/CBS 7
346 Muse Street
Jackson, TN 38301
(731) 424-4515
kmcalister@wbbjtv.com

From: [Stephen Marion](#)
To: [OpenRecords Comments](#)
Subject: Proposed Open Records Inspection Fees
Date: Wednesday, September 09, 2015 8:35:08 PM

To Whom It May Concern:

I'll make this short and to-the-point. An attempt to charge the public to simply examine documents produced by their government is outrageous. Citizens already paid for the paper (or the screen) on which the records exist. They paid for the buildings in which they were made and paid the salaries of the officials who made them. In other words, those records belong to us, the people. They don't belong to our public officials, even though proposals like this suggest that some public officials may have forgotten that.

If we charge people to view them, public records are not public anymore.

Thank you,

Stephen Marion
Dandridge, Tennessee

From: [Janet Tate](#)
To: [OpenRecords Comments](#)
Subject: fees for public records?
Date: Thursday, September 10, 2015 8:28:13 AM

We as citizens deserve to have access to public records free of charge. We've already paid for them once, and they belong to us, not to a secretive government that would appear to have a great deal to hide. This attempt to dim transparency is appalling and unworthy of a free democratic system.

From: [De Varenne, Maria](#)
To: [OpenRecords Comments](#)
Subject: request to speak
Date: Thursday, September 10, 2015 11:02:59 AM

I am Maria De Varenne, news director of The Tennessean.
requesting to speak at the Nashville public hearing regarding inspection of public records.
My contact information is below.

Maria De Varenne

News Director

The Tennessean | Tennessean.com

mdevarenne@tennessean.com

1100 Broadway, Nashville, TN 37203

Office: 615.259.8003 | Twitter: @mariadevarenne



From: [Dorothy Bowles](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Thursday, September 10, 2015 12:12:38 PM

Dorothy Bowles

d-bowles@comcast.net

865-588-6793

1829 Chicadee Drive

Knoxville, TN 37919

I would like to speak as a representative of the Tennessee Coalition for Open Government and as a citizen of Tennessee at the hearing on Tuesday, September 15, 2015 (4-6 pm) in Knoxville.

From: [Tim Burchett](#)
To: [OpenRecords Comments](#)
Cc: mcelroyj@knoxnews.com; fisher@tcog.info; [Communications](#)
Subject: Comments on SB0328/HB0315
Date: Thursday, September 10, 2015 2:23:26 PM

To whom it may concern:

I am writing to express my opposition to charging taxpayers to inspect public documents.

As a former state senator, I had the opportunity to sponsor bills updating and strengthening portions of the current Open Records Act. As a legislator, my focus was – and remains today – on ensuring openness and transparency in government. Accountability begins with access, and true accountability means reducing, not increasing, obstacles to access public records.

Charging taxpayers for exercising their right to merely inspect the very documents their taxes pay to produce is a ridiculous step backward, out of the sunshine and into the shadows.

It is my hope that members of the state legislature will not approve such a measure.

Sincerely,
Tim Burchett
Knox County Mayor

From: [Michael Grider](#)
To: [OpenRecords Comments](#)
Cc: [Jack McElroy \(mcelroyj@knoxnews.com\)](#); [fisher@tcog.info](#); [d-bowles@comcast.net](#)
Subject: Public Comment submission re: SB0328/HB0315
Date: Thursday, September 10, 2015 3:05:01 PM

As a former journalist and current public information professional, I'm concerned about the negative impact that passage of SB0328/HB0315 would have on public access to government records at the state and local level.

Charging citizens simply to view records that are open to the public creates an undue burden that only discourages public scrutiny and, as a result, diminishes state and local governments' accountability to citizens.

As Director of Communications for Knox County Government, part of my job entails responding to and fulfilling open records requests. In my experience, the number and volume of public records inspection requests is not so demanding that it warrants charging a citizen for inspection of public records.

Currently, if a Tennessee resident desires to inspect a public document but cannot otherwise afford to pay a fee in order to obtain copies of that record, he or she has the no-cost alternative of reviewing the record without the need to copies. Public records should be accessible to all citizens, not just to those who have the financial means to pay a fee in order to review records.

Put simply, passage of this bill would afford our government leaders protection from prying eyes, when in fact the spirit and purpose of maintaining public records is to protect the interests of our citizens.

Inspection of public records should remain a fee-free and protected right of any citizen of the State of Tennessee.

Thank you,

Michael Grider
Communications Director
Office of Knox County Mayor Tim Burchett
Office – (865) 215-4750
Cell – (865) 363-8681

From: [Doug Pierce](#)
To: [OpenRecords Comments](#)
Subject: request to speak on Open Records issue
Date: Thursday, September 10, 2015 3:16:06 PM

I am requesting to speak at the September 16 meeting in Nashville on behalf for the Tennessee Association of Broadcasters

Douglas R. Pierce
King & Ballow
315 Union Street, Suite 1100
Nashville, TN 37201
(615)726-5521

From: [Moore, Bruce](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Thursday, September 10, 2015 3:33:09 PM

Hello,

I'd like to speak at your next meeting in Jackson, TN, 3pm September 17.
Concerning proposed changes regarding access to Open Records.

Please let me know if you need any more information.

Thanks,

Bruce Moore
News Director
WREG-TV, Memphis
901 543 2113-direct

From: [Frank Trexler](#)
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Thursday, September 10, 2015 5:32:41 PM

Dear Office of Open Records Counsel:

Please consider this a formal request to speak during the Open Records Counsel hearing scheduled for Tuesday, Sept. 15, in Knoxville. I am speaking as editor of The (Maryville, TN) Daily Times.

Best regards,

Buzz Trexler
Editor
frank.trexler@thedailytimes.com
Twitter: @editorbuzz
Personal Blog: ripshin.blogspot.com
Voice: 865.981.1139

"The enemy of truth is speed." -- Al Tompkins, Poynter Institute

From: poodlebreeze@netscape.net
To: [OpenRecords Comments](#)
Subject: Tennessee Public Records Act proposed charges
Date: Friday, September 11, 2015 3:51:37 AM

Charging to inspect these records put this out of reach for many retirees and low-income citizens, as well as students conducting important research.

Our taxes have already paid to collect these data and they belong to the public. The public should not be additionally charged for access to these records.

Regards,
Ellen Garrison-Weaver
P.O. Box 279
Roan Mountain, TN 37687

poodlebreeze@aim.com

From: [Martinez, Michael T](#)
To: [OpenRecords Comments](#)
Subject: Comments on Open Records Fees
Date: Friday, September 11, 2015 6:47:10 AM
Attachments: [Open records fees.pdf](#)

Ann Butterworth:

Attached are comments regarding the proposed open records fees.

Sincerely,
Michael T. Martinez
President
East Tennessee Chapter Society of Professional Journalists



Sept. 11, 2015

Ann Butterworth
Office of Open Records Counsel
1700 James K. Polk Building
505 Deaderick Street
Nashville, TN 37243-1402

RE: Proposed legislation to charge fees to inspect public records

Dear Ms. Butterworth:

We, the board members of the East Tennessee Chapter of the Society of Professional Journalists (ETSPJ), strongly oppose the proposed legislation that would establish fees for the inspection of public records under the Tennessee Public Records Act. ETSPJ is the local chapter of the 7,500-member strong Society of Professional Journalists, the nation's oldest and largest journalism organization. However, even though we are a media association, in this instance, we are advocating for the public.

We believe that government documents are the "people's documents" and the people have a right, and a responsibility, to be informed about their government's activities. We believe to charge fees for the viewing of records would inhibit the public from being able to inspect records. We believe that the public, through their tax dollars, already pays for the establishment of the records and for custodians who are responsible for maintaining the records. We do not believe that a citizen wanting to view those documents should have to pay again to view the records.

The Tennessee Code Annotated (T.C.A. § 8-4-604 (a)(1)(A)(ii)(a)), points out:

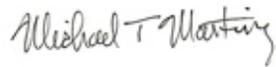
That state policies and guidelines shall reflect the policy that providing information to the public is an essential function of a representative government and an integral part of the routine duties and responsibilities of public officers and employees.

"An integral part of the routine duties and responsibilities of public officers and employees" *does not* mean that complying with requests to view records is beyond the scope of their everyday duties. The concern expressed by the legislators, who introduced

the bills, is the cost of gathering, evaluating and complying with records request. We would suggest that there are alternative means of solving the efficiency problem of fulfilling open records requests rather than burdening the Tennessee Public Records Act and the ability of the public to view what they paid for with their tax dollars in the first place.

We ask that the Open Records Council recommend against changing the law that would allow governments to charge citizens to view public records.

Sincerely,

A handwritten signature in cursive script that reads "Michael T. Martinez".

Michael T. Martinez
President /East Tennessee SPJ
On behalf of the ETSPJ Board of Directors

From: [Barbara Kincaid](#)
To: [Open Records](#)
Subject: Charge for records
Date: Friday, September 11, 2015 6:54:32 AM

I'm opposed to charging for records up to 50 pages

From: [Janet Felts](#)
To: [OpenRecords Comments](#)
Subject: Opinion
Date: Friday, September 11, 2015 7:59:00 AM

NO to fees for inspecting public records! We are and should continue to be an OPEN society. Charging fees gives access only to those who can afford to pay. It is also duplicating taxes since we already pay for government employees to maintain and provide access to public records. Let's not continue to tear away at the very core of our American freedoms and government OF the people and BY the people!

Janet Felts
Loudon, TN

From: [LelandWykoff](#)
To: [OpenRecords Comments](#)
Subject: RE: Review of Issues Surrounding the Inspection of Public Records, Including Permitting Charges for Inspection
Date: Friday, September 11, 2015 8:26:02 AM

Dear Ann,

Please place me on the public hearing speakers list for Tuesday's Knoxville meeting.

Leland Wykoff

Sent from Samsung Mobile

----- Original message -----

From: OpenRecords Comments <comments.open.records@cot.tn.gov>
Date: 09/02/2015 4:55 PM (GMT-05:00)
To: OpenRecords Comments <comments.open.records@cot.tn.gov>
Subject: Review of Issues Surrounding the Inspection of Public Records, Including Permitting Charges for Inspection

The [Office of Open Records Counsel](#) (OORC) has been asked by the Tennessee General Assembly to review issues surrounding the inspection of public records, and we are asking Tennesseans to weigh in.

Legislation was introduced in the 2015 Session of the 109th General Assembly that would permit charges for inspecting public records. While a records custodian is permitted to charge for *copies* of public records, inspection is generally free of charge. Our office will prepare a report with recommendations on this issue to the General Assembly by January 15, 2016.

Our office has prepared brief online surveys to help gather input from citizens and government entities. The responses from these surveys will help in the preparation of the final report.

Tennessee citizens can submit a survey by clicking [here](#).

Representatives of government entities can submit a survey by clicking [here](#).

Additionally, we will hold three public hearings, in conjunction with the Advisory Committee

on Open Government, to gather additional feedback on five specific questions related to these issues. Tennessee citizens, government entities, and advocacy group representatives are invited to participate by sending written comments to comments.open.records@cot.tn.gov and by attending one of the public hearings.

• Tuesday, September 15, 2015 (4-6 pm) in
Knoxville, TN

12 Oaks Executive Park, 5401 Kingston Pike, Building 2, Suite 350

• Wednesday, September 16, 2015 (10 am-12
noon) in Nashville, TN

James K. Polk State Office Building, 505 Deaderick Street, 16th Floor, Video
Conference Center

• Thursday, September 17, 2015 (3-5 pm) in
Jackson, TN

Lowell Thomas State Office Building, 225 Martin Luther King Drive, Tower
B, Conference Room 1

Additional information and guidelines regarding the public hearings can be found on the office's website by clicking [here](#).

You are receiving this email since you have contacted our office in the past on matters related to government transparency (either public records or open meetings). We are hoping that you will consider assisting us by completing the survey and by participating in the hearings. Thank you for your consideration.

From: [Stephanie Durman](#)
To: [OpenRecords Comments](#)
Subject: Tennessee Clean Water Network Comments - Inspection of Public Records
Date: Friday, September 11, 2015 8:58:42 AM
Attachments: [TCWN Comments - Inspection of Public Records 2015.pdf](#)

Please find TCWN's written comments regarding fees for inspection of public records attached.

Stephanie Ann Durman
General Counsel
Tennessee Clean Water Network
P.O. Box 1521
Knoxville, TN 37901
865.522.7007 x 102
cell 865.244.5121

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Tel: (865) 522-7007
Fax: (865) 525-4988

www.tcwn.org



PO Box 1521
Knoxville, TN 37901

625 Market St, 8th Floor
Knoxville, TN 37902

September 11, 2015

Ann Butterworth
Tennessee Office of Open Records Counsel
505 Deaderick Street, Suite 1700
James K. Polk Building
Nashville, TN 37243-1402

Re: Inspection of Public Records

Dear Ms. Butterworth:

I am pleased to submit the following comments regarding the proposal to allow Tennessee state agencies to charge fees for inspection of public records. The Tennessee Clean Water Network (TCWN) routinely accesses public records to support our mission of empowering Tennesseans to exercise their rights to clean water and healthy communities. Most commonly, these records are held by the Tennessee Department of Environment and Conservation (TDEC), but we also review records at local government offices. TCWN accesses TDEC's online public records several times each working day, makes specific document requests to individual TDEC staff via email once or twice a week, and also conducts reviews of paper files at TDEC 6-8 times per year.

TCWN is against charging fees to inspect public records. These records are already bought and paid for by Tennessee taxpayers, and access should be free and unhindered. Charging fees merely to view a public record would be inconsistent with Governor Haslam's focus on increasing transparency and accountability in state government through his "Transparent Tennessee" initiative.

1. Should the TPRA permit record custodians to charge for inspection of public records?

TCWN strenuously opposes any proposal to charge for inspection of public records. Maintaining these records and making them available to the public are essential to open government, and as such are basic governmental functions that Tennesseans already pay for through our taxes.

Charging fees merely to view public records would block access for many people, including low-income individuals, the media, and nonprofit organizations such as TCWN. One reason for this is sheer volume: the press and organizations that routinely access public records would have to significantly curtail their reviews if they had to pay a fee each time they viewed a public document. And some public agencies would likely use access fees to prevent the public from digging into records that may not cast a good light on that agency.

We believe there are better ways for government to control its cost of providing access to public records. Today, most records are created in electronic format. To the extent practicable, agencies

should retain and provide access to these documents the same format. For example, TDEC – and particularly its Division of Water Resources - has done an exemplary job of making voluminous public records available online. We believe this approach represents a best practice that should be emulated by other state agencies: it saves time for public officials by reducing the need to respond to multiple records requests and provides free, instantaneous access to the public. Although this approach is not practicable for all records (*e.g.*, email, documents containing exempt information, documents submitted to agencies only in paper format), it can provide access to a large volume of the most commonly requested documents in a cost-effective manner consistent with fundamental principles of open government.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Again, TCWN opposes any charges for inspection of public records. However, if such charges are authorized, then the OORC does need to develop uniform statewide guidance to ensure that no public agency imposes prohibitively high fees.

However, the schedule of charges should be changed in several regards. First and foremost, there should be a relatively high threshold (*e.g.*, 2 hours of staff time) below which no inspection fees may be charged. If inspection fees are allowed, these should only apply to extraordinary records requests such as those seeking access to a large volume of dispersed public records. No member of the public should be charged simply to have a clerk go to the file room and grab a few folders.

Second, there should be a maximum per-hour fee regardless of who does the work. Members of the public should not have to pay hourly attorney fees to access public records.

Third, there should be a mechanism for a fee waiver, including fees for copying. Federal agencies such as the Environmental Protection Agency allow fee waivers under the Freedom of Information Act (FOIA) for members of the media, academics, and for organizations who seek records for noncommercial purposes. See <http://www2.epa.gov/foia/requesting-foia-fee-waivers>. FOIA's fee waiver standard, found at 5 U.S.C. § 552(a)(4)(A)(iii), provides:

Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

TCWN believes all public records should be made available for free. However, if fees are charged, the government should not discriminate based on the type of record. Differentiation in fees implies that some records are more public than others, and that Tennesseans have fewer rights to view the less-favored types of documents.

On the other hand, government agencies should be encouraged to make the most commonly requested documents available online for free. Consistent with the Open Meetings Act and general principles of open government, agendas and minutes of public decisionmaking bodies should be provided online in a timely manner.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

In general, the factors listed in TCA 8-4-604 are reasonable and appropriate factors to be considered when developing a fee schedule for photocopying. However, the statute should also provide for a fee waiver similar to that for the federal FOIA. *See* 5 U.S.C. § 552(a)(4)(A)(iii).

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

Overall, the fee schedule should be informed by basic principles of open government and should not serve as a device to prevent public access to government documents. The fee schedule should allow for documents to be provided to the public in an efficient, cost-effective manner.

The schedule should be amended to specifically allow members of the public to copy public records using their own devices so long as they do not remove documents from the premises. Because TCWN is a nonprofit organization with limited resources that frequently copies public records, we purchased a portable scanner to bring with us when we conduct file reviews. Using this scanner and a laptop is an efficient way for us to obtain copies of documents in electronic form (thus saving paper and file space at our office) right away and without interrupting the normal work flow of public employees.

The schedule should also require public agencies to provide electronic copies of documents in the native format in which they are stored if requested to do so.

We appreciate your consideration of these comments, and of those received by other members of the public and government agencies during this process.

Sincerely,



Stephanie A. Durman
General Counsel

From: [Fels, Andrew Christian](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Friday, September 11, 2015 9:09:16 AM

Dear Sir or Madam,

My name is Andrew Fels. I'm a second year law student at the University of Tennessee College of Law. I wish to speak on the first two questions to be addressed at the September 15, 2015 meeting in Knoxville regarding the proposed changes to the Open Records Act. The proposed changes present a grave threat to one of the chief tools employed by public interest lawyers and civic-minded citizens, amounting to a tax on public involvement in government affairs. While there currently is the possibility of overusing the records inspection provisions of the Open Records Act, the proposed bill does not specifically address that issue. Instead it presents a daunting monetary barrier to all but the smallest requests.

You may contact me at 1-865-567-4881 or by mail at 5512 Meadow Glen Drive, Knoxville, TN 37919.

Andrew C. Fels

J.D. Candidate, 2017

University of Tennessee College of Law

From: [Barbara Gay](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Friday, September 11, 2015 9:21:42 AM

My name is Barbara Gay and I am writing to ask to speak at the public hearing on fees for record inspections on Thursday, September 17th in Jackson, TN. I am affiliated with the League of Women Voters of Tennessee. My phone number is 615-297-4145 and my email address is barbara.b.gay@gmail.com.

From: [Jennings, Janet](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Friday, September 11, 2015 9:56:06 AM

Janet Jennings, Finance Director/Treasurer/City Recorder, 423-434-6033
City of Johnson City
Tuesday, September 15, 2015 – Knoxville, TN

Written comments will follow.

Janet Jennings, CPA, CPFO | City of Johnson City
johnsoncitytn.org | 423.434.6033 | Fax: 423.434.6087
601 East Main Street | Johnson City, TN 37601

Think green: Only print this e-mail and any attachment if necessary.

From: [WILLIAM BRACKEN](#)
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Friday, September 11, 2015 11:21:11 AM

Name of Speaker: William A. Bracken
231 Bob White Drive
Ocoee, TN 37361
215-896-0190

Organization: None

Location: Tuesday, September 15, 2015 (4-6 pm) in Knoxville, TN
12 Oaks Executive Park, 5401 Kingston Pike, Building 2, Suite 350

I would like to say a few words about the fact that imposition of fees for inspection may serve as a barrier to some interested citizens to becoming engaged (Item #1).

Thank you,

BillB

From: [Lynda Gray](#)
To: [OpenRecords Comments](#)
Subject: Charging to view open records
Date: Friday, September 11, 2015 11:43:09 AM

I think charging to view open records is a terrible idea! I believe it will lead to corrupt government!!

From: [April Bryant](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Friday, September 11, 2015 12:37:18 PM

Name of Speaker and Contact Information:

April Bryant
817 Briar Thicket Rd.
Bybee, TN 37713
(423) 312-5472
info@nolichuckyguardian.com
bryant.april@yahoo.com

Organizational Affiliation:

Owner/Editor of *Nolichucky Guardian*

Hearing Location at which to Speak:

Knoxville, TN

Thank you,
April Bryant, Editor



From: [Linda Barnes](#)
To: [OpenRecords Comments](#)
Subject: Inspection of Public Records
Date: Friday, September 11, 2015 12:49:20 PM

The Tennessee Public Records Act should not allow record custodians to charge for inspection of public records. This is another attempt to stop transparency in our government business. Our taxes already pay for the government to create, maintain and make public records available to the citizens.

From: [April Bryant](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak (Eddie Overholt)
Date: Friday, September 11, 2015 12:53:10 PM

Name of Speaker and Contact Information:

Eddie Overholt
568 Briar Thicket Rd.
Bybee, TN 37713
[\(423\) 623-4869](tel:(423)623-4869)

Organizational Affiliation:

Save the Nolichucky

Hearing Location at which to Speak:

Knoxville, TN

Thank you,

--

April Bryant, Editor



From: [David Garrett](#)
To: [OpenRecords Comments](#)
Subject: Comments on charging for access to records
Date: Friday, September 11, 2015 1:15:08 PM

When I was a journalist, I always hated having to pay for information that should be free. But I understood that there are costs involved in locating and copying documents. However, if I take it upon myself to drive to wherever I am looking for records, I shouldn't have to pay. I pay taxes. I should be able to look at it free of charge. I'm not sure why some of those in the state legislature are wanting to change that now. But it should remain the same way it has been.

Thank You,
David Garrett Jr.
Customer Service Representative
Knox County Clerk

From: [Eddie Settles](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Friday, September 11, 2015 1:17:46 PM

Please permit me to address the hearing in Jackson, TN, on Sept. 17, 2015 concerning proposed amendments to the Tennessee Open Records statute.

Name: Eddie Settles
Contact Information: eddie@backinrivercity.com
Organization: Back in River City (a public policy blog)
Public Hearing Forum Where I Wish to Speak: Jackson, TN

Thank you!

Eddie

Eddie Settles
Back Home Media Inc.
P.O. Box 17489
Memphis TN 38187-0489
v. 615.542.4775
f. 901.432.5462
www.backinrivercity.com

Love Memphis? Hate the problems?
Join the conversation!

From: [Eddie Settles](#)
To: [OpenRecords Comments](#)
Subject: Written Comments for Amendments to Open Records Statutes
Date: Friday, September 11, 2015 1:37:52 PM

In accordance with the notice of hearing, I submit the following written comments:

1. Charges for public records inspection?

Response: No. The public already generally distrusts the truthfulness of government in general. Charges for inspection as opposed to copying will reasonably lead the public to believe that such charges are a mechanism for dissuading citizens seeking information about their government's operations.

2. If permitted, should charges follow duplication?

Response: No. If charges are made, the General Assembly should set a flat fee. Otherwise, the public will reasonably assume such charges are arbitrary and capricious with the objective ultimately being to dissuade the public from seeking access.

3. If charges are permitted, should inspection of agendas, minutes, and audit reports be exempted?

Response: Yes, these documents and any documents digitized for any reason should be exempted. At a minimum, if the public is to follow the public meeting the agenda should be available. Minutes should be available to give the public a feel for the history of the deliberative, public body. Audit reports are generally the only independent review of government operations made. These documents should be subject to no charge because a citizen's exercise of her/his reasonable inquiry should not be subject to any official's ability to discourage such inspection by charges. All digitized records should be immediately available for inspection and digital download on the citizen's storage media (thumb drive for example) because the incremental cost is so incredibly low versus the incredibly high value of citizen knowledge/input provided thereby.

4. If charges are permitted, should the factors specified in TCA sec. 8-4-604 be used?

Response: No. The factors are incredibly subjective. The ambiguity of the factors will almost certainly lead to public officials using the factors to discourage efforts by the public to access public records for inspection.

5. What amendments should be made to the Schedule for Reasonable Charges for Duplication of Records?

Response: The Schedule should be eliminated. The Comptroller should solicit bids on a year to year basis for outside contractors to reproduce documents. Government

isn't competent to produce such copies on any reasonable cost basis. Likewise, the Comptroller should solicit bids to digitize all records produced with redaction performed when the document is digitized. This should be done on a "going forward" basis. The documents should be maintained on a centralized server appropriately secured against internet intrusion and should be keyword searchable by any person.

Thank you.

Eddie

Eddie Settles
Back Home Media Inc.
P.O. Box 17489
Memphis TN 38187-0489
v. 615.542.4775
f. 901.432.5462
www.backinrivercity.com

Love Memphis? Hate the problems?
Join the conversation!

From: CBrooks40@aol.com
To: [OpenRecords Comments](#)
Subject: Records must be open and free
Date: Friday, September 11, 2015 2:14:12 PM

There should be no charge for public access to public records. The state government must assure access in order to promote transparency that is a key to a representative government.

Christopher Brooks, MD
3852 Woodhill Place
Knoxville, TN 37919

From: [Paul Tinkle](#)
To: [OpenRecords Comments](#)
Subject: Paul Tinkle requesting to speak in Jackson Tennessee
Date: Friday, September 11, 2015 2:16:31 PM

My name is Paul Tinkle. I am with Thunderbolt Broadcasting Company and requesting to speak at the public hearing in Jackson next on public records.

Thank you

From: [Andrea Zelinski](#)
To: [OpenRecords Comments](#)
Subject: "Request to Speak"
Date: Friday, September 11, 2015 2:40:32 PM

My name is Andrea Zelinski and I am president-elect of the Middle Tennessee Chapter of the Society of Professional Journalists. I wish to speak at the public hearing in Nashville on Wednesday, Sept. 16, regarding inspection of public records.

Please let me know you've received my request.

Thanks,

Andrea Zelinski
Nashville Post/Nashville Scene
615-945-6414
azelinski@southcomm.com
On Twitter @andreazelinski

From: [Brian Hornback](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak September 15 in Knoxville
Date: Friday, September 11, 2015 3:23:55 PM

Brian Hornback, 11 year blogger [BrianHornback.Com](#)

Brian Hornback

brian@brianhornback.com

865.607.1108 Mobile

twitter.com/shockand_awe

twitter.com/brianhornback

<https://www.facebook.com/pages/Brianhornbackcom/263702146975621>

P.O. Box 22743

Knoxville, TN 37933-0743

From: [PAMELA WESTON](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Friday, September 11, 2015 3:31:45 PM

Pamela Weston, P O Box 645, 1306 Sweetwater-Vonore Road, Sweetwater, TN
37874; (717) 515-7178

n/a

Knoxville, TN

Pamela O Weston

“In a time of universal deceit, telling the truth is a revolutionary act.” - George Orwell

From: [Jim Gilchrist](#)
To: [OpenRecords Comments](#)
Cc: [Doreen Wade](#); [Joshua Pila](#); [Robb Harvey](#); [Demetria Kalodimos](#); [Jeremy Finley](#); [Nancy Amons](#); [Michelle Palmer](#)
Subject: Request to Speak
Date: Friday, September 11, 2015 4:00:56 PM

To Whom It May Concern:

WSMV-TV submits the following speakers to address the Office of Open Records Counsel at its public hearing on Wednesday, September 16, 2015 in Nashville:

Demetria Kalodimos

Anchor/Investigative Reporter, WSMV-TV
Demetria.Kalodimos@wsmv.com
615-353-2234

Jeremy Finley

Anchor/Investigative Reporter, WSMV-TV
Jeremy.Finley@wsmv.com
615-353-2421

Nancy Amons

Anchor/Investigative Reporter, WSMV-TV
Nancy.Amons@wsmv.com
615-353-2284

Again, these persons wish to address the OORC public hearing on Wednesday, September 16, 2015 **in Nashville, TN at the James K. Polk State Office Building, 505 Deaderick St.**

Regards,
Jim

Jim Gilchrist
News Director
WSMV-TV
5700 Knob Road
Nashville, TN 37209
615-353-2400
Jim.Gilchrist@wsmv.com

Twitter: @JimWSMV



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From: [Herbert S. Moncier](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Friday, September 11, 2015 4:52:57 PM
Attachments: [C370ABA8-2D3D-46B2-8D13-05739D4F5406f71.png](#)

My name is Herbert S. Moncier. I request to speak at the Knoxville hearing. I may be reached at the email or telephone number below.



Herbert S. Moncier
Attorney at Law
(865) 546-7746
moncier@moncierlaw.com

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From: [McElroy, Jack](#)
To: [OpenRecords Comments](#)
Subject: Draft of remarks
Date: Friday, September 11, 2015 5:03:56 PM
Attachments: [image003.png](#)
[OORC fees hearing.docx](#)

Attached is a draft of the remarks I intend to deliver at the fees-for-inspection hearing in Knoxville Tuesday. When delivered, the remarks will be compressed as necessary to comply with the time limit. Please accept these as written comments on the questions as well.

Thank you.

Jack McElroy

Editor

Knoxville News Sentinel

2332 News Sentinel Drive

Knoxville, TN 37921

(P) 865.342.6300

Jack.mcelroy@knoxnews.com



Thank you for this opportunity to testify. My name is Jack McElroy. I am editor of the Knoxville News Sentinel and president of the Tennessee Press Association. TPA is a trade association representing 26 daily and 95 non-daily newspapers that reach a combined 3.6 million Tennesseans each week in all 95 counties of the state. The association was founded five years after the Civil War and has served as the voice of the state's newspaper industry since then, often advocating for open government.

Although I am addressing these questions on behalf of newspapers, the reasons for my responses apply as much, if not more, to citizens who are not professional journalists and do not have the resources of business enterprises to help bear expenses.

1. Should the TPRA (Tennessee Public Records Act) permit record custodians to charge for inspection of public records?

TPA's answer and mine is no.

Although we accept that government agencies pushing this idea may feel they have the best interests of citizens in mind, we are convinced they are mistaken for a variety of reasons.

The experience of our members makes clear that some government bodies will use per-hour labor charges to deliberately block access to public records and to limit public access to information. A notable example a few years ago was when the Department of Children's Services, under fire for the deaths of children in its care, initially told the Tennessean newspaper it would cost \$55,000 to produce copies of records, including such costs as transporting files from all of the department's outlying offices to Nashville and back -- by hand.

Even if blocking access to information is not the intent of agencies, the expense will have that effect. Newspapers seeking copies of records increasingly are facing fees exceeding \$1,000. Recent examples include:

- The Department of Finance charging \$1,507 for information on the cost of lawmaker health insurance;
- A Morristown utility charging \$1,325 for copies of travel receipts.
- The Chattanooga Electric Power Board charging \$3,837 for copies of advertising records.
- Shelby County schools charging \$2,000 for copies of one year of outside counsel payments, and
- The City of Memphis charging \$110 per hour to produce copies of HUD applications.

Ironically, such charges often lead to protracted negotiations involving media and government lawyers, which result in expenses greater than the cost of fulfilling the records requests themselves.

Also, fees vary widely across the state. Reporters in some areas now are presented with unfairly exorbitant bills for copying records, while those in other parts of state get free access. One reporter in Nashville said he seldom, if ever, has to pay labor fees. While in Memphis, another

reporter says she has to pick and choose her stories based on which local government is going to charge her \$2,000 and which will allow her to see records without charges.

Under existing law, there is no way to police charges for producing copies and there are no limits. A local government can hire an outside lawyer at \$250 per hour to process a public records request, as recently happened in Loudon County where the eventual cost topped \$6,000. The Office of Open Records Counsel has no power to reduce fees, and local government can defy the OORC regarding the law. In Chattanooga, the OORC told the Electric Power Board that the law did not allow charges for inspection. But the EPB disagreed and charged a UT-Chattanooga student \$1,767 anyway. The only option the requester then had was to hire an attorney and file a lawsuit.

The legislature's own fiscal review staff has reported that "allowing records custodians to charge a reasonable fee, will to some degree, discourage requests for open records inspections." In 2011, a proposal similar to this year's bill estimated the total charges for inspecting records at \$1.7 million a year. Much of that cost would be borne by newspapers, whose vital role and responsibility is to monitor the workings of government.

The state intent of these charges is to save taxpayers money. In fact, the very opposite will prove true.

The Franklin Center for Government and Public Integrity, a free-market-oriented nonprofit organization, notes in its statement of purpose that there are 87,576 units of state and local government in the United States spending a combined \$3 trillion annually. "Yet frequently," the Franklin Center said, "state and local governments are allowed to exercise these powers without more than vague, cursory oversight from the media."

Without the checks and balances of public scrutiny, government excesses emerge, such as the case a few years ago in the small city of Bell, California, where the city administrator was being paid nearly \$800,000 a year, the police chief more than \$450,000 a year, and part-time city councilors more than \$100,000 -- before the Los Angeles Times came in and looked at the city's records.

Likewise, public-records reporting by newspapers in Tennessee has in recent years uncovered numerous instances of costly waste and corruption. Examples just from Knoxville include:

- Thousands of dollars in unearned bonuses paid in the Knox County trustee's office
- Hundreds of thousands of dollars owed by Knoxville country clubs that were illegally dodging property taxes, and
- Millions of dollars in pension payments to the young children, and even grandchildren, of Knoxville city retirees.

This reporting resulted in government reforms that brought savings to the taxpayers far exceeding the costs of producing records.

Thomas Jefferson famously stated: "Were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a

moment to prefer the latter.” That is because he understood that the press provides an essential check on abuse of power. That also is a primary reason why freedom of the press is protected in the U.S. Constitution.

Yet today, changes in the marketplace are reducing newspaper revenues and forcing cutbacks in staffing. From 2003 to 2012, overall full-time newspaper staffing declined by 30 percent, according to the American Society of News Editors, and those declines have continued.

Adding hundreds of thousands of dollars of additional expenses to Tennessee’s newspapers will certainly result in a reduction in watchdog reporting. While some government officials may welcome relaxed scrutiny, thoughtful ones will recognize that the ultimate cost will be in increased waste and corruption.

The Tennessee Press Association believes there are better ways to reduce the burden of fulfilling public records requests than imposing fees. The best place to start is by examining processes, and exploring proven ways to cut waste and inefficiency.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Charges for inspection of public records should not be permitted. But changes should be made to the Schedule of Reasonable Charges, including:

- Prohibiting or greatly limiting per-hour labor fees for copies. Excessive fees for copies now often are tied to overly expensive processes to review and redact documents by attorneys instead of less expensive staff personnel.
- Prohibiting charges related to an attorney’s research and advice to a government agency about fulfilling a public records request but not directly related to the cost of compiling the records themselves.
- Allowing citizens a way, short of a lawsuit, to challenge and reduce excessive fees associated with getting copies.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

Charges for inspection of public records should not be permitted.

Commonly requested documents should be available on government websites to ease citizen access. But the law should not create a whole new category of exemptions to the Public Records Act by allowing any state agency to declare some records to be free and open and others to be shielded from the public by cost.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

Charges for inspection of public records should not be permitted.

However, as it pertains to charges for copies, the principles listed in T.C.A. § 8-4-604 should be fully implemented through the Schedule of Reasonable Fees and the FAQs on the Office of Open Records Counsel website, including:

- Excessive fees and other rules, such as requiring requests be made via postal mail, should not be allowed to hinder access to nonexempt public information;
- Requestors should be given the option of receiving information in any format in which it is maintained, including electronic formats;
- Large-volume requests should be provided in the most efficient and cost-effective manner, including permitting the requestor to provide copying equipment or an electronic scanner.

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

The Schedule of Reasonable Charges for copies should be updated annually through a public process during which citizens can weigh in and be heard. Changes should be adopted only if they are approved by a consensus of the Advisory Committee on Open Government, which is a broad cross-section of citizen and government representatives appointed by the Comptroller of Tennessee.

TPA recommends, however, that the Schedule be amended as soon as possible to:

- Allow citizens to make their own copies of public records, which is outlined in the principles of T.C.A. § 8-4-604 but not adopted in the current schedule.
- Allow citizens to receive electronic copies of records in the format in which they are stored, which is also outlined in the principles but not in the Schedule.
- Protect citizens against inflated costs by disallowing excessive per-hour charges, such as \$250 per hour for an outside lawyer.

Thank you for your attention.

From: [Williams, Phil](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Friday, September 11, 2015 5:07:39 PM

To whom it may concern:

Please consider this as my request to speak at the public hearing in Nashville on Wednesday on behalf of the Investigative Reporters and Editors.

My contact information is below.

Please let me know if you have any questions.

Thanks,

Phil

Phil Williams, Chief Investigative Reporter
WTVF-TV, NewsChannel 5
474 James Robertson Pkwy, Nashville TN 37219
Voice: 615.248.5390
Website: <http://www.newschannel5.com/investigates>
Facebook: <http://www.facebook.com/NC5PhilWilliams>
Twitter: <http://www.twitter.com/NC5PhilWilliams>

NEW EMAIL: phil.williams@newschannel5.com

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From: [Jeremy Finley](#)
To: [Jim Gilchrist](#); [OpenRecords Comments](#)
Subject: Request to Speak
Date: Friday, September 11, 2015 5:08:33 PM

To Whom It May Concern:

I am requesting to address the Office of Open Records Counsel at its public hearing on Wednesday, September 16, 2015 in Nashville.

Here is my information:

Jeremy Finley

Anchor/Investigative Reporter, WSMV-TV

Jeremy.Finley@wsmv.com

615-353-2421

Again, I'd requesting to address the OORC public hearing on Wednesday, September 16, 2015 **in Nashville, TN at the James K. Polk State Office Building, 505 Deaderick St.**

Thanks -

Jeremy Finley

Investigative Reporter/Anchor

WSMV-TV

desk: (615) 353-2421

cell: (615) 830-1269



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From: [Nancy Amons](#)
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Friday, September 11, 2015 5:10:32 PM

I would like to speak at the public hearing on Wednesday, September 16, 2015 in Nashville regarding the proposal to charge for inspection of public records.

Nancy Amons
WSMV-TV
615-353-2284

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From: [Pat Crumley](#)
To: [OpenRecords Comments](#)
Subject: Charging for public records
Date: Friday, September 11, 2015 5:54:19 PM

I do not think this is in best interest of public. There are many records like in register of deed office and tax offices people need information. Also for poorer families that want information on teachers this could be cost prohibited. It's always about money and certain groups of people don't want public records to be transparent therefore charge for the service and reduce access to records. We know what the school boards are trying to do.
Sent from my iPhone

From: [Renee Hoyos](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Friday, September 11, 2015 6:08:18 PM
Attachments: [TCWN Comments - Inspection of Public Records 2015.pdf](#)

I wish to speak at the Tues Sept. 15 hearing in Knoxville.

Renée Victoria Hoyos
Executive Director
Tennessee Clean Water Network

P.O. Box 1521
Knoxville, TN 37901
865.522.7007 x100 (w)
865.607.6618 (c)
www.tcwn.org

Tel: (865) 522-7007
Fax: (865) 525-4988

www.tcwn.org



PO Box 1521
Knoxville, TN 37901

625 Market St, 8th Floor
Knoxville, TN 37902

September 11, 2015

Ann Butterworth
Tennessee Office of Open Records Counsel
505 Deaderick Street, Suite 1700
James K. Polk Building
Nashville, TN 37243-1402

Re: Inspection of Public Records

Dear Ms. Butterworth:

I am pleased to submit the following comments regarding the proposal to allow Tennessee state agencies to charge fees for inspection of public records. The Tennessee Clean Water Network (TCWN) routinely accesses public records to support our mission of empowering Tennesseans to exercise their rights to clean water and healthy communities. Most commonly, these records are held by the Tennessee Department of Environment and Conservation (TDEC), but we also review records at local government offices. TCWN accesses TDEC's online public records several times each working day, makes specific document requests to individual TDEC staff via email once or twice a week, and also conducts reviews of paper files at TDEC 6-8 times per year.

TCWN is against charging fees to inspect public records. These records are already bought and paid for by Tennessee taxpayers, and access should be free and unhindered. Charging fees merely to view a public record would be inconsistent with Governor Haslam's focus on increasing transparency and accountability in state government through his "Transparent Tennessee" initiative.

1. Should the TPRA permit record custodians to charge for inspection of public records?

TCWN strenuously opposes any proposal to charge for inspection of public records. Maintaining these records and making them available to the public are essential to open government, and as such are basic governmental functions that Tennesseans already pay for through our taxes.

Charging fees merely to view public records would block access for many people, including low-income individuals, the media, and nonprofit organizations such as TCWN. One reason for this is sheer volume: the press and organizations that routinely access public records would have to significantly curtail their reviews if they had to pay a fee each time they viewed a public document. And some public agencies would likely use access fees to prevent the public from digging into records that may not cast a good light on that agency.

We believe there are better ways for government to control its cost of providing access to public records. Today, most records are created in electronic format. To the extent practicable, agencies

should retain and provide access to these documents the same format. For example, TDEC – and particularly its Division of Water Resources - has done an exemplary job of making voluminous public records available online. We believe this approach represents a best practice that should be emulated by other state agencies: it saves time for public officials by reducing the need to respond to multiple records requests and provides free, instantaneous access to the public. Although this approach is not practicable for all records (*e.g.*, email, documents containing exempt information, documents submitted to agencies only in paper format), it can provide access to a large volume of the most commonly requested documents in a cost-effective manner consistent with fundamental principles of open government.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Again, TCWN opposes any charges for inspection of public records. However, if such charges are authorized, then the OORC does need to develop uniform statewide guidance to ensure that no public agency imposes prohibitively high fees.

However, the schedule of charges should be changed in several regards. First and foremost, there should be a relatively high threshold (*e.g.*, 2 hours of staff time) below which no inspection fees may be charged. If inspection fees are allowed, these should only apply to extraordinary records requests such as those seeking access to a large volume of dispersed public records. No member of the public should be charged simply to have a clerk go to the file room and grab a few folders.

Second, there should be a maximum per-hour fee regardless of who does the work. Members of the public should not have to pay hourly attorney fees to access public records.

Third, there should be a mechanism for a fee waiver, including fees for copying. Federal agencies such as the Environmental Protection Agency allow fee waivers under the Freedom of Information Act (FOIA) for members of the media, academics, and for organizations who seek records for noncommercial purposes. See <http://www2.epa.gov/foia/requesting-foia-fee-waivers>. FOIA's fee waiver standard, found at 5 U.S.C. § 552(a)(4)(A)(iii), provides:

Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

TCWN believes all public records should be made available for free. However, if fees are charged, the government should not discriminate based on the type of record. Differentiation in fees implies that some records are more public than others, and that Tennesseans have fewer rights to view the less-favored types of documents.

On the other hand, government agencies should be encouraged to make the most commonly requested documents available online for free. Consistent with the Open Meetings Act and general principles of open government, agendas and minutes of public decisionmaking bodies should be provided online in a timely manner.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

In general, the factors listed in TCA 8-4-604 are reasonable and appropriate factors to be considered when developing a fee schedule for photocopying. However, the statute should also provide for a fee waiver similar to that for the federal FOIA. *See* 5 U.S.C. § 552(a)(4)(A)(iii).

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

Overall, the fee schedule should be informed by basic principles of open government and should not serve as a device to prevent public access to government documents. The fee schedule should allow for documents to be provided to the public in an efficient, cost-effective manner.

The schedule should be amended to specifically allow members of the public to copy public records using their own devices so long as they do not remove documents from the premises. Because TCWN is a nonprofit organization with limited resources that frequently copies public records, we purchased a portable scanner to bring with us when we conduct file reviews. Using this scanner and a laptop is an efficient way for us to obtain copies of documents in electronic form (thus saving paper and file space at our office) right away and without interrupting the normal work flow of public employees.

The schedule should also require public agencies to provide electronic copies of documents in the native format in which they are stored if requested to do so.

We appreciate your consideration of these comments, and of those received by other members of the public and government agencies during this process.

Sincerely,



Stephanie A. Durman
General Counsel

From: [Lynn](#)
To: [OpenRecords Comments](#)
Subject: TN Rcds. Public Opinions
Date: Saturday, September 12, 2015 12:09:13 AM

Taxpayers already paid for this, and if any U.S. Citizen who wants to see a record is related to the person with whom the document regards, has the right to view it. If said person is asking for additional services, like copies, of course fees should be set and paid.

Sent from my iPhone

From: [Helen Burns Sharp](#)
To: [OpenRecords Comments](#)
Cc: untiedlaces@gmail.com
Subject: Request to Speak--Knoxville
Date: Saturday, September 12, 2015 7:07:32 AM

Dear OORC,

I would like to make brief comments at your public hearing in Knoxville on September 15.

Thank you.

Helen Burns Sharp
Public Interest Advocate,
Accountability for Taxpayer Money (ATM)—Chattanooga Chapter

From: [SUE HINKLE](#)
To: [OpenRecords Comments](#)
Subject: Charge for accessing public records
Date: Saturday, September 12, 2015 11:27:38 AM

I believe this is a wrong thing to do and ***I absolutely oppose having to pay anything for accessing public records.*** We are already paying for this through our taxes which pay the salaries of elected officials and staff members.

We all know that state and local government has no idea what a "reasonable fee" would be if this bills passes. Please, please do us the favor and leave this alone!

Sue Pruitt Hinkle
174 Regency Drive
Rogersville, TN 37857

From: [Judith Ideker](#)
To: [Open Records](#)
Subject: Charging to view records
Date: Saturday, September 12, 2015 11:53:37 AM

The ability to tax is the ability to destroy. This would be a tax on access to public records that belong to the public. At some point, and for some people, access could be curtailed by the cost. And it could certainly be expensive for extensive research into public records.

Further, a legal challenge to the practice would result in great expense to Tennessee taxpayers. I strongly oppose charging for access.

Judith Ideker
Knoxville, TN
Jideker@gmail.com

Sent from my iPad

From: [Barbara Gay](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Saturday, September 12, 2015 12:08:50 PM
Attachments: [Public Hearing Testimony.docx](#)

I have registered to speak at the public hearing on Thursday, September 17th in Jackson, TN. I am attaching a copy of my comments.

Thank You,
Barbara Gay, Action Chair
League of Women Voters of Tennessee

My name is Barbara Gay and I am the Action Chair of the League of Women Voters of Tennessee. The League of Women Voters of Tennessee is a nonpartisan, political organization that encourages informed and active participation in government. **The League of Women Voters of Tennessee opposes inspection fees for public records.**

While some may feel fees to inspect public records are an effective way to reduce burdensome requests ---we suggest fees for inspecting records are akin to a “poll” tax for accessing government. Some citizens will not be able to afford labor fees and thus they will be blocked from access to public records

Governmental entities should be encouraged to make as much public information readily accessible as possible - - fees send the message that they are doing citizens a “favor” by providing information. Record keeping is already paid for through taxes – it is the responsibility of government entities to maintain records in an efficient way to respond to requests for public records

Fees for inspecting records could morph into a “revenue” source for entities and could easily be inflated by padding the amount it takes to compile a request. Fees discourage entities from keeping records in a readily accessible way in the first place.

Discussion between requestor and government entity should be required if a request is voluminous. This would allow government staff more flexibility as well as create a more efficient process for both the citizen and the governmental entity.

If fees are considered for inspection of records, the fees for inspection should be limited to these voluminous records requests – and then only after an effort has been made to assist the requestor in narrowing or focusing the request.

The Office of Open Records Counsel should also consider developing “best practices” for the organizing of information to reduce the requirement and expenses for redaction. For example, if personal emails are to be redacted out, perhaps a policy targeted at reducing the use of government email addresses for personal emails would reduce redaction efforts.

Frequently requested information such as meeting materials and audit reports should be routinely posted to a governmental entity’s website in a timely manner. This is an efficient way to make them accessible to a large number of people.

However -- We should NOT distinguish between the types of public record that people get to see because some records are judged as not “created” for public consumption. By setting up a two-tier system, we automatically say citizens should have access to some public records, but not others unless they can pay.

Citizens should be allowed to take pictures of public documents with their smart phones or other devices without being charged. This eliminates the direct expense of copies and thus the justification of a copy fee. It also has the benefit of encouraging less use of paper.

The League of Women Voters of Tennessee thanks you for the opportunity to provide input and strongly encourages that fees for the inspection of public records NOT be allowed.

From: [Debbie Keebler](#)
To: [OpenRecords Comments](#)
Subject: Charging to look at records
Date: Saturday, September 12, 2015 5:54:21 PM

I really cannot understand why our government would try to charge for something that is by law supposed to be available to us for free. Please do the right thing and do not charge for these records.

Debbie Helton Keebler

Sent from my iPhone

From: [Demetria KALODIMOS](#)
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Saturday, September 12, 2015 6:29:34 PM

I am requesting the right to speak at the open records public comment time .
Demetria KALODIMOS
Brentwood tn

Sent from my iPhone

From: [Madeline Garr](#)
To: [OpenRecords Comments](#)
Subject: Charging the public to access Tennessee open Records
Date: Sunday, September 13, 2015 8:52:22 AM

To Whom It May Concern:

The core of a democracy is a well-informed, educated public. To this end, access to government records regardless of financial means is a key in creating a public who has the the information to make good decisions in the interest of the community. Charging a fee to access the records limits the public's ability to inform themselves. Tennessee is made up of the people who live here and each citizen has the right to access the records if they need the information contained therein without being charged. If this should change, it would not be in the best interest of the people, the state, nor democracy.

Sincerely,

Madeline Garr
259 Graylynn Drive
Nashville, TN 37214
615-889-4845

Sent from my iPad

From: [Sanford](#)
To: [OpenRecords Comments](#)
Subject: Records Fee
Date: Sunday, September 13, 2015 10:15:44 AM

By charging a fee to examine PUBLIC RECORDS, you are simply reinforcing the idea that all government is just a bunch of thieves and other crooks. For goodness sake, as well as your own, keep PUBLIC RECORDS public and free.

Sanford Payton
8060 Poplarwood Road
Nashville, TN 37221-4684

TN Citizen, Taxpayer, and Active Voter

From: [Bob Ramsey](#)
To: [Open Records](#)
Cc: [Deborah Fisher](#); [John Dunn](#); [amy.griffin@wth.org](#); [bfarmer@wpln.org](#); [cjenkins@tm1.org](#); [dbmoore@martindps.org](#); [dick206@aol.com](#); [doctorshipe@yahoo.com](#); [donlong.hville@gmail.com](#); [fieldsf@aol.com](#); [Janet Kleinfelter \(Janet.Kleinfelter@ag.tn.gov\)](#); [lucian.pera@arlaw.com](#); [monica.greppin-watts@tbr.edu](#); [Nicole Shaffer](#); [Richard Hollow](#); [Robb Harvey \(Robb.Harvey@wallerlaw.com\)](#); [Ken Yager](#); [sheriff@obioncountysheriff.com](#); [tcsa.connor@tncounties.org](#)
Subject: Re: comments on fees proposal
Date: Sunday, September 13, 2015 11:22:45 PM

Thanks. I have changed my opinion about leaving the authority for charges with the custodians. It has been explained that instead of hundreds of custodians across TN, there will be thousands. The probability of accountability without outside scrutiny, is doubtful with those numbers. I will attend The Knoxville Forum to listen, but I am thinking in favor of other deliberations for guiding the interaction of requests and custodians. Thanks

Sent from my iPad

On Sep 11, 2015, at 7:25 PM, Open Records <Open.Records@cot.tn.gov<<mailto:Open.Records@cot.tn.gov>>> wrote:

Deborah- we have 145 commenters on one or more of the five questions as of 2 pm today; some of those have not yet provided their comments but have requested to speak.
Thank you for the suggestion. See you Wednesday.

Ann V. Butterworth
Open Records Counsel & Assistant to the Comptroller for Public Finance
Open Records Phone: (615) 401-7891
Open Records Toll free phone: (866) 831-3750
Fax (615) 741-1551

Tennessee Comptroller of the Treasury
Suite 1700, James K. Polk Bldg.
Nashville, TN 37243-1402
open.records@cot.tn.gov<<mailto:open.records@cot.tn.gov>>
<http://www.comptroller.tn.gov/openrecords/>

"The mission of the Comptroller's Office is to improve the quality of life for all Tennesseans by making government work better."

From: Deborah Fisher [<mailto:fisher@tcog.info>]
Sent: Thursday, September 10, 2015 5:44 PM
To: Ann Butterworth <Ann.Butterworth@cot.tn.gov<<mailto:Ann.Butterworth@cot.tn.gov>>>
Subject: comments on fees proposal

Hi Ann,
Here's a link to an example of how the Tennessee Supreme Court posts comments it receives on its proposed rule changes.

http://www.tncourts.gov/sites/default/files/combined_comments_to_sct_r46_admin2015-01511.pdf

Here is the site - where you can see how they do it with all the comments on proposed rules:
<http://www.tncourts.gov/rules/proposed/>

And if you have a moment to shoot me an email on roughly how many people have submitted comments so far, that would be great.

Thanks for your help!

Deborah

Deborah Fisher
Executive Director
Tennessee Coalition for Open Government
(615) 602-4080
www.tcog.info<<http://www.tcog.info>>

Interested in promoting open government in your community?
How to help<<http://tcog.info/get-involved/>>

From: [Terry Stanley](#)
To: [OpenRecords Comments](#)
Subject: Keep records open.
Date: Monday, September 14, 2015 9:00:03 AM

There's a well known paper that starts "We, the people", not "We, the government". All records should be kept open, but I can see where excessive searches/copies may require some payment.

Terry Stanley
5436 J Riley West Rd
Greenback, TN 37742

Phone Call Summary

8/27/2015

Dick Rau

Fairfield Glade, TN 38558

He does not support charging to inspect records because he would not be able to afford it and he is investigating corruption and would not be able to do so if he had to pay to inspect records. He went on to discuss some corruption and the fact that he has contacted the media, secret service, and other government officials.

From: [Axel Ringe](#)
To: [OpenRecords Comments](#)
Subject: Comment on TN Public Records Act proposal to charge fees for access
Date: Monday, September 14, 2015 9:54:52 AM

On behalf of the 6,500 citizen activist members of the Tennessee Chapter Sierra Club, I welcome the opportunity to comment on the proposal to authorize the charging of fees to the public for accessing public records.

Public records belong to the citizens of Tennessee. They pay for the generation of these records through their taxes and have the right to view these records without hindrance. Government officials are public servants and should make it a very high priority to honor the right of citizens to information about their government. The right of access to public records long predates the Tennessee Public Records Act. The Act should not become a tool to restrict access to records that clearly ought to be public.

Broad and free access to government records is crucial for informed citizen participation in a democracy; citizens cannot exercise their rights as citizens without broad and free access to public records.

Broad and free access to public records is essential to holding government officials accountable. Government serves citizens, not the other way around. Citizens must know what their public officials and employees are doing, and how they are doing it. If public officials and employees get to choose what citizens get to know about what government is doing, the constitutional power vested in citizens in a democracy is destroyed.

Sincerely,

Axel C. Ringe
Conservation Chair
Tennessee Chapter Sierra Club
865-397-1840
onyxfarm@bellsouth.net

Activism is the rent I pay for living on this planet
- Alice Walker

From: [David Tulis](#)
To: [OpenRecords Comments](#)
Subject: Request to speak
Date: Monday, September 14, 2015 10:00:07 AM

Dear Sir, or Madam,

I wish to address the public hearing Tuesday in Knoxville regarding open records.

David Tulis
AM 1240 Hot News Talk Radio
Nooganomics.com

tel 423-316-2680
c/o 10520 Brickhill Lane
Soddy-Daisy, TN 37379

Will send text separately.

Thank you,

David Tulis

--

David Tulis
Hot News Talk Radio 1240
Your CBS Radio affiliate
& [Nooganomics.com](#)
(423) 332-6459 o
(423) 316-2680 w

From: [Chester, Tom](#)
To: [OpenRecords Comments](#)
Cc: [Chester, Tom](#)
Subject: DRAFT OF COMMENTS
Date: Monday, September 14, 2015 10:34:26 AM
Attachments: [image001.png](#)

Dear Ms. Butterworth:

Here is a draft of comments I anticipate delivering at the hearing Tuesday in Knoxville. I submitted a request in advance of last Friday's deadline to speak but have not gotten a response.

Regardless, here are my comments on behalf of the News Sentinel.

Thank you for allowing me to testify today. I will address my comments to the question: Should the TPRA permit record custodians to charge for inspection of public records? The answer is no. The potential cost, for private citizens or even to a media company like the News Sentinel, could restrict or inhibit the access to and free flow of public information.

For example, the News Sentinel makes roughly 150 public records requests a year to various city, county and state entities. Under the proposed law, the News Sentinel would have to pay to inspect records created and maintained using taxpayer dollars and presumed to be open to the citizens of Tennessee.

Taking into account that no inspection fee process has been implemented, let's hypothesize that a \$50 minimum fee is assessed to each of the News Sentinel's requests. That would amount to \$7,500 just in inspection fees on top of production and copying costs already permitted under the Public Records Act.

As an added cost to many public records requests, local E-911 centers and law enforcement agencies charge a \$75 fee for copies of tapes of E-911 calls and \$75 for copies of in-cruiser videos.

While media companies like the News Sentinel expect costs for production and copying of public records, the budget is not infinite.

Certainly, for a private citizen the costs could be formidable, even in the simplest of requests.

Some of our public records requests deal with our watchdog role of examining how our governments work while others are predicated on the news of the day.

For instance, a weeklong series last year disclosed how Knox County taxpayers paid nearly \$5 million between 2010-2013 to settle claims of government employee mistakes, mishaps and bad behavior. The costly claims were gleaned from thousands of records that took multiple public records requests and nearly a year to receive the information.

Some requests don't take as long: In December 2014, two Knox County school buses collided, killing two students and a teacher's aide. What happened? Over the next several months, multiple public records requests to various agencies revealed that one operator was driving on a learner's permit; the other was texting a prostitute and using drug parlance when the wreck occurred. That driver, according to the records, had multiple complaints about similar behavior but was still driving a bus.

Those records also showed that Knox County Schools had relegated driver certification to contractors, but after a News Sentinel story that prompted a change of policy, the school system began a systemic investigation of its drivers and terminated the services of five contractors. Still pending is a request to inspect the records of all contractors and drivers.

More recently, public records requests disclosed the laxity of oversight and inspections of so-called canopy experience and zip line operations. The records revealed how an approved safety line actually was at fault in the hanging death of a Georgia teenager. The state of Tennessee changed its policy after our reporting and instituted third-party inspections.

Finally, we're awaiting records on 24 Knoxville police officers and firefighters the city was forced to hire by an appeals panel after being

rejected by the departments. Two of the officers, which we've written about after getting their records through a request, were lead investigators in a double-murder, and questions were raised during trial about their investigative tactics. The trial ended in a hung jury.

So, it's difficult to choose which of these public records requests – which are only a small sample of what we make each year – not to make. Rejecting an inspection fee for public records is not.

Tom Chester
Managing Editor
Knoxville News Sentinel
2332 News Sentinel Drive
Knoxville, TN 37921
865-342-6344
865-342-6400 fax
865-755-6327 cell

Tom.Chester@knoxnews.com



From: [Lori Walker](#)
To: [OpenRecords Comments](#)
Subject: Free Public Records
Date: Monday, September 14, 2015 10:44:19 AM

I do not want to start having to pay to look up public records. I do a lot of family history and I would not be able to pay to look up records. It is not easy now because I have to pay for the copies, which are not cheap. My family history is very important to me and my family. Please do not start charging for record lookups!!! Thank you!

Lori Walker

From: [Daniela Kunz](#)
To: [OpenRecords Comments](#)
Subject: Legislation introduced in the 2015 Session of 109th General Assembly would permit charges for inspecting public records
Date: Monday, September 14, 2015 10:53:25 AM

The [Office of Open Records Counsel](#) (OORC) has sent me a survey regarding the Legislation introduced in the 2015 Session of the 109th General Assembly, which would permit charges for inspection of Public Records and I completed and sent it back already.

I am taking this opportunity to send in also this Public Comment, which is being provided too. Thank you for this.

I want to oppose any such legislation which would put an additional challenge for people to have insights into Public Records. Many people do not want to pay additional money for something which should be provided freely.

In this time of technology on top of it, and with more and more businesses going paperless, scanning documents into electronic systems, can help to reduce time for pulling records by hand by employees of Public Establishments, if the Public Data would be posted online for the Public to see (which would make sense) and it would be cost saving and in addition, the printing copies will then be up to the one viewing the records online, if the viewer decides that hard copies are needed of the documents.

Thank you very much for your kind assistance and for the opportunity given to us citizens to weigh into this very important matter.

Best regards,

Daniela Kunz
Founder and President
Parents For Students Safety
P.O. Box 682695
Franklin, TN 37068-2695
Cell: 615.480.5897

All Children have the right to a safe and toxin free environment where they learn, play, eat and sleep. Protect the health of our children by preventing exposures to damaging substances from the chemicals around us, everywhere they are. Learn more and join us in our mission. Web: www.parentsforstudentssafety.org and find us also on FB: ["Parents For Students Safety"](#)

From: [Marian Ott](#)
To: [OpenRecords Comments](#)
Cc: [Barbara Gay](#); [Kim Lauth](#)
Subject: League of Women Voters of Tennessee Comments Opposing Inspection Fees for Public Records
Date: Monday, September 14, 2015 10:54:59 AM
Attachments: [LWVTN Written submission to Public Hearing.pdf](#)

Please find attached a detailed written submission from the League of Women Voters of Tennessee in regarding the questions posed for the upcoming public hearings. We will provide a summary of these comments during our testimony at the upcoming public hearings.



LEAGUE OF WOMEN VOTERS OF TENNESSEE

The League of Women Voters of Tennessee is a nonpartisan, political organization that encourages informed and active participation in government. Charging for inspection of public records dampens the ability of informed and active citizen participation in government. **LWV Tennessee opposes inspection fees for public records.**

1. Should the TPRA permit record custodians to charge for inspection of records?

The League of Women Voters of Tennessee opposes permitting custodians to charge for the inspection of public records. Transparency in government is a hallmark of democracy and should be enhanced in Tennessee --- not diminished such as by allowing fees for the inspection of public records.

Citizens have the right to information to enable them to effectively participate/provide input into the decision making process. Asking to inspect a public record should not be viewed as an adversarial act on the part of the requestor -- there are many reasons to seek information from public records. Fees for inspecting records are akin to a "poll" tax for accessing government. Some citizens will not be able to afford labor fees and thus they will be blocked from access to public records

Governmental entities should be encouraged to make as much public information readily accessible as possible - - fees send the message that they are doing citizens a "favor" by providing information. Record keeping is already paid for through taxes – it is responsibility of public entities to maintain records in an efficient way to respond to requests for public records

Fees for inspecting records could morph into a "revenue" source for entities and could easily be inflated by padding the amount it takes to compile a request. Fees discourage entities from keeping records in a readily accessible way in the first place. An inefficient record-keeping system means more hours spent retrieving and compiling records - and if fees for inspecting records are allowed - more revenue. That's the wrong incentive!

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Fees should not be charged for inspection. This is an important safety valve in our law to enable citizens to have access to public information regardless of their ability to pay for copies.

The Schedule of Reasonable Charges for copies needs to be updated to encourage discussion between requestor and entity if a request is voluminous. There should be a collaborative effort to understand the information that the requestor wants in order to determine if the requester wants to narrow the request or receive the records in segments, allowing government staff more flexibility as well as creating a more efficient process for both the citizen and the governmental entity.

If fees are considered for inspection of records, the fees for inspection should be limited to the voluminous records requests that require many hours to assemble – and then only after an effort has been made to assist the requestor in narrowing or focusing the request.

The Office of Open Records Counsel should also consider developing “best practices” for the organizing of information to reduce the requirement and expenses for redaction. For example, if personal emails are to be redacted out, perhaps a policy targeted at reducing the use of government email addresses for personal emails would reduce redaction efforts.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

Fees should not be charged for inspection of records.

Public records that are frequently requested such as meeting draft minutes, approved meeting agendas, board packets for meetings and audit reports should be routinely posted to a governmental entity’s website in a timely manner. This is an efficient way to make them accessible to a large number of people.

However, just because a public record wasn’t prepared for the public doesn’t mean it should cost more for the public to see it. We should NOT introduce into our law the ability to distinguish between the types of public records that people get to see because we subjectively judge some records as not “created” for public consumption. By setting up a two-tier system, we automatically say citizens should have access to some public records, but not others unless they can pay.

4. If charges for inspection are permitted, should the factors listed in Ten Code ANN Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

The League of Women Voters of Tennessee served on the legislative study committee created by 2006 Pub. Acts, c.887. The principles regarding public records developed by that group should be considered; they strongly argue **against** allowing fees for the inspection of public records. These principles are:

(a) That state policies and guidelines shall reflect the policy that providing information to the public is an essential function of a representative government and an integral part of the routine duties and responsibilities of public officers and employees;

(b) That excessive fees and other rules shall not be used to hinder access to nonexempt public information;

(c) That, in accordance with § 10-7-503(a) (7) (A), no charge shall be assessed to view a public record unless otherwise required by law;

(d) That the requestor be given the option of receiving information in any format in which it is maintained by the agency, including electronic format consistent with title 10, chapter 7, part 1; and

(e) That when large-volume requests are involved, information shall be provided in the most efficient and cost-effective manner, including but not limited to permitting the requestor to provide copying equipment or an electronic scanner;

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

The Schedule should allow citizens to take pictures of public documents with their smart phones or other devices without being charged. This eliminates the direct expense of copies and thus the justification of a copy fee. It also has the benefit of encouraging less use of paper.

The Schedule should disallow any labor charges for lawyers related to redaction or internal review of public documents. Records custodians should address the redacting of information at the time record keeping systems are established in order to create a record keeping system that facilitates an efficient response to public records requests.

Marian Ott
President
League of Women Voters of Tennessee
President@lwvtn.org

From: [dave mundt](#)
To: [OpenRecords Comments](#)
Subject: Charging for viewing public records
Date: Monday, September 14, 2015 11:15:00 AM

Greetings and Salutations;

I stand against adding fees to examine public records. The costs of retrieving those records is covered by staff salaries. To add a fee will have a chilling effect on efforts to track government actions and decisions, causing government to become LESS transparent.

Dave Mundt
1066 Indian Ridge Road
Blaine, TN 47709

From: [Barbara Gay](#)
To: [OpenRecords Comments](#)
Subject: LWVTN Written Comments
Date: Monday, September 14, 2015 11:17:39 AM
Attachments: [LWVTN Written submission to Public Hearing.pdf](#)

I sent an earlier draft of LWVTN written comments for the open records hearings. This was a draft. I am attaching the office copy. Thank you.

Barbara Gay



LEAGUE OF WOMEN VOTERS OF TENNESSEE

The League of Women Voters of Tennessee is a nonpartisan, political organization that encourages informed and active participation in government. Charging for inspection of public records dampens the ability of informed and active citizen participation in government. **LWV Tennessee opposes inspection fees for public records.**

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Citizens have the right to information to enable them to effectively participate/provide input into the decision making process. Asking to inspect a public record should not be viewed as an adversarial act on the part of the requestor -- there are many reasons to seek information from public records. Fees for inspecting records are akin to a "poll" tax for accessing government. Some citizens will not be able to afford labor fees and thus they will be blocked from access to public records

Governmental entities should be encouraged to make as much public information readily accessible as possible - - fees send the message that they are doing citizens a "favor" by providing information. Record keeping is already paid for through taxes – it is responsibility of public entities to maintain records in an efficient way to respond to requests for public records

Fees for inspecting records could morph into a "revenue" source for entities and could easily be inflated by padding the amount it takes to compile a request. Fees discourage entities from keeping records in a readily accessible way in the first place. An inefficient record-keeping system means more hours spent retrieving and compiling records - and if fees for inspecting records are allowed - more revenue. That's the wrong incentive!

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Fees should not be charged for inspection. This is an important safety valve in our law to enable citizens to have access to public information regardless of their ability to pay for copies.

The Schedule of Reasonable Charges for copies needs to be updated to encourage discussion between requestor and entity if a request is voluminous. There should be a collaborative effort to understand the information that the requestor wants in order to determine if the requester wants to narrow the request or receive the records in segments, allowing government staff more flexibility as well as creating a more efficient process for both the citizen and the governmental entity.

If fees are considered for inspection of records, the fees for inspection should be limited to the voluminous records requests that require many hours to assemble – and then only after an effort has been made to assist the requestor in narrowing or focusing the request.

The Office of Open Records Counsel should also consider developing “best practices” for the organizing of information to reduce the requirement and expenses for redaction. For example, if personal emails are to be redacted out, perhaps a policy targeted at reducing the use of government email addresses for personal emails would reduce redaction efforts.

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Fees should not be charged for inspection of records.

Public records that are frequently requested such as meeting draft minutes, approved meeting agendas, board packets for meetings and audit reports should be routinely posted to a governmental entity’s website in a timely manner. This is an efficient way to make them accessible to a large number of people.

However, just because a public record wasn’t prepared for the public doesn’t mean it should cost more for the public to see it. We should NOT introduce into our law the ability to distinguish between the types of public records that people get to see because we subjectively judge some records as not “created” for public consumption. By setting up a two-tier system, we automatically say citizens should have access to some public records, but not others unless they can pay.

4. If charges for inspection are permitted, should the factors listed in Ten Code ANN Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

The League of Women Voters of Tennessee served on the legislative study committee created by 2006 Pub. Acts, c.887. The principles regarding public records developed by that group should be considered; they strongly argue **against** allowing fees for the inspection of public records. These principles are:

(a) That state policies and guidelines shall reflect the policy that providing information to the public is an essential function of a representative government and an integral part of the routine duties and responsibilities of public officers and employees;

(b) That excessive fees and other rules shall not be used to hinder access to nonexempt public information;

(c) That, in accordance with § 10-7-503(a) (7) (A), no charge shall be assessed to view a public record unless otherwise required by law;

(d) That the requestor be given the option of receiving information in any format in which it is maintained by the agency, including electronic format consistent with title 10, chapter 7, part 1; and

(e) That when large-volume requests are involved, information shall be provided in the most efficient and cost-effective manner, including but not limited to permitting the requestor to provide copying equipment or an electronic scanner;

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

The Schedule should allow citizens to take pictures of public documents with their smart phones or other devices without being charged. This eliminates the direct expense of copies and thus the justification of a copy fee. It also has the benefit of encouraging less use of paper.

The Schedule should disallow any labor charges for lawyers related to redaction or internal review of public documents. Records custodians should address the redacting of information at the time record keeping systems are established in order to create a record keeping system that facilitates an efficient response to public records requests.

Marian Ott
President
League of Women Voters of Tennessee
President@lwvtn.org

From: [Jackie Sims](#)
To: [OpenRecords Comments](#)
Subject: Charging for public records
Date: Monday, September 14, 2015 11:54:09 AM

I am in favor of public records being provided to citizens free of charge. This is part of the function of government. Citizens should not have to be able to afford records before they can receive them.

Jackie W. Sims
8201 Hunterhill Drive
Knoxville, TN 37923

From: [Tom Aud](#)
To: [OpenRecords Comments](#)
Subject: Public hearing on fees for public records access
Date: Monday, September 14, 2015 12:43:12 PM
Attachments: [Access to Public Records.docx](#)

Thomas L. Aud, County Archivist

Madison County Archives, Jackson, TN

For hearing on Thursday Sept. 17, 2015 at Jackson, TN (3-5 PM) at the Lowell Thomas State Office Building

Attached is the written comments.

Please advise if this is too late or if there will be no time for me to present my comments. Thank you.

Thomas L. Aud, County Archivist
Madison County Archives
1981 Hollywood Drive, Suite 300
Jackson, TN 38305
731-660-6221, extension 3810
taud@co.madison.tn.us

Access to Public Records: Free or Fee?

Thomas L. Aud, Madison County Archives

By definition, public records generated by local governmental offices should be open to the public and at no extra costs. County Archives across the state of Tennessee have been charged with receiving, storing, arranging, maintaining public records and allowing the same to be open to the public. While there are nominal charges for making paper copies, most, if not all, do not charge for doing or helping with research for citizens.

The variety of researchers at the Madison County Archives have included elected officials and staff from local governmental offices retrieving or researching their own older records, local genealogists, historians and even researchers from other counties and states whose ancestors lived in Madison County.

The wealth of information contained in county archives is incalculable in its value to others but it should not be hidden or locked away from public view by any law. For the few instances when extraordinary time and resources are required to produce copies of public records, local Public Records Commissions may approve other rules and regulations and may impose guidelines if necessary. There does not need to be a state law, however, to dictate or to mandate costs for the inspection of any public records and local regulations can set any nominal fees for making copies to cover the expenses of materials and staff time, etc.

Thank you for your consideration.

From: [Frank C. Newbell](#)
To: [OpenRecords Comments](#)
Date: Monday, September 14, 2015 1:57:25 PM

Records of government must be free to the voting public. Without an educated citizenry, you have tyranny.

From: [Rich Berube](#)
To: [OpenRecords Comments](#)
Subject: Written comments for 9-15-15 Knoxville Public Hearing on Access to Public Records
Date: Monday, September 14, 2015 2:25:40 PM

To those involved in the Knoxville Public Hearing,

Unfortunately, I will not be able to be there to speak at the public hearing, as I'll be out of town on business. I am a private citizen, not representing any group, but have a very good understanding, and a passion for the issue of open records. It is the government's duty to maintain, and make public records available to citizens for review. To charge an additional fee to do so would be hinder the public's right to know our government's business.

Many years ago, I saw first-hand, how the "Sunshine Law" made it possible for citizens and journalists, and eventually federal officials to catch three county commissioners engaged in zoning bribery. While that took place in Florida, the machinations of our local government workings are the same.

I believe it was Thomas Jefferson that said that the price of democracy is vigilance. The "price of doing business" in local and state government includes the cost that it takes to make its records (that we taxpayers own) available for public inspection. Anything else is an erosion of our rights, freedom, and democracy. Thank you.

Rich Berube
913 Hayslope Drive
Knoxville TN 37919

From: [Jesse Mayshark](#)
To: [OpenRecords Comments](#)
Cc: [Madeline Rogero](#); [William Lyons](#); [Christi Branscom](#); [Charles Swanson](#); [Eric Vreeland](#)
Subject: Comments from Mayor Madeline Rogero on Inspection of Public Records
Date: Monday, September 14, 2015 2:26:00 PM

Please see below comments from Knoxville Mayor Madeline Rogero in regard to questions raised about charging labor fees for the inspection of public records:

"I am opposed to amending state law to allow public records custodians to charge for inspection of public records. Such charges could create an obstacle for citizens seeking information about their own government. We in public service must be transparent in our actions and decision-making, and that includes providing easy and free access to public records.

It should be noted that there are real public costs to providing access to records in compliance with the Tennessee Public Records Act – even if those records are just for inspection rather than for copies. Given the volume of records – physical and digital – now being produced, and the need to protect certain kinds of information (e.g., health records, Social Security numbers), it can take many hours of staff labor to comply with a relatively simple records request.

City departments have devoted hundreds of hours during the past four years to fulfilling requests for copies or review of legal documents, e-mails, personnel files, and many other forms of public records. We have never refused or hindered access to those records, but some of the requests have been so voluminous that they have interfered with the ability of staff to do their other daily work.

Sometimes information requests are worded more broadly than necessary to produce the information being sought. In those cases, we try to work with the requestors to clarify the requests in ways that give them the information they want but limit hours of unnecessary labor.

As public officials, we accept our responsibility to be open and transparent. We also encourage members of the media and the general public to act responsibly in utilizing the provisions of the Public Records Act, bearing in mind that the real costs of compliance are borne by Tennessee taxpayers.

These are complicated issues, but the simple answer is that public records should be available for inspection at no cost."

Jesse Fox Mayshark

Communications Director

City of Knoxville

Office: 865-215-3710

Cell: 865-226-9409

Email: jmayshark@knoxvilletn.gov



From: [Jennings, Janet](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Monday, September 14, 2015 2:29:19 PM

Last Friday, I sent the request to speak below. I am following up with responses to the 5 questions that were distributed.

1. *Should the TPRA permit record custodians to charge for inspection of public records?*

Yes, the TPRA should permit record custodians to charge for inspection of public records, *in certain circumstances*:

- Time-intensive inspections that require local government staff to be on standby should be assessed labor fees for inspection time that exceeds the first hour. Requestors should be required to complete a form and should be provided a rate schedule prior to inspecting.
- Personnel record inspections and other sensitive document inspections require direct oversight by staff and should be assessed fees, as follows:
 - o For Inspection of Paper Records – include labor and materials required to locate, retrieve, review, redact and reproduce the records, in addition to time spent managing/overseeing the actual inspection.
 - o For Inspection of Records Stored Digitally – same as for Paper Records, with the addition of the cost to first convert the electronic records to hard copy form.
 - The TPRA does not grant requestors the right to use their own copying equipment (i.e., cellphone, camera, mobile scanner, etc.); an amendment to clarify this would be helpful. Ensuring compliance with an internal policy that prohibits the use of personal copying equipment requires direct oversight of the inspection process.
- Note: Accounts Payable Cash Disbursement records seem to be unlikely candidates to fall under sensitive documents, however, from time-to-time we encounter payment documents that contain confidential and sensitive information. As an example, our jurisdiction is party to a contract with the State, whereby we run a Female Inmate Facility. Purchases of medications and medical services flow through our Accounts Payable system, with records attached that contain sensitive and confidential information. Expenditures is an area of great interest for our local media, so this is an area of risk with the provision of public records.

2. *If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?*

Yes. Requests for inspection should be made in writing, for documentation purposes, with the same labor and materials fees in place for duplication. Labor charges should include time spent preparing the documents for inspection, especially in the case of preparing sensitive materials. Consistent with the Schedule of Reasonable Charges, the first hour should be excluded. A cost estimate should be provided to the requestor in advance of the

actual inspection appointment.

3. *If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?*

Only under limited circumstances should these records be exempted from inspection charges. First, though, best practices provide that meeting agendas and minutes for the local governing body be made accessible on the local government's website for a reasonable timeframe, along with annual budgets and financial reports. Requestors should be directed to the local government's website for access. Because the inspection of minutes and agendas can be a time-intensive process, if requestors insist on an onsite inspection of documents that are available online, charges should be permitted.

Conversely, if the local government has not made meeting agendas and minutes, budgets and financial reports available on the website, charges for inspection should not be permitted for those documents that should be available online. This exempt timeframe (i.e., 2 to 4 years), as well as the exempt documents, should be specifically defined in TPRA and/or in the Schedule of Reasonable Charges.

4. *If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?*

Yes. For consistency purposes, the fee schedule should be identical. The first hour of labor should be excluded, with the provision that the prep labor be included in that calculation. Exemptions should be clearly defined.

5. *What amendments or changes should be made to the current Schedule of Reasonable Charges related to duplication of records? Why?*

Electronic Copies - With the advent of the electronic age, all media requests now specify that records be provided electronically. Clarification that labor charges exceeding one hour be permitted would be helpful. The media outlets tend to be our frequent and repeat requestors.

Relief for Large Volume Requests on the 7 Day Rule - To avoid incurring significant duplication costs and not being reimbursed due to a "no show" situation, we require payment in advance of preparing duplicates, for large requests. The seven (7) business day rule becomes challenging to meet in these instances. On receipt of such a request, we notify the appropriate department and request an estimate of the page count and labor hours (with rates). After receiving that information, a cost estimate is prepared and provided to the requestor, along with an inquiry as to whether they wish to proceed. They are notified of the "payment in advance" requirement. On receipt of payment, we proceed with duplication. The various time lags throughout this process, including those caused by the requestor, jeopardize our ability to meet the 7 day rule. We have the option of

completing the extension form, however, due to the volume of requests received, tracking the status on the various requests becomes an issue. It would be helpful to get some relief on the 7 day rule (perhaps 10 days) for large volume and/or complex requests.

Labor Charge Amended to Include Variable Benefit Component (15%) – Limited and dwindling human resources have already resulted in increases in individual workloads. Public record requests have increased from an average of 1 or 2 per year to 70 during the most recent 12 month period. The breakdown by source is as follows: Media 43%, Labor-related 16%, Building Codes related 16%, Legal and Insurance 10%, Vendors 7%, Other 8%. The “Other” category includes requests from citizens, who are interested in knowing what our government is doing. Media requests dominate the field. We spend significant limited resources responding to these requests. Our options are to neglect serving other areas or work overtime. We incur variable benefit costs on the wages spent to respond to these requests (i.e., Social Security, Medicare and Retirement). Since the current combined rate for Social Security and Medicare is 7.65% and most Defined Contribution plans in place provide for a minimum employer contribution of 5%, it would be helpful to add a Variable Benefit Component (perhaps 15%) to the Labor Charge.

Thank you for your attention.

Regards,

Janet Jennings, CPA, CPFO | City of Johnson City

johnsoncitytn.org | 423.434.6033 | Fax: 423.434.6087

601 East Main Street | Johnson City, TN 37601

From: Jennings, Janet

Sent: Friday, September 11, 2015 10:58 AM

To: 'comments.open.records@cot.tn.gov'

Subject: Request to Speak

Janet Jennings, Finance Director/Treasurer/City Recorder, 423-434-6033

City of Johnson City

Tuesday, September 15, 2015 – Knoxville, TN

Written comments will follow.

Janet Jennings, CPA, CPFO | City of Johnson City

johnsoncitytn.org | 423.434.6033 | Fax: 423.434.6087

601 East Main Street | Johnson City, TN 37601

Think green: Only print this e-mail and any attachment if necessary.

From: [Register of Deeds](#)
To: [OpenRecords Comments](#)
Subject: Request to Speak
Date: Monday, September 14, 2015 2:38:59 PM

Good Afternoon,

I am Claudia Peeler, the Tipton County Register of Deeds, in Covington, TN. I am requesting to speak on behalf of the County Officials Association of Tennessee. I would like to speak on Thursday September 17, 2015 in Jackson, Tennessee.

My comments will not be lengthy.

Thank you,

CLAUDIA M PEELER
TIPTON COUNTY REGISTER OF DEEDS
PO BOX 626
COVINGTON, TN 38019
901-476-0204

From: [Horner, Roger](#)
To: [OpenRecords Comments](#)
Cc: [Bednar, Kirk](#)
Subject: Public Hearing Comments
Date: Monday, September 14, 2015 3:15:39 PM
Attachments: [Comments on Inspection of Public Records.pdf](#)

Please accept the attached comments for this week's hearings on inspection of public records.

Roger A. Horner

City Attorney, City of Brentwood
5211 Maryland Way/P. O. Box 788
Brentwood, TN 37024-0788
ph: (615) 371-0060; fax: (615) 370-4767
hornerr@brentwood-tn.org

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CITY OF BRENTWOOD

ROGER A. HORNER
CITY ATTORNEY

September 14, 2015

Ms. Ann Butterworth, Counsel
Office of Open Records Counsel
State of Tennessee

RE: Inspection of Public Records

Dear Ms. Butterworth:

The accompanying comments are submitted on behalf of the City of Brentwood in regard to this week's public hearings on inspection of public records. We appreciate the opportunity to provide input.

Sincerely,

Roger A. Horner
City Attorney

**Comments on Inspection of Public Records
Submitted by City of Brentwood**

**To the Office of Open Records Counsel, State of Tennessee
And the Advisory Committee on Open Government:**

The following comments are provided by the City of Brentwood for the public hearings to be conducted on behalf of the State of Tennessee in regard to inspection of public records.

1. Should the Tennessee Public Records Act (TPRA) permit record custodians to charge for inspection of public records?

Yes, when the request involves significant staff time or other direct expense to the government agency. At the City of Brentwood, requests for inspection of records are infrequent. Many City records that are likely to be requested by the public are available through the City's website, or can be easily accessed by City employees and provided to the requester for on-site inspection or by e-mail. Minutes, agendas and City ordinances are all available online. Even free copies of Police Department accident reports can be accessed by a link from www.brentwood-tn.org. However, the fact that most of our requests for inspection of records can be accommodated without trouble does not mean that there should be no charge for individual requests that do require significant public resources. Fulfillment of an extensive records request might entail many hours of employee time for retrieval. In some cases, additional time is required for copying and redacting when the records include confidential information that must be withheld. Under current law, a savvy requester will know that he or she can avoid paying for the private use of a public employee's time by asking only to inspect the records, rather than requesting copies. In one instance, a party who had sued the City of Brentwood wished to inspect several years of specific Police Department records. City employees spent a total of 11 hours searching for and identifying the requested records. The requester came to review the records and took pictures of some, but asked for copies of none, so the City could not recover any of its costs. Labor charges should be assessed for inspection of public records in the same way that charges would be assessed for copies of the same records. Additionally, when the records must be copied for redaction purposes, a charge per page should be assessed for the copies. There is no logical reason for allowing anyone the unrestrained freedom to demand inspection of records without charge.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Yes. As discussed above, there should be no distinction between the manner in which labor charges are assessed, whether the request is for copies of records or inspection of records. The only difference should be the omission of the per page charge when copying is not required. Otherwise, the amount of effort required to produce the records is the same.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

Yes. For both upcoming and past meetings from the last seven years, Brentwood makes meeting agendas, along with supporting materials, available on the City's website. Minutes from meetings going back seven years are also available on the website, as are the City's audit reports for the last ten years. Hard copies of agendas for upcoming meetings are also available at no charge. Requests to inspect older agendas, meeting minutes or audit reports can generally be accommodated without a significant time commitment. The City of Brentwood would not object to exempting these records from inspection charges.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

Yes, the same factors used to determine charges for copies should be considered in determining charges for inspection of records.

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

The base charges of \$.15 per page for standard size black and white copies or \$.50 per page for standard size color copies should be analyzed to determine if they truly reflect typical actual paper and production costs. This analysis should occur on a periodic basis to determine that the charges are fair to both the records custodian and the records requester.

From: [Frank Einstein](#)
To: [OpenRecords Comments](#)
Subject: Comments on proposed legislation (HB0315/SB0328)
Date: Monday, September 14, 2015 3:34:27 PM

I am writing because I will be unable to attend the public hearing on HB0315/SB0328 scheduled for September 16th in Nashville.

I am strongly opposed to the provision to charge a fee for inspecting public records. Public records are supposed to be PUBLIC, and for that reason they should be accessible to anyone who wants to review them. Current law does not allow a records custodian to charge a fee for viewing open records. The proposed legislation would have the effect of limiting the public's right to know what state government—our government—is doing by erecting a financial hurdle to overcome before one can exercise a basic right.

If one cannot view public records without paying a fee, then the records will no longer be open to all, and you should no longer use the phrase “open records” or “public records” to describe them.

Passage of this bill would amount to a limitation of democracy, not unlike the imposition of a poll tax as a requirement to vote.

We don't want to go in that direction.

Frank H. Einstein

Frank H. Einstein
4306 Nebraska Ave.
Nashville, TN 37209-4758
(615) 298-9209
fheinstein(at)mac(dot)com

From: [Charles Michels](#)
To: [OpenRecords Comments](#)
Subject: FW: Public hearings regarding inspection of public records
Date: Monday, September 14, 2015 3:57:36 PM

Good afternoon, I would like to attend the Wednesday, September 16 event in Nashville. I work with Gino Marchetti, City Attorney for the City of Mt. Juliet.

As to the questions posed below:

1. Should the TPRA permit record custodians to charge for inspection of public records?
-If a city official is required to spend more than one hour either preparing the records for inspection or working with the inspector, yes. If the records are readily available for review, no.
2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?
-Yes, as to time for labor and any copies.
3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?
-These items should be readily available. The City of Mt. Juliet posts this information online, for example. Thus, there should not be a charge for labor involved with this as the City should be able to respond and allow inspection with minimal effort.
4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?
Yes.
5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?
-Labor charges should be modified. City employees are being taken away from other tasks to occasionally respond to very time consuming requests. This impairs other city business. Simply paying the equivalent of what the city "paid" the employee for the time does not compensate the city/employee for the time lost that could have been performing projects that benefit the City. The employee is either burdened with additional work and time spent at work or another employee is forced to do the work.

Charles Michels
Taylor, Pigue, Marchetti & Blair, PLLC
2908 Poston Avenue
Nashville, TN 37203-1312
(615) 320-3225
cmichels@tpmblaw.com

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From: Carole Graves <cgraves@tml1.org>

Date: August 31, 2015 at 1:55:37 PM CDT

To: "gmarchetti@tpmblaw.com" <gmarchetti@tpmblaw.com>, "sluckett@cityofmtjuliet.org" <sluckett@cityofmtjuliet.org>

Subject: Public hearings regarding inspection of public records

Good afternoon Sheila and Gino

We wanted to make sure you were aware of the upcoming public hearings scheduled to solicit feedback regarding inspection of public records. We are hoping that you can participate in the one scheduled for Wednesday, Sept. 16, in Nashville from 10 am to 12 pm. It's really important that local governments are represented in these meetings and the Office of Open Records Counsel (OORC) hears about specific issues that have taken place in Mt. Juliet. It's our understanding that your city receives a lot of public records requests, and therefore, it's imperative that the OORC hears local governments' side of the issue.

The OORC has established specific guidelines for the public comments. Please see the email below for more details on the five questions you will be asked to answer.

Please let us know if you can participate or someone from your city plans to attend. TML appreciates your attention to this important matter.

Should you have any questions – please don't hesitate to contact us at the League.

Carole Graves

Communications Director

Tennessee Municipal League

615-425-3911

Cgraves@TML1.org

www.TML1.org <<http://www.TML1.org>>

This is a

preview email.

Let the Office of Open Records Counsel Know How You Feel

Have you ever wondered why a city is permitted to charge for the time researching, preparing, redacting and copying records when the requestor asks for copies

but not when the requestor simply wants to inspect (view in person) the record?

Have you and your co-workers spent hours identifying, sorting, reviewing, redacting and preparing records in time to meet the promised deadline only to have the requestor never show up to claim or view the records?

Ever feel like a requestor is more interested in creating busy work and harassing than in the specific contents of the records you have spent so much time preparing?

IS THIS YOU? CAN YOU RELATE?

SURE YOU CAN. WE KNOW BECAUSE YOU'VE VOICED THESE FRUSTRATIONS TO US.

Well, here's your opportunity to refocus those frustrations constructively....

Give Feedback

The Office of Open Records Counsel (OORC) has offered several ways of being heard.

1. Cities should complete and submit a survey by clicking here <<https://t.e2ma.net/click/zrzdj/z38syc/z3gb2b>> (11 questions)

2. Cities should respond to the five questions in this document: <<https://t.e2ma.net/click/zrzdj/z38syc/fwhb2b>>

1. Should the TPRA permit record custodians to charge for inspection of public records?
2. If charges for inspection are permitted, should charges for inspection be governed in a

manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

3. If charges for inspection are permitted, should any public records such as meeting

minutes, agendas, and audit reports be exempted from inspection charges? Why?

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

Cities may respond with facts and personal accounts by:

A. Submitting written comments comments.open.records@cot.tn.gov <[mailto:comments.open.records@cot.tn.gov?subject=>](mailto:comments.open.records@cot.tn.gov?subject=)

B.

Attending one of the following three public hearings:

1.

Tuesday, September 15, 2015 (4-6 pm) in Knoxville, TN

Oaks Executive Park, 5401 Kingston Pike, Building 2, Suite 350

2. Wednesday, September 16, 2015 (10 am-12 noon) in Nashville, TN
James K. Polk State Office Building, 505 Deaderick Street, 16th Floor, Video Conference Center
3. Thursday, September 17, 2015 (3-5 pm) in Jackson, TN
Lowell Thomas State Office Building, 225 Martin Luther King Drive, Tower B, Conference Room 1

Please take advantage of this request by OORC and let them know the reality of Open Records requests taking place in your city.

Tennessee Municipal League, 226 Capitol Blvd.
Suite 710, Nashville, TN 37219

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226 Capitol Boulevard

Nashville , TN | 37219 US

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To continue receiving our emails, add us to your address book. <mbarrett@tml1.org>

<http://www.myemma.com/powered-by-emma?utm_source=PoweredBy&utm_medium=Regular&utm_campaign=PoweredBy-Regular-19661>

From: [Patricia Armstrong](#)
To: [OpenRecords Comments](#)
Subject: Free Public Records
Date: Monday, September 14, 2015 4:42:34 PM

Dear Tennessee Government,

I am writing as I am concerned about the possibility of the government instituting charges for public records. It is reasonable to remember that:

Governmental entities should be encouraged to make as much public information readily accessible as possible - - fees send the message that they are doing citizens a “favor” by providing information

Record keeping is already paid for through taxes – it is responsibility of public entities to maintain records in an efficient way to respond to requests for public records

Many other states allow free inspection of public records. And some have gotten rid of search-and-retrieval fees for copies because of abuses.

Thank you, Patricia Armstrong, Nashville, TN 37221

From: [Patty Farmer](#)
To: [OpenRecords Comments](#)
Subject: Oppose fee to inspect public records
Date: Monday, September 14, 2015 5:03:51 PM

Please know that I am adamantly opposed to the State charging a fee to citizens for the right to inspect public records. It is not in the best interest of our citizens and contributes to the thwarting of democracy. Transparency should not be feared.

Patricia C Farmer
1028 Stonewall Dr
Nashville, TN 37220

From: [Nanci Gregg](#)
To: [OpenRecords Comments](#)
Subject: RE: Taxpayers required to pay to see public records
Date: Monday, September 14, 2015 5:03:55 PM

To Whom It May Concern:

There is not way that it would be appropriate to ask citizens of the United States to pay for the privilege of seeing public records. They are PUBLIC records, created and maintained using tax payer funds. They legally must be open to public viewing. How else can the public know what it's elected and appointed officials are doing?

This sounds like such a bad and un-American idea that I find it difficult to believe that we're even having this discussion.

NO fee for viewing records. It's obviously illegal.

Nanci Gregg
Thompsons Station TN 37179

From: [Sheila Lockett](#)
To: [OpenRecords Comments](#)
Subject: Please add me to the speakers list for the meeting to be held in Nashville on Wednesday
Date: Monday, September 14, 2015 5:26:27 PM

Thank you

Sheila Lockett, MMC
Deputy City Manager / City Recorder
City of Mt. Juliet

From: [Rocky Swingle](#)
To: [OpenRecords Comments](#)
Subject: Keep Records Free
Date: Tuesday, September 15, 2015 8:47:39 AM

I'm writing to comment on a proposal to charge an inspection fee for public records. I am opposed to a fee. Records should be made widely available at no cost. Public information becomes less public if a cost is imposed because that becomes a barrier to openness. It's simply the cost of open government.

--

Rocky Swingle
7213 Sheffield Dr.
Knoxville, TN 37909
rockys512@gmail.com

From: [Donald Perrine](#)
To: [OpenRecords Comments](#)
Subject: Fees for records
Date: Tuesday, September 15, 2015 10:25:02 AM

Folks,

It is absolutely wrong to charge fees to examine public records. The taxes we pay should be used for this purpose in order to ensure transparency.

Tennessee is moving forward under our current administration; such a move would be a serious backward move.

Don Perrine
865-963-9550
Louisville, TN

From: [James Cotham](#)
To: [OpenRecords Comments](#)
Subject: Open records
Date: Tuesday, September 15, 2015 10:26:45 AM

It is appalling that our government officials would even consider charging the citizens of Tennessee to see the records created by their government officials with their tax dollars in the execution of the duties of the government. As a librarian, archivist, and historian, I find the very idea of closing off records from free public access repugnant.

Reasonable charges for copies of documents is expected, but charging for viewing documents is absolutely wrong. I hope that common sense and responsible government will prevail, and this very bad idea will be voted down.

Steve Cotham
1712 Emoriland Blvd.
Knoxville, TN 37917

Knox County Historian

From: [Steve Ayriiss](#)
To: [Open Records](#)
Subject: Pay to Peek Bill
Date: Tuesday, September 15, 2015 10:28:39 AM

I am completely "against" this bill. Transperancy of public records is a "right" of the public. Those records and the employees that maintain them are paid by taxpayers and is Constitutionally supported. Do not charge..

From: [Georgiana Vines](#)
To: [OpenRecords Comments](#)
Subject: letter on proposed fees
Date: Tuesday, September 15, 2015 11:00:09 AM
Attachments: [letter to butterworth.doc](#)

I intend to present this letter today at the public hearing in Knoxville on proposed fees for reviewing public records.

Georgiana Vines
Political Columnist
News Sentinel
535 Locust St.
Unit 203
Knoxville, TN 37902
865-577-6612

535 Locust St., Unit 203
Knoxville, TN 37902
865-335-0010

Sept. 15, 2015

Ann Butterworth
Office of Open Records Counsel
1700 James K. Polk Building
505 Deaderick Street
Nashville, TN 37243-1402

RE: Proposed legislation to charge fees to inspect public records

Dear Ms. Butterworth:

I am a former national president of the Society of Professional Journalists and a board member of its affiliate, the East Tennessee Chapter, or ETSPJ. The Society of Professional Journalists is the nation's largest journalism organization and represents print and broadcast media in all its forms, including free lancers, and collegiate journalism educators.

Through this letter, I join Mike Martinez, ETSPJ president, in opposing proposed legislation that would establish fees for the inspection of public records under the Tennessee Public Records Act. I also would like to point out that the top two elected officials in Knox County, County Mayor Tim Burchett and Knoxville Mayor Madeline Rogero, oppose the legislation and they are people who have to deal with inspection of public records on a regular basis.

Nationally, SPJ advocates for open records and open meetings in a way that the public can participate in a democracy. The public has a right and responsibility to know what governments at all levels are doing. Charging fees for viewing records would be a discouraging factor for many wanting to inspect them.

Thank you for having public meetings on this issue and providing an opportunity for us to express our views.

Sincerely,

Georgiana Vines
Former National President, Society of Professional Journalists (1992-93)
Vice Chairman, SPJ Diversity Committee
Board Member, East Tennessee Chapter, Society of Professional Journalists
Board Member, Front Page Foundation

From: akirk67@comcast.net
To: [OpenRecords Comments](#)
Subject: Reoord fees
Date: Tuesday, September 15, 2015 11:04:53 AM

I am completely opposed to citizens being charged for public records. This is another assault on our democratic system.

Albert Kirk
Cordova TN 38016

From: [Jimmy Gayle](#)
To: [OpenRecords Comments](#)
Subject: Justin Wilson OORC, TPRA, ACOG meeting September 16th Nashville James K. Polk 16th floor
Date: Tuesday, September 15, 2015 1:38:33 PM

I would like the opportunity to speak at the meeting.

Jimmy Gayle
CEO
GTI
725 Cool Springs Blvd Ste 600
Franklin, TN 37067
(615) 732-6275 - phone
(615) 732-6101 - fax

From: [Louise Gorenflo](#)
To: [OpenRecords Comments](#)
Subject: Regarding Inspection of Public Records
Date: Tuesday, September 15, 2015 2:14:54 PM
Attachments: [Inspection of Public Records.pdf](#)

Please see my attached comments.

Thank you.

Louise Gorenflo
441-7752

To: Comptroller's Office of Open Records
Re: Inspection fee of public records

Submitted by:

Louise Gorenflo
2306 Sunnywood Lane Knoxville TN 37912
865-441-7752

1. *Should the TPRA permit record custodians to charge for inspection of public records?*

I oppose this misguided bill that would restrain access to public records. Open and free public access to public documents is fundamental to democratic accountability.

I echo the statement of the Knox County Mayor, Tim Burchett: "Accountability begins with access, and true accountability means reducing, not increasing, obstacles to access public records. Charging taxpayers for exercising their right to merely inspect the very documents their taxes pay to produce is a ridiculous step backward, out of the sunshine and into the shadows."

The Legislative Fiscal Review Committee estimated that it would have cost tax payers an additional \$1.7 million to review records they already own if the bill that was introduced into the last legislative session had been approved. Committee staff reported that the bill would to some degree discourage requests for open records inspection. This is chilling to a transparent governing process.

This bill would adversely affect every Tennessean in one way or another. I demand a transparent and responsive government. Such a democratic bulwark begins with the recognition that it is the public that has ownership rights over public records, not government.

2. *If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?*

Charging for inspection would be a new tax. We are already paying public officials to maintain public records. Requiring the public to pay for access to these publicly maintained records would be called for as we are already paying the government to do this. Governments do not own these records but merely maintain them.

3. *If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?*

See response 1. Fees to peruse public records should not be allowed.

4. *If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?*

See response 1. Fees to peruse public records should not be allowed.

5. *What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records?*

This is unnecessary as there has been no demonstrated pattern of abuse of the current system.

From: [Bryan Stephenson](#)
To: [OpenRecords Comments](#)
Subject: Open Records Request Fees
Date: Tuesday, September 15, 2015 3:39:27 PM

Dear Office of Open Records Counsel,

I object to any proposal that allows state entities to charge a fee for the viewing or production of public records. I understand and do not object to charging reasonable copy fees, in particular for voluminous records, as has been the practice for some time. Further, paying for intensive labor related to the redaction of non-public components of public records is likewise understandable.

However, the prospect that any state entity (which, depending on the hierarchy and structure of the entity at issue, could amount to one person making such discretionary decisions) could decide when, whom, and how much to charge for a request is quite frankly, an irresponsible allotment of governmental powers. Further, it would create a potential for abuse. Imagine an agency employee charging a labor fee for simply pulling up a document or two that is accessible on his or her computer, and which takes less than one-minute to locate and print. Or perhaps the employee pulls a hard copy from an easily accessible file. Or the agency charges a fee simply for the citizen to inspect the document(s), wherein no copies are made and no redaction is required. The agencies would be profiting off these requests. These scenarios run afoul of government transparency and fundamental fairness.

As an attorney who often uses public records requests to aid in the protection of the constitutional rights of my clients, I submit that it would be both functionally problematic and constitutionally dangerous to allow entities the discretion to charge such extra fees.

Finally, as a citizen and taxpayer, I have long been proud of the transparency that does exist in our government. To further erode that transparency is troublesome. Each citizen of Tennessee is a part owner of every public record. It is offensive to create what amounts to a tax to view our own records.

Thank you for your time and consideration.

Bryan Stephenson
Attorney at Law
Bank of America Plaza, Suite 905
414 Union St.
Nashville, TN 37219
Ph: 615.515.5110
Fax: 615.620.6438
bryanstephenson@middletnlaw.com
www.middletnlaw.com

From: [Bruce Wood](#)
To: [Open Records](#); [OpenRecords Comments](#)
Subject: Register to Speak at Open Records Meeting in Nashville 16 September
Date: Tuesday, September 15, 2015 5:12:17 PM

BURNT

15 September

I can not find the form to register to speak at the Open Records Advisory Committee in Nashville on Wednesday 16 September.

I would like to speak. I am active with BURNT, a 501c3 non profit. We have had experience, mostly good, with public records.

Thank you

Bruce Wood
615-327-8515

From: [Jimmie Spires](#)
To: [OpenRecords Comments](#)
Subject: NO
Date: Tuesday, September 15, 2015 8:21:52 PM

public means the people records. just to look should be NO charge.

From: [Michael Jugan](#)
To: [OpenRecords Comments](#)
Subject: open records
Date: Tuesday, September 15, 2015 9:05:49 PM

<http://www.wbir.com/story/news/2015/09/15/room-packed-with-opinions-on-possible-fees-for-open-records/72343558/>

Surely there is some way to digitize the records. Make them available for free online. It shouldn't be costly or difficult.

From: [gsieber](#)
To: [Open Records](#)
Subject: Access to public records.
Date: Tuesday, September 15, 2015 9:11:01 PM

Inspection of public records should be free to the public! If more than 25 copies are needed, a minimal charge (say 5-9 cents per page) could be charged, but no more. These records are for the public!

Thank you for considering my point of view.

Sincerely,

Mildred B. Sieber
210 St.Clair Lane
Maryville, TN 37804
865 310-0177

From: [Tracy Wilson-Scarbrough](#)
To: [OpenRecords Comments](#)
Subject: Fees to view PUBLIC records
Date: Tuesday, September 15, 2015 9:24:55 PM

To Whom it May Concern,

As a resident and voter in the state of Tennessee, I do NOT support charging fees for access to PUBLIC records. Accountability begins with ease of access. While there may be several in public offices who do not want transparency and/or accountability; the majority of residents DO want transparency and accountability.

Keep public records access free of charges and fees.

Sincerely,
Tracy Wilson-Scarbrough

From: [K.C. Pep](#)
To: [OpenRecords Comments](#)
Subject: OORC Five Questions
Date: Tuesday, September 15, 2015 10:02:50 PM

The Office of Open Records Counsel's five questions follow:

1. Should the TPRA (Tennessee Public Records Act) permit record custodians to charge for inspection of public records?

NO

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

NO - Inspection of records does not incur any costs to the holder of records. Open / Public records should be just that - all citizens should have access to all records.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

YES - OPEN RECORDS MEANS OPEN AND TRANSPARENT GOVERNMENT. CITIZENRY SHOULD HAVE ACCESS TO ALL RECORDS.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

THERE SHOULD BE ABSOLUTELY NO CHARGES FOR INSPECTION OF or ACCESS TO RECORDS.

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?,

ACTUALLY, CITIZENS PAY TAXES AND ALL ACCESS THROUGH INSPECTION AND PHOTOCOPY SHOULD ALREADY BE PAID FOR THROUGH THE TAXES. NO CHARGES SHOULD BE ASSESSED TO CITIZENS RIGHT TO RECORDS.

~Ruth Holloway
1930 Sequoyah Ave.
Maryville, TN 37804

From: [Kathy Williams](#)
To: [OpenRecords Comments](#)
Subject: Open Records - Oppose Paying
Date: Wednesday, September 16, 2015 12:22:58 AM

As a retired person who has lived my entire life in the great State of Tennessee, I oppose paying to inspect open records.

I enjoy finding my ancestors who fought in the American Revolutionary War and the War of 1812 and settled in West Tennessee with land grants. I should be able to inspect records left for me by all of my ancestors without having to pay a fee.

Thank you.

Katherine Haney Williams
276 Cobb Road
Jackson, TN 38305-6296
731/423-1204

From: [Longjeff362](#)
To: [OpenRecords Comments](#)
Subject: Legislation
Date: Wednesday, September 16, 2015 4:48:11 AM

As a retired person who has lived my entire life in the great State of Tennessee, I oppose paying to inspect open records. I enjoy finding my ancestors who settled in West Tennessee. I should be able to inspect records left for me by all of my ancestors without having to pay a fee. I oppose the current legislation that is being discussed to add fees to inspect open records.

Thank you,

Jeff Long
Jackson Tn



longjeff362@gmail.com

"dedicated to the preservation of oldtime string music"

From: billiebjr@aol.com
To: [OpenRecords Comments](#)
Subject: Comments on Access
Date: Wednesday, September 16, 2015 6:13:12 AM

I agree that most government records should be free. I had to pay almost \$100 to get records from our local election commission on campaign contributions to local politicians. Tax dollars have already paid for these offices and this is just one example. There are some cases, where personal information, should not be accessible, but for the most part, if we ask for records, they should be electronic and it doesn't cost anything to email them.

thanks.

Billie Jean Russell

From: [John Avery Emison](#)
To: [Open Records](#)
Subject: Open Records law
Date: Wednesday, September 16, 2015 7:00:40 AM

As a person who has used the law to obtain public records, I am ADAMANTLY OPPOSED to any change that would diminish my ability to locate, find, obtain, or copy any records I request.

Please make my comments part of the official record of you current review.

John Avery Emison, Ph.D.

Author

P.O. Box 163

Alamo, Tennessee 38001

Find me on Facebook, Twitter @JohnAveryEmison, and Google+
865-805-0858, cell

From: tnrlr@epbfi.com
To: [OpenRecords Comments](#)
Subject: Public Records Charge
Date: Wednesday, September 16, 2015 7:48:58 AM

I would like to add my opposition to the proposal to charge the public to view public records, for that very reason, the records are PUBLIC and not the property of the government. Every citizen should have free access to view any public record they choose. Government should not impose barriers to keep the public from viewing any record that they feel it is their interest to inspect/view, etc.

Please do not impose this financial burden upon the general public. If it is a matter of "labor costs" perhaps it would be the better route to maybe paying public servants a higher salary? Or make use of technology and post records online.

Rebecca Rochat
618 Forest Ave
Chattanooga, TN 37405

From: [Lisa Starbuck](#)
To: [OpenRecords Comments](#)
Subject: Inspecting Public Records
Date: Wednesday, September 16, 2015 9:18:39 AM

Please don't charge fees for inspecting public records!

Lisa Starbuck
6233 Babelay Road
Knoxville, TN 37924

From: [Sally Oglesby](#)
To: [OpenRecords Comments](#); [Rep Cameron Sexton](#); sen.paul.bailey@capitol.tn.gov
Cc: [Chad Jenkins](#); [Danny Wyatt](#); [David Rutherford](#); [Jesse Kerley](#); [Mayor Mayberry](#); [Pam Harris](#); [Pete Souza](#); valerie.hale@crossvilletn.gov; [Will Ridley](#)
Subject: Inspection of Public Records
Date: Wednesday, September 16, 2015 9:21:49 AM
Attachments: [docserv@crossvilletn.gov_20150914_204641.pdf](#)

Attached are the comments that I attempted to make at the public hearing in Knoxville yesterday. With the time limit reduced, I was unable to complete my comments, especially in regards to the electronic records request from the California company. I appreciate the opportunity to comment and hope that consideration will be given to local governments' concerns and that a middle ground can be found. My biggest concern are the requests that we receive with no specifics or goals and the requests to get our information for free so that it can be sold for profit.

I am a proponent of transparency and have worked hard to provide that to our citizens. However, in an electronic age, we can no longer just hand over a file or files for inspection, especially when the request involves correspondence of all types

Thank you.

CITY OF CROSSVILLE

392 NORTH MAIN STREET
CROSSVILLE, TENNESSEE 38555~4232
TEL (931) 456~5680
FAX (931) 484~7713

OFFICE OF THE
CITY CLERK

September 15, 2015

Good Afternoon,

My name is Sally Oglesby. I have been the City Clerk for Crossville for over 30 years.

First of all, I want to state that I have no objection to providing any records to anyone that requests them. I also have no problem with providing easily accessible documents for inspection at no charge. By easily accessible, I am referring to items such as audits, minutes, ordinances, reports, agenda packets, etc. Most of these type items are posted on our website or are immediately available.

However, we also get requests that are purely for harassment purposes. They are generally not aimed at the clerk or records custodian, but at government, in general. They have no particular objective, but just to be disruptive and hope they can come up with something. The requests can be very generic and not about a particular subject. We also have problems with requests that are investigative in nature and don't let us know what particular questions they are trying to answer so that we can advise what records might be helpful. I will bend over backwards to get them the information they need, if they will give me clear direction or sit down and have a discussion. I have nothing to hide nor the desire to hide anything, but I don't like wasting time with documents that I know will serve no value to the requestor. We, as clerks, run the risk of being accused of running up the costs by providing too much to make sure they get everything they requested or hiding something because we don't give enough or miss something that they intended to be provided. I have had that happen to me and we are in a "no win" situation.

I would like to address two public records issues that we have dealt with in the last month that cause concern.

I had a request from a recently formed group mounting an opposition to the current City Council that requested all correspondence of whatever type by and between any member of the City Council, City Attorney, and/or City Clerk. The initial request had a start date, but no end date. I required an end date. The request was just for inspection. This request required me to contact all those named and make the request and hope that they provided everything. Since the City Council and the City Attorney are not on the City's e-mail server, we cannot just pull directly from that. Because the City Attorney was named, it was necessary to pay him to come and review all the documents that had been collected to ensure that no documents were released that

contained confidential attorney/client privilege. We also had to pay him for his time to gather his documents. Once I had all the documents, I contacted the requestor who came and then decided to just pay for the copies rather than wait around and inspect them. There were 133 pages and all I could collect was \$19.95, even though we had a bill for the attorney for \$312.50. We had considerable man hours, but documenting them with elected officials is difficult and what rate to charge. The requestor then asked if it could be just an open-ended request so that he could continue receiving everything. After contacting the City Attorney, I informed him that was not possible---the request must have a beginning and an ending date. I don't believe this is the type of request that should be considered free due to the time involved and the broad nature of the request.

The second request involves a request for electronic records. We have been receiving requests from a California company with an associate in Nashville for an electronic report of all our purchase orders and vendors for a multiple-month period. This information includes purchase order number, date, line item details, line item quantity, line item price, vendor ID number, name, address, contact person, and e-mail address. Because I can produce the report without additional programming, I have no choice but to comply. I cannot charge for the report since it is sent electronically. They, however, are selling the information so that vendors from all over the United States can harass us to sell their products. We advertise our bids on our website, in plan rooms, in Vendor Registry, and in the newspaper and any vendor can get on our bid list and be mailed a copy of bid specifications. We believe it is unfair that we have to give information, at no charge, which is then sold for profit. There is a cost to the City for computers and software that provide the reports. To insure the integrity of our data, our IT Department is involved in transmitting the information in a secure manner.

I think local governments should be able to re-coup their direct costs, electronic data costs, and some costs for all time that is involved even when they intend to just inspect the records because I still have to gather the documents regardless of whether or not they are being copied. Perhaps a flat fee per hour or a scheduled amount, but some mechanism so that requestors don't feel that they are being taken advantage of by inflating the time or employees used. There has to be some middle ground that is fair to all.

I have attached copies of the two requests that I have mentioned for your review. Thank you for your time and consideration.

[REDACTED]

Mr. James Mayberry, City Mayor
Mr. Will T. Ridley, City Attorney
Ms. Sally Oglesby, City Recorder
Mr. David A. Rutherford, City Manager
Mr. Jesse Luke Kerley, City Commissioner
Ms. Pamela Harris, City Commissioner
Mr. Pedro "Pete" Souza, City Commissioner
Mr. Danny Wyatt, City Commissioner

From: Mr. Tony Perry, Crossville News First

Date: August 21, 2015

RE: Open Records and Freedom of Information Request

Pursuant to T.C.A. §10-7-503, please accept this email as an official Open Records Request, as well as a Freedom of Information Request. Please be advised that I do hereby request that you identify and produce for my inspection, viewing and copying all correspondence of whatever type by and between any of the above individuals relating to any business of the City of Crossville since August 13th, 2015.

(a) Please be advised that the term "correspondence" includes without limitation any kind of written or graphic matter, however produced or reproduced, of any kind or description, whether sent or received or neither, including originals, copies and drafts and both sides thereof, and including but not limited to: papers, books, letters, photographs, objects, tangible things, messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone or other conversations, or of interviews, or of conferences, or of other meetings, affidavits, statements, summaries, opinions, reports, studies, analysis, evaluations, contracts, agreements, journals, statistical records, desk calendars, appointment books, diaries, lists, tabulations, summaries, sound recordings, computer printouts, data processing input and output, microfilms, and all other records kept by electronic, photographic, or mechanical means, and things similar to any of the foregoing. This further means copies of any e-mails and telephonic text messages.



(b) The word "identify" means, with respect to any statements, documents, act, practice, occurrence, event, device, scheme, meeting, conference, communications, or other utterance, the date thereof, the party or parties causing, issuing, or communicating said statement, communications, or utterance, the parties to whom and in whose presence such statement, communication or utterance was given or transmitted, the parties who participated in, caused, or had knowledge of any act, practice, occurrence, event, device, scheme, meeting or conference, and whether any of the foregoing was in writing, or oral.

It is my understanding that under Tennessee law that I will receive a response within seven (7) days from this email. Please advise as to whether you will respond to this email or whether I need to send this request through the United States Mail. Please advise as to whether there will be any cost associated with this request prior to complying.

Thank you for your kind cooperation in this matter. I look forward to your response.

Sincerely yours

Tony Perry, Crossville News First

Sally Oglesby

From: Ann Marie Corbett <acorbett@smartprocure.us>
Sent: Sunday, March 01, 2015 1:04 AM
To: sally.oglesby@crossvilletn.gov
Subject: SmartProcure Public Records Request - No response from City of Crossville
Attachments: Preprogrammed Software Reports by Manufacturer.pdf

Dear Sally or Custodian of Public Records,

SmartProcure submitted a public records request on 2015-02-19 and has not received a response or acknowledgment, therefore the original request is being submitted again. If the original request is located please disregard this request.

SmartProcure is submitting a public records request to the City of Crossville for an electronic record (without scanning or printing) of purchase orders dated 2014-11-17 to current.

The information requested is:

1. Purchase order number or equivalent.
2. Purchase order date
3. Line item details
4. Line item quantity
5. Line item price
6. Vendor ID number, name, address, contact person and email address

The attached document may be used as a reference to fulfill this request if the City of Crossville uses any of the listed pre-programmed software reports.

Please email the information or use the following web link. There is no file size limitation:

<http://upload.smartprocure.us/?st=TN&org=CityofCrossville>

If this request was misrouted, please forward to the correct contact person and reply to this communication with the appropriate contact information.

If you have any questions please contact my assistant Ann Marie Corbett at 954-692-6960.

Regards,

Steven Cagnina
421 East Thompson Lane
Apt 29
Nashville, TN 37211

Ann Marie Corbett
Data Acquisition

From: [Steve & Sandi Krupa](#)
To: open.records@cot.tn.gov
Subject: Payment to see records
Date: Wednesday, September 16, 2015 10:24:06 AM

I do not live in Tennessee, but have many ancestors who did and I oppose having to pay for the right to see records! These records should be free to see and anyone should have the freedom to inspect records anywhere in the USA and not just Tennessee.
Sandi Krupa

From: [dsw](#)
To: [OpenRecords Comments](#)
Subject: Public hearing comments
Date: Wednesday, September 16, 2015 10:25:25 AM

We are unable to attend the hearing on public records today, but do want to send comments.

We ask that no law be enacted to curtail the ability to view public records. This is essential to maintaining honesty in the workings of the government. It is a necessary and good thing for a democratic society; just as responsible parents want to know that their children are making the right decisions. We are supposed to adhere to the principle of government of, by and for the people. This cannot be accomplished if our government is operating in secret. Records should be honestly kept and made available for public access.

Appointing someone to oversee approval or denial of requests to view public records, and charging fees for viewing records is a slippery slope to restricting a basic freedom of citizens. Listen to the advice of the Tennessee Counsel for Open Government on ways to improve efficiency and lower costs of providing this essential service. An open and honest government is worth the effort.

Danville and Beverly Sweeton
Lebanon, TN

From: [Andrea Zelinski](#)
To: [OpenRecords Comments](#)
Subject: Re: "Request to Speak"
Date: Wednesday, September 16, 2015 1:34:21 PM
Attachments: [INSPECTIONOFRECORDS\(1\).pdf](#)

Hi, Ann. Here is a copy of my remarks for the record. And also, do you have the list of people who asked to speak?

Thanks!

Andrea Zelinski
News Editor
Nashville Post/Nashville Scene
615-945-6414
azelinski@southcomm.com
On Twitter @andreazelinski

On Sep 11, 2015, at 3:52 PM, OpenRecords Comments wrote:

We would prefer electronic, to this email address please.

From: Andrea Zelinski [mailto:azelinski@southcomm.com]
Sent: Friday, September 11, 2015 3:38 PM
To: OpenRecords Comments <comments.open.records@cot.tn.gov>
Subject: Re: "Request to Speak"

Yes. Can I submit them at the hearing? Or via email after I give my comments?

Sent from my iPhone

On Sep 11, 2015, at 3:02 PM, "OpenRecords Comments"
<comments.open.records@cot.tn.gov> wrote:

Good afternoon. Sorry our autoresponse is not working, but yes we have received your request and have placed you on our list. Will you be submitting a written version of your comments?

Ann V. Butterworth
Open Records Counsel & Assistant to the Comptroller for Public Finance
Open Records Phone: (615) 401-7891
Open Records Toll free phone: (866) 831-3750
Fax (615) 741-1551

Tennessee Comptroller of the Treasury
Suite 1700, James K. Polk Bldg.
Nashville, TN 37243-1402
open.records@cot.tn.gov
<http://www.comptroller.tn.gov/openrecords/>

"The mission of the Comptroller's Office is to improve the quality of life for all Tennesseans by making government work better."

From: Andrea Zelinski [<mailto:azelinski@southcomm.com>]
Sent: Friday, September 11, 2015 2:43 PM
To: OpenRecords Comments <comments.open.records@cot.tn.gov>
Subject: "Request to Speak"

My name is Andrea Zelinski and I am president-elect of the Middle Tennessee Chapter of the Society of Professional Journalists. I wish to speak at the public hearing in Nashville on Wednesday, Sept. 16, regarding inspection of public records.

Please let me know you've received my request.

Thanks,

Andrea Zelinski
Nashville Post/Nashville Scene
615-945-6414
azelinski@southcomm.com
On Twitter @andreazelinski

Wednesday, September 16, 2015 (10 am-12 noon) in Nashville. James K. Polk State Office Building, 505 Deaderick St., 16th Floor, Video Conference Room

Good Morning, and thank you for having me here. My name is Andrea Zelinski. I've made my life covering politics and government and all its amazing mashionations. And this topic we're talking about today is an important one for people like me to highlight the inner workings of our government.

I'm here today as President Elect of the Society of Professional Journalists' Middle Tennessee Chapter. The SPJ is an organization rich in history defending the freedom of information, championing efforts to strengthen access to information and maintaining a constant vigilance to protect the first amendment and a culture where journalists can report freely.

I am also here as someone who practices journalism, both as News Editor of the Nashville Scene and as a reporter who has spent many days in the windowless hallways of Legislative Plaza watching lawmakers write laws and unwrite others. I also cover Metro level government as a watchdog of the Metro Nashville Public Schools and its School Board.

All that is to say I work regularly covering multiple levels of government. I spent my time explaining both sides of issues, but it is my responsibility here today as a journalist and a taxpaying member of our society to say charging fees to inspect documents is a taking a step the wrong direction.

It taxes citizens three times for the same thing. First, people pay their tax to government to do the work that justifies these documents. Second, people pay the salaries for people who make and gather these documents. And now to propose people pay again to see -- not copy -- BUT SEE these documents does a discredit to the principle of open government.

The barriers to inspect what government is doing with our tax dollars should be welcome to all members of our society to ensure the accountability of elected officials. "Trust, but verify" is a common trope in our profession. Journalists and the general public should be able to access information to verify what is happening in government to tell the fullest story possible. Another common saying is "Sunshine is the best disinfectant," and

making documents less acceptable allows for unwanted creatures to grow in the shadows.

Instituting a fee to view public information is a step in the wrong direction toward the dangers of secrecy, which can be powerful in the wrong hands. Requiring an entry fee to view information would hamper journalists of any size publication, but will disproportionately affect reporters and of midsize to smaller outlets who can ill afford fees to examine documents critical to understanding how government works. The charges invite abuse from staffers or departments that wish to keep information about what is happening in our publicly-funded institutions secret. And the people who lose are readers who want and need to understand their government.

I ask that you recommend against instituting a fee to inspect records. And I am more than happy to answer further questions as you continue to explore this issue.

From: [Anna](#)
To: [OpenRecords Comments](#)
Subject: questions on open records
Date: Wednesday, September 16, 2015 1:58:51 PM

This missive is in response to the following questions:

The Office of Open Records Counsel's five question follow:

- 1. Should the TPRA (Tennessee Public Records Act) permit record custodians to charge for inspection of public records?**
- 2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?**
- 3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?**
- 4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?**
- 5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?**

My responses:

1. No.
2. There should be no charges for inspection of open records.
3. There should be no charges for inspection of any kind of public open records, meeting minutes, agendas or otherwise.
4. There should be no charges for inspection of any kind of public open records.
5. There should be no amendments or changes made to the current Schedule for Reasonable Charges related to the duplication of records.

Anna Miller Grabowski
801 Reed Road, Ten Mile, TN 37880
423-506-6020
longneckgoatfarm@aol.com

From: [Lucy Gay Scarbrough](#)
To: [OpenRecords Comments](#)
Subject: Please do not charge for review of public records
Date: Wednesday, September 16, 2015 1:59:53 PM

I am opposed to charging the public for looking at public records. I realize the request to look at many records at a time can be cumbersome for staff, but the right of the public to inspect the records at no charge takes precedence.

From: [WILLIAM BRACKEN](#)
To: [OpenRecords Comments](#)
Subject: Public Meeting 9/15/15
Date: Wednesday, September 16, 2015 2:03:54 PM
Attachments: [NOTES FOR REMARKS.docx](#)

Attached please find my prepared notes for my talk at last evening's session. You will notice two things:

- 1) it is a series of talking points and not a speech-like narrative; and,
- 2) I cut out large sections when the time constraints were announced.

Thank you for having the meeting. It was both heart warming and informative (Tenn. Constitution).

BillB

NOTES FOR REMARKS

Office of Open Records Counsel
Public Hearing
September 15, 2015
Knoxville, TN

- No requirement for an independent audit
- The Comptroller does perform an audit – Annual Financial Report
- Continuum of viewpoints
 - At one end, Commissioner looking at Airport rehabilitation differences cannot be accurate because the Comptroller's audit did not mention a thing. – Good Housekeeping Seal of Approval on any and all financial transactions.
 - Someone who should know, when thinking about the depth of the Comptroller's review, picture a dragonfly over the surface of a pond.
 - The accurate view is slanted more toward the dragonfly than Good Housekeeping.
- It is left to ordinary citizens to use the open records process to
 - Obtain a greater level of transparency with respect to local government
 - Keep officials cognizant of another, different set of eyes.
- I have been fortunate; most of my requests have been fulfilled without exorbitant fees being charged. There was a single instance where I incurred a fee that I thought was a bit much.

I could see how the choice of method used to comply could be used to increase the cost to acquire and discourage further inquiry. That did not happen in my case but I can see where it could become a club to be used against the citizen.

- We need to acknowledge that small Counties with limited resources may find these requests cumbersome and costly. But, that has to be balanced against the public's right to know those details about government not specifically excluded by the Act.
- Polk County had an average income of \$41K in 2013
The average RETax bill is about \$700 and some have difficulty paying that
Some of the folks who have the time to be looking into the activities of local government are retirees living on a fixed income.
Fee can act to dampen what might otherwise be healthy curiosity
- If that happens the Open Records Act will have been weakened

From: [becingle](#)
To: [OpenRecords Comments](#)
Subject: Charge for viewing public records
Date: Wednesday, September 16, 2015 2:09:06 PM

I think the public should be able to view public records without being charged. While it does take time for records to be made accessible for viewing, I consider that to be part of their work/responsibilities. A reasonable charge could be made for copies of public records. Sincerely, Clara R. Ingle, Chattanooga, TN 37411

From: [K Welch](#)
To: [OpenRecords Comments](#)
Subject: "Request to Speak"
Date: Wednesday, September 16, 2015 2:26:31 PM

I would like to speak on INSPECTION OF PUBLIC RECORDS at the Jackson, Tennessee, public hearing tomorrow.

Ken Welch
k.welk@yahoo.com
speaking as an individual citizen
location: Jackson, TN

Thank you.

Ken Welch

From: [Demetria Kalodimos](#)
To: [OpenRecords Comments](#)
Subject: Written copy of my comments
Date: Wednesday, September 16, 2015 2:26:51 PM
Attachments: [testimony open records fees.docx](#)

Please find attached a copy of my full comments, a portion was presented today at the hearing in Nashville.

Thank you for the opportunity

Demetria



Demetria Kalodimos

Anchor/I Team

615-353-2234

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Panel members, thank you for this opportunity to speak.

My name is Demetria Kalodimos.

I have been an anchor and reporter at WSMV-Channel 4, the NBC affiliate in Nashville, since 1984.

That's almost 32 years....and 5 Governors if you're counting.

In those 3 plus decades, trends and technology have come and gone in television.... but the lynchpins of journalism have not wavered or changed.

The quest for truth might begin with a hunch or a tip.... or these days a tweet...

But conclusions and proof... (in some cases) guilt or innocence, indeed, life and death hinge on consistent, accurate, reliable, official records.

We couldn't confidently report on a crime, crash, arrest, election, birth or death without seeing something in writing. And with the proliferation of unreliable sources...spoofs, photoshop, viral rumors...it's becoming more difficult to determine what you trust.

Records are our tools...every bit as much as the notebook, camera, tape recorder and computer.

Reliable documentation is our roadmap... the GPS that guides us, and in the end, it provides the litmus test for fairness and accuracy.

Put simply...we verify... then we report.

And that's not always quick and easy.

Just like your doctor ordering dozens of tests to try to diagnose an ailment...we often need to cast a wide net.

We need to look at many possibilities and patterns to determine where truth might be hiding.

When a reporter or member of the media makes a request for official records, be it one page or thousands... remember, that's not me asking...the reporter is you, your children, your elderly parents, spouse, friends and neighbors.

The reporter is proxy for the public.

To make that reporter drop a dime in the turnstyle or risk being locked out from public information, is essentially denying *yourself* access to the truth.

Think about it...

Public records belong to the people... taxpayers have already paid the salaries of the government employees who created and produced the documents.

If government adds fees as an obstacle to look at those records... or keep them hidden away...the cost of that kind of secrecy is high.

I can't begin to list all of the stories I have been able to report, because I saw the records.

All of the records I asked for.

I remember sitting on the floor every Friday morning for months at L&C Tower with reams and boxes of public records ..

That access allowed me to report on decades of insidious chemical water pollution in Dickson county ...no one had connected the dots...people got sick and died and ultimately they sued... in fact families are still dealing with the problem to this day. Records made that story possible plain and simple.

There was no fee charged to me...and yes someone had to make the paperwork available....

But I also spent plenty of my own time...or should I say OUR TIME...because again we're in this together.

I analyzed hundreds of state records on low level radioactive waste that had been accepted at garbage landfills without the public's knowledge. That too went undiscovered for about 30 years...until we exposed it...through careful analysis of the records.

Those stories sound complicated and time consuming and they were...

But consider the other sorts of stories that couldn't be done without careful record reviews.

Unauthorized spending that could be compromising your child's education..

Health or cleanliness violations at facilities where your family member is getting care...

We believe Tennessee has had a mutually respectful and successful system for the press and the public.

The TPRA should not permit record custodians to charge for inspection of public records.

We should not slap a pricetag on the pursuit of truth.

The very nature of research requires boundless curiosity...you kill that when you start considering what it might cost you.

If it seems unreasonable to look at every email...or every memo, consider what would happen if we looked only at the paperwork we could afford.

The truth could be hiding in a page we didn't have an extra dollar for.

I believe emails have become a pretty big issue for one of our presidential candidates...the public seems to be very interested in seeing every page.

Some have voiced concern about wasting time or resources....

I know of no colleague in my 32 years who has requested information and then not followed through by actually collecting and analyzing it.

Does it always result in a blockbuster story?

No

But thankfully not every lab test the doctor orders shows a serious illness either.

Thorough and professional journalism is a lot of work...and undertaking it is not something we request or take lightly.

There seem to be ample ideas to reduce the time and cost of preparing records for media.

Key redactions might be done pro-actively, as a rule... and not after filing.

Scanning and electronic duplication is the norm now, and does not necessitate paper copies anymore.

Yet we are often quoted prices that reflect antiquated handling methods....my colleague Jeremy Finely will have some good examples of that in a moment.

I would ask that you strongly consider the serious implications and oppose any imposition of fees for information....something that has always been open and available to the public.

I think Tennesseans are proud of that fact.

From: [Herbert S. Moncier](#)
To: [OpenRecords Comments](#)
Subject: Written comments
Date: Wednesday, September 16, 2015 4:06:52 PM
Attachments: [C370ABA8-2D3D-46B2-8D13-05739D4F5406f261.png](#)
[Public Records Act Comments.pdf](#)

Attached are my written comments to be included with the responses to the Advisory Committee and Legislature.



Herbert S. Moncier
Attorney at Law
(865) 546-7746
moncier@moncierlaw.com

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify by reply email or (865) 546=7746 and destroy all copies of the original message.

Herbert S. Moncier
550 W. Main Street, Suite 775
Knoxville, Tennessee 37902
(865) 546-7746
moncier@moncierlaw.com

Public Records Act Comment
September 17, 2015
Knoxville, Tennessee

Five questions are presented by the office of Open Records Counsel that will undoubtedly be addressed by knowledgeable and able spokespersons. I requested to speak to remind all concerned, and the Legislature, that the first and most important matter to be considered in responding to the questions is the Constitution of Tennessee. It is under the Tennessee Constitution that any restrictions, including those subject to the current questions, must be addressed.

We often refer to our federal Bill of Rights as those contained in the first Ten Amendments to the United States Constitution. We in Tennessee are also protected by a Bill of Rights contained in Article I of the Tennessee Constitution. Regarding the questions about charging fees to inspect records that belong to the people, the people of Tennessee provided an answer in Article I, Section 19 of their Constitution that provides:

That the printing presses shall be free to every person to examine the proceedings of the Legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof.

Charging for the right of the people to inspect records of government proceedings that belong to the people is a law made to restrain that right. Reasonable charges for copies, on the other hand, is not prohibited by the Constitution.

It is as though our forefathers who wrote our Constitution believed that sometime in the future the Legislature may consider restrictions on the right of the people to inspect by making the people pay for that right. I envision those Patriots sitting in a room with a fire, drinking grogs of ale in their buckled shoes, stockings, knickers and wigs, and while smoking long pipes trying to figure out how to tell us today they meant what they said that “no law shall ever be made to restrain the right” to inspect records of government in Tennessee.

Then, almost mocking what we are doing today, a notion occurred to simply divest the Legislature from authority to pass a “law to restrain the right” to inspect government records in Tennessee. That notion became part of our Constitution in Article XI, Sec. 16 that provides:

Sec. 16. Bill of rights to remain inviolate.

The declaration of rights hereto prefixed is declared to be a part of the Constitution of this State, and shall never be violated on any pretence whatever. And to guard against transgression of the high powers we have delegated, we

declare that everything in the bill of rights contained, is excepted out of the General powers of government, and shall forever remain inviolate.

As you vet these five questions, begin your considerations with the words of the people of Tennessee they placed in our Constitution that prohibits any law to restrict our right to inspect government records and that the people removed from the power of their Legislature “under any pretense” to restrict their Bill of Right to inspect records of their government.

Thank you.

From: [Patricia Parker](#)
To: [Open Records](#)
Subject: Charges for viewing public records
Date: Wednesday, September 16, 2015 4:17:42 PM

I do not think there should be a charge to view public records.

--

Patricia Parker aka Mama P

From: caulkins@comcast.net
To: [OpenRecords Comments](#)
Subject: Public records
Date: Wednesday, September 16, 2015 4:41:13 PM

Keep the records free and easily accessible, our liberty and freedoms depend on it.

Sent from my Sprint Phone.

From: [Clara Willis](#)
To: [OpenRecords Comments](#)
Subject: Public records
Date: Wednesday, September 16, 2015 4:41:19 PM

Keep the open records open.

The public officials are being paid by the taxpayers to do a job. If it takes a couple of hours to gather the information, they are being paid for those hours.

To charge for viewing public records is just one more step toward total government control.

Keep the public records open to the general public (taxpayers).

Clara Willis
Lafayette, Tn.

From: [Nancy Ford](#)
To: [OpenRecords Comments](#)
Subject: Open Records
Date: Wednesday, September 16, 2015 4:59:25 PM

Open Records should be free to the public other than fees to copy the records. If these are public records the public should have free access to them.

Nancy Ford

Sent from my iPad

From: [Rachel Haney](#)
To: [OpenRecords Comments](#)
Subject: Open Records
Date: Wednesday, September 16, 2015 5:54:31 PM

There should not be fees to inspect open records. Thank you.

From: [Sandy Hughes](#)
To: [OpenRecords Comments](#)
Subject: charging for open records
Date: Wednesday, September 16, 2015 6:06:54 PM

I, as a taxpayer, am appalled at the concept of paying for public records. Now only those who can afford to do so will have "public access."

We are paying for those records to be available when we pay the public servants' salaries. Why should we be charged to access records we pay the servants to compile and organize.

This law would create yet another tax that would be unfair and unreasonable.

Sincerely concerned,
Sandra H. Hughes

From: [Bob Reagan](#)
To: [OpenRecords Comments](#)
Subject: Stop fees for openrecords- this is very wrong
Date: Wednesday, September 16, 2015 7:14:35 PM

Please stop charging fees for open records. This is very wrong.

From: tnmontgomery@gateway.progress-inc.com
To: [OpenRecords Comments](#)
Subject: Volume 1640, Page 946
Date: Thursday, September 17, 2015 1:17:36 PM
Attachments: [Visual Recorder Image.tif](#)

THIS EMAIL IS BEING SENT FROM THE MONTGOMERY COUNTY REGISTER OF DEEDS OFFICE.

Sent by request of Robert Melton

AFFIDAVIT

Congressman Blackburn's Office
305 Public Square:
Suite 202
Franklin, TN 37064
https://blackburn.house.gov

Instrument Prepared BY:
Robert H. Melton
714 Salem Road
Clarksville TN, 37040
meltonbobby1@yahoo.com

DHS-FEMA FOIA Tracking No TN-2015-FEFO-00369-DR-#1909

Dear: Congressman Blackburn

1) Re: I am notifying you today, in regards to rules, regulations, sanctions and penalties for withholding documents under the Freedom of Information Act (FOIA); and to emphasize the urgency for branches of government to take notice of this statement of disagreement as whole or in part of records, denied or withheld. Pursuant to the FOIA 552 (a) 5.21-25-34-35 (c)(6) (A) (i) agencies have 20-Days upon receipt of a request to make a determination or in unusual circumstances, such as an agency's backlog or the need to examine a voluminous amount of records required by the request, agencies can extend the 20-day time limit for processing such request, however in this case for access lapsed for standard of conduct under 6 C.F.R. § 5.5(d)(1)(i) and (ii) for inspection as this action surrounds withholding of public records. The 2010 flood recovery documents were requested prior to the (IG) 5-year audit close-out as there may have been some clarification issues or fees regarding voluminous amounts of records in any case as the Federal and State recipients, failed to knowledge, comply or provide any adequate response or reason being denied. As the requestor in compliance with the process and thereafter, I have implemented and executed this affidavit, aimed as a statement of disagreement for the Director of the Office of Management & Budgets to provide Citizens with a uniformed schedule of assistance to investigate the public record laws, violations and disputes as growing public concerns, pertaining to with-holding, denying and noncompliance's with U.S.C. 5 § 552.

2) This particular disagreement relates to recovery rights under the Robert T. Stafford Act and protection through recovery with accountable expenditures and recovery planning as this exhibit expresses poor processing and exhaustion to the extent records should've been furnished in an orderly manner without any charge as a fee waiver is not the real issue under DHS FOIA regulations at CFR § 5.11(k)-(1)(2)(4) or even a reduced charge between existing fees, if disclosure was proper enforced and appropriate when requested, regardless what information requested we're still denied assessable documents for the public's best interest in understanding that this information would contribute significantly, to understanding, operations, financial activities between governments and victimized damages and behaviors in any event a major disaster occurs, as stipulated under U.S.C. 42§ 2000d guidelines in conjunction to the Open Government Act of 2007 and The Open FOIA Act Of 2009.

A. This notarized affidavit is an executed affirmative accounting action on the behalf of Tennessee Citizens throughout evidence of defaults under the presumption that agencies have failed to comply and withhold records solvent as agent of disagreement have directed this matter through you to force ratifications and forward this affidavit to The Office of Government Information Services that has extended services to offer mediation to resolve unlawful-conduct, disputes and violations between branches of governments responsible for standards of conduct for administrations in this case for request, making valid entries for disaster related records under U.S.C. 5 §-552.

B. This affirmative affidavit in the event of contempt as unformed services or adverse determination to appeal for noncompliance is forwarded to The Government Accountability Office; to conduct an audit of specified record accountability to include implementation of laws enactments under the FOIA sections, in regards to request for accounting means, recordkeeping, noncompliance's and un-accountability as poor economics' for Tennessee due to lack of efforts as given facts in conjunction to those designated chief FOIA officers held responsible as Senior authority subject to law enforcement, penalties and obligations to maintain records within a functional working government; Such posed injunction will provide a wide responsibility enforced with an effective and appropriate control over FOIA compliance under a qualified, well trained chief officer in records-management to understand the risk, performance, liabilities, contempt and neglect in recordkeeping under U.S.C. 5 §552.

Sincerely
Clarksville/Montgomery County, Disclosure Team

• Note: This Instrument is deemed for the purpose contained in compliance enforcement under: T.C.A. 10-7-503(a)(1)(A) sec. 8-4-604 defined under Title U.S.C. 5§ 552a-b, IV-f, b-1-(6) (B), IV-iii, VI-a(-i) (ii) (iii), VI-b-a, c, e, VII-a-b-i-ii, IX-c-1-a-b-i-ii; 6 C.F.R. § 5.5 (d)(i) §5.9(a) on this 17th day of September, 2015.

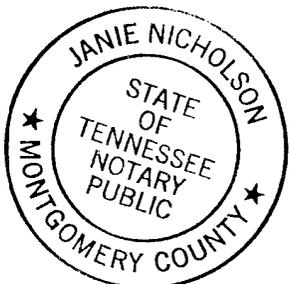
IN WITNESS WHEREOF, I Robert H. Melton, custodian of records, have hereunto set my hand and executed this affidavit on this the 14th day of September, 2015.

Custodian of Records; Robert H. Melton
Robert H. Melton

Witness my hand and seal this 17th day of September 2015

Sign: Janie Nicholson
NOTARY PUBLIC

My Commission Expires: 9-11-17



Cc. Disclosure-Unit-TeamA@fema.dhs.gov
Steve.Albrooks@mail.house.gov
Comments.open.records@cot.tn.gov
Charlotte.Jackson@alexander.senate.gov
Carlie_Cruse@corker.senate.gov
Charles.Flint@mail.house.gov
Joe.Schussler@cot.tn.gov

Connie E. Gunnett, Register
Montgomery County Tennessee
Rec #: 338277 Instrument #: 1059332
Rec'd: 20.00 Recorded
State: 0.00 9/17/2015 at 1:11 PM
Clerk: 0.00 in Volume
Other: 2.00 1640
Total: 22.00 Pgs 946-949

Attachments 3

PUBLIC RECORD FEES

- **CLARKSVILLE, MONTGOMERY COUNTY; DISCLOSURE TEAM:**
- **SUBJECT: HEARING FOR PAPER OR PAPERLESS FEES**
- **MEETING CALLED BY: MR. JUSTIN WILSON—COMPTROLLER FOR THE STATE OF TENNESSEE.**
- **DATE: SEPTEMBER 16, 2015 (10:00 AM)**
- **HEARING LOCATION: JAMES K. POLK STATE OFFICE BUILDING. 505 DEADERICK STREET, VIDEO CONFERENCE CENTER. NASHVILLE, TENNESSEE 37243.**
- **SPEAKER/REPRESENTATIVE: JAMES EDWARD GAYLE**

I would like to thank Mr. Wilson for taking the time and effort to review some of the protocols of issuance, availability, and cost attached to available documentation and the difficulty in determining the custodian of specific government records.

I come before you today to seek expression of the weakness and concerns in government recordkeeping and implementing a citizen's, rights to better understand the official's efforts to review protocols of issuances.

Page 1 of 9

I also want to insure availability of documents-in-question among cost-related issues to be recognized from the outcome of this hearing. As a requestor, I am here to make sure that records are available for the risk-factors' clarity of public recordkeeping, accountability, and to review the difficult task in determining proper officials in charge of specific fields of recordkeeping. It is unclear if the recordkeeping-fees have stalled the public access to documents or not.

We as citizens in this State of Tennessee are confident that the 109th General Assembly seeks this review and seriously values the concerns for transparency and validations for adhering to laws currently on the books. These laws should meet all requests for public records that can become available in a statutory timely manner.

Page 2 of 9

The citizens of Tennessee are aware of the TPRA that grants Tennessee citizens the right to inspect public records defined under Tennessee Code Annotated Section 10-7-503(a)(1)(A). Under TPRA we do not question the charges that are spelled out in the grant. However, we do question the availability of records as stated by TPRA. In the absence of the availability of the state documents, one has to question keeping citizens from becoming knowledgeable of an action is not in the best interest of the state.

The Office of Open Records Counsel (OORC) serves to the citizens of Tennessee as a resource of public records and is required to establish a reasonable charge for records under Tennessee Code Annotated Section 8-4-604. As stated previously, the fees are seen as acceptable if you follow the OORC Guidelines. The concerning issue we seek to resolve is the constant problem of records not being available to the citizens. We request that the State of Tennessee follows its current protocols.

State of Tennessee Public Hearing dispute over FOIA Fees, rights and excess to Public Records
James K. Polk State Office Building 34, 2 KB, 1197 Word Document; Exhibit 453.09.16.2015- 1

Page 3 of 9

We respectfully request a synergistic approach from the voice of this hearing. We are hoping to revise the approach to implement a fortified plan and improve the communication between officials and citizens. As we voice our concerns, while seeking information requested within silos of Tennessee's government, we hope that the OORC seeks this opportunity to preserve the rights of the citizens. The OORC should also state their commitment to support transparency as upholders of the records.

We have queried the appropriate program offices of the Freedom of Information Act (FOIA) for records. We are seeking your attention now to enforce this FOIA for the sake of Tennessee's future. Citizens need to be assured the rights to review and/or retrieve documents through all levels of government officials' and employees' are accountable.

Page 4 of 9

We reserve the rights for accurate records that are kept for all appropriate requests and transactions satisfactorily held within the compliance by the State of Tennessee and to comply with Federal issuance of transactions. All transactions are demanded to be readily available under the Freedom of Information Act and made accessible to the public within a reasonable cost. The transactions subject to those records are kept in-compliance for the public reviews per filling of the appropriate request. We seek established contacts to oversee any disputes of unforeseen concerns of information or protocol. The State of Tennessee must agree what has become a broken procedure involving releasing of related documents under the Electronic Act of 1999 has to be address. Please be assured that we will pursue the request for documents to be mandatorily provided within the disclosed process of law. In our case, if the entity was unable or not willing to present the requested documents there should be a valid written,

Page 5 of 9

reason for not being able to provide the documents as required. This is unacceptable by Statutory Law. Given the facts, if numerous excuses are being made there should be a point of contact that would and will help in the facilitation of the request with a proper break-down. We request that the OORC reviews this appalling practice and develops a remedy to have the agencies follow the laws. The OORC should also determine the actions for the parties not in compliance.

In answer to the 5 questions provided, it is apparent the picture that has to be addressed is: If the records are not provided under acceptable conditions then the charges become secondary.

- (1) Should the TPRA permit record custodians to charge for inspection of public records? Follow established SOP.
- (2) If chargers for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication? No only if copied. Page 6 of 9
- (3) If charges for inspections are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Yes.
- (4) If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? Yes.
- (5) What amendments or changes should be made to the current Schedule of Reasonable Charges related to duplication of records? None.

State of Tennessee Public Hearing dispute over FOIA Fees, rights and excess to Public Records
James K. Polk State Office Building 34, 2 KB, 1197 Word Document; Exhibit 453.09.16.2015- 2

Exhibit C :

The Clarksville, Montgomery County Disclosure Team would like to be clear about its expectations for this OORC, TPRA, ACOG and the State Of Tennessee in this meeting. That the Federal Government and the State of Tennessee have laws on-the-books with proper procedures to be followed by officials and employees and we ask that these procedures are followed.

Pages 7 of 9

To Close:

It has been an honor for me to address these concerns today and to be clear on the behalf of the Clarksville Montgomery County Disclosure Team. We hope that the outcome of this hearing will be positive and adapt to a new direction for Federal and State to address the challenges, recall procedures, and rewrite guidelines with an open line of enforcement over accountability. We request that when citizens ask for records that the officials are in compliance with the request.

Thank you for hearing me out today; it has been an honor to address these matters before you Mr. Wilson and this body within the State. As always, I am very interested in evaluating our internal and external affairs as we address the weaknesses in Tennessee to become a more vibrant, efficient, and transparent State.

Page 8 of 9

Sincerely,

James Edward Gayle

IN WITNESS WHEREOF, I James Edward Gayle, residence of Davison County, has hereunto set my hand and executed this Exhibit 453 on this 16th day of September, 2015.

Page 9 of 9

State of Tennessee Public Hearing dispute over FOIA Fees, rights and excess to Public Records
James K. Polk State Office Building 34, 2 KB, 1197 Word Document; Exhibit 453.09.16.2015- 3

From: [Jimmie Grasso](#)
To: [OpenRecords Comments](#)
Subject: This is a vote NO
Date: Wednesday, September 16, 2015 9:53:43 PM

Vote NO charging fees for inspecting open records. Sometimes we as Seniors spend our hours searching for our Ancestors plus helping complete a family that would otherwise be lost in the past.

Sent from my iPad

From: [Betsy Summar](#)
To: [OpenRecords Comments](#)
Subject: Public records
Date: Thursday, September 17, 2015 2:14:45 AM

Please DO NOT impose a charge for viewing public records. Thank you!

Betsy Summar
Jackson, TN

Sent from my iPad

From: [ANDREWSV](#)
To: [Jack Johnson, Senator](#); [Jack Johnson, Senator](#)
Cc: [Charles M Sargent](#); [Glen Casada](#); [Jeremy Durham](#); [OpenRecords Comments](#); [Curlee, Susan](#)
Subject: Public records request fees
Date: Thursday, September 17, 2015 5:52:50 AM

Gentlemen,

It is my understanding that the legislature is considering 'fees for public record' requests. Further, I understand that the final decision of whether to allow a cost to public records will go before the legislature in January.

I am against such fees. In the recent case of WCS, there is NO doubt in my mind that the leadership will willing to allow access to 'certain' groups with absolutely NO publicity yet, tried to make a public fight from Susan Curlee. Making the case that the costs to the taxpayer were to high.....GIVE ME A BREAK. WCS leadership has NEVER question costs to the taxpayers with this degree, b/c as they say 'after all, its for the children'. Why is it they only question 'certain' expenses? I believe it is a simple matter of WHO is requesting them and for what reason.....IF it is accountability for them, they will cry foul! They have proven their willingness to SWALLOW A CAMEL and STRAIN AT A KNAT!

Lastly, I believe that public records request should NOT have a fee and should just be part of doing business for elected officials to HOLD them all to account. Fees for such request would just provide ANOTHER fence or boundary from accountability.

I would like to know how each of you think on this issue.

Thanks for your time,

Victor F. Andrews, TN-CR21
Andrews Appraisal Service, Inc.
PO Box 1129
Franklin, TN. 37065
Office 615/794-0099
Cell 615/405-1392
Home Office 615/794-9424

From: paulw@dtccom.net
To: [OpenRecords Comments](#)
Subject: Fee to see the records
Date: Thursday, September 17, 2015 7:51:43 AM

The State is already being paid to file and produce those records upon request. They are "our" records, not the governments. We are paying to see those records by taxes.

We are paying the state employees keep the records on file and to produce the records when asked.

From: [Nina Jane Fullington](#)
To: [OpenRecords Comments](#)
Subject: Public records
Date: Thursday, September 17, 2015 7:58:06 AM

Keep records open freely to the public. We pay taxes to support the salaries of court workers. This is part of their job!

Sent from my iPad

From: [Mike Butler](#)
To: [OpenRecords Comments](#)
Subject: Proposed Fees
Date: Thursday, September 17, 2015 8:46:07 AM

To Whom It May Concern,

I am **strongly opposed** to the proposed fees for access to public records. As an environmental consultant I frequently review files at various TDEC assistance centers across the state. I call in advance with as much specific information as I can supply relative to the subject property. The personnel at the assistance center then give me a date and time convenient to them during which I can review the file. Each regional assistance center has specified persons, usually Division secretaries, who are familiar with such files and can pull them in a matter of minutes. Such activities are a routine part of their day. If I need copies of documents within those files, I pay on a per page basis for anything more than ten copies. I believe that charge is fair and equitable. I also frequently review warranty deeds at Register of Deeds offices in many counties within the state. I walk in the door and to the room where such records are kept, pull the books myself and, if necessary, copy the information for myself, paying on a per page basis. I return the book to the proper place on the shelf and leave. Occasionally, I ask one of the Register's staff to help me track down a deed. To the person, they have all done so with a cheerful, helpful attitude. In fact, they seem to enjoy breaking the "tedium" of their given tasks to stop and help someone.

My company pays city and county business taxes, as well as sales taxes, to support governmental offices. My family pays sales taxes and other fees, such as city sticker fees, for the purpose of staffing and running local and state government offices.

My calling on governmental offices to review records is no more costly to them than government imposing on me the responsibility of filing government forms and fees. I don't get to charge the government a fee every time I fill out one of their forms and I don't believe the government should charge me a fee when I review public information held in their trust.

It is a bad idea and just one more way the government places a financial burden on small businesses.

Sincerely,

Forrest M. Butler

Forrest M. Butler, REM #7923

President

AccuLab Environmental Services, Inc.

44 Country Club Cove

Jackson, TN 38305

731-660-4520

731-660-4521 (fax)

731-234-4638 (cell)

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From: [Patrick Lilley](#)
To: [OpenRecords Comments](#)
Subject: Keep Records Free and Open
Date: Thursday, September 17, 2015 9:35:10 AM

Both my state rep Lunberg and my state senator Ron Ramsey are thieves. The nail in Sullivan counties coffin is closing open records. They have already taken information offline that was totally free and didn't take anyone's time.

But this has nothing to do with time. This is fascism. And though the polls show overwhelming opposition to making charges, you watch and see that these fascist men won't put charges on open records. Why? Because they are both crooks and fascists.

Comptroller Inquiry

In my experience viewing public records, I have found it immensely comforting and useful to be able to view public records without any fees. It is very reassuring of the government's commitment to transparency to all its citizens, even poor college students like me who can barely afford food as it is. A charge to view public records would effectively bar some citizens from viewing public records, thereby preventing the records from being public! Concerning costs currently accrued by government, it seems to take a small amount of time (less than one minute in my experience) for a staff member to fetch a record to be viewed. Such a short amount of time could easily be covered by tax revenue. If that is not an option, public records could be systematically digitized to save paper, ink, copier-maintenance, and staffing costs to the government office and those offset by the per-page copy fees already applied to public records. Mainly I am writing to assure you that implementing a viewing fee on public records would be an uncalled for hinderance to exercise our right as citizens to view public records. Thank you, Elijah Fetzer ::: Elijah Fetzer ::: emfetzer42@students.tntech.edu

Comptroller Inquiry

Greetings. My name is Dr Derrick Plank. I am retired from the US Army and am a registered Republican constituent from Bluff City. In recent days, there have been reports throughout the local media regarding a proposal to place a fee on citizens wanting to view public records. Yes, just to view. There are school departments that support by saying it takes "man hours" to get records from administrators and teachers. I have a question. What are they paid to do? Research and provide citizens with requested material so long as it isn't classified. This is just another hideous way to impose a tax on the people and I strongly rebuke and disapprove of such proposal! I am awaiting a response from the Comptroller's office. I trust each of you are well and in health. Good day. ::: Derrick Plank ::: drderrickplank@yahoo.com

From: [argomelissa](#)
To: [OpenRecords Comments](#)
Subject: Public records
Date: Thursday, September 17, 2015 10:30:21 AM

Charging for public records sounds like someone is desperately trying to hide what they are doing. Hardly anyone trusts anymore for this very reason. Tax payers already fund enough. Stop needless spending and there wouldn't be a problem to start with

Sent via the Samsung Galaxy S® 5 ACTIVE™, an AT&T 4G LTE smartphone

From: [DONNA EYMAN](#)
To: [OpenRecords Comments](#)
Subject: Public records fees
Date: Thursday, September 17, 2015 11:14:06 AM

I don't think the government has the right to seal public records in any way shape or form. We are very close to losing our cherished freedoms an over reactive government looking for money because the income they have been getting has been 'expected' from an over regulated business community that is laying off people to where there is no money anywhere. 93 million people are out of the job market in this country and the government is 'cooking the books' and expecting an ever shrinking # of people to pay for it

Donna Eyman

From: [Bob Miles](#)
To: [OpenRecords Comments](#)
Cc: [RANDY MCNALLY](#); [Jimmy Matlock](#); [Ken Calfee](#)
Subject: Public Records charging
Date: Thursday, September 17, 2015 11:17:46 AM

I am asking that there be no charge to citizens to look at public records.

Thank you
Bob Miles

From: [christiansen8.](#)
To: [OpenRecords Comments](#)
Subject: Fees for inspecting public records
Date: Thursday, September 17, 2015 11:22:21 AM

We already pay taxes that fund the records office and pay custodians' salaries. If we need to hire more custodians or increase their pay commensurate with their increased work load, then we need to increase taxes. But, to charge a fee ON TOP of taxes seems a bit underhanded and, depending on the comptroller, could lead to abuse of the system (bribes, limits on openness) by both public officials and private citizens.

If a law was enacted to allow those who can't pay the fee to see the record anyway, this would require yet another layer of bureaucracy to determine and execute.

Charging fees for inspecting public records is a BAD idea and one that should never be considered.

--

Respectfully,
Carolyn Christiansen
4709 Maplehill Rd.
Knoxville, TN 37914

From: tnmontgomery@gateway.progress-inc.com
To: [OpenRecords Comments](#)
Subject: Volume 1640, Page 946
Date: Thursday, September 17, 2015 1:17:36 PM
Attachments: [Visual Recorder Image.tif](#)

THIS EMAIL IS BEING SENT FROM THE MONTGOMERY COUNTY REGISTER OF DEEDS OFFICE.

Sent by request of Robert Melton

AFFIDAVIT

Congressman Blackburn's Office
305 Public Square:
Suite 202
Franklin, TN 37064
https://blackburn.house.gov

Instrument Prepared BY:
Robert H. Melton
714 Salem Road
Clarksville TN, 37040
meltonbobby1@yahoo.com

DHS-FEMA FOIA Tracking No TN-2015-FEFO-00369-DR-#1909

Dear: Congressman Blackburn

1) Re: I am notifying you today, in regards to rules, regulations, sanctions and penalties for withholding documents under the Freedom of Information Act (FOIA); and to emphasize the urgency for branches of government to take notice of this statement of disagreement as whole or in part of records, denied or withheld. Pursuant to the FOIA 552 (a) 5.21-25-34-35 (c)(6) (A) (i) agencies have 20-Days upon receipt of a request to make a determination or in unusual circumstances, such as an agency's backlog or the need to examine a voluminous amount of records required by the request, agencies can extend the 20-day time limit for processing such request, however in this case for access lapsed for standard of conduct under 6 C.F.R. § 5.5(d)(1)(i) and (ii) for inspection as this action surrounds withholding of public records. The 2010 flood recovery documents were requested prior to the (IG) 5-year audit close-out as there may have been some clarification issues or fees regarding voluminous amounts of records in any case as the Federal and State recipients, failed to knowledge, comply or provide any adequate response or reason being denied. As the requestor in compliance with the process and thereafter, I have implemented and executed this affidavit, aimed as a statement of disagreement for the Director of the Office of Management & Budgets to provide Citizens with a uniformed schedule of assistance to investigate the public record laws, violations and disputes as growing public concerns, pertaining to with-holding, denying and noncompliance's with U.S.C. 5 § 552.

2) This particular disagreement relates to recovery rights under the Robert T. Stafford Act and protection through recovery with accountable expenditures and recovery planning as this exhibit expresses poor processing and exhaustion to the extent records should've been furnished in an orderly manner without any charge as a fee waiver is not the real issue under DHS FOIA regulations at CFR § 5.11(k)-(1)(2)(4) or even a reduced charge between existing fees, if disclosure was proper enforced and appropriate when requested, regardless what information requested we're still denied assessable documents for the public's best interest in understanding that this information would contribute significantly, to understanding, operations, financial activities between governments and victimized damages and behaviors in any event a major disaster occurs, as stipulated under U.S.C. 42§ 2000d guidelines in conjunction to the Open Government Act of 2007 and The Open FOIA Act Of 2009.

A. This notarized affidavit is an executed affirmative accounting action on the behalf of Tennessee Citizens throughout evidence of defaults under the presumption that agencies have failed to comply and withhold records solvent as agent of disagreement have directed this matter through you to force ratifications and forward this affidavit to The Office of Government Information Services that has extended services to offer mediation to resolve unlawful-conduct, disputes and violations between branches of governments responsible for standards of conduct for administrations in this case for request, making valid entries for disaster related records under U.S.C. 5 §-552.

B. This affirmative affidavit in the event of contempt as unformed services or adverse determination to appeal for noncompliance is forwarded to The Government Accountability Office; to conduct an audit of specified record accountability to include implementation of laws enactments under the FOIA sections, in regards to request for accounting means, recordkeeping, noncompliance's and un-accountability as poor economics' for Tennessee due to lack of efforts as given facts in conjunction to those designated chief FOIA officers held responsible as Senior authority subject to law enforcement, penalties and obligations to maintain records within a functional working government; Such posed injunction will provide a wide responsibility enforced with an effective and appropriate control over FOIA compliance under a qualified, well trained chief officer in records-management to understand the risk, performance, liabilities, contempt and neglect in recordkeeping under U.S.C. 5 §552.

Sincerely
Clarksville/Montgomery County, Disclosure Team

• Note: This Instrument is deemed for the purpose contained in compliance enforcement under: T.C.A. 10-7-503(a)(1)(A) sec. 8-4-604 defined under Title U.S.C. 5§ 552a-b, IV-f, b-1-(6) (B), IV-iii, VI-a(-i) (ii) (iii), VI-b-a, c, e, VII-a-b-i-ii, IX-c-1-a-b-i-ii; 6 C.F.R. § 5.5 (d)(i) §5.9(a) on this 17th day of September, 2015.

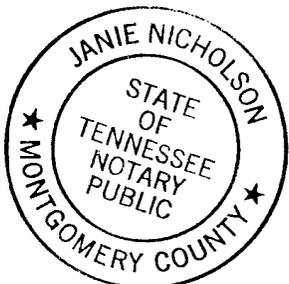
IN WITNESS WHEREOF, I Robert H. Melton, custodian of records, have hereunto set my hand and executed this affidavit on this the 14th day of September, 2015.

Custodian of Records; Robert H. Melton
Robert H. Melton

Witness my hand and seal this 17th day of September 2015

Sign: Janie Nicholson
NOTARY PUBLIC

My Commission Expires: 9-11-17 :



Cc. Disclosure-Unit-TeamA@fema.dhs.gov
Steve.Albrooks@mail.house.gov
Comments.open.records@cot.tn.gov
Charlotte.Jackson@alexander.senate.gov
Carlie_Cruse@corker.senate.gov
Charles.Flint@mail.house.gov
Joe.Schussler@cot.tn.gov

Connie E. Gunnett, Register
Montgomery County Tennessee
Rec #: 338277 Instrument #: 1059332
Rec'd: 20.00 Recorded
State: 0.00 9/17/2015 at 1:11 PM
Clerk: 0.00 in Volume
Other: 2.00 1640
Total: 22.00 Pgs 946-949

Attachments 3

PUBLIC RECORD FEES

- **CLARKSVILLE, MONTGOMERY COUNTY; DISCLOSURE TEAM:**
- **SUBJECT: HEARING FOR PAPER OR PAPERLESS FEES**
- **MEETING CALLED BY: MR. JUSTIN WILSON—COMPTROLLER FOR THE STATE OF TENNESSEE.**
- **DATE: SEPTEMBER 16, 2015 (10:00 AM)**
- **HEARING LOCATION: JAMES K. POLK STATE OFFICE BUILDING. 505 DEADERICK STREET, VIDEO CONFERENCE CENTER. NASHVILLE, TENNESSEE 37243.**
- **SPEAKER/REPRESENTATIVE: JAMES EDWARD GAYLE**

I would like to thank Mr. Wilson for taking the time and effort to review some of the protocols of issuance, availability, and cost attached to available documentation and the difficulty in determining the custodian of specific government records.

I come before you today to seek expression of the weakness and concerns in government recordkeeping and implementing a citizen's, rights to better understand the official's efforts to review protocols of issuances.

Page 1 of 9

I also want to insure availability of documents-in-question among cost-related issues to be recognized from the outcome of this hearing. As a requestor, I am here to make sure that records are available for the risk-factors' clarity of public recordkeeping, accountability, and to review the difficult task in determining proper officials in charge of specific fields of recordkeeping. It is unclear if the recordkeeping-fees have stalled the public access to documents or not.

We as citizens in this State of Tennessee are confident that the 109th General Assembly seeks this review and seriously values the concerns for transparency and validations for adhering to laws currently on the books. These laws should meet all requests for public records that can become available in a statutory timely manner.

Page 2 of 9

The citizens of Tennessee are aware of the TPRA that grants Tennessee citizens the right to inspect public records defined under Tennessee Code Annotated Section 10-7-503(a)(1)(A). Under TPRA we do not question the charges that are spelled out in the grant. However, we do question the availability of records as stated by TPRA. In the absence of the availability of the state documents, one has to question keeping citizens from becoming knowledgeable of an action is not in the best interest of the state.

The Office of Open Records Counsel (OORC) serves to the citizens of Tennessee as a resource of public records and is required to establish a reasonable charge for records under Tennessee Code Annotated Section 8-4-604. As stated previously, the fees are seen as acceptable if you follow the OORC Guidelines. The concerning issue we seek to resolve is the constant problem of records not being available to the citizens. We request that the State of Tennessee follows its current protocols.

State of Tennessee Public Hearing dispute over FOIA Fees, rights and excess to Public Records
James K. Polk State Office Building 34, 2 KB, 1197 Word Document; Exhibit 453.09.16.2015- 1

Page 3 of 9

We respectfully request a synergistic approach from the voice of this hearing. We are hoping to revise the approach to implement a fortified plan and improve the communication between officials and citizens. As we voice our concerns, while seeking information requested within silos of Tennessee's government, we hope that the OORC seeks this opportunity to preserve the rights of the citizens. The OORC should also state their commitment to support transparency as upholders of the records.

We have queried the appropriate program offices of the Freedom of Information Act (FOIA) for records. We are seeking your attention now to enforce this FOIA for the sake of Tennessee's future. Citizens need to be assured the rights to review and/or retrieve documents through all levels of government officials' and employees' are accountable.

Page 4 of 9

We reserve the rights for accurate records that are kept for all appropriate requests and transactions satisfactorily held within the compliance by the State of Tennessee and to comply with Federal issuance of transactions. All transactions are demanded to be readily available under the Freedom of Information Act and made accessible to the public within a reasonable cost. The transactions subject to those records are kept in-compliance for the public reviews per filling of the appropriate request. We seek established contacts to oversee any disputes of unforeseen concerns of information or protocol. The State of Tennessee must agree what has become a broken procedure involving releasing of related documents under the Electronic Act of 1999 has to be address. Please be assured that we will pursue the request for documents to be mandatorily provided within the disclosed process of law. In our case, if the entity was unable or not willing to present the requested documents there should be a valid written,

Page 5 of 9

reason for not being able to provide the documents as required. This is unacceptable by Statutory Law. Given the facts, if numerous excuses are being made there should be a point of contact that would and will help in the facilitation of the request with a proper break-down. We request that the OORC reviews this appalling practice and develops a remedy to have the agencies follow the laws. The OORC should also determine the actions for the parties not in compliance.

In answer to the 5 questions provided, it is apparent the picture that has to be addressed is: If the records are not provided under acceptable conditions then the charges become secondary.

- (1) Should the TPRA permit record custodians to charge for inspection of public records? Follow established SOP.
- (2) If chargers for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication? No only if copied. Page 6 of 9
- (3) If charges for inspections are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Yes.
- (4) If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? Yes.
- (5) What amendments or changes should be made to the current Schedule of Reasonable Charges related to duplication of records? None.

State of Tennessee Public Hearing dispute over FOIA Fees, rights and excess to Public Records
James K. Polk State Office Building 34, 2 KB, 1197 Word Document; Exhibit 453.09.16.2015- 2

Exhibit C :

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Pages 7 of 9

To Close:

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Thank you for hearing me out today; it has been an honor to address these matters before you Mr. Wilson and this body within the State. As always, I am very interested in evaluating our internal and external affairs as we address the weaknesses in Tennessee to become a more vibrant, efficient, and transparent State.

Page 8 of 9

Sincerely,

James Edward Gayle

IN WITNESS WHEREOF, I James Edward Gayle, residence of Davison County, has hereunto set my hand and executed this Exhibit 453 on this 16th day of September, 2015.

Page 9 of 9

State of Tennessee Public Hearing dispute over FOIA Fees, rights and excess to Public Records
James K. Polk State Office Building 34, 2 KB, 1197 Word Document; Exhibit 453.09.16.2015- 3

From: [Patricia J. Treadwell](#)
To: [Open Records](#)
Subject: Open Records
Date: Thursday, September 17, 2015 5:52:30 PM

Please do not start charging to look at records. Those of us who do genealogy cannot afford to pay just to look up information on our ancestors.

Thank you,

Patricia J. Treadwell

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

From: kjones@bhammlaw.com
To: [OpenRecords Comments](#)
Subject: Public Records
Date: Thursday, September 17, 2015 6:07:32 PM
Attachments: [image001.png](#)

I strongly oppose the concept of charging the public to examine public records.

The government exists to serve the people, not vice versa.

I am a licensed and practicing TN attorney since 1993.



Kenneth P. Jones

Member
5400 Poplar Avenue, Suite 100, Memphis, TN 38119-3660
Phone (901) 683-3526 • Fax (901) 763-1037
Email: kenjones@bhammlaw.com • Website: www.bhammlaw.com

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From: [ROBERT CRIGGER](#)
To: [OpenRecords Comments](#)
Subject: Freedom of Access to Government Records in Tennessee
Date: Thursday, September 17, 2015 10:20:59 PM

The greatest aspect of freedom is the openness of the government to the people whom they serve. To ask tax payers to pay for government information, is a way to block the access to records that hold them accountable.

This is not a step forward toward freedom, but a gradual and progressive direction to a total refusal of access to the records.

The solution to the problem is to raise the budget for the records department to cover ONLY the cost of the requests. The department head should be able to provide the cost involved, and have the legislators figure out how to pay for it. By doing so, the access to government records will remain transparent, the government will remain accountable, and We the People will remain free.

Bob Crigger

From: [K.Welch](#)
To: [OpenRecords Comments](#)
Subject: Prepared comments for hearing Sept. 17, Jackson, TN
Date: Friday, September 18, 2015 9:10:30 AM

Prepared Comments to the Office of Open Records Counsel at the Public Hearing Regarding the Inspection of Public Records, September 1, 2015, Jackson, Tennessee, by Ken Welch, Memphis, TN.

State law should NOT permit record custodians to charge for inspection of public records.

I will agree with another respondent, if the law is amended to permit such charges, those fees should be established as a flat rate by the General Assembly. Such a state fee schedule should apply to copies also.

Certainly, if charges are permitted inspection of meeting agendas, minutes, audit reports, and any presentation, documentation, or other records existing in electronic digital form which are presented at such meetings, should be exempted.

If charges for inspection are permitted, as I indicated, the General Assembly should set a flat rate schedule. TCA 8-4-604 allows for far too much variability, and therefore, abuse.

Charges for duplication of records should be minimal and, as I will outline in a moment, duplication by the custodian of records or that person's designee should become rare.

I take the concept of self-governance, upon which this state and its subdivisions are based, seriously, as I hope we all do.

To effectively govern ourselves, we must be well informed. Any barrier to access to government records diminishes our ability wisely govern ourselves.

In this technological age, we are afforded the ability to make most government records available without the need for specific requests, for government based labor intensive searches, or for duplication costs. Most records are now generated in electronic digital fashion, that is to say, on a computer.

It's time for a new paradigm. Except for records made confidential by law, all governmental records created in electronic digital form should be made available to the public at the time of creation via the Internet. Third party entities can index or provide search functions for public inquires. If personal assistance is needed, research librarians in our public libraries are trained in such pursuits and already are in place to provide such help.

The era for government employees to spend time identifying, finding, and providing responses to specific requests for public records should be drawing to a close.

As we move toward this new model, the need for charges to individuals for public inspection should be alleviated. This is an underlying reason, among many other good ones, our general assembly should not adopt charges for the inspection of public records.

From: [Coffman, Steve](#)
To: [OpenRecords Comments](#)
Subject: Steve Coffman comments
Date: Friday, September 18, 2015 10:38:17 AM

Statement by Steve Coffman, executive editor of The Jackson Sun, at the Sept. 17, 2015, public hearing in Jackson, Tenn., regarding fees to inspect public records:

Good afternoon. My name is Steve Coffman, and I am the executive editor of The Jackson Sun and jacksonsun.com – the daily newspaper and news website in Jackson, Tenn.

First off, I would like to welcome you to Jackson if you are visiting, and I would like to thank you for scheduling this hearing in Jackson, offering the residents of West Tennessee an opportunity to be heard on these important questions. I appreciate your attention and study of this matter. I would also like to thank State Senator Ed Jackson for his attendance and recognizing the importance of this matter.

I would like to address the question of whether the Tennessee Public Records Act should permit records custodians to charge for the inspection of public records.

It is my personal stance and the stance of The Jackson Sun that this should not be permitted.

Charging to inspect public records would be a dramatic step away from open government, which is a foundational element of this country. Open government is part of what makes our country shine as a beacon of freedom when compared to many other countries in this world.

At the most basic level, the residents of this state already “own” the public records held by our government, and it is simply wrong to think they should have to pay to inspect those records.

With the taxes that we pay, we have already “paid” for those records – as well as for the salaries of the people who created them and for the equipment and materials used to create them.

Charging a fee to inspect those records would be equivalent to levying yet another tax.

Charging a fee would make citizens more reluctant to seek public documents, which can inform them of the actions of their government and government officials.

Charging a fee would have a chilling effect on the work of journalists, who act as watchdogs and accountability agents on behalf of our state’s residents. Many smaller news operations simply don’t have the money to pay to view public records.

In recent years, The Jackson Sun has used public records to expose the unhealthy water in many public swimming pools, to expose a public official who lied about his criminal background, to expose a lack of accountability in our county jails regarding the safety of inmates, to expose excessive travel by a public official and to expose unfair allocation of the state’s resources for economic development.

These stories and many more put an exclamation point on the importance of unfettered access to public records without having to pay hundreds or even thousands of dollars to do so.

Charging a fee to inspect public records would be another step on a slippery slope that leads to secret government and may embolden government officials and employees with ill intent to abuse their positions and the fee system itself.

Unfortunately, we have already taken some steps onto that slope by allowing governments to charge fees for the duplication of public records and for the labor to fulfill public records requests – systems that are implemented unfairly across the state; systems that should be revisited.

In fact, the mere progression of these fee structures – from copying fees, to labor fees, and now to the idea of inspection fees - is evidence of how that slippery slope can play out. If we allow our

government to charge to inspect public records, what will be next?

I understand that there are those who may create a burden for government with nuisance records requests, but I would submit they are a small minority of those seeking records. And I would submit that may be a necessary cost of preserving open government.

Open government is a bit like the First Amendment rights of free speech and freedom of the press – it can be uncomfortable and messy at times. But the alternatives are much, much worse, with the government restricting what we can say, publish and know about its actions.

Further restricting access to public records in our state is a step in the wrong direction, a step toward government that gathers even more control over our ability to gain knowledge of its business.

I respectfully ask that we turn away from the idea of charging fees to inspect public records.

Again, I thank you for your attention to this important matter.

Steve Coffman

Executive editor/Director of content and audience development



Office: 731.425.9708

Mobile: 731.234.4110

scoffman@jacksonsun.com

www.jacksonsun.com

From: katherine@younglawknoxville.com
To: [OpenRecords Comments](#)
Subject: Public Records
Date: Friday, September 18, 2015 11:52:50 AM

To Whom It May Concern:

I am making this comment on behalf of my clients. I primarily represent individual employees seeking redress against employers for violations of civil rights laws. That occasionally involves obtaining information contained in government records. Any new procedure that involves added expense for reviewing government records will curtail or end the ability of individuals to obtain needed information for use in litigation of employee rights, particularly civil rights.

I strongly urge the legislature to keep the records act as it is now, and to not add any additional expense for seekers of information.

Sincerely yours,

Katherine A. Young
Young Law Office, P.C.
6700 Baum Drive, Suite 7
Knoxville, Tennessee 37919

Telephone (865) 474-1284
Facsimile (615) 296-0379
<http://www.younglawknoxville.com>

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From: [Colleen Shanahan](#)
To: [OpenRecords Comments](#)
Subject: Public Records
Date: Friday, September 18, 2015 1:02:02 PM

Please do not implement charges for access to public records. We do pay taxes for something and at least when we get something back we can justify the salaries of all of the public servants who work in the various departments. I rely on accessing records for my profession and as a citizen I rely on various media outlets to keep me informed on many fronts. I know they access public records frequently. I view this decision to charge as a means of discouraging people from requesting the records. That would be a mistake. Count my vote as against charging fees for records. Colleen Shanahan

From: [glassyeyed4](#)
To: [OpenRecords Comments](#)
Subject: Fees for Public access to Public Documents
Date: Friday, September 18, 2015 1:46:04 PM

This is just another way to obstruct the Public from gathering information. If I could, I would vote any and every legislators that voted for this out of office and it passes I hope the voters remember to vote them out. Sincerely, Roscoe Jackdon

Sent from my Verizon Wireless 4G LTE smartphone

From: [Holt, Ryan](#)
To: [OpenRecords Comments](#)
Subject: Public Records, comment
Date: Friday, September 18, 2015 3:16:28 PM

Dear Open Records Counsel,

I am an attorney in Nashville and the Chair of the Governing Board of Directors for Intrepid College Preparatory Charter School ("Intrepid"). Intrepid is a charter school that serves students in Antioch, Tennessee. 80% of Intrepid's students receive free or reduced-price lunches. This year, the State of Tennessee named Intrepid a "Reward School" for being in the top 5% in the state.

I write in support of the proposed legislation to allow for reasonable fees/labor to be charged for open records requests. Some people may be unaware that not only governments receive open records request; charter schools like Intrepid do as well. However, charter schools, unlike some state or local governments, cannot simply refer the request to an office that handles it. Rather, the charter school must divert scarce resources to handle the request, which depending on the nature of the request may be quite expensive. In the digital era, requestors often seek emails, which requires creating search terms and culling servers, sometimes through thousands of emails, then reviewing for and redacting confidential student information. The time spent reviewing and redacting emails is time that charter schools like Intrepid cannot spend fulfilling their mission to educate and inspire children.

Chief Justice John Marshall wrote in 1819 that "the power to tax is the power to destroy." Similarly, the power to send unfettered open records requests to small quasi-government institutions, like charter schools, is the power to destroy, unless it is coupled with the requirement to pay the reasonable cost. Regardless of any person's opinion of charter schools, I hope we can all agree that once authorized, charter schools should focus our public resources on teaching children, not responding to records requests.

Very truly yours,
Ryan T. Holt

SHERRARD & ROE, PLC
ATTORNEYS AT LAW

150 3rd Avenue South, Suite 1100
Nashville Tennessee 37201

Ryan Holt

rholt@sherrardroe.com

Direct: (615) 742-4512

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[Sherrard & Roe](#) | [V-Card](#) | [Bio](#) | [Twitter](#) | [LinkedIn](#)

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From: [Bob Mitchell](#)
To: [OpenRecords Comments](#); rep.jimmy.eldridge@capitol.tn.gov
Subject: Public Records Fee
Date: Friday, September 18, 2015 3:39:18 PM

I recently became aware of legislation aimed at charging fees for viewing public records. Public Records are as they are called Public Records, there should be no fees involved in the viewing of the records. The government personnel involved are all salaried or hourly employees and will be paid for a days work whether they are assisting a citizen needing access to records or whether they simply filing records in accordance with the scope of their job. Show me the additional expense incurred by the State of Tennessee by allowing free access to public records and please explain disposition of the funds collected for this proposed fee. This is something that a Democrat Legislature would try to impose on the citizens, not something you expect to be championed by supposedly conservative Republican members

I am obviously opposed to this measure as I am a Genealogist and Historian. Paying for copies is understandable, but pay a government employee or his/her agency to provided a service that they are already being paid to do is something entirely despicable.

Robert W Mitchell
617 Diamond Grove Rd
Pinson, Tennessee 38366

**THURSDAY, SEPTEMBER 16, 2015
JACKSON, TN PUBLIC HEARING ON
CHARGING A FEE FOR PUBLIC
RECORDS**

**GOOD AFTERNOON I'M TOM
BRITT A PRODUCER AND NEWS
ANCHOR FOR WBBJ SEVEN
EYEWITNESS NEWS ON ABC AND
CBS SEVEN SERVING 16 COUNITES
ACROSS WEST TENNESSEE.**

**FIRSTS, LET ME STATE MY
OPPOSITION AND MY STATION'S
OPPOSITION TO CHARGING FEES TO
SEE PUBLIC RECORDS IN TENNESSEE.**

**STATE AND LOCAL
GOVERNMENTS ARE AGENCIES
FORMED TO SERVE ITS CITIZENS IN
AN OPEN AND IN FREE MANNER
WITHOUT PUTTING OBSTACLES
INTHE WAY OF THOSE WHO WANT,
NEED AND USE PUBLIC
INFORMATION..**

**ALREADY CHARGES ARE
PERMITTED UNDER STATE LAW FOR
COPIES, OR SCANNING OF PUBLIC
RECORDS.**

**FOR SOME REASON NEWS
ORGANIZATIONS AND CITIZENS ARE
PREVENTED FROM TAKING
PICTURES OR SCANNING THOSE**

PUBLIC RECORDS THEMSELVES.

IN THIS AGE OF CELL PHONES WHERE EVERYONE IS A PHOTOG MOST ANYONE CAN NOW TAKE PICTURES OR SCAN DOCUMENTS..... WHICH MEANS, IF ALLOWED TO DO SO, THERE WOULD BE LESS COST TO GOVERNMENT AGENCIES.

WE HAVE BEEN TOLD BY ELECTED OFFICIALS THAT ONLY A FEW ARE CAUSING PROBLEMS, WANTING COPIES OF THOUSANDS OF DOCUMENTS COSTING THOUSANDS OF DOLLARS IN MATERIALS AND HOURS FOR CUSTODIANS OF THOSE RECORDS.

STATE REP. STEVE MCDANIEL OF LEXINGTON, WHO INTRODUCED THE BILL TO CHARGE FOR VIEWING, TOLD ONE OF OUR REPORTERS THAT HE DID NOT KNOW THE AMOUNT OF MONEY SUCH REQUESTS HAVE COST CITIES, COUNTIES OR GOVERNMENT AGENCIES.

I FEEL WE REALLY DON'T KNOW WHAT THE COST HAS BEEN FOR THOSE REQUESTS, AND IF THERE IS A PROBLEM THE MEIDA AND THE PUBLIC SHOULD BE PROVIDED WITH A DETAILED LIST OF SUCH COSTS..

SO FAR THAT HASN'T HAPPENED.

IT APPEARS TO ME THIS IS FORM OF A NEW TAX, AKING TO A POLL TAX FOR VOTERS.

I THINK SUCH CHARGES WOULD PREVENT AND DETER THE PUBLIC FROM SEEING DOCUMENTS THAT UNDER LAW ARE PUBLIC AND IN REALITY OWNED AND PAID FOR BY TAXPAYERS.

SUCH LAW WOULD MAKE IT MORE DIFFICULT FOR NEWS AGENCIES AND THOSE SEEKING INFORMATION THAT SHOULD BE READILY AVAIALBE, IN AN OPEN AND TIMELY MANNER.

PUBLIC DOCUMENTS AND INFORMATION SHOULD BE EASILY OBTAINED WITHOUT A LARGE FEE TO NEWS ORGANIZATIONS AND ALL RESDIENTS OF TENNESSEE.

GOVERNMENT SHOULD BE MORE OPEN TO ACCOUNTABILITY WITH LESS OBSTACLES, FEES AND HOOPS TO JUMP THROUGH FOR THOSE SEEKING A PUBLIC RECORD OF WHAT IS HAPPENING IN LOCAL AND STATE GOVERNMENT.... AND OTHER PUBLIC ENTITIES.

THANK YOU FOR YOUR TIME.

TOM BRITT, PRODUCER-ANCHOR FOR WBBJ ABC AND CBS 7

JACKSON, TN

From: [David Michelson](#)
To: [OpenRecords Comments](#)
Subject: Comment on the TPRA permitting record custodians to charge for inspection of public records
Date: Saturday, September 19, 2015 8:45:31 AM

To Whom It May Concern,

I am writing to strongly oppose any and all efforts to charge for access to public records in the state of Tennessee. I am TN resident who currently resides at 324 Harpeth Valley Road, Nashville, TN 37221.

In answer to the five questions solicited for comment, please find below my answers. I also generally concur with the answers given by the TN Coalition for Open Government (<http://tcog.info/tcog-answers-states-5-questions-on-charging-fees-for-public-records/>).

1. Should the TPRA (Tennessee Public Records Act) permit record custodians to charge for inspection of public records?

No. There should not be any fees of any kind (not even per-hour labor fees). These records already belong to the citizens of TN and so the public should not have to pay for access to something they already own. It is one of the central functions of a government to conserve its own records, so any costs of access to public records should be paid out of the state budget and not charges on an ad hoc basis.

In this digital age, it is easier than ever to give electronic access to records, so when state records are originally created/produced those databases should be designed from the start to use automation to anonymize private information, thus allowing public access immediately and without any additional cost.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Charges for inspection of public records should never be permitted. High resolution electronic copies of records should always be free and there should be no charge for the digitization of older records currently held in print format (indeed, the State itself benefits from this digitization so this is already in the interest of the State). These records are, of course, in the public domain, so citizens should have the option to simply make their duplications on the private market at the going rates. Moreover, as the law state, Citizens should be allowed to receive electronic copies of records in the native format in which they are stored.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

Charges for inspection of public records should never be permitted.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

Charges for inspection of public records should not be permitted. Moreover, there should be a

presumption that when it is inobtrusive and will not damage records, citizens should always be allowed to make their own copies. For example, a citizen should be allowed to use a smartphone or a digital camera to copy records they are perusing and without charge.

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

The Schedule for Reasonable Charges should be abolished. The digitization and electronic public release of all records should be funded by the state until all records are available online. Then duplicates can be created by the private market at market rates.

Sincerely,

David A. Michelson
324 Harpeth Valley Road, Nashville, TN 37221

From: diana.page@comcast.net
To: [Open Records](#)
Cc: [Bo Mitchell](#)
Subject: No charges for records inspection ever
Date: Sunday, September 20, 2015 8:20:49 AM

To whom it may concern:

A healthy democracy relies on open and ready access to government functioning. It is unconscionable that a supposedly conservative legislature could propose charging for inspection, or in any way otherwise limiting access to government records.

In this regard, records should be kept efficiently and with the expectation of inspection requirements. This is simply good governance.

Further, charges for record copies should by law be kept to a minimum and be legally specified, if the records are not provided free of charge.

Access to law enforcement records should be open with the exception of strict limitations required by investigatory interest or citizen privacy interests.

Sincerely,

Diana Page
6708 Autumnwood Dr.
Nashville, TN
37221-3943

From: [Stuart Tathwell](#)
To: [OpenRecords Comments](#)
Subject: proposed fee to view public documents
Date: Sunday, September 20, 2015 12:36:04 PM

Dear Sir or Madam,

Please note my strong opposition to any fee being charged to view any public records, or public documents. These records should be freely accessed by the taxpayers,(public), as has been the norm for many years. Also, in my opinion, the excessive fees being charged for copies of public records, and documents, should be reviewed, and reduced.

Sincerely,

Stuart Tathwell

From: [Judy Poston, Crockett Reporter](#)
To: [OpenRecords Comments](#)
Subject: fees to view public records
Date: Sunday, September 20, 2015 7:19:51 PM

I am strongly opposed to any attempt to charge fees to view public records. I am appalled that our state government would even consider this.

Judy Poston

From: [Susie Birmingham](#)
To: [OpenRecords Comments](#)
Cc: rep.steve.mcdaniel@capitol.tn.gov
Subject: Against charging for records
Date: Sunday, September 20, 2015 8:28:54 PM

I do not believe the public should be charged for asking to see public records. My vote is totally against this state legislative move and am sure more of the general public is against this should you be asking your people. Public records, are called public records for a reason. Government does not need to hide or charge the public whom has the right to view at any time. Put trust back in the government and keep your records open and at no charge.

Jackson TN
Susie Birmingham

Sent from my iPad
Susie Birmingham

From: [Bennie Denton](#)
To: comments.open.records@cot.tn.gov
Subject: Fees for looking a public files for genealogy
Date: Sunday, September 20, 2015 10:11:06 PM

I don't think you should pass a bill to put fee on open records for genealogy research . I am a Genealogy researcher and help a lot of people and I don't charge them for my help and if they had to pay a fee to see the records they wouldn't be able to do it. The people I help are retired and on fixed income
Thanks

Sent from my iPhone

From: [Will Crump](#)
To: [Open Records](#)
Subject: Charge Fees To See Public Records
Date: Sunday, September 20, 2015 11:39:33 PM
Importance: High

Dear Sir/Ma'am:

I am writing to express my absolute displeasure that you would even consider charging anyone to see what is by legal right and precedent public information. I see this as a way to discourage people from holding the government accountable for their actions. I support free access to any and all public records and oppose any measure that would stand in the way of that unfettered free access. We as taxpayers have an absolute right to all public records.

Respectfully,
William Gary Crump

From: [Matthew DeGlopper](#)
To: [OpenRecords Comments](#)
Subject: Open records changes
Date: Monday, September 21, 2015 8:14:06 AM

I disapprove of the proposed changes to the open records act. These records belong to the people and the charges as it stands now are sufficient. Charging for inspection would make transparency and public oversight more difficult. This is a step in the wrong direction.

Thank you,

Matthew DeGlopper
East Ridge, TN

Sent from my iPhone

From: [Mary Lou Burch](#)
To: [OpenRecords Comments](#)
Subject: comment on proposed tax
Date: Monday, September 21, 2015 8:23:56 AM

I oppose any financial burden placed on citizens for viewing or copies of public records. As a senior citizen living in a rural community of many low income residents, it is hard enough for them to have to go to a public place to ask for documents. Viewing records should be open to all along with copies needed for daily operation.

Thank you. Mary Lou Burch, 2599 Bullen Valley Rd. Thorn Hill TN 37881

From: AllmonDaja@aol.com
To: [Open Records](#)
Subject: Fees for informations.
Date: Monday, September 21, 2015 8:46:21 AM

we need more open gov. not less. In my view the general public will see fees for information as trying to cover things. up. People have distrust of our leaders now.

Don Allmon
Dyer, Tennessee

From: [Doug McLuen](#)
To: [OpenRecords Comments](#)
Subject: Costs related to public records access
Date: Monday, September 21, 2015 9:00:02 AM

The legislation allowing governmental agencies to charge for labor involved in the accessing and delivery of public records to citizens of the state of Tennessee should not be allowed to become law. The cost of making copies of records should be no more than the cost of paper and copy machine maintenance. This legislation is a thinly-veiled attempt to keep people and organizations with limited resources from accessing these records. The employees of these agencies are being paid to make these records readily available to any citizen or organization that requests them.

Like the constant violation of the state's Sunshine laws, this law in another method being used to keep the people of this state from knowing what is happening at every level of our state government.

From: [Don Strickland](#)
To: [Open Records](#)
Subject: Objection to fee for access to public records
Date: Monday, September 21, 2015 10:31:41 AM

I understand there may be proposed legislation to require a fee for the public to see public records. I object to any such fee. By definition, the records belong to the public. The public should not have to pay to see its own records.

Donald W. Strickland
1058 Whippoorwill Dr
Signal Mountain, TN 37377

Sent from Donald Strickland's iPad

From: [Jay Bush](#)
To: [Open Records](#)
Subject: open records fee
Date: Tuesday, September 22, 2015 9:02:31 AM
Attachments: [image001.png](#)

I am writing in opposition to proposed legislation that would charge citizens a fee to review public records. Frankly, as an attorney, I have found the “reasonable” fee for copying records is often abused. While I understand there is a concern about dedicating staff resources to locating and copying massive amounts of records on a frivolous request, it’s a small price to pay to keep our government open and accessible to the people of our state. Perhaps we should move towards a system where all state records are scanned and posted online, thus allowing citizens and the press to access and print these documents on their own.

Thanks,



Jay G. Bush
325 A North Parkway
Jackson, TN 38305
Direct Phone (731) 300-6259
Fax (731) 300-6364
Email: jbush@clayton-little.com

Visit our webpage : www.Clayton-Little.com

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From: [Helen Burns Sharp](#)
To: [OpenRecords Comments](#); [Helen Burns Sharp](#)
Subject: Knoxville Public Records Testimony 9/15/2015
Date: Tuesday, September 22, 2015 3:27:17 PM

Here is a copy of what I said at the Knoxville hearing. Thank you for the opportunity to speak. -HBS

Helen Burns Sharp

- Public Interest Advocate from Chattanooga
- Speaking on behalf of ATM, Accountability for Taxpayer Money, a new organization focused on transparency in government, particularly as it relates to tax breaks

ATM is opposed to any changes to the TN Public Records Act that would permit governments to charge citizens to inspect public records.

I testify as one who knows first hand how difficult it already can be to get access to public records. Last year, I won a lawsuit in Hamilton County Chancery Court where I alleged violations of both the public records and public meetings statutes.

Other citizens should not have to experience what I went through. Filing a lawsuit is a very expensive and time-consuming last resort.

Charging a fee for inspection of public records would make it easier for government to block access. It would be particularly unfair for citizens who cannot afford the fee and for journalists who try to keep us all informed.

Imposing a fee would be a step in the wrong direction. Even today citizens are sometimes made to feel that they are the "enemy" when they request public records. Instead of creating a new barrier with a fee, we need to be looking for ways to remove existing bureaucratic obstacles.

We all need to work at creating a climate where members of the public and government officials realize we are on the same team and wear the same color jersey .

Helen Burns Sharp | tel. [423-305-1406](tel:423-305-1406) | m. [423-994-2382](tel:423-994-2382) | www.helenburnssharp.com

"It's easy to confuse what is with what ought to be, especially when what is has always worked in your favor."

RECEIVED

SEP 22 2015

**COMPTROLLER
OFFICE OF GENERAL COUNSEL**

1320 West Main Street, Suite 202
Franklin, Tennessee 37064-3700
(615) 472-4000
fax (615) 472-4190



September 17, 2015

Ann V. Butterworth
Open Records Counsel & Assistant to the Comptroller for Public Finance
Tennessee Comptroller of the Treasury
Suite 1700, James K. Polk Bldg.
Nashville, TN 37243-1402

*Re: Recent public hearing regarding inspection of records;
Response of WCS*

Dear Ms. Butterworth:

I hope that this letter finds you well. My client has had occasion to review the audio recording from the public hearing held in Nashville on September 16, 2015. At that hearing, certain statements were made regarding my client by Williamson County resident Julie West and Williamson County Board of Education member Susan Curlee. The presentations by those two individuals included many statements about my client that were factually inaccurate and false.

Because my client is now receiving media inquiries regarding those statements, a response has been created which clarifies the facts and corrects the inaccuracies presented by those two individuals.

That statement is included here for the records of the TN Office of Open Records Counsel ("OOCR") and the Advisory Committee on Open Government ("ACOG"). To the extent that you believe it appropriate, please also include this letter and the attached response with the information received by the OOCR and the ACOG at the public hearing.

I am happy to discuss this if needed, and to provide any additional information that might be useful to you. Please do not hesitate to contact me if needed.

Sincerely,

A handwritten signature in blue ink that reads "William E. Squires".

William E. Squires
Attorney for WCS

xc: Mike Looney, Superintendent
Jason Golden, Deputy Superintendent and General Counsel
Carol Birdsong, Communications Director

Bill Squires

From: Carol Birdsong
Sent: Thursday, September 17, 2015 11:56 AM
To: CO Schoolboard Group
Cc: Mike Looney; Jason Golden; Bill Squires; Carol Birdsong
Subject: Response to request for information

Hello Board members,

We have been asked to respond to statements made by some Williamson County residents and Mrs. Curlee at yesterday's open records public hearing in Nashville. Dr. Looney has asked Bill Squires and me to review the information presented and provide an accurate account of the facts to the media that were present and who have contacted us. Dr. Looney hopes this clarifies everyone's questions.

Below you find the Williamson County Schools response to statements that were made on September 16, 2015, during the public hearing regarding inspection of public records.

<https://www.youtube.com/watch?v=PylAhlelbwl&feature=youtu.be>

WCS response to statements made by WCS Board Member Susan Curlee:

- Mrs. Curlee's email records request was handled in a timely fashion. Because Mrs. Curlee was a Board member, additional research regarding the federal law that governs confidentiality of student records was required. The TN Office of Open Records Counsel was consulted along with the Family Policy Compliance Office, FPCO, with the Federal Department of Education. This caused some additional delay, but her request was otherwise handled in a timely fashion.
- No WCS employee attempted to intimidate Mrs. Curlee.
- Mrs. Curlee's statement that the number of records responsive to her request was inflated is wrong. No attempt to defame her character was made by any employee, as she suggested.
- All records requestors have been treated appropriately and in accordance with the law. WCS has never used the Open Records Act or issues of transparency for political purposes. The district has and will continue to follow the law.

WCS response to statements made by former WCS parent Julie West:

- Mrs. West stated that her email records request to WCS was specifically related to family members. In fact, her records request included 14 total search terms with only five of those related to family members. The additional search terms generated a large volume of responsive records. As an example, "Kerri Bartlett" was a search term Mrs. West requested. It returned 100,001 hits. "Jill Casada" was a search term Mrs. West requested. It returned 74,977 hits. "FOX news" was a search term Mrs. West requested. It returned 36,175 hits. Again, the additional search terms returned a minimum of 250,000 responsive records not related to her family.
- In order to fulfill Mrs. West's records request and comply with FERPA, 20 U.S.C. § 1232g, temporary workers were hired by the district for several weeks. Schools cannot simply provide thousands of documents without ensuring those documents do not include personally identifiable information of other parents' children.

- SBView was not a program, and it did not monitor emails as Mrs. West suggested. SBView was an email account created many years ago to capture Board communications for convenience of review by the media.
- Mrs. West alleges that her Twitter account is monitored by WCS, and that is simply not true.
- Mrs. West's allegations that child safety or abuse issues were handled inappropriately are absolutely false, inaccurate and unfounded.

Carol Birdsong
Communications Director

Carolb2@wcs.edu

www.wcs.edu/infocus

#wcsBENICE

615-472-4030



William E. Squires



1320 West Main Street, Suite 202
Franklin, Tennessee 37064-3700

Ann V. Butterworth
Open Records Counsel & Assistant to the
Comptroller for Public Finance
Tennessee Comptroller of the Treasury
Suite 1700, James K. Polk Bldg.
Nashville, TN 37243-1402

372431402



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Mailed From 37064
US POSTAGE



From: [Jennings, Martha](#)
To: [OpenRecords Comments](#)
Subject: WBIR Comments
Date: Wednesday, September 23, 2015 1:16:25 PM
Attachments: [Open Records Request Letter.pdf](#)

Office of Open Records Counsel:

WBIR strongly opposes any proposal to charge citizens to look at public records. We are advocates for the public and support public access to all records, both state and local.

Accountability and transparency should be key factors in all government decision-making. It is imperative that all citizens be afforded the opportunity to inspect public records at no-cost. There are citizens in every community who examine public records and serve as advocates for their community. Limiting their abilities by adding a financial burden will weaken a community's ability to hold its government accountable.

Open records are critical to our job as advocates for the people of East Tennessee. WBIR-TV is determined to hold all government agencies and officials accountable. We firmly believe that is a right that should extend to all citizens.

Martha Jennings

News Director
mjennings@wbir.com
WBIR-TV
1513 Bill Williams Ave.
Knoxville, TN 37917
Cell 865-640-2852
Desk 865-541-5378



September 15, 2015

Office of Open Records Counsel:

WBIR strongly opposes any proposal to charge citizens to look at public records. We are advocates for the public and support public access to all records, both state and local.

Accountability and transparency should be key factors in all government decision-making. It is imperative that all citizens be afforded the opportunity to inspect public records at no-cost. There are citizens in every community who examine public records and serve as advocates for their community. Limiting their abilities by adding a financial burden will weaken a community's ability to hold its government accountable.

Open records are critical to our job as advocates for the people of East Tennessee. WBIR-TV is determined to hold all government agencies and officials accountable. We firmly believe that is a right that should extend to all citizens.

Martha Jennings

News Director

WBIR-TV

1513 Bill Williams Ave.

Knoxville, TN 37917

From: [Kevin Laura Baigert](#)
To: [OpenRecords Comments](#)
Subject: Fees for Inspection of Public Records
Date: Wednesday, September 23, 2015 3:56:36 PM
Attachments: [Open Records Public Hearing Comments.docx](#)
[Open records speech Sept 2015.doc](#)

First, we want to thank you for your hard work and diligence in putting together a thorough process including the three public hearings and the surveys. This has been representative of how good government should work.

Attached are the comments we made at the Nashville hearing for your consideration. The theme for both comments is "best practice," in lawmaking and with the TPRA specifically.

We have also taken a "joint" citizen survey.

As with the majority of speakers at the hearings (62 of 67), we are obviously against the charging of fees for inspection. As clearly stated in our State Constitution, Article I, Section 19:

“That the printing press shall be free to every person to examine the proceedings of the Legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof.”

There are, however, many ways in which the TPRA could be improved. We look forward to seeing those improvements in the future.

If you have any questions or issues with our comments or survey, please feel free to contact us.

Sincerely,

Kevin and Laura Baigert
424 A. B. Wade Road
Portland 37148
615-323-1736
andtimber2@gmail.com

Public Hearing – Inspection of Public Records
September 15, 16, and 17, 2015

My name is Kevin Baigert. I live in Sumner County, Tennessee. And I'd like to speak to the question of whether fees should be charged for inspecting governmental documents. The short answer is no!

In a Constitutional Republic, which is the form of government that our State was founded under, a fundamental principle is that laws are instituted to protect minorities. The single most vulnerable minority is the individual citizen! Every time a law is enacted, a simple question should be asked, "does this law protect the individual citizen?"

The proposed legislation clearly does not answer this question in the affirmative. This law will restrict the single mom from checking into the development of their child's school curriculum. This law will restrict the retired elderly couple on a limited fixed income from gaining confidence that their government is spending their tax dollars wisely. This law will effectively shield a governmental individual or entity that does not want the common citizen from looking over their shoulder.

When deciding the fate of this legislation, in addition to the basic question of "does this law protect the individual citizen?" I ask you to honestly and truthfully seek the answers to a few more questions. Why would a couple of individual citizens from Sumner County drive 3 plus hours one way to watch and give testimony to a governmental entity who is considering putting constraints on the auditing of governmental activities? Why would they expend their own time and money? They are not paid or reimbursed or a lobbyist representing some special interest group. Why would the News-Herald, quote a member of the Advisory Committee on Open Government "that the impetus behind this legislation stems from a dispute between political activists and a school board in Sumner County after the district received voluminous requests from the public" when during a law suit a Sumner County School Board official testified that the school board receives 12-15 open records requests per year? Are the facts truly being exposed or is this a ploy by a special interest group to use government as a way to hide something from the ultimate stake holders, the citizens?

Well, as for an actively engaged citizen of Sumner County, that some might try to vilify by calling an activist, to borrow words from Abraham Lincoln, I'm here so "that government of the people, by the people, for the people, shall not perish from the earth." The proposed legislation will place yet another barrier between the people and the intended control of their government! Thank you!

ps – and yes, citizens are active when they vote, when they pay their taxes, when we talk to fellow church goers, and when they join the Armed Services willing to sacrifice their lives to defend our great nation.

Kevin Baigert

424 A.B. Wade Road
Portland, TN 37148
andtimber2@gmail.com

(615)323-1736

PUBLIC HEARING REGARDING INSPECTION OF PUBLIC RECORDS
September 15, 16 and 17, 2015

My name is Laura Baigert. I reside at 424 A. B. Wade Road, Sumner County, Tennessee. My husband and I are also known as Sumner Taxpayers Alliance. However, I am speaking to you today as a citizen. If you do choose to view us as Sumner Taxpayers Alliance, be sure to picture the thousands of people we represent standing right behind us.

First, I want thank you for the thorough process you have put together with the on-line survey and these public hearings. These activities are certainly reflective of the Comptroller office's "mission to improve the quality of life for all Tennesseans by making government work better."

My response to question 1, should records custodians be permitted to charge for inspection of public records, is No, making questions 2 through 4 moot. All of my reasons for saying no to fees for inspection of public records relate to the concept of "best practice." After all, who sets their goal to be anything less than the best?

I started out by trying to find out what other states do. In the course of that research, I discovered the Better Government Association (BGA) – a 90-year-old non-partisan, non-profit organization that fights waste, corruption and inefficiency in government through investigative journalism, policy research and advocacy and civic engagement.

In 2013, the BGA published its third "Integrity Index." The intent of the Index is to inform people in all 50 states about the commitment their legislators have to integrity in four key areas BGA measures. They measure the strength – or integrity – of the state's laws regarding: Freedom of Information, Open Meetings, Whistleblower Protection and Conflict of Interest. The Index does not measure state corruption; it evaluates what safeguards are in place against corruption.

In BGA's view, the integrity laws are essential in creating an environment that preserves democracy, enabling everyday people to "trust but verify" what their public officials are doing or failing to do.

The Index measures states against BGA-researched "best practices" on a scale of 100 percent. The states are then compared against each other and given a ranking of 1 to 50.

BGA looks at open government laws from the perspective of the citizen and assessed and ranked states based on the ability of an average citizen to obtain documents with the least amount of government interference and bureaucratic hurdles. They looked at three topics: Procedures, Barriers and Penalties.

Procedures, accounts for 45% of the score and includes the criteria of response time, the appeals process and the availability of an expedited grievance process.

Barriers to access accounts for 30% of the score and includes the criteria of addressing of electronic records and fees.

Penalties or the punishment for wrongfully denying access, accounted for 25% of the score, includes attorney's fees and sanctions.

So, is your interest piqued to find out how Tennessee fared in its score and ranking? In the area of open records, Tennessee scored 38.5% of 100, ranking 38th of 50.

While certainly not as bad as it could be, we can all probably agree it's still a failing grade. And that was BEFORE this new proposed legislation.

So, why did Tennessee score so low? Let's compare the TPRA to "best practices."

| Criteria | Best Practice | Tennessee | Comments |
|-------------------|---|--|--|
| Procedures | | | |
| Response Time | 5 business days | 7 business days | 20 states with 5 or less days |
| Appeals Process | Choice of administrative remedy or court hearing | No choice | Burdens citizens and government entities with expensive legal fees. 29 states have an administrative process or a choice between the administrative process or court |
| Expedited Appeal | On court docket within 7 days | No expediting | Some issues need timely resolution. 29 state statutes address an expedited appeals process |
| Barriers | | | |
| Electronic Format | Mention use of electronic format | Not mentioned | Electronic 31 state statutes mention electronic format |
| Fees | Actual cost for copies; No fee for labor or retrieval | Established copy fees; "Permissive" labor and retrieval fees | Fees are counter to open government. 22 states charge for copies only or labor after specific # of copies or hours |
| Penalties | | | |
| Attorney's Fees | Awarded for wrongful denial | Awarded for willful denial | 36 states allow attorney's fees outright or at the judge's discretion, or when the denial was arbitrary, capricious or in bad faith |
| Sanctions | Criminal and civil penalties, including termination | No penalties | 33 states call for sanctions; 5 also include dismissal |

There is one area we have a "best practice:" Attorney's fees can be awarded for willful denial of a records request. The second area we come close on is the response time of 7 days.

Additional practices, (not addressed by BGA) to make the TPRA standard bearing would be to:

- Accept open records requests by any method including email, phone, fax, U.S. Mail, person
- Allow citizen photocopying with their personal electronic devices
- Standardize state-wide practices versus the current "permissive" approach through a governmental entity's written policy
- Prohibit the use of private email for government business
- Encourage a dialogue between the records custodian and the requestor
- Orientation of all government employees as to the true meaning and spirit of "open" records

Those last two might be the most important. I would submit to you that a simple dialogue between the records custodian and the requestor would resolve most issues.

When the TPRA has otherwise met all of the "best practices," then let's talk about whether government entities need to be protected from citizen abuses of open records requests.

The Better Government Association 2013 Integrity Index can be found here:

<http://www.bettergov.org/assets/1/Page/2013%20BGA-Alper%20Services%20Integrity%20Index.pdf>

From: [David Sanders](#)
To: [Open Records](#); [OpenRecords Comments](#)
Subject: Comments regarding potential changes to open records law
Date: Wednesday, September 23, 2015 4:04:15 PM
Attachments: [20150922111812672.pdf](#)

I am providing the following comment in response to the request for public comment regarding the possible amendment of Tennessee Open Records law. I am doing so in my capacity as a private citizen, and am not representing the opinions of the Knox County Law Director.

After having dealt with numerous public records requests over the past few years, I have observed that the following factors should be considered in determining whether a charge is made even for the review of public records:

1. The extent of the request (either the number of separate records or the number of pages contained within one record);
2. Whether redaction of the record is necessary;
3. The availability of the records (e.g., if a record which is thirty years old is requested, it is not reasonable to assume that the record is at the fingertips of the governmental entity);
4. The specificity of the request—that is, whether the specific record is readily identifiable in the request; and
5. Whether the request is for data/information rather than a specific record (somewhat related to number 4, above).

Therefore, in response to the specific questions:

1. **Should the TPRA permit record custodians to charge for inspection of public records?**
Yes. The TPRA should be amended to permit governmental entities to charge under certain circumstances, such as when the request is for a large number of records, when significant redaction of the records is necessary, when the records are not readily available, when manipulation of data is necessary, when the record is not specifically identified, etc.
2. **If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)?** Yes, this seems to be a reasonable approach.
3. **If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempt from inspection charges? Why?** Yes, it seems reasonable to exempt charges for any request that is sufficiently limited that it does not require inordinate time to reasonably respond to (that is, prepare the records for). That is, if a record meets the above criteria of being limited, requesting a specifically identifiable and easily accessible record that does not require redaction, then it is reasonable that a governmental entity not charge.
4. **If charges for inspection are permitted, should the factors listed in T.C.A. § 8-4-604 related to charges for copies be considered for inspection?** Yes, but the factors which I identified above should be considered, too.
5. **What amendments or changes should be made to the current Schedule for Reasonable Charges related to the duplication of records?** No suggestion.

I believe that there is a fundamental disconnect regarding the consideration of charging fees to retrieve and view public records. Opponents of the possible changes seem to think in terms of a citizen making a limited request for a readily identifiable document that could be produced with little effort. I am not in favor of charging for this sort of request. However, there are many egregious requests being made, which current public record law does not seem to address adequately. By way of example, I attach a records request made, I believe, to all school systems in Tennessee. A brief review of the request will show that to honor such a request would take an army of personnel months to complete. Opponents of the proposed changes argue that since the law already contemplates the fulfilling of records requests, such work is, or should be, already budgeted for time and expense by governmental entities. I humbly submit that the work involved in responding to a request as expansive as this was not contemplated by those who originally wrote the law. Complying with this request would be an enormous burden for any governmental entity, and frankly, might prove to be impossible for a small entity with few resources.

I thank you for your attention.

David M. Sanders
1541 Staffwood Rd.
Knoxville, TN 37922
(865) 556-8736



September 16, 2015

SENT VIA FEDERAL EXPRESS

Dr. James McIntyre
Superintendent
912 South Gay Street
Knoxville, TN 37902

Re: Tennessee Open Records Act Request

Dear Superintendent McIntyre:

On behalf of the American Center for Law & Justice ("ACLJ"), a § 501(c)(3) non-profit law firm dedicated to the defense of constitutional liberties secured by law, this request for records is made pursuant to the Tennessee Open Records Act, Tenn. Code Ann. § 10-7-501 *et seq.* The Tennessee Open Records Act requires a response within seven (7) days, as required by § 10-7-503(B)(i). If access to the records requested will take longer, please contact the undersigned with information about when the ACLJ can expect copies of the requested records. According to the Tennessee Open Records Act, public records or files that are accessible include "all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency." § 10-7-503(a)(1).

RECORDS REQUESTED

The ACLJ is requesting copies of the following records:

- (1) Any and all records containing or otherwise concerning communications between and among any officials, employees, representatives, and/or agents of the Knox County Schools concerning any world religion.

*

201 Maryland Avenue, N.E.
Washington, DC 20002
202-546-8890

- (2) Any and all records containing or otherwise concerning communications between and among Knox County Schools, including any and all officials, employees, representatives, and/or agents thereof, and any third party, concerning any world religion.
- (3) Any and all records containing or otherwise concerning communications between and among any officials, employees, representatives, and/or agents of the Knox County Schools concerning the curriculum on social studies and/or world religions, including but not limited to the curriculum and/or curricular standards concerning Islam.
- (4) Any and all records containing or otherwise concerning communications between and among Knox County Schools, including any and all officials, employees, representatives, and/or agents thereof, and any third party, concerning the curriculum on social studies and/or world religions, including but not limited to the curriculum and/or curricular standards concerning Islam.
- (5) Any and all records that give instruction, or address policies, regarding how curriculum concerning world religions, including specific world religions (*e.g.*, Judaism, Christianity, Islam), is created and/or chosen for presentation in the classroom.
- (6) Any and all records, including, *e.g.*, pacing guides, documenting the length of instruction time devoted to each topic concerning world religions, including which individual(s) determine(s) the length of instructional time devoted to each topic concerning world religions.
- (7) Any and all records concerning which individual(s) teach(es) social studies courses and/or any other course(s) referencing world religion within the Knox County Schools, and all sources utilized in determining the curriculum for those courses.
- (8) Any and all curricular materials, including but not limited to textbooks, workbooks, online materials, handouts, lesson plans, study guides, assignments, tests, etc., used in social studies courses and/or any other course(s) referencing world religion within the Knox County Schools.
- (9) Any and all records concerning field trips of any Knox County Schools class(es) that include a visit to any religious site(s).
- (10) Any and all records concerning assignments or activities in which students of Knox County Schools are asked and/or required to recite prayers and/or chants, speak in Arabic or other foreign language(s), or engage in any other speech and/or conduct associated with any world religion.

- (11) Any and all records containing information regarding Tennessee state mandated requirements/standards for social studies and/or other world religion courses, including, but not limited to, records concerning how curriculum and courses within Knox County Schools are created and/or developed to meet those mandated standards and the individual(s) who approve(s) those courses and curriculum.
- (12) Any and all tests, quizzes, reviews, and assignments, including TCAP and any field tests, that contain any questions or references regarding world religions, including but not limited to Islam.

The ACLJ requests that responsive records be produced in native format, or the format most felicitous to an expedited production. Upon receipt of this request, please take all reasonable steps to preserve relevant public records while the request is pending.

If you deny any or all of this request, please cite each specific exemption you claim justifies the refusal to release the information and notify the ACLJ of the appeal procedures available under the law. Tennessee's Open Records Act requires a denial of the right to inspect or copy records provided for under § 10-7-503 to be made in writing within seven (7) business days of your receipt of this request. § 10-7-503(B)(ii).

The ACLJ is well qualified to analyze and disseminate this information to a large segment of the public. Furthermore, because the ACLJ is a non-profit, § 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law, and will not resell the information disclosed in any form, there is no commercial interest at issue. As such, the ACLJ requests that the fee waiver required by § 10-7-506(c)(1) be applied to this request. However, if you deny this request for a fee waiver or reduction, please contact the ACLJ with the reasonable amounts, as well as the manner of calculating those fees, **prior to** any expenditure.

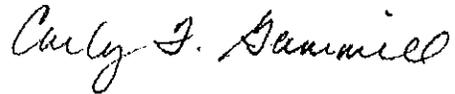
Thank you for your prompt attention to this Open Records request. Please send the requested records to:

American Center for Law & Justice
Attn: Carly F. Gammill, Esq.
188 Front Street, Suite 116-19
Franklin, TN 37064

If you have any questions about this request, please do not hesitate to contact the undersigned at:

Ph: (800) 296-4529
Fax: (615) 599-5189
cgammill@aclj-dc.org

Sincerely,

A handwritten signature in cursive script that reads "Carly F. Gammill".

Carly F. Gammill
Senior Litigation Counsel

From: [Garrett Morrison](#)
To: [OpenRecords Comments](#)
Subject: Fees for Public Records
Date: Wednesday, September 23, 2015 4:49:51 PM

To those considering charging fees to view public :

Why would you consider charging fees for a service we already pay for? If our tax dollars are not covering your costs then what are you doing with our money? I don't understand if this is just an attempt to grab more power or the State just cannot afford to print off paper. What does the State have to hide? Has the system really become that corrupt? Continue to treat us like subjects and stifle public discourse while you sit up in your thrones on the Capitol.

Have a fantastic day,

Garrett Morrison

From: madyguthrie@comcast.net
To: [OpenRecords Comments](#)
Subject: Public Records Fees
Date: Wednesday, September 23, 2015 7:17:13 PM

We do not want to impede access to public records in any manner. Take a look at all the governments in the world that do not work. Except for a small percentage of their people, the rest have no voice. We do not want to start down a slippery slope towards losing the voice of ALL the people in our country.

Do not pass any House of Senate Bill concerning this topic which will make access to public records more difficult.

M.Guthrie
Madison, Tennessee

From: [Nick hayes](#)
To: [OpenRecords Comments](#)
Subject: Fees to be charged for checking or looking at a public record. Absolutely no.
Date: Thursday, September 24, 2015 9:56:18 AM
Attachments: [20150812PublicHearingsRegardingReviewOfPublicRecords.pdf](#)

Public officials are either elected or appointed by those elected. They are obligated to the public to provide access to any public record at no charge to any citizen. There is no use in maintaining public records if no one has free access to them. Our obligation to pay for access to these records ends with payment of taxes to support the operations this government.

Sent from my iPad

From: [David Tulis](#)
To: [OpenRecords Comments](#)
Subject: David Tulis statement against tax for access to public records
Date: Thursday, September 24, 2015 11:51:48 AM

PUBLIC STATEMENT

Text of David J. Tulis submitted to Office of Open Records Counsel, Knoxville public hearing Sept. 15, 2015, representing AM 1240 Hot News Talk Radio in Chattanooga and Nooganomics.com.

Should \$79 billion state nickel, dime us to inspect public records?

By David Tulis

The general assembly is considering a pay wall for people to merely peek at state government studies, dossiers, reports, filings, grant requests and the like.

In meetings this week in Knoxville, Nashville and Jackson, officials are soliciting public comment about a proposal pushed by the Tennessee School Boards Association and others who claim their constituents are harried by open records requests that force them under deadline to produce documents for public viewing or for copying.

A bill to allow fees for the inspection of records failed in the last assembly, but the plea is being studied for a second go-round. Some agencies cite a provision in the statute to bar even the photography of records, such as by smartphone or digital camera. Independent journalist Chris Butler faced such an obstacle working on stories about Middle Tennessee State University and UT in Knoxville — “on advice of university counsel,” one PR flack told Mr. Butler.

The arguments against such proposals are in two categories — the obvious and the not so. The obvious are that public records are paid for by taxpayers and should be open to any individual not in government who wishes to examine a state proceeding or activity. Some requesters make pests of themselves, but the state and its agents should be forbearing because public records effectively belong to the people. One opponent is Deborah Fisher of Tennessee Coalition for Open Government. The state is a democracy and only in openness can the citizenry be informed and involved in the political process, she says. Charging would be like a poll tax on records, “opening the door for arbitrary charges that would be nearly impossible to challenge,” she warns. “We know the result of that kind of system.”

Wasting a hidden form of capital

Less obvious is the alienation such fees create between smartly taxed citizens and the wealthy state.

The state of Tennessee is a political corporation whose net worth is F\$79.2 billion. State government’s *total net financial position is F\$31.7 billion*, according to a 2014 comprehensive annual financial report, or CAFR.

Meanwhile, a state liquid capital pool disguised as a retirement fund — the Tennessee Comprehensive

Retirement System — is worth more than the state itself. TCRS is valued at F\$47.5 billion, including F\$42.3 billion in long-term investments as of 2014. Such a giant in capitalism should not feel too pestered by gadfly activists, bloggers, community do-gooders, pokey voters with grudges, meddling taxpayers, “official” journalists from WDEF TV12, campaign managers and political party operatives digging up dirt on election rivals.

Tennessee government also stewards another sort of investment — a capital stock of people’s willingness to obey the law. State government has more such capital than does Washington insofar as it does not play Uncle’s fool. People’s respect for law rises as burdensome rules are reduced, and compliance falls when they increase, economist Milton Friedman observes.

Obedience falls if politicians take advantage of people’s willingness to cooperate. Without the public’s awe and fear, state planners lose their ability to achieve publicly stated goals. Charging citizens to review documents annoys members of that choice crowd that affects public opinion — the press, activists and neighborhood leaders.

Pestering a state citizen with a bill for merely ogling a floodplain report, bond schedule or an agency subsidy agreement *alienates the people and feeds an already healthy atmosphere of noncompliance.*

The ideal of ‘free government’

In the twilight of the national welfare state we may find little meaning in the term “free government.” But in our state constitution that ideal lives and every official who faithfully executes his oath of office understands and embodies it.

A free people are protected by a free government. That is to say, a civil authority not beholden to secret interests, hidden money and party spirit that so infects Republicans and Democrats today. Free from private control. It is free to protect life, liberty and property of the people who elect its citizen representatives. Such a government is something apart from the state as that entity is described by Martin van Creveld in his history, *The Rise & Decline of the State*. The government envisioned in our high law belongs to the people and serves it. It bears with the people, satisfies their desires to learn of its operations, and would never dream of hassling a ball-capped gray-headed Neighborhood Watch commiteeman for money in his open records inquiry into a local police department.

The constitution bans monopolies and perpetuities in its bill of rights, Section 22, as “contrary to the genius of a free state.” Cartels “shall not be allowed” because they are a private grant outside the marketplace, a special license securing a favored business, faction or clique. In the case of public records, a pay wall makes the state a monopoly. As librarian of the people’s business, the state excludes commoners from its stacks.

Charging fees violates the spirit of two other constitutional provisions. The bill of rights says, “That the printing press shall be free to every person to examine the proceedings of the Legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof” (Section 19). Now if every member of the public has a right to be free as a journalist, charging him a fee to view a state record violates this relationship no less than might a tax imposed on the exercise of a calling of common right (a deed practiced by Nashville since the late 1800s). If journalists write about government to serve the public, let no barrier be cast in their path.

The U.S. constitution guarantees us Tennesseans a republican form of government here in our state and in Washington in article 4, section 4. The federal government “shall guarantee to every state in this union a republican form of government,” whose integrity is deemed threatened by invasion and “domestic violence.” Now, a fee for the review of public records isn’t exactly the same as, say, an invasion by a Muslim infantry column. But “republican” conveys the idea of a democratic and federal representative government, divided and limited by structure, lococentric in its origins, recognizing diverse and competing centers of power and

the states themselves, each suited for maintaining liberty and prosperity for people within its borders.

Americans are seeing today the extent to which cartel economics, crony capitalism and centralization can go, and they are frustrated, even angry at the bleak national outlook. The Internet is redefining the media, decentralizing information gathering, democratizing the concept of the watchdog press.

Tennessee should champion openness, accessibility and the democratic impulse suggested in the great Web free-for-all. State government should stand apart from national political decline and self-isolation of the Washington government. From the loft of its financial grandeur, it should shrink from petty fee skimming and let the people have all the access they want.

Details of this week's hearings are at this state government link.

<http://www.comptroller.tn.gov/openrecords/pdf/20150812PublicHearingsRegardingReviewOfPublicRecords.pdf>

— David Tulis hosts a talk show 9 to 11 a.m. weekdays at [AM 1240 Hot News Talk Radio](#) covering local economy and free markets in Chattanooga and beyond.

From: [Joe Neisler](#)
To: [OpenRecords Comments](#)
Subject: Vote to oppose new fees to inspect open records
Date: Thursday, September 24, 2015 5:25:24 PM

Dear Open Records,

My name is Joe Neisler. I grew up in Jackson, TN. I'm retiring and plan to move to my family home at 33 Elmwood Drive in Jackson, TN.

I'm writing a book of family stories and history. We have an 1840 TN Land for our family land on Dyer Chapel Road south of Lexington, TN.

I oppose the current legislation that is being discussed to add fees to inspect open records. I should be able to inspect records left for me by all of my ancestors without having to pay a fee.

I enjoy finding my ancestors and doing genealogical research. I've already checkout microfilms from the TN Library and Archives.

Please consider the needs and interests of the citizens of TN and vote to oppose the current legislation that is being discussed to add fees to inspect open records.

Thank you for representing Tennessee's citizens.

Joe Neisler
33 Elmwood Drive
Jackson, TN 38305
jwnhorns@comcast.net

Sent from my iPhone

From: [Frank Burger](#)
To: [OpenRecords Comments](#)
Subject: Fee on Public Records
Date: Saturday, September 26, 2015 10:05:28 AM

By the name "PUBLIC" Records alone it would be an oxymoron to charge to see these, which our taxes have already paid! This is just another example of **THOSE WHO HAVE THE MONEY GET THE GOODS OR THE RIGHTS, AND THOSE WITHOUT MONEY GO WITHOUT (OR RUN IN ELECTIONS, OR GET TO VOTE)**. This is not the democratic way. This is an affront to our open democratic government, and I am totally against this! As are my friends as well as my husband. Please do not let this become the law. It flies in the face of Democracy.

Carol and Frank Burger, Mt. Juliet, TN

From: [PAMELA WESTON](#)
To: [OpenRecords Comments](#)
Subject: Answers to OORC Five Questions - Pamela Weston, P O Box 645, Sweetwater, TN 37874, (717) 515-2336, citizen
Date: Sunday, September 27, 2015 9:12:55 AM

1. Should the TPRA permit record custodians to charge for inspection of public records?

No. Citizens pay all costs related to record creation and record maintenance and thus should not be charged to view them nor should they be individually charged for activities related to the retrieval or presentation of such records for the purpose of viewing.

There are thousands of individuals at all levels of government creating and maintaining records, but the technology is available to make the creation, storage, and access to our public records easier and more efficient for all parties, custodians and citizen non-custodians alike. Remotely or electronically, citizens should be able to access public records quickly and to their hearts content. It is time to think about moving public records access discussions into the realm of readily available technological reality and it is time to acknowledge that placing custodians in the business of designing, implementing, and collecting an information tax would do nothing to support our goal of a transparent and open government.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

First, charges for inspection should not be permitted as they are a barrier to open access. Citizens should have the option to receive records electronically if those same records are not available via a searchable data base, making the charge for duplication a moot point.

We know that access to raw information is central to maintaining an informed citizenry and that only an informed citizenry can insure a genuine transparent and open government.

Rather than impose per hour fees for copies when paper documents are of interest, requester or their assigns should be permitted to photograph these documents, bypassing any per hour or per page fees for duplication.

If it is determined that the labor needed to produce requested documents for viewing are beyond the capacity of the custodians of the documents, then budgeting for additional custodians should be the reasonable response.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

Again, charges for inspection of public records should not be permitted, and documents such as meeting minutes, agendas, and audit reports should be available on the producing entity's website and this requirement should be imposed legislatively.

Exemptions imply a variation in the significance of public documents and there should be no charges for inspection period.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

Again, charges for inspection of public records should not be permitted. We should recall portions of T.C.A. § 8-4-604 " That state policies and guidelines shall reflect the policy that providing information to the public is an essential function of a representative government and an integral part of the routine duties and responsibilities of public officers and employees; That excessive fees and other rules shall not be used to hinder access to nonexempt public information; and that no charge shall be assessed to view a public record unless otherwise required by law; etc.

At the same time, I suggest that local and state governments not be permitted to deny a citizen the right to use their own duplicating equipment, cameras, or smart phones; and that in all instances, citizens be protected from fees and rules that impair access.

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

The Schedule of Reasonable Charges, with regards to the utilization of "an

outside vendor to produce copies of requested records” with “the cost assessed by the vendor” to be “recovered from the requester”, should be amended to reflect that the charges cannot exceed that which would have been incurred had the custodian produced them.

From: [Pat Woody](#)
To: [OpenRecords Comments](#)
Cc: sen.doug.verbey@capitol.tn.gov
Subject: transparency in govt
Date: Monday, September 28, 2015 3:05:08 PM

We wish to let it be known that we are opposed to legislation that in any way limits inspection of public records. Charges are a limiting factor. In particular, we oppose the legislation that was introduced in the 2015 Session of the 109th General Assembly.

We are simply individuals with no membership in any organization that promotes views either for or against, we simply want to keep our ability to access public records. It's already difficult to trust government when information on items such as PILOTS, incentives for businesses to relocate, and political donations are shielded. Please do not make it worse.

Sincerely,
David & Pat Woody
111 S. Magnolia St.
Maryville, TN 37803

From: [larry silverstein](mailto:larry.silverstein)
To: comments.open.records@cot.tn.gov
Subject: Inspection of Public records
Date: Tuesday, September 29, 2015 9:22:37 AM

September 29, 2015

To Whom It May Concern:

I am writing to urge that public records should remain available for inspection without charge.

Democracy requires transparency. Citizens and the press must be able to see what their government is doing at all times. One can't always rely on what is said by governmental officials. Sometimes, one must be able to see all the documents. Only those who have something to hide should be pushing for reduction of access.

In addition, the government should charge as little as possible for copies of any documents which are requested, in order to be sure that there truly is access to all.

Thank you for your consideration.

Sincerely,

Larry Silverstein
Attorney at Law
7808 Sheffield Dr.
Knoxville, TN 37909

865 693 1256

larrys55@aol.com

From: [Stanley, Diana](#)
To: [OpenRecords Comments](#)
Subject: City of Oak Ridge Response Regarding Inspection of Public Records
Date: Tuesday, September 29, 2015 2:03:34 PM
Attachments: [Inspection of Public Records.pdf](#)
Importance: High

Please find attached the City of Oak Ridge's response to the Office of Open Records Counsel request to receive input on a series of questions involving inspection of public records.

Thank you,

Diana Stanley
City Clerk
City of Oak Ridge
200 S. Tulane Avenue
Oak Ridge, TN 37830
dstanley@oakridgetn.gov
(865) 425-3411_office
(865) 425-3409_fax
www.oakridgetn.gov

Electronic communications with officials and employees of the City are subject to Tennessee's Public Records Act.



September 28, 2015

Ms. Ann V. Butterworth
Assistant to the Comptroller for Public Finance and Open Records Counsel
Office of Open Records Counsel
1700 James K. Polk Building
505 Deaderick Street
Nashville, TN 37243

Transmitted Via E-mail: comments.open.records@cot.tn.gov

Re: Inspection of Public Records

Dear Ms. Butterworth:

The City of Oak Ridge is committed to the principle that providing information to the public is an essential function of representative government and part of the routine duties of public officers and employees.

With the significant increase in use of electronic communications over the past decade, however, it is important to review the current law and associated policies regularly to identify and resolve issues that could impact the timely production and inspection of public records.

Thank you for including local governments in your review of issues involving inspection of public records. City of Oak Ridge Administration has reviewed the five questions presented by the Office of Open Records Counsel and the administration would like to submit the following responses.

1. Should the TPRA [Tennessee Public Records Act] permit record custodians to charge for inspection of public records?

Yes. The processes that city staff utilizes to complete an open records request—retrieval, copy, file transfer, review, and redaction—is the same whether access is for inspection or copies. The charges that are applied to a request for copies allow a municipality to recoup some of the expenses and labor spent to satisfy an open records request; however, that system is eliminated when a requestor chooses inspection and, often times, results in more demands of staff and taxpayer's resources.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Yes. As was referenced in the response for the first question, city staff is still utilizing the same processes when completing a request for inspection just as they would for copies with the requestor still receiving access to the requested records.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

No. The City of Oak Ridge makes the aforementioned documents, and many more, readily available through our Oak Ridge Public Library and website; however, not allowing a municipality to charge when a request(or) expands beyond the normal publication capacities of staff, city resources, and processes further adds to the expenses of limited departmental budgets and staff time.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

No. The City Administration believes it would be advantageous for the policies and guidelines that would govern a schedule of reasonable charges to have consistency and uniformity across all municipalities and counties, and provide a sense of equitableness to all requests(ors). Additionally, some considerations that are not explicitly addressed may yield to subjective interpretation that could reduce staff's ability to satisfactorily complete a request.

5. What amendments or changes should be made to the current Schedule of Reasonable Charges related to duplication of records? Why?

The City of Oak Ridge Administration would like the Schedule of Reasonable Charges to address a digital page (record) equivalency or a fixed price for electronic storage devices, such as \$15.00 per disc that contains PDF (Portable Document Format) records in excess of 50 pages. With this established, it would provide a uniform resource for counties and municipalities to reference when determining cost of providing a record electronically given that city staff have seen a volumetric increase in electronic record requests and that city records created and stored are progressing towards an electronic format. Additionally, this reference point may provide further assistance when the Office of Open Records Counsel issues an opinion regarding charges for electronic records and/or any labor costs associated with these records.

Thank you for considering staff's input regarding inspection the inspection of public records. We want to make sure that our citizens are informed and feel engaged with their local government. Again, this administration supports providing Tennessee residents with public records in accordance with a structured, economical procedure that is beneficial to both the community and the government agency. Thank you again to the Office of Open Records Counsel and the Advisory Committee on Open Government for orchestrating this comment process and allowing for input from the public and local government regarding inspection of public records.

Sincerely,



Mark S. Watson
City Manager

From: [Dorothy Bowles](#)
To: [OpenRecords Comments](#)
Subject: Comments on inspection fee proposal
Date: Tuesday, September 29, 2015 4:26:05 PM
Attachments: [COMMENTS REGARDING PROPOSAL TO CHARGE FEES TO INSPECT PUBLIC RECORDS.docx](#)

COMMENTS REGARDING PROPOSAL TO CHARGE FEES TO INSPECT PUBLIC RECORDS

Dorothy Bowles
1829 Chicadee Drive
Knoxville, TN 37919
865-588-6793
d-bowles@comcast.net

I am a professor emeritus at the U of Tennessee. I am on the executive committee of the Tennessee Coalition for Open Government, a member of the Society of Professional Journalists, and a former member of the Advisory Committee on Open Government.

I am writing as a private citizen, drawing on my experiences from 50-plus years of newspaper, corporate public affairs work and teaching journalism.

Question #1: NO, the Tennessee Public Records Act should NOT permit record custodians to charge for inspection of public records.

Democracy doesn't work, and public confidence in government is eroded if citizens can't know what is going on in public offices.

As we have already experienced in the past seven years since the state began allowing charges for copies of records, some record custodians have so abused this authority with inflated labor charges that they have priced citizens out of their right to know.

If I were still teaching, and if this bill were passed, I would no longer be able to teach my students how to go to government offices and examine public records because students typically can not afford to pay for records.

UT has the goal of becoming a top-25 research institution. New expenses to access public records will negatively impact faculty research.

Some government entities claim that complying with requests to inspect records is too expensive for their offices. But state law requires government agencies to create and maintain records and to make non-exempt records available to the public, so offices should budget accordingly.

Agencies can reduce costs by improving education for records custodians so they don't think they need to routinely shift requests to expensive attorneys.

Custodians would not have to become experts on all 350-plus exemptions to the TPR. But they could become knowledgeable about exemptions and general requirements that pertain to their particular offices.

With training, personnel with lesser hourly salaries than lawyers could redact information that clearly is not subject to the TPRA, saving both offices and requesters time and money.

Nearly every agency these days employs one or more public relations persons. Perhaps these public information officers should handle records requests.

Question #2 asks whether charges for inspection should be governed in a manner similar to current charges for duplication.

Again, I oppose charges to see records.

And I absolutely oppose allowing the current schedule to become the default schedule for inspection because the current schedule has few limits on “compilation fees” and has resulted in runaway price inflation for copies. I do not think the current schedule adheres to the Tennessee statute mandating reasonable rules for copies.

Many other states have limits - such as not allowing reimbursement for lawyer time on requests or redactions, or capping fees at \$10 to \$30 per hour. In Tennessee, we now allow record custodians to unilaterally decide labor charges with no way -- short of court action -- for citizens to challenge those charges.

Requests that a few local officials have considered “frivolous” should not trigger a penalty in the form of a new tax on everyone. That’s like punishing the entire class for the behavior of a few students.

Advocates for expensive labor fees for copies of records that would now be extended to fees for merely looking at records always trot out a couple of unusual, voluminous requests and act as those are the norm. Such requests are relatively rare and typically are politically motivated. The OORC should devise a method of dealing with those rare voluminous or frivolous requests instead of imposing labor fees on every request that takes more than one hour to complete.

Allowing thousands of records custodians across the state to be the timekeepers definitely does not encourage effective time management. Some can spend an hour booting up their computer to comply with a request before starting redaction and duplication time charges.

Question 3 asks whether any public records should be exempt from inspection charges.

I think many records could and should be placed on government websites, and some entities are doing a good job of this, but more government agencies should do so. Today, it is not expensive or labor intensive to create and maintain a simple website.

I am not in favor of allowing the OORC to designate certain records exempt and effectively creating a two-tier system, essentially making some records free to inspect and others too expensive for typical citizens to afford. Again, this would increase citizen skepticism about government operations.

Question 4 asks about factors listed in Tenn. Code Ann. Section 8-4-604, and Question 5 asks whether changes should be made to the current Schedule of Charges for duplication of records.

I'd like to discuss those two questions together.

I was appointed to serve on the Advisory Committee when it first started, and I was on the Committee for six years, until just last year. So I was part of the original group charged with coming up with a Schedule of Reasonable Charges for copies of records.

I think the current Schedule for copies is flawed. It does not include the recommendations by the "Sunshine-in-Government" study committee that the General Assembly established in 2006 and which reported to the General Assembly in 2008.

The Advisory Committee was little more than window dressing, as the final "Schedule of Charges" decisions reflected little or no input from non-governmental representatives, instead adopting viewpoints of appointees representing government entities plus government ex-officio members, and, finally, the Office of Open Records Counsel, another government official. The resulting Schedule does not reflect citizen opinion and deviates too far from TCA Section 8-4-604 principles.

And, worse yet, some government agencies now use loopholes in the current schedule to levy labor charges far beyond what I think either the General Assembly or the Advisory Committee envisioned, thereby effectively closing records that are NOT among the 350-plus exemptions that the Legislature authorized.

I don't think the original Advisory Committee members intended for agencies to charge staff attorney hourly rates or to hire \$250-an-hour outside attorneys to handle record requests that personnel at lower salaries could handle just as effectively.

So my answer to Question 5 is that the current schedule of charges should be revised so that the factors in 8-4-604 guide every aspect of the schedule. And, if the OORC recommends to the Legislature that fees be permitted for inspection, those same principles should guide that schedule.

The TCOG-sponsored statewide audit 11 years ago (in 2004) revealed that one-third of the offices denied requests for very routine records that needed no redaction and

easily could have been produced in less than one hour. Further, we discovered that the amount offices charged for paper copies varied greatly from no cost to several dollars per page.

This wide discrepancy in per-page charges for paper copies was addressed by a legislative-mandated study committee in 2006-2007. That study committee did NOT recommend per-hour labor charges, and labor charges were not a significant part of early ACOG meetings. Ex-official ACOG members (government officials) advocated labor charges and Advisory Committee appointees representing government entities endorsed that idea. It was NOT something that Advisory Committee appointees representing government transparency groups wanted.

The OORC, another government official, created the Schedule of Reasonable Charges, incorporating per-hour labor charges. The Schedule defines “labor” as “the time reasonably necessary to produce the requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the records.” (emphasis added)

Further, the Schedule states that fees are to be based on “the hourly wage of the employee(s) reasonably necessary to produce the requested records above the “labor threshold.” The hourly wage is based upon the base salary of the employee(s) and does not include benefits.” (emphasis added)

The principles, in T.C.A. § 8-4-604 (a)(1)(A)(ii), outlining what the Office of Open Records Counsel should consider in the establishment of the Schedule, state:

(b) That excessive fees and other rules shall not be used to hinder access to nonexempt public information; (emphasis added)
and

(e) That when large-volume requests are involved, information shall be provided in the most efficient and cost-effective manner; (emphasis added)

In the seven years that this Schedule has been in effect, some government entities have ignored statements in the Schedule and in the principles in T.C.A. 8-4-604. They have failed to handle requests within time that is “reasonably necessary” or to apply hourly fees of personnel “reasonably necessary” to fulfill requests.

Some agencies routinely refer requests to staff attorneys or even more expensive outside attorneys to handle routine redactions (like Social Security numbers and other personally identifying information) that could be redacted by clerical personnel with rudimentary training.

A plea for education for records custodians

Education about TPRA for both public officials and their staffs could alleviate some labor charge excesses. TCOG auditors in 2004 discovered that front-desk personnel in some cities and counties lacked familiarity with TRPA or how to apply it. They

had to consult with their supervisors, some of whom weren't wholly familiar with TRPA.

Records custodians properly trained could eliminate much of the need to call on attorneys for records requests. Custodians would not have to become experts on all 350-plus exemptions to the TRPA. But they could become knowledgeable about the exemptions and general requirements that pertain to their particular unit so that they did not feel the need to consult staff attorneys or outside attorneys for every request.

With training, clerical personnel (with their lesser hourly salaries) could redact information clearly not subject to the Act and rely on attorneys for redaction only when absolutely necessary.

Perhaps one person in each unit, such as the public information officer, could be tasked with training others in the office and taking the lead on public records requests.

Another labor-saving practice, and one that would comply with TCA Section 8-4-604 principles, would be to comply with requests in electronic format, especially where the requester preferred that format. Instead custodians now often convert electronic files to paper copies, incurring additional labor fees.

Required redactions could be executed faster and more efficiently on a copy of existing electronic files instead of printing paper copies and then redacting. Further, emailed requests are cheaper and faster than mailing paper copies.

Thank you for this opportunity to comment on the proposal to levy new fees on Tennessee citizens.

From: [John McPherson](#)
To: [OpenRecords Comments](#)
Subject: Do not charge for access to public records
Date: Tuesday, September 29, 2015 6:34:30 PM

Strangling public access to the very records the public pays to create is most undemocratic. Do not allow government at any level to restrict access to the records, just as you would not restrict access to the polling places.

John McPherson
9835 Kristi
Knoxville, 37922

From: [Mary Longmire](#)
To: [OpenRecords Comments](#); sen.randy.mcnally@capitol.tn.gov; rep.jimmy.matlock@capitol.tn.gov;
rep.kent.calfree@capitol.tn.gov; rep.jason.zachary@capitol.tn.gov; jack.mcelroy@knoxnews.com
Subject: comments on viewing public records and without any fees being charged
Date: Tuesday, September 29, 2015 7:57:43 PM

Attorney Herbert S Moncier has stated it best I think: The Tennessee State Constitution makes it clear no government charge should ever have been nor be demanded of a citizen requestor.

December 17, 2014, I sent a request to Ann Butterworth for help on a record request I had made and was denied in Loudon County. I received no answer, call or email. January 30, 2015 I sent her another request on the same issue and March 3, 2015 I sent another request, still the same one and I asked her to verify if she received my requests and she did email me back that she received my request.

That has been it! No contact and no help from her.

Alisha Hodges that had the position before Ann Butterworth was very efficient and helpful to citizens so what has happened?

I don't know where to go to for help now so if anyone can help me please and direct me to the office or person that is responsible and will give citizens the help when we need it.

Citizens and taxpayers should have the ability to view records upon request with no charges since we pay the officials, buy the ink and paper and all the office equipment needed. If the elected officials have a problem with citizens looking at the accounting of monies or any other public documents they just need to resign and go the the house.

Mary Longmire
Loudon, TN.

From: [BILLY M PULLEN](#)
To: [Open Records](#)
Subject: stop the fees for taxpayers request to see public documents
Date: Tuesday, September 29, 2015 10:23:22 PM

From: [Earley Story](#)
To: [OpenRecords Comments](#)
Subject: For years I have been requesting public records from the comptrollers office to help verify a wrongful conviction.
Date: Wednesday, September 30, 2015 4:41:09 AM

The request has been given online and I have never been given a response from the comptroller's office.

The request was detailed and clear and would have not consumed a lot of time.

A computer search for criminal indictment numbers payments to the comptrollers .(Shelby County-97-08560, 97-08558 and 97-08557)

Transparency should be available to the public, news agencies etc, to ensure checks and balances against corrupt activities to could occur.

My name is Earley Story.

I do not expect this comment to be reviewed by the comptrollers office, but I am sending my views anyway!

From: [Brenda](#)
To: [OpenRecords Comments](#)
Subject: NO To Public Record Fees!!
Date: Wednesday, September 30, 2015 7:54:59 AM

We say NO to public record fees!!!!

Ted and Brenda Welch
Jackson, TN

Sent from my iPad

From: [Shirley Harrison](#)
To: [OpenRecords Comments](#)
Subject: Open Records Comments
Date: Wednesday, September 30, 2015 10:25:14 AM

Sept. 30, 2015

To Whom It May Concern:

I am sending the following comments for the Open Records Public Hearings.

1. NO. We already paid for the records to be created and for the employees' salaries!
2. NO charges for public records. Frequently viewed records should be put on the web.
3. No Charges ever for viewing public records.
4. NO charges for public records.
5. NO charges for public records.

The first question is a loaded one. Questions 2-5 presuppose that I answered "YES" to # 1, which I did not.

Please send out an unbiased set of questions the next time you ask for public comment.

Thank you.

Shirley Harrison
5566 Hubbard Rd.
Lenoir City TN 37771
[865-986-6751](tel:865-986-6751)

From: fisher@tcog.info
To: [OpenRecords Comments](#)
Subject: Comments on inspection of public records
Date: Wednesday, September 30, 2015 10:26:13 AM
Attachments: [TCOG Comments - inspection of public records.docx](#)

Hello,

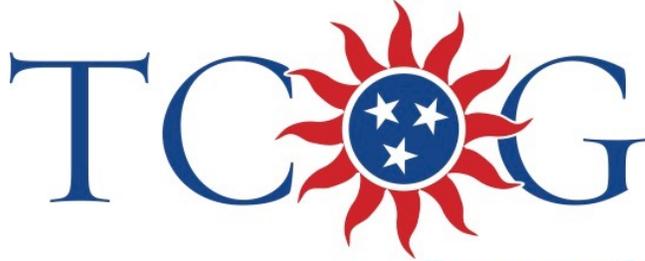
Attached are comments by the Tennessee Coalition for Open Government on inspection of public records.

Thank you,

Deborah Fisher

Executive Director, Tennessee Coalition for Open Government

Type to enter text



Tennessee Coalition for Open Government

Sept. 30, 2015

To: Office of Open Records Counsel
From: Deborah Fisher, executive director, Tennessee Coalition for Open Government

Tennessee Coalition for Open Government is a 12-year-old nonprofit, nonpartisan alliance of media organizations, individual citizens, attorneys who specialize in First Amendment law and nonprofit groups who have interest in good government and open government. We do education, training, and research in an effort to support our mission of promoting and preserving transparency. We appreciate the opportunity to submit comments to the Office of Open Records Counsel in regard to inspection of public records.

We believe that changing Tennessee law to allow government to charge citizens labor fees when they merely want to look at government records will block access to information about what their government is doing.

It would, in effect, create a new exemption to the Tennessee Public Records Act: A record is exempt if you cannot afford the fee set by the government official to see it.

We think that this would cause great harm throughout the state to the ability of citizens to know what their government is doing. Intentionally or unintentionally, we think fees would choke off citizen access to public records.

Following are TCOG's comments to the five questions posed by the Office of Open Records Counsel in gathering comment.

Tennessee Coalition for Open Government
P.O. Box 22248, Nashville TN 37202
(615) 602-4080 | www.tcog.info
"To preserve and improve access to public information"

1. Should the TPRA (Tennessee Public Records Act) permit record custodians to charge for inspection of public records?

No. New fees would choke off citizen access to a wide swath of public records.

Plain and simple, we believe that allowing government to charge per-hour labor fees will block access to public records. Some citizens would not be able to see public records because they would not be able to afford to pay the fee. Changing the state law to permit government to charge citizens to look at public records would create a new exemption to the Tennessee Public Records Act: A record is exempt if you cannot afford the fee set by the government official to see it.

We think that this would cause great harm to the integrity of our government and the ability of citizens to know what their government is doing. By choking off citizen access to public records, we choke off the oversight that is essential in a democracy.

We also believe that some government officials will use fees as a club to keep the public from seeing records that clearly ought to be public.

Per-hour labor fees are easy to inflate and abuse. We recently saw a case in which a local government entity paid an outside lawyer \$250 per hour to handle a public records request (including time spent driving to a meeting). We fear that such exorbitant rates for questionable costs, in this case to the tune of more than \$6,000, would be passed along to the citizen requesting to inspect records under this proposed new law. Any challenge to fees would have to come through a lawsuit, which is often too expensive for a citizen or a media organization. Even then, the deck is stacked against the citizen. There is no penalty for violating the Tennessee Public Records Act. And even if a citizen prevails in a lawsuit, showing how the government blocked access through excessive fees, there is no guarantee the citizen can recover court costs or attorney fees.

New fees to look at public records would also have a chilling effect on journalism in Tennessee. There is no question new fees would reduce the ability of individual journalists and local news organizations to report on government. Many will no longer be able to afford to look at government documents as they are doing now -- particularly large volumes of documents that can help the public understand the impact of public policy, hold government officials accountable and verify accuracy of government statements. The same would be true for non profit and research organizations who use public records for public benefit.

We also think there are better ways to reduce the cost of fulfilling public records requests that don't require blocking citizen access to records. We believe the best place to start is to examine processes, and to use proven techniques to eliminate waste and inefficiency.

Finally, public records have already been paid for by citizens through their taxes. They should not have to pay again to simply look at them.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Since 2008, we've had the Schedule of Reasonable Fees for when someone wants copies of public records.

This Schedule needs an overhaul. It needs to espouse the principles of Tennessee Code 8-4-604 that says, among other things, providing information to the public is an essential function of a representative government and an integral part of the routine duties and responsibilities of public officers and employees; and that excessive fees and other rules shall not be used to hinder access.

Yet, under the Schedule, a school district calculated it could charge a reporter \$2,000 just to find out how much the school district spent for outside lawyers for 1 year.

A Morristown utility used the schedule to say it would charge a TV station \$1,325 before letting a reporter see travel records of top officials – records that eventually came to light and showed much, much more was spent in extravagant and inappropriate trips than any amount spent in making the records available to the journalist.

The Department of Children Services used the Schedule to calculate that it would charge a media organization more than \$55,000 to get records on 200 child death and near-death cases, including time for state employees to physically drive files to Nashville, and then drive them back again.

These are not reasonable fees – they don't encourage common sense or efficiency -- but ostensibly they are thought to be allowed under the Schedule.

The Schedule was imposed without any formal study. There was no effort to modernize the law - for example, giving citizens an option to receive records in digital formats that they are kept in - like a database.

Government entities have been found to exceed their authority.

One has refused to accept records requests by email. Others won't let citizens take photos of public records with smart phones. Still others have been caught imposing charges for copies without getting permission from the local governing authority.

Keep in mind, there is no way in our current law to enforce the Public Records Act or challenge “reasonable fees” except for a citizen filing a lawsuit, which is very expensive.

We need to take a serious look at fixing current problems in our laws and the Schedule before coming up with new fees that will create even more. Changes should be made to the Schedule of Reasonable Charges to address the abuses taking place in the system now when citizens want copies of public records.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

Charges for inspection of public records should not be permitted.

We support making commonly requested documents widely available on a local or state government's website, if they have one. We do not support the idea that some public documents should be free to view and others should come with a price tag.

By allowing a governmental agency, such as the Open Records Counsel, to decide which documents should be "free," you insidiously create a segment of public documents that citizens can't see because they can't afford to pay the fees. This would wrongly allow the Open Records Counsel, through the Schedule of Reasonable Fees, to exempt a very large number of public records (perhaps the majority of public records) from public access for those who cannot afford to pay.

We do not think this power to reduce access to certain public records is or should be vested in the Office of Open Records Counsel. Only the Legislature should be able to make laws exempting public records.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

Charges for inspection of public records should not be permitted.

We believe some of the principles listed in T.C.A. § 8-4-604 are worth repeating here because we do not believe they are being implemented fully in practice in local and state government, nor are they fully supported in the Schedule of Reasonable Fees or the FAQs on the Office of Open Records Counsel website.

Here are some of those principles, in T.C.A. § 8-4-604 (a)(1)(A)(ii), outlining what the Office of Open Records Counsel should consider in the establishment of the Schedule:

(ii) The principles presented by the study committee created by Acts 2006, ch. 887:

(a) That state policies and guidelines shall reflect the policy that providing information to the public is an essential function of a representative government and an integral part of the routine duties and responsibilities of public officers and employees;

(b) That excessive fees and other rules shall not be used to hinder access to nonexempt public information;

(c) That, in accordance with § 10-7-503(a)(7)(A), no charge shall be assessed to view a public record unless otherwise required by law;

(d) That the requestor be given the option of receiving information in any format in which it is maintained by the agency, including electronic format consistent with title 10, chapter 7, part 1; and

(e) That when large-volume requests are involved, information shall be provided in the most efficient and cost-effective manner, including but not limited to permitting the requestor to provide copying equipment or an electronic scanner;

Despite these principles, the Office of Open Records Counsel has given permission to local and state government to prohibit a citizen from using his own copying equipment (such as a smart phone that takes pictures), as well as to refuse to provide documents in the native format in which they are maintained by the agency (such as data in a database format).

The Schedule also does not protect citizens against excessive fees or rules that hinder access. In fact, in the FAQ on its website, the Office of Open Records Counsel suggests that local rules by government limiting access may be permitted. A good example of a record denial based on a local rule is in Sumner County when a local school board denied a public records request because the requester did not follow a local rule of sending the request by U.S. Postal Service.

We also believe that because the cost of redaction is driving up the cost of copies of records, the Office of Open Records Counsel should take proactive measures to study and reduce the need for expensive redaction, including encouraging different methods or using available technology to reduce the cost. Technology is already used in private industry to assist in redactions.

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

The Schedule of Reasonable Charges for copies should be updated annually through a full and robust public process so citizens can review potential changes, weigh in and be heard.

We believe that the Schedule would better serve citizens and government if the Office of Open Records Counsel would only adopt changes to the Schedule that are approved by a broad consensus of the Advisory Committee on Open Government. Currently, the Office does not seek any such approval or consensus from ACOG, which is a broad cross-section of citizen and government representatives appointed by the Comptroller of Tennessee.

Any change to the Schedule should be measured against each of the principles laid out in the law to govern the Office of Open Record's Counsel to develop the schedule.

For example, the Schedule should allow citizens to make their own copies of public records, which is outlined clearly in the principles, but not adopted in the current schedule. Citizens should be allowed to receive electronic copies of records in the native format in which they are stored, which is also outlined in the principles but not in the Schedule.

The Schedule should prohibit or greatly limit per-hour labor fees for copies. Per-hour labor fees were never part of the recommendations by “Sunshine-in-Government” Legislative Committee that studied these issues. Some states have limits such as \$10 per hour, or \$30 per hour, on how much can be charged in labor to make copies of public records. One, West Virginia, got rid of search and retrieval fees altogether.

We believe some of the excessive fees we see for copies now are often tied to overly expensive per-hour processes to review and redact documents by attorneys instead of less expensive staff personnel. The Schedule governing copies should protect citizens against inflated costs by not allowing exorbitant per-hour charges, such as \$250 per hour for an outside lawyer.

The Schedule should prohibit, as many states do, labor charges related to an attorney’s research and advice to a government agency about fulfilling a public records request, but not directly related to the cost of compiling the records themselves.

The Schedule should allow a way - short of a lawsuit - for citizens to challenge and reduce excessive fees associated with getting copies.

The Schedule should prohibit local or agency rules that hinder access, such as allowing a local government to deny a public records request that it receives because of the method in which it was delivered.

From: [Jeremy Elrod](#)
To: [OpenRecords Comments](#)
Cc: [Mike Vinson](#)
Subject: Comments from TMEPA on Charging for Public Records Requests
Date: Wednesday, September 30, 2015 10:44:14 AM
Attachments: [TMEPA Comments on Charging for the Inspection of Public Records.pdf](#)

Attached are comments from the Tennessee Municipal Electric Power Association regarding charging for the inspection of public records. Should you need anything else, do not hesitate to contact us.

Thanks,

JEREMY L. ELROD

Director of Government Relations

Tennessee Municipal Electric Power Association

mobile 615.812.5788 | office 615.373.5738 | fax 615.373.1901

tmepa.org | facebook.com/tnmunielectric | twitter.com/tnmunielectric

TMEPA

Tennessee Municipal Electric Power Association

September 30, 2015

Office of Open Records Counsel
505 Deaderick Street, Suite 1700
James K. Polk Building
Nashville, TN 37243-1402

To Whom It May Concern:

Representing Tennessee's sixty municipal electric systems that serve seventy percent of the state's electric customers, the Tennessee Municipal Electric Power Association (TMEPA) appreciates the opportunity to share with your office our concerns regarding the costs our member systems sometimes bear when records are inspected.

Our member electric systems are proud public entities that operate openly and transparently to its ratepayers. The tradition of public power, where local governments and citizens govern their electric utility, is built upon open governance and public input. For public power to operate in that tradition and to be truly successful, municipal electric systems operate publicly where local governing bodies and ratepayers have a say in how their electric utility is operated.

In the Tennessee Valley and in the state of Tennessee, the public power tradition goes hand in hand with the principle of running a fiscally responsible utility where electric rates are based upon the costs incurred to the utility. Tennessee state law and TVA, the regulator of Tennessee's electric systems, both require municipal electric systems to operate on enterprise fund standards. This requires each municipal electric to recover its costs through its electric rates so that each system stands on its own financially. It also requires the costs of any service or facility use be recovered by the system. This can include the installation of holiday lighting on city streets, utility relocation for public projects, and entities that attach to a system's utility poles. In these examples and many more, a municipal system is required to recover its costs so that ratepayers are not footing the bill for the use of electric systems resources by others.

In regards to the public and ratepayers inspecting the records of a municipal electric system, the tradition of public power and the principle of recovering costs come into conflict. Municipal electric systems must operate openly, publicly, and transparently, but oftentimes for a ratepayer or member of the public to inspect the records of a utility is a cost burden on that utility. As stewards for its ratepayers and their electric rates, a municipal electric system will typically want to recover costs it incurs from outside entities. The utility wants to be a transparent entity, but it must be able to recover costs so that all ratepayers do not subsidize a utility doing work for only a small number of large requests for records inspections.

Granted, not all records inspection requests are the same. Requests to inspect a small amount of records can often be done quickly and without much impact on a system's operations and its employees. These small requests are not a burden for our member systems, and seeking recovery for cost for small requests is not what is being sought. However for large requests, the burden placed on a system can be fiscally and operationally significant. Dedicating employee time and utility resources for large requests places a cost burden that, because they cannot be recovered from the requestor, are passed onto the bottom line of the municipal electric system. The result is that all electric ratepayers are footing the bill for large inspections of records by a very small few.

TMEPA

Tennessee Municipal Electric Power Association

The burden of organizing and producing records for inspection is only increasing as technology finds more ways to create more records. Faxes, emails, voicemails, texts, instant messages, databases, and other electronic documents exist today that didn't exist when the open records statute was first enacted. Today, public records have more ways to be created than ever before. In the past, a request to see all documents related to a project meant just pulling a single file folder out of a file cabinet. Today, a request to see all documents related to a project could mean searching email inboxes, phones, tablets, desktops, laptops, servers, etc. of multiple employees. State law should reflect the new reality where a request to inspect a set of documents is oftentimes no longer an easy task but rather can lead to a pricey dedication of manpower and resources.

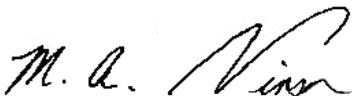
To be clear, requests for inspection of a small amount of documents is not something that a requestor should be charged for. This is simply a cost of a public entity being open and transparent. However, requests for inspection of a large amount of documents is something a municipal electric system should be allowed to recover its costs. These large requests are a fiscal burden, particularly on small municipal electric system with a very small number of employees. To respond to inspection requests, the documents must be searched for, gathered together, examined for sensitive information, redacted where appropriate, and be made available for inspection. Depending upon the request, several employees could be involved for many hours or days. The result is that the salaries of those employees are dedicated to responding to record inspection requests instead of their positions at the utility, with ratepayers paying for employees to respond to these significant inspection requests. A municipal electric system should be an open and transparent entity, but a records requestor should not burden all ratepayers for his/her large record inspection request.

State law and the Office of Open Records Counsel has functioned relatively well in regards to the issue of recovering costs for copies of public records. State law provides good criteria and factors that should be considered when charging for copies of public records, and the Office of Open Records Counsel has become an excellent place for information and mediation of public records requests. The change in state law allowing for the charging of copies of public records ensures municipal electric system ratepayers do not bear the costs of those copies.

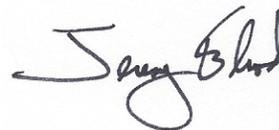
If allowed to recover the costs for the inspection of records, costs should only be recovered for large requests. To determine the how to charge for the inspection, the factors at Tenn. Code Ann. 8-4-604 offer a good set of criteria to guide record custodians. Should any dispute arise between requestor and record custodian, the Office of Open Records Counsel has amassed the credibility among all interested parties to serve as a mediator and place for appeal. This would allow the public entity to recover its costs, but gives the public and any requestor an avenue to involve an unbiased third party to help solve disputes with a record custodian.

Charging for the inspection of public records is a difficult issue, however it is one that must be remedied so Tennessee's municipal electric ratepayers no longer bear the costs of large record inspection requests. We appreciate your office studying this issue, and the open and public process you have conducted is a testament to open government. We hope these comments are beneficial to your work, and we stand ready to provide you with more information should you need it.

Respectfully,



Mike Vinson
Executive Director



Jeremy Elrod, Esq.
Director of Government Relations

From: [Williams, Phil](#)
To: [OpenRecords Comments](#)
Subject: Prepared Remarks, Nashville Public Hearing
Date: Wednesday, September 30, 2015 11:11:36 AM
Attachments: [ACOG PREPARED REMARKS.pdf](#)

Attached are the full remarks that I had prepared for the recent public hearing in Nashville.

Thanks!

Phil Williams, Chief Investigative Reporter
WTVF-TV, NewsChannel 5
474 James Robertson Pkwy, Nashville TN 37219
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PREPARED REMARKS
ADVISORY COMMITTEE ON OPEN GOVERNMENT
September 16, 2015

Phil Williams
Chief Investigative Reporter, WTVF-TV
Member, Board of Directors, Investigative Reporters and Editors (IRE)

First by way of introduction, my name is Phil Williams. I am the chief investigative reporter for WTVF-TV, NewsChannel 5, in Nashville. I also serve on the national board of directors for the Investigative Reporters and Editors. IRE is a grassroots organization that trains journalists across the United States and around the globe to perform the most vital role that a journalist can play -- namely, to act as a watchdog of government, to expose wrongdoing where it exists and to ensure that citizens are armed with information they need to make the informed decisions necessary for democracy. We have members in newsrooms, big and small, across Tennessee -- from Memphis to Johnson City to Chattanooga and points in between.

In making my remarks, I join in the positions taken by the Tennessee Coalition for Open Government.

For my part, I would like to focus on the first question under consideration: Should the Tennessee Public Records Act permit record custodians to charge for inspection of public records?

The answer is an unequivocal "no."

It has been said that the power to tax is the power to destroy. The same principle applies here. What has been proposed would give public officials and public employees a powerful tool to thwart the public's right to know. If such a change were to be implemented, it would deliver a major blow to watchdog and investigative journalism across this state. This proposal comes at a time that news organizations face unprecedented financial pressures as a result of seismic shifts in technology that threaten the revenue streams that have traditionally financed good journalism.

Frankly, some news organizations are now struggling for survival. If this law were to change, I seriously fear the potential impact upon the kind of journalism that is most important for a free society. If you sometimes think the news contains too much silly fluff, just be aware. If this proposal were to be enacted, you might get more of it. That's because this proposal threatens to simply make good, public-interest journalism too expensive. As a result, all Tennesseans will be the losers.

It is also important to note that the most complex government programs, often involving millions and millions of dollars, can only be fully evaluated and understood through detailed public records requests. This proposal threatens that.

My experience has been that frequently the public officials who have the most to hide are the ones who scream the loudest about the burden imposed by the Public Records Act.

Let me give you a couple of specific examples from my personal experience.

Three years ago, my colleagues at NewsChannel 5 and I exposed serious financial improprieties at the Upper Cumberland Development District in Cookeville. The UCDD executive director had poured more than a million dollars of agency money into a luxurious house that had become her home. And there were all sorts of other improper expenditures. As a result of our reporting, the top two agency officials were indicted by a federal grand jury. One has already pleaded guilty, the other is now considering a plea offer from federal prosecutors. Keep in mind, the agency had years and years of clean audits. This wrongdoing was rooted out only through serious, time-consuming investigative reporting. The agency officials involved tried to thwart our inquiries. They tried to come up with excuses to keep from turning over the public records that were critical to exposing their wrongdoing. In some cases, they destroyed records. In one case, they created a bogus document to try to justify a \$300,000 expenditure. Before our investigation was over, we had reviewed more than 6,000 pages of financial records from inside the agency.

Now, imagine if they had been able to charge us for the hours and hours of research involved in processing our public records requests.

Would we have been able to afford to expose the corruption?

Sadly, I have to tell you: I don't know.

Another example to which I would point is our five-year investigation of civil forfeiture practices across Tennessee. We discovered police agencies stopping out-of-state drivers, sometimes under circumstances that appeared to be fabricated, looking for cash that they could seize without charging those drivers with a crime. That practice allowed police to get money to fund their agencies, which is why our investigation was titled "Policing for Profit." The stories that we told of innocent people being victimized by the system gained nationwide attention. It has prompted Tennessee lawmakers to enact reforms, and more reforms are now being considered through an initiative led by House Speaker Beth Harwell's office.

But, again, this inquiry wasn't easy. To demonstrate the problem, we had to analyze hundreds and hundreds of pages of police reports. We had to review hours and hours of police dashcam videos. In some cases, agencies referred my public records

requests to private lawyers to process -- and we all know lawyers are not cheap. In one case, a lawyer sent an email to me, acknowledging the receipt of my public records request by email, but informing me that he would not process that request that he had in hand unless I sent it by U.S. mail. In the interest of not overburdening those agencies, I initially began by asking to review paper reports, then asking for the videos only from the cases that appeared most interesting on paper. As a result, one agency decided to shorten its retention period for those videos so that, by the time I had reviewed the paper reports, the incriminating videos were destroyed.

Now, imagine what would have happened if those agencies had been able to charge me for research fees.

Could we have been able to afford this important area of inquiry?

Again, I don't know, but I fear that the answer is "no."

As you consider this question, let me suggest that you consider the following: In our system of government, who are the bosses? Are the government officials the bosses? Or are the people? What is being considered here is a fairly radical notion. It is a proposal to give the employees of the government the ability to charge their bosses -- in other words, the people -- for the privilege of inspecting the records regarding the people's business.

Let me end with one last example.

Every year, IRE bestows the not-so-coveted Golden Padlock Award to the agency or individual who demonstrates the most unrelenting commitment to undermining the public's right to know.

The winner this past year was the Massachusetts State Police, who "habitually go to extraordinary lengths to thwart public records requests, protect law enforcement and public officials who violate the law and block efforts to scrutinize how the department performs its duties. Requests for basic documents routinely produce refusals ... or demands for tens of thousands of dollars in unjustified fees. Among them, a \$42,750 fee for the log of its public records requests and a \$62,220 fee for records of crashes involving police cruisers." In one case, a "reporter was told to pay a \$710.50 'non-refundable research fee' [just] to get an estimate of the fee he would have to pay to obtain copies of internal affairs reports. One newspaper concluded: "The Massachusetts State Police is a habitual offender -- verging on a career criminal -- when it comes to breaking a state law intended to ensure government is accountable to the people it serves."

That, I would suggest, is a cautionary tale.

I would urge lawmakers not to give government officials a padlock that can be used to keep the people's records away from the people.

Thanks for your consideration.

From: [Frank Gibson](#)
To: [OpenRecords Comments](#)
Cc: ["Greg Sherrill"](#); ["McElroy, Jack"](#); ["Eric Barnes"](#); ["Chris Vass"](#)
Date: Wednesday, September 30, 2015 1:53:18 PM
Attachments: [2015TPAcomments0930final.docx](#)

Ms. Ann Butterworth, JD

Office of Open Records Counsel

Below and attached please find my response to your request for comments on proposed SB328/HB315.

Frank Gibson

Director, Public Policy
Tennessee Press Association
625 Market St., Suite 1100
Knoxville, TN 37902
Cell: 615-202-2685
Email: fgibson@tnpress.com

Should the Tennessee Public Records Act permit record custodians to charge for inspection of public records?

No.

Not now and not until tools exist to prevent fees or fee estimates from being elevated to discourage citizens from making requests or preventing anyone from getting records. Currently exorbitant, excessive labor charges are being used to deny political opponents obviously-public records.

The only enforcement is a prolonged judicial review that is expensive and citizens must pay their own legal expenses, even if they prevail, but the record custodian's fees are covered by the taxpayers. That chills the ability of citizens and journalists to examine work of government, a right guaranteed in the Tennessee Constitution and codified in T.C.A. 10-7-505, which says the law shall "give the fullest possible public access to public records."

Charging to inspect is a monumental and historic step in the wrong direction. The law should not be changed to allow new charges unless and until major weaknesses in the statute are fixed and checks and balances are created. That includes better enforcement and penalties for violations. Imposing excessive fees for getting copies of records should be a violation of the law.

Legislation that lead to the study here predisposed the adoption of fees for inspection by attempting to make it parallel with current copy rules, when the current Schedule of allowable charges, including labor fees, did not result from any true deliberative or objective study. The Schedule was not recommended by the "Sunshine-in-Government" study committee in its 2008 report to the General Assembly. It said the OORC and TCOG should study whether, not how much.

The legislature's Fiscal Review Committee, using information it reported was provided by the Comptroller's office, reported that similar legislation in 2011 (HB1875/SB 1951) would allow the government to collect more than \$1.7 million in new revenue. The fiscal note on the 2015 legislation said the cost would be "Not Significant," but noted that allowing records custodians to impose what amounts to a "pay-per-view" charge will discourage requests to see open records.

The current Schedule included no provision to modernize the law, to give citizen a less expensive option to choose to receive records digitally and in digital formats. Citizens cannot take advantage of the same economies and efficiencies the government enjoys with computer storage, and citizens pay for the computers with their taxes. They cannot even photograph a record.

Some entities have adopted rules that exceed their authority under T.C.A. 10-7-506, which deals only with "reasonable rules" for making copies. The fact Public Chapter 1179 (2008) did not touch language in 10-7-506 has caused confusion. Local government entities should not be allowed to impose changes like those proposed here without a public vote by the local governing body and only after a public hearing where adequate public notice is given.

The proposal in SB328/HB315 was overly broad to address a specific problem stated in legislative negotiations – dealing with alleged voluminous requests. As filed it could affect hundreds of records requests to address a few isolated situations involving large requests, when tools are already available in the law (T.C.A. 8-4-600-604) to deal with these problems. Informal mediation by the ORC is allowed by law and a policy already exists to deal with Frequent and Multiple requests for records.

If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

No, because under the current Schedule there are no controls to prevent excessive and abusive charges. There are numerous documented examples of charges and estimates being unreasonable and many have exceeded the mandate of T.C.A. 10-7-506 for "reasonable rules for making copies." The system is currently being abused because there are no caps on charges and no required system of fee waivers. Public Chapter 1179 (2008) did not permit a comprehensive examination of a fee structure and simply allowed a system that previously had allowed \$1 per page copy charges to be replaced with demands that allow the government to charge the hourly trial court rate to have an attorney in private practice review routine records requests.

Citizens have no way to verify the accuracy of estimates for copies under current law without challenging in court.

Any discussion of fees to inspect records (a "pay-per-view" system) should be deferred until after weaknesses in the law and the current "Schedule" are fixed. The ill-conceived "Schedule" for copies should not become a default for and predispose a regime of charges to examine records. Instead the current Schedule and other policies developed under 2008 amendments to the law should be reconsidered.

Local government entities have been found to be operating without proper rules adopted by their governing authorities, and there has been no audit of which entities may be operating that way without getting proper approval.

If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges?

No, government should not create different classes and categories of records because that could be subject to abuse with different records custodians treating one type of record one way and another custodian treating it another way. That would create confusion.

There is no requirement for mandatory training on the law and rules so the law is applied arbitrarily in many places.

A better system would mandate fee waivers, caps on charges, particularly any charges for labor, and maximize the posting of records on a well-maintained and easy-to-use website.

Records like the ones in question here should certainly be accessible electronically and citizens should be able to get them in the same format in which they are created and maintained.

If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

There should not be a fee to inspect or to copy until all the issues referred to the OORC and ACOG by the legislature's "Sunshine-in-Government" study committee referred to them for further study in its final report to the General Assembly on Dec. 17, 2007. They were never pursued.

The sponsors of SB328/HB315 requested consideration of these factors in an amendment agreed to by them, TSBA and other interested parties, including TCOG and TPA. They were also referenced by sponsors in talking points provided to them when they took the bills off notice in the General Assembly. The amendment included broader instructions such as looking for "innovative ways to reduce the cost to government to fulfill voluminous requests while balancing this with protecting the rights of

citizens to access.”

Before any new fee is adopted there must be a way to ensure the goals of 8-4-604(a)(1)(A)(ii) (a thru e) are implemented, improved and protected. There must be methods in place to enforce the proposition that fees cannot be used to hinder access, that record requesters (section d) must be given the option of receiving information in any format in which it is maintained by the agency, and that (section e) when large-volume requests are involved, information shall be provided in the most efficient and cost-effective manner. That would include but not limited to permitting the requestor to provide copying equipment or an electronic scanner.”

PART III of the “Sunshine-in-Government” study committee’s Dec, 17, 2007 report to the legislature dealt with “Issues to be sent to the office of ombudsperson (NAME WAS CHANGED TO COUNSEL AT REQUEST OF COMPTROLLER’S OFFICE) and the advisory committee for further study and review.” The 18-member panel of government, citizens and media representatives was sending certain issues the ORC and ACOG. Among them were: “with regard to T.C.A. 10-7-506 whether or not to: (1.) Define “reasonable rules” as it relates to fees for copies of public records or providing public information that is stored in electronic form; (2.) Give the person requesting an electronic copy of public information the option of choosing to receive it in any format in which it is maintained by the agency; (3.) Make it clear that fees cannot be excessive nor can they be used to hinder access to public information and the statute should explain that “open to inspection” means the public cannot be charged to inspect; (4.) Amend the statute to clarify that agencies cannot charge to redact information as part of routine requests to inspect public information with a different standard possibly for time-consuming, large volume requests; .”(6.) Require all purchases of computer hardware and software to include a provision that will make it easy and inexpensive to redact exempt information; and (7.) Permit a requester to provide his or her own equipment to scan or copy public records.”

What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

Discussion of new schedule of fees should not default to the current “Schedule” for charging for copies. Consideration of any fees to inspect should start with re-consideration or review of the “Schedule of

Reasonable Charges” because the proposed new fee destroys the balance the OORC/ACOG developed between the 2 separate Schedules – for copies per page versus labor and frequent and multiple requests.

If the Schedule is kept, the rule should adopt affirmative language that suggests more progressive and more transparent policies instead of only obliquely referencing them. “This Schedule of Reasonable Charges should not be interpreted as requiring a records custodian to impose charges for copies” should instead encourage waivers or a reduction of charges. It should be more forceful and assertive in saying entities cannot impose any fees unless there is a rule that is “properly adopted” and “evidenced by a written policy authorized by the governmental entity’s governing authority.”

The Schedule should make it clear the adoption of a local rule cannot go beyond “reasonable rules for making copies” and how much to charge for copies, not how records requests are received and how to respond, and other arbitrary rules that can be used to hinder and obstruct access.

The current “Schedule” was not recommended by the original “Sunshine in Government” study committee and was not the product of a truly open and definitive study. In fact, ACOG was established to study and make recommendations regarding these complex issues and “**whether or not**” such fees should be considered. That and a discussion of issues surrounding electronically stored records were referred to the OORC and ACOG because the “Sunshine” committee ran out of time after 18 months of study. Inexplicably, that follow up, subsequent study was never pursued.

Frank Gibson
Director, Public Policy
Tennessee Press Association
625 Market St., Suite 1100
Knoxville, TN 37902
Cell: 615-202-2685
Email: fgibson@tnpress.com

From: wowco@lightlink.com
To: [OpenRecords Comments](#)
Subject: Inspection of Public Records-No fees please
Date: Wednesday, September 30, 2015 4:27:43 PM

Dear Office of Open Records Counsel Staff Member;

I am writing to ask that the Tennessee Public Records Act (TPRA) remain as is in regards to not allowing custodians to charge for inspection of public records.

As a citizen, I often attend as many public meetings as possible in my city and attempt to understand what is going on locally as well as on some statewide issues. I obviously cannot make all of them. Or not all public records are simply minute meetings. Sometimes, an entity does not post anywhere online their minutes, notes, or other documents that fall under public records. Obviously, if it is online, I can simply find it myself.

A fee to simply look at records-with no costs associated with photocopying, especially when so much is in and organized in electronic form (and thus can be eMailed), would create a hardship on citizens putting in the time and effort to simply try to stay aware.

If I have put in the effort to ask to examine a record, especially if it is complicated for that entity to see if it is open to inspection, then I am not being frivolous about it. I am being an engaged citizen wanting to know something that is within my rights to know more clearly.

Thank you for undertaking this task.

Sincerely,

Deborah Sam
Cookeville, Tennessee

From: [Annie Passino](#)
To: [OpenRecords Comments](#)
Cc: [Anne Davis](#)
Subject: Comment on Charging to Inspect Public Records
Date: Wednesday, September 30, 2015 5:12:06 PM
Attachments: [2015-09-30 SELC Open Records Cmts.pdf](#)

Please find the attached letter in response to the OORC's request for comments on the General Assembly's proposal to charge for the inspection of public records. Please let me know whether you have any difficulty opening the attachment.

Sincerely,

Annie Passino
Staff Attorney
Southern Environmental Law Center
2 Victory Avenue, Suite 500
Nashville, TN 37213
Phone: (615) 921-9470
SouthernEnvironment.org

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September 30, 2015

VIA ELECTRONIC MAIL comments.open.records@cot.tn.gov

Ann Butterworth
Tennessee Office of Open Records Counsel
505 Deaderick Street, Suite 1700
James K. Polk Building
Nashville, Tennessee 37243-1402

Re: Inspection of Public Records

Dear Ms. Butterworth,

Thank you for the opportunity to comment on the proposal to allow Tennessee state agencies to charge fees for inspection of public records. The Southern Environmental Law Center (“SELC”) is a non-profit, regional environmental organization dedicated to the protection of natural resources throughout the Southeast. SELC works extensively on a range of environmental issues and their impact on the people, culture, environment and economy in six Southeastern states—Tennessee, Virginia, North Carolina, South Carolina, Georgia and Alabama. Our work in Tennessee protecting air, water and special places often requires that we access public records, most commonly those held by the Tennessee Department of Conservation and Environment (“TDEC”) as it acts as a U.S. Environmental Protection Agency (“EPA”) delegated agency.

We strongly oppose the proposal to charge for viewing public records. Like most who have commented on this proposal, we believe that access to public records is important—indeed, crucial—to our democratic process. Charging fees to view the records would limit access to those records to those who can afford to view them, and such limitations would be antithetical to our democracy.

Moreover, we believe that with respect to certain records held by TDEC and other agencies, the imposition of any fees to view records would conflict with federal law. The Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act all have very specific mandates to allow opportunities for public participation.

Specifically, for the Clean Water Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act, regulations contained at 40 C.F.R Part 25 set forth “minimum requirements and suggested program elements” for public participation under those statutes.¹

¹ 40 C.F. R. § 25.1; 40 C.F.R. § 25.3(a).

Those requirements include broad “public access to the full documents.”² The regulations provide for public access to the agencies’ documents at locations convenient to the public; the imposition of any fee for viewing such documents would be contrary to plain language and the purpose of the regulations themselves. In fact, the regulations envision that whenever possible, even copies of the documents should be made available to the public free of charge.³

Broad categories of activities carried out by “state . . . and substate agencies”⁴ for the Clean Water Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act are covered by these regulations. For example, they apply to rulemaking; issuing, modifying, and enforcing permits; developing informational materials; developing and implementing plans and programs that use EPA financial assistance; participating in the process by which EPA determines approval of State administration of the following programs in lieu of Federal administration: the Hazardous Waste Program, the NPDES Permit Program, the Dredge and Fill Permit Program, and the Underground Injection Control Program; and other activities EPA deems appropriate in view of its responsibility to involve the public in significant decisions.⁵

Regulations under the Clean Air Act provide for similarly broad access by the public to agency records, including, for example, records relating to state implementation plans and new stationary source permits. These regulations and the Clean Air Act itself envision that relevant documents will be made available to the public for its review.⁶

These regulations are all based on the common sense concept that “[p]roviding information to the public is a necessary prerequisite to meaningful, active public involvement.”⁷

Therefore, because major segments of TDEC’s operations are covered by these regulations, we question whether failure to follow these mandates could cause TDEC to be in noncompliance with these statutes, and at risk losing the delegation by the federal government to

² 40 C.F.R. § 25.4(b)(2) (“Fact sheets, news releases, newsletters, and other similar publications may be used to provide notice that materials are available and to facilitate public understanding of more complex documents, but shall not be a substitute for public access to the full documents.”).

³ 40 C.F.R. § 25.4(b)(4) (“Whenever possible, agencies shall provide copies of documents of interest to the public free of charge. Charges for copies should not exceed prevailing commercial copying costs.”).

⁴ 40 C.F.R. § 25.3(a) (“EPA, State, interstate, and substate agencies carrying out activities described in § 25.2(a) shall provide for, encourage, and assist the participation of the public.”).

⁵ 40 C.F.R. § 25.2(a). *See also* 40 C.F.R. § 122.1(a)(3) (noting separate provisions for public participation under NPDES program). Terence J. Centner, Challenging Npdes Permits Granted Without Public Participation, 38 B.C. Env’tl. Aff. L. Rev. 1, 14 (2011) (“For many permits issued under the authority of the CWA, general participation regulations apply. General participation regulations require agencies to: share information with the public; delineate requirements for public hearings; follow protocol when holding public hearings; acknowledge advisory groups, and recommend involvement of groups in public participation; prepare summaries identifying participation activities; delineate procedures for permit enforcement and the investigation of alleged violations; and require public participation in rulemaking.”).

⁶ *See also* 40 C.F.R. § 60.23; 40 C.F.R. § 51.102.

⁷ 40 C.F.R. § 25.4(b)(1).

enforce these federal laws.⁸ Thus, in addition to our significant concerns about the benefit of open access to records to our democratic process, these additional concerns support citizens' continued access to public records free of charge.

Respectfully Submitted,



Delta Anne Davis
Managing Attorney
Nashville Office
Southern Environmental Law Center

⁸ 40 C.F.R. § 25.12(b) (“State compliance with applicable public participation requirements in programs specified in § 25.2(a)(6) and (7) [*i.e.*, Construction Grants, Hazardous Waste Program, NPDES Permit Program, Dredge and Fill Permit Program, Underground Injection Control Program] and administered by approved States shall be monitored by EPA during the annual review of the State's program, and during any financial or program audit or review of these programs. EPA may withdraw an approved program from a State for failure to comply with applicable public participation requirements.”); 40 C.F.R. § 123.63(a)(2)(iii) (“Failure to comply with the public participation requirements of this part.”)

From: [Sarah Dailey](#)
To: [OpenRecords Comments](#)
Date: Wednesday, September 30, 2015 7:27:28 PM

After reading about HB-315/SB-315 (sponsored by Sen. Jim Tracy, R-Shelbyville, and Rep. Steve McDaniel, R-Parkers Crossroads, charging fees for public record requests), I worry officials new to politics may not see a consistent reason to allow public records to be viewed for free or maybe established local officials have grown tired of the back and forth. Claiming that providing record requests is costly and a burden (it's 2015!), is unnecessary. No matter how annoying, officials have to rise to the challenge of record requests and complaints. We shouldn't be walking around with our wallets open and our mouths closed. It isn't "us vs. them".

It is important to share with you that I oppose charging taxpayers to view records of the departments that we fund.

I recognize all our officials' efforts and value their roles.

Thanks for all you do!

Sarah L. Dailey
145 Giffin, Loudon Tn
From one of the poorest states in the nation

From: [Pat Hunter](#)
To: [OpenRecords Comments](#)
Cc: [Senator Randy McNally](#); rep.jimmy.matlock@capitol.tn.gov; [Jack McElroy](#); fisher@tcog.info
Subject: Written responses to Questions 1 - 5
Date: Wednesday, September 30, 2015 10:36:41 PM
Importance: High

September 30, 2015

To: Tennessee Office of Open Records Counsel & Tennessee Advisory Committee on Open Government Committee members

I would like to thank you for affording me the opportunity to express my views at the Sept. Knoxville OORC Public Hearing. I did not want to take time from other speakers so I did not address the remainder of the questions.

With regard to questions 1, 2, 3, 4, and 5, we agree with the responses prepared by TCOG, and Mr. Herb Moncier's (provided below with this email). We do not support proposed new fees to inspect public records. Charging for the inspection of public records would be a setback for open government, transparency and accountability. Public records are a gateway to information about how our government works, and we as citizens have a right to know how our government is proceeding.

1. As residents of the State of Tennessee, our family pays local property tax and sales tax, state and federal taxes, which in turn generate revenue to fund all facets of local, state and/or federal government and school boards, agencies, etc. Our hard-earned money goes to pay for employee (personnel) wages and salaries and benefits, supplies, paper, and contracts to maintain equipment for government. Government employees create the records in the course of their duties, and the records should be properly maintained and stored, and readily available for inspection and/or copies.
2. If local government was allowed to charge fees for records inspection, the cost could be prohibitive given that the county attorney (\$250 per hour) is routinely contacted by the county mayor's office (records custodian) to respond to open records requests. Electronic records should be emailed and there should be no charge. Electronic records can easily be transferred to CDs and/or flash drives provided by the person requesting the records. There should be no fee or charges.

3. Regarding the “frivolous” public records request (Truitt) example given by Loudon County Mayor Buddy Bradshaw; legal fees alone of \$6630 would make this records request cost prohibitive to the ordinary citizen! Who could afford to inspect public records if exorbitant legal fees were incorporated to new inspection fees? This would be an excellent way for government officials to slam the door to ordinary citizens!
4. There were less costly ways to process Mr. Truitt’s public records request had the mayor’s staff contacted e.g. CTAS consultants, CTAS legal, Office of Open Records Counsel. And, as far as printing 2400 electronic records; what a big waste of employee time and staffing when ALL EMAILS (electronic mail) could have easily been forwarded, transferred (electronic files) to another computer, flash drive or CD. There was absolutely NO good reason to print out over 2400 electronic records!
5. More needs to be done to bring government into the digital age, with best practice and good records management. The State Comptroller’s Office did away with hard copy audits years ago. Please incorporate what state agencies have done for years.
6. At the Knoxville public hearing, I heard testimony from government employees about the inordinate amount of time devoted to and/or cost associated with providing public records, which may contain confidential information. This is the digital age; inexpensive software includes editing features to make records confidential! The records should be made confidential at the time the records are created so there is a public and a confidential file.
7. Records custodians should be properly trained by CTAS-UT, Office of Open Records Counsel, etc. This would make the records custodian’s job easier and would greatly benefit citizens who make records request.
8. Loudon County taxpayers pay for two IT (BOE & County) Departments. The BOE does not post informational packets to their website. And

Loudon County gov picks and chooses what informational packet is posted to the county website. The informational packets provided to the public should be complete just as the information proved to county officials and posted to website for public view. This would also cut down on the number of records requests. Counties like Loudon County have the resources to do so. Eight years ago, Loudon County created an IT Dept for the express purpose of providing more information on the website for citizens.

9. Anderson County Mayor Terry Frank spoke about creating a citizen friendly portal for citizens and press. We wholeheartedly agree.

10. Lastly, in Loudon County, some public records are kept in the personal residences of some public officials. I hope this matter is addressed by the OORC and TAC. Before Ms. Elisha Hodge left the OORC, I brought this matter to her attention and she suggested that I speak with the county attorney. I tried but to no avail. He said that he works for the county mayor, not the taxpayers. It's my understanding that state law does not specify where public records are to be kept. Loudon County has no county public records commission, perhaps if we did, the CPRC could address these issues. No public official should be permitted to keep public records in their personal residences. This makes the public records inaccessible to the public.

We respectfully request that our state representatives, Senator McNally and Representative McNally vote NO regarding the proposed legislative bill to charge fees to citizens for inspecting public records.

Thank you for your consideration, time and patience.

Pat & Richard Hunter

Lenoir City, TN

CC: Senator McNally, Rep. Jimmy Matlock, Jack McElroy, Deborah Fisher-TCOG

Herbert S. Moncier,
Knoxville

Right to see records in state constitution

Regarding the questions about charging fees to inspect records that belong to the people, the people of Tennessee provided an answer in Article I, Section 19 of their Constitution: “That the printing presses shall be free to every person to examine the proceedings of the Legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof.”

Charging for the right of the people to inspect records of government proceedings that belong to the people is a law made to restrain that right.

It is as though our forefathers who wrote our state constitution believed that sometime in the future the Legislature may consider restrictions on the right of the people to inspect by making the people pay for that right. I envision those patriots sitting in a room with a fire, drinking grogs of ale in their buckled shoes, stockings, knickers and wigs, and while smoking long pipes trying to figure out how to tell us today they meant what they said, that “no law shall ever be made to restrain the right” to inspect records of government in Tennessee.

Then, almost mocking what we are doing today, a notion occurred to simply divest the Legislature from authority to pass a “law to restrain the right” to inspect government records in Tennessee. That notion became part of our constitution in Article XI, Sec. 16: “The declaration of rights hereto prefixed is declared to be a part of the Constitution of this State, and shall never be violated on any pretence whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the bill of rights contained, is excepted out of the General powers of government, and shall forever remain inviolate.”

Tennessee Coalition for Open Government

1. Should the TPRA (Tennessee Public Records Act) permit record custodians to charge for inspection of public records?

No. [New fees would choke off citizen access to a wide swath of public records.](#)

Plain and simple, we believe that allowing government to charge per-hour labor fees will block access to public records. Some citizens will not be able to see public records because they cannot afford to pay the fee. Changing the state law to permit government to charge citizens to look at public records would create a new exemption to the Tennessee Public Records Act: A record is exempt if you cannot afford the fee set by the government official to see it. We think that this would cause great harm to the integrity of our government and the ability of citizens to know what their government is doing. By choking off citizen access to public records, we choke off the oversight that is essential in a democracy.

We also believe that some government officials will use fees as a club to keep the public from seeing records that clearly ought to be public.

Per-hour labor fees are easy to inflate and abuse. We recently saw a case in which a local government entity paid an [outside lawyer \\$250 per hour](#) to handle a public records request (including time spent driving to a meeting). Such exorbitant rates for questionable costs, in this case to the tune of more than \$6,000, would be passed along to the citizen requesting to inspect records under this proposed new law. Any challenge to fees would have to come through a lawsuit, which is often too expensive for a citizen or a media organization. Even then, the deck is stacked against the citizen. There is no penalty for violating the Tennessee Public Records Act. And even if a citizen prevails in a lawsuit, showing how the government violated the law through excessive fees, there is no guarantee the citizen can recover court costs or attorney fees.

New fees to look at public records would also have a chilling effect on journalism in Tennessee. There is no question new fees would reduce the ability of individual journalists and local news organizations to report on government. Many will no longer be able to afford to look at government documents as they are doing now — particularly large volumes of documents that can help the public understand the impact of public policy, hold government officials accountable and verify accuracy of government statements.

We also think there are better ways to reduce the cost of fulfilling public records requests that don't require blocking citizen access to records. We believe the best place to start is to examine processes, and to use proven

techniques to eliminate waste and inefficiency.

Finally, public records have already been paid for by citizens through their taxes. They should not have to pay again to simply look at them.

2. If charges for inspection are permitted, should charges for inspection be governed in a manner similar to charges for duplication (Schedule of Reasonable Charges)? If not, why not?

Charges for inspection of public records should not be permitted. But changes should be made to the [Schedule of Reasonable Charges](#) to address the abuses taking place in the system now when citizens want copies of public records.

The Schedule should prohibit or greatly limit per-hour labor fees for copies.

Per-hour labor fees were never part of the recommendations by “Sunshine-in-Government” Legislative Committee that studied these issues.

We believe some of the excessive fees we see for copies now are often tied to overly expensive per-hour processes to review and redact documents by attorneys instead of less expensive staff personnel. We believe that other less expensive ways to fulfill public records request are available, but have not been embraced, nor studied. We also believe that some government officials have used per-hour labor fees as a way to discourage, hinder or delay access.

The Schedule also should prohibit per-hour attorney charges related to an attorney’s research and advice to a government agency about fulfilling a public records request, but not directly related to the cost of compiling the records themselves.

The Schedule also should prohibit per-hour attorney charges related to an attorney’s research and advice to a government agency about fulfilling a public records request, but not directly related to the cost of compiling the records themselves.

The Schedule should allow a way – short of a lawsuit – for citizens to challenge and reduce excessive fees associated with getting copies.

3. If charges for inspection are permitted, should any public records such as meeting minutes, agendas, and audit reports be exempted from inspection charges? Why?

Charges for inspection of public records should not be permitted.

We support making commonly requested documents widely available on a local or state government’s website, if they have one. We do not support the idea that some public documents should be free to view and others should come with a price tag.

By allowing a governmental agency, such as the Open Records Counsel, to decide which documents should be “free,” you insidiously create a segment of public documents that citizens can’t see because they can’t afford to pay the

fees. This would wrongly allow the Open Records Counsel, through the Schedule of Reasonable Fees, to exempt a very large number of public records (perhaps the majority of public records) from public access for those who cannot afford to pay.

We do not think this power to reduce access to certain public records is or should be vested in the Office of Open Records Counsel. Only the Legislature should be able to make laws exempting public records.

4. If charges for inspection are permitted, should the factors listed in Tenn. Code Ann. Section 8-4-604 related to charges for copies be considered for inspection? If not, why not?

Charges for inspection of public records should not be permitted.

We believe [some of the principles listed in T.C.A. § 8-4-604](#) are worth repeating here because we do not believe they are being implemented fully in practice in local and state government, nor are they fully supported in the Schedule of Reasonable Fees or the [FAQs](#) on the Office of Open Records Counsel website. Here are some of those principles, in T.C.A. § 8-4-604 (a)(1)(A)(ii), outlining what the Office of Open Records Counsel should consider in the establishment of the Schedule:

(ii) The principles presented by the study committee created by Acts 2006, ch. 887:

(a) That state policies and guidelines shall reflect the policy that providing information to the public is an essential function of a representative government and an integral part of the routine duties and responsibilities of public officers and employees;

(b) That excessive fees and other rules shall not be used to hinder access to nonexempt public information;

(c) That, in accordance with § 10-7-503(a)(7)(A), no charge shall be assessed to view a public record unless otherwise required by law;

(d) That the requestor be given the option of receiving information in any format in which it is maintained by the agency, including electronic format consistent with title 10, chapter 7, part 1; and

(e) That when large-volume requests are involved, information shall be provided in the most efficient and cost-effective manner, including but not limited to permitting the requestor to provide copying equipment or an electronic scanner;

Despite these principles, the Office of Open Records Counsel has given permission to local and state government to prohibit a citizen from using his own copying equipment (such as a smart phone that takes pictures), as well as to refuse to provide documents in the native format in which they are maintained by the agency (such as data in a database format).

The Schedule also does not protect citizens against excessive fees or rules that hinder access. In fact, [in the FAQ on its website](#), the Office of Open Records Counsel suggests that local rules by government limiting access may be permitted. A good example of a record denial based on a local rule is in Sumner County [when a local school board denied a public records request](#) because the requester did not follow a local rule of sending the request by U.S. Postal Service.

We also believe that because the cost of redaction is driving up the cost of copies of records, the Office of Open Records Counsel should take proactive measures to study and reduce the need for expensive redaction, including encouraging different methods or using available technology to reduce the cost.

5. What amendments or changes should be made to the current Schedule for Reasonable Charges related to duplication of records? Why?

The [Schedule of Reasonable Charges](#) for copies should be updated annually through a full and robust public process so citizens can review potential changes, weigh in and be heard.

We believe that the Schedule would better serve citizens and government if the Office of Open Records Counsel would only adopt changes to the Schedule that are approved by a broad consensus of the [Advisory Committee on Open Government](#). Currently, the Office does not seek any such approval or consensus from ACOG, which is a broad cross-section of citizen and government representatives appointed by the Comptroller of Tennessee. Any change to the Schedule should be measured against each of the principles laid out in the law to govern the Office of Open Record's Counsel to develop the schedule.

For example, the Schedule should allow citizens to make their own copies of public records, which is outlined clearly in the principles, but not adopted in the current schedule. Citizens should be allowed to receive electronic copies of records in the native format in which they are stored, which is also outlined in

the principles but not in the Schedule.

The Schedule governing copies should protect citizens against inflated costs by not allowing exorbitant per-hour charges, such as \$250 per hour for an outside lawyer.

The Schedule should prohibit local or agency rules that hinder access.