

HB 138-FN – AS INTRODUCED

2015 SESSION

15-0071  
01/03

HOUSE BILL            ***138-FN***

AN ACT                relative to inspection of governmental records under the right-to-know law.

SPONSORS:            Rep. Horrigan, Straf 6; Rep. Wall, Straf 6; Rep. M. Smith, Straf 6; Sen. Boutin,  
Dist 16

COMMITTEE:          Judiciary

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ANALYSIS

This bill clarifies that a public body or agency shall not charge a fee to make a governmental record available for public inspection; provided, that a fee may still be charged for the actual cost of copying a public record.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                                Matter removed from current law appears [~~in brackets and struck through.~~]  
                                Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fifteen*

AN ACT                   relative to inspection of governmental records under the right-to-know law.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 Right-to-Know Law; Public Inspection of Governmental Records. Amend RSA 91-A:4, IV to  
2 read as follows:

3           IV. Each public body or agency shall, upon request for any governmental record reasonably  
4 described, make available for inspection and copying any such governmental record within its files  
5 when such records are immediately available for such release. If a public body or agency is unable to  
6 make a governmental record available for immediate inspection and copying, it shall, within 5  
7 business days of request, make such record available, deny the request in writing with reasons, or  
8 furnish written acknowledgment of the receipt of the request and a statement of the time reasonably  
9 necessary to determine whether the request shall be granted or denied. ***No fee shall be charged to***  
10 ***make a governmental record available for inspection.*** If a computer, photocopying machine, or  
11 other device maintained for use by a public body or agency is used by the public body or agency to  
12 copy the governmental record requested, the person requesting the copy may be charged the actual  
13 cost of providing the copy, which cost may be collected by the public body or agency. Nothing in this  
14 section shall exempt any person from paying fees otherwise established by law for obtaining copies of  
15 governmental records or documents, but if such fee is established for the copy, no additional costs or  
16 fees shall be charged.

17           2 Effective Date. This act shall take effect January 1, 2016.

LBAO  
15-0071  
12/24/14

## HB 138-FN - FISCAL NOTE

AN ACT                    relative to inspection of governmental records under the right-to-know law.

### FISCAL IMPACT:

The Department of Administrative Services and Department of Justice state this bill, as introduced, may decrease state revenue by an indeterminable amount in FY 2016 and each year thereafter. The New Hampshire Municipal Association states this bill may decrease local revenue by an indeterminable amount in FY 2016 and each year thereafter. There is no impact on state, county or local expenditures or county revenue.

### METHODOLOGY:

The Department of Administrative Services states this bill specifies no fee may be charged for making a governmental record available for inspection. The Department states that state agencies generally respond directly to “right-to-know” requests. The Department does not have any information on how many, if any, state agencies currently charge a fee for making a record available to determine any decrease in revenue. In responding to “right-to-know” requests the Department has not interpreted existing law to allow for the charging of a fee to make a governmental record available for inspection. Therefore, this bill has no direct fiscal impact on the Department of Administrative Services.

The Department of Justice states it often receives requests to inspect agency records containing confidential or otherwise exempt information. In those circumstances the documents are copied and exempt information redacted prior to making the documents available for public inspection. This bill would prohibit the Department from charging a fee for the cost of copying a document and preparing it for public inspection. The Department is not able to determine the exact fiscal impact as it does not know the number of requests that will be made or the number and type of documents that are the subject of a request.

The New Hampshire Municipal Association states this bill may decrease revenue to municipalities to the extent they had interpreted existing law to allow for charging a fee simply for making a record available for inspection. The Association has no information on how many, if any, municipalities currently charge a fee for making a record available to determine any decrease in revenue.

The New Hampshire Association of Counties states this bill will have no impact on county revenue or expenditures. The Association states it does not charge a fee to make a governmental record available for public inspection, only for the actual cost of copying a record.