

Regular Session, 2010

HOUSE BILL NO. 672

BY REPRESENTATIVE LEGER

PUBLIC RECORDS: Requires that copies of public records be provided in an electronic format unless it creates an undue burden on the custodian or compromises the security of proprietary software

1 AN ACT

2 To amend and reenact R.S. 44:32(C)(1)(a) and (2), relative to the production of public
3 records; to require copies of public records to be delivered in an electronic format
4 except under certain circumstances; to provide relative to the fees for such copies;
5 to provide for penalties; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 44:32(C)(1)(a) and (2) are hereby amended and reenacted to read as
8 follows:

9 §32. Duty to permit examination; prevention of alteration; payment for overtime;
10 copies provided; fees.

11 * * *

12 C.(1)(a) For all public records, except public records of state agencies, it
13 shall be the duty of the custodian of such public records to provide copies to persons
14 so requesting. Copies of a public record shall be delivered in an electronic format
15 unless paper copies are requested; however, the custodian shall not be required to
16 deliver a copy of the record in an electronic format if delivery in an electronic format
17 would create an undue burden on the custodian or would compromise the security
18 of any proprietary software. The custodian bears the burden of proving that a
19 requested record cannot be delivered in an electronic format because it would create

DIGEST

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Leger

HB No. 672

Abstract: Requires that copies of public records be provided in an electronic format unless it creates an undue burden on the custodian or compromises the security of proprietary software. Provides that certain custodians may only charge the actual cost for delivery of the record in an electronic format.

Present law (R.S. 44:1 et seq.) provides that any person of the age of majority may inspect, copy, or reproduce such a record and provides that any person may obtain a reproduction of any public record. Provides procedures for request and presentation of the record requested. Provides that it is the duty of the custodian of a public record to provide copies to persons so requesting. Authorizes the custodian of a public record (except those of state agencies) to establish and collect reasonable fees for making copies of public records. For public records of state agencies, provides that the fees charged for copies shall be according to the uniform fee schedule adopted by the commissioner of administration.

Proposed law requires copies of a public record to be delivered in an electronic format unless paper copies are requested. Provides that the custodian shall not be required to deliver a copy of the record in an electronic format if delivery in an electronic format would create an undue burden or would compromise the security of any proprietary software. Specifies that the custodian bears the burden of proving that a requested record cannot be delivered in an electronic format because it would create an undue burden or would compromise the security of any proprietary software. For public records other than records of state agencies provides that the custodian may charge only actual costs incurred for delivery of a record in an electronic format and otherwise retains present law provisions regarding fees for other copies, including those of state agencies.

Present law provides penalties for violations of the public records laws and provides that a person who has custody or control of a public record who violates the laws relative to public records, or a person not having such custody or control who by any conspiracy, understanding, or cooperation with any other person hinders or attempts to hinder the inspection of any public record subject to inspection, shall upon first conviction be fined not less than \$100 and not more than \$1,000, or shall be imprisoned for not less than one month nor more than six months. Provides that upon a subsequent conviction, he shall be fined not less than \$250 and not more than \$2,000, or imprisoned for not less than two months nor more than six months, or both.

(Amends R.S.44:32(C)(1)(a) and (2))