2018 SESSION

18-2671
01/05

HOUSE BILL ***1789-FN-LOCAL***

AN ACT relative to costs of requests which are in electronic format under the right-to-know law.

SPONSORS: Rep. Verville, Rock. 2

COMMITTEE: Judiciary

ANALYSIS

This bill declares that there shall be no costs charged for delivery of electronic governmental records under the right-to-know law.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1789-FN-LOCAL - AS INTRODUCED

18-2671
01/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to costs of requests which are in electronic format under the right-to-know law.

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

1 Right-to-Know Law; Minutes and Records Available for Public Inspection. Amend RSA 91-A:4, IV to read as follows:

IV. Each public body or agency shall, upon request for any governmental record reasonably described, make available for inspection and copying any such governmental record within its files when such records are immediately available for such release. If a public body or agency is unable to make a governmental record available for immediate inspection and copying, it shall, within 5 business days of request, make such record available, deny the request in writing with reasons, or furnish written acknowledgment of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied. If a computer, photocopying machine, or other device maintained for use by a public body or agency is used by the public body or agency to copy the governmental record requested, the person requesting the copy may be charged the actual cost of providing the copy, which cost may be collected by the public body or agency. No fee shall be charged for the inspection or delivery, without copying, of governmental records, whether in paper, electronic, or other form. ***No costs shall be charged for delivery of governmental records which are in electronic format.*** Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of governmental records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

2 Effective Date. This act shall take effect January 1, 2019.

LBAO
18-2671
12/5/17

HB 1789-FN-LOCAL- FISCAL NOTE
AS INTRODUCED

AN ACT relative to costs of requests which are in electronic format under the right-to-know law.

FISCAL IMPACT: [X] State [ ] County [X] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Appropriation	$0	$0	$0	$0
Revenue	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	$0	$0	$0	$0
Funding Source:	[X] General [ ] Education [ ] Highway [X] Other - Various Government Funds			

LOCAL:

Revenue	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	$0	$0	$0	$0

METHODOLOGY:

This bill prohibits charging for delivery of governmental records which are in an electronic format.

The Judicial Branch indicates it provides information to the public pursuant to its obligation under Part I, Article 8 of the New Hampshire Constitution that "the public's right of access to governmental proceedings and records shall not be unreasonably restricted". The Branch looks to RSA 91-A, the right-to-know law, for guidance in fulfilling its constitutional obligation. The Branch does not anticipate this bill would have a fiscal impact on the Branch greater than $10,000.

The New Hampshire Municipal Association states this bill may decrease municipal revenue by an indeterminable amount. The Association indicates, under current law, a public body or agency may copy a requested record onto a separate storage device and charge for the cost of the device. Prohibiting this practice would result in a decrease in municipal revenue in some cases. The amount would depend on the municipality, the number and nature of requests and the cost of storage devices. The Association is not able to determine the possible decrease in local revenues.

The Department of Administrative Services states RSA 91-A applies to public records at all levels of government including the state, counties and local government. Current law allows public entities to charge the actual cost of providing copies in paper or electronic form. The Department indicates the fiscal impact of this bill cannot be determined since the current practice of these entities is not known and it is unknown how those practices may change as a result of this bill.

The Department of Justice states this bill would have no fiscal impact on the Department because it does not currently charge for electronic copies of information for right-to-know requests.

The Office of Professional Licensure and Certification states this bill would not impact the Office since it currently does not charge for information delivered electronically in response to right-to-know requests.

The New Hampshire Association of Counties determined this bill would have no fiscal impact on county revenues or expenditures.

AGENCIES CONTACTED:

Judicial Branch, Departments of Administrative Services and Justice, Office of Professional Licensure and Certification, New Hampshire Municipal Association and New Hampshire Association of Counties