

**STATE and LOCAL
FISCAL IMPACT**

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Prime Sponsor(s): Rep. Salazar Sen. Kefalas	Bill Status: House Local Government
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SHORT TITLE: RESEARCH RETRIEVAL FEES PUBLIC RECORDS UNDER CORA

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue	Minimal decrease - Multiple agencies.	
State Expenditures	Minimal increase.	
FTE Position Change		
Appropriation Required: None.		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

The bill places the following limits on custodians of public records under the Colorado Open Records Act (CORA):

- hourly fees for research and retrieval of records cannot exceed three times the state minimum wage;
- a custodian may only charge a fee for research and retrieval of records if the custodian's policies concerning research and retrieval of documents are posted on the custodian's website or otherwise published; and
- any fee the custodian charges must be "nominal" in comparison to the time the custodian spends responding to the volume of the request.

State Revenue

The bill is expected to decrease fee revenue from CORA requesters to some state agencies that currently charge fees that are more than three times the state minimum wage. Generally, this impact is expected to be minimal, as discussed below.

Assumptions. As of January 1, 2014, the state minimum wage is \$8.00 per hour; resulting in an allowable research and retrieval fee of \$24.00 per hour under the bill. Based on expected inflation adjustments to the state minimum wage, the allowable hourly fee is expected to increase to \$24.69 in 2015 and \$25.31 in 2016.

Potential change in research and retrieval fees. Agencies that charge less than \$24 per hour will have no change in CORA fee revenue; agencies that charge more than this amount will be required to lower their fees to within the limit specified by the bill, which will reduce fee revenue to these agencies. Given that most state agencies have research and retrieval fees between \$20 and \$30 per hour, the impact to any given agency is expected to be minimal.

Nominal fees. The bill requires custodians to charge a nominal fee in comparison to the time the custodian spends responding to the volume of the request. This requirement codifies existing case law concerning CORA fees and is not expected to impact fees collected by state agencies. According to the Office of Legislative Legal Services, prior court decisions have limited CORA research and retrieval fees to "nominal" amounts, which has been interpreted to mean that agencies cannot use the fees to recoup their actual costs of research and retrieval. These court decisions have approved fees of various amounts, typically in the range of \$20 to \$25 per hour. Thus, the limit of three times the state minimum wage is assumed to fit the definition of "nominal" and no additional impact on state agencies is expected beyond what is discussed above.

State Expenditures

The bill may increase workload in state agencies by a small amount to update CORA fees and policies to comply with the bill and to post policies on their web sites in order to collect fees. These tasks are expected to minimally increase workload and no new appropriations are required.

Local Government Impact

To the extent that any local governments charge CORA fees higher than three times the state minimum wage, these entities will be required to lower their CORA fees for research and retrieval of public records. Assuming local governments are in compliance with prior case law limiting CORA research and retrieval fees to nominal amounts, the fee limit in the bill is expected to have a minimal impact on revenues to local governments. Local governments may also have a small amount of workload to update CORA policies and to publish policies on their web sites.

Effective Date

The bill takes effect July 1, 2014.

State and Local Government Contacts

All Departments