

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 768

2024 Regular Session

Farnum

PUBLIC RECORDS: Provides relative to custodian liability for public records requests

Synopsis of Senate Amendments

1. Remove proposed law providing that certain persons specifically authorized by the custodian to respond to a public records request are liable for penalties or damages for failure to comply with the enforcement provisions.
2. Provide that no person shall be personally liable for any penalty assessed for a custodian of public records' arbitrary or capricious withholding of records or failure to respond to a public records request and that the public body shall be responsible for such penalties.
3. Provide an effective date.

Digest of Bill as Finally Passed by Senate

Present law provides that any person who has been denied the right to inspect, copy, reproduce, or obtain a copy or reproduction of a record pursuant to the Public Records Law may institute proceedings for the issuance of a writ of mandamus, injunctive or declaratory relief, together with attorney fees, costs and damages.

Present law provides that a person who prevails in such suit seeking public records shall be awarded reasonable attorney fees and other costs of litigation.

Present law provides that if the court finds that the custodian arbitrarily or capriciously withheld the requested record it may award the requestor any actual damages. If the court finds that the custodian unreasonably or arbitrarily failed to respond to the request, it may award the requestor any actual damages in addition to civil penalties not to exceed \$100 per day for each day of failure to give notification.

Proposed law retains present law.

Present law provides that the custodian shall be personally liable for the payment of damages for arbitrary and capricious withholding of records or failure to respond to a request. Provides that the custodian shall be liable in solido with the public body for the payment of the requestor's attorney fees and other costs of litigation, except where the custodian has withheld or denied production of the requested record or records on advice of legal counsel representing the public body. In the event the custodian retains private legal counsel for his defense or for bringing suit against the requestor in connection with the request for records, the court may award attorney fees to the custodian.

Proposed law repeals present law and instead provides that no person shall be personally liable for penalties, damages, civil penalties, attorney fees, or other costs of litigation, assessed for failure to comply with the enforcement provisions and that the public body shall be responsible for the penalties.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 44:35(E))