

Updating Public Records Statutes – HB 377

(34-LS1196\I)

Sponsor: House State Affairs Committee By Request of the City of Fairbanks

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HB 377 Overview

Provides conforming language for the State Records Management Act (Sec 1), and the Alaska Public Records Act (Sec 3) to specify that audio and video records are included in the definition of public records.

Establishes an exemption from the “five-hour rule” for municipalities (Sec 2). This will allow municipalities to collect fees on the production of public records to recoup “actual personnel costs.”



What is the Five-Hour Rule?

- The five-hour rule is established as part of the Alaska Public Records Act in AS 40.25.110(c).
- It specifies that if someone requests a public record that takes more than five hours to produce in one month, the requester must pay a fee.
- In other words, if the record does not take five hours to produce, the requester is not required to pay a fee.
- There are several exemptions from the five-hour rule.



Existing exemptions from the Five-Hour Rule

- Current exemptions are established in AS 40.25.110 (e) – (h)
- Bureau of Vital Statistics and the library archives in the Department of Education and Early Development (e).
- The Department of Commerce, Community, and Economic Development for matters relating to banking, securities, and corporations (e).
- The board of regents of the University of Alaska (f).
- The Alaska Railroad Corporation (g).
- The judicial branch (h).



A new exemption for municipalities.

- Section 2 of HB 377 (34-LS1196\I) establishes a sixth exemption from the five-hour rule for municipalities.
- It gives municipalities the authority to charge a fee for the “actual personnel costs” of producing public records.
- It specifies that personnel costs may not exceed the actual salary and benefit costs for the personnel time required to produce the public record.
- It also requires that the requester pay costs before the records are disclosed and allows municipalities to require payment in advance of the search.



Why is this exemption necessary?

- The five-hour rule can be taken advantage of by content creators to get free police body cam footage for social media content.
- This type of request is the most frequent type for the Fairbanks Police Department.
- This type of request is very time-consuming, as it needs to be reviewed and confidential information redacted.
- Allowing cost recovery for the actual personnel costs will allow municipalities around the state to recoup the costs of public records production.
- Importantly, municipalities are not required to impose a fee.
 - Additionally, AS 40.25.110(d) says that public agencies may reduce or waive fees – that authority is not changed by this bill.



HB 377 Conclusion

- Modernizes the definition of public records.
- Provides municipalities with the authority to charge fees for public records, which provides financial flexibility!
 - This legislative priority has received bipartisan support in Fairbanks. It has been supported by former Mayor Dave Pruhs (R) and current Mayor Mindy O’Neill (D).

Thank you!
Any Questions?

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