

HB 377 – Public Records: Audio & Video; Muni Costs

Question & Answer Brief

I. Cost, Workload, and Administrative Burden

Q: What is the typical time required to process public records requests, particularly for audio and video?

A: Processing time varies by record type. A single 911 call can take 30 minutes to an hour to locate and process, depending on the information provided. Most calls are under 10 minutes long. Body camera footage typically requires about four minutes of work per minute of video, depending on redaction needs. Dash camera footage generally requires less redaction due to camera angle and distance.

Q: What personnel costs are used to calculate fees?

A: Fees are based on actual personnel costs, including salary and benefits, as authorized under the bill.

Q: How will municipalities estimate costs in advance given variability in redaction time?

A: A standardized approach—such as charging per video or per minute of footage—would provide transparency and predictability, similar to per-page copy charges.

Q: How frequently do requests exceed the current five-hour threshold?

A: Large cases such as homicides routinely exceed five hours. Many media requests fall into this category, though requesters often withdraw or narrow requests after receiving cost estimates. A typical DUI case may take three or more hours and involve multiple recordings.

II. Public Access and Equity Considerations

Q: Will municipalities waive fees for local residents or certain requesters?

A: Municipalities already have authority to waive or reduce fees when disclosure benefits the public. That tool stays in place and can be applied to journalists, researchers, or community members directly involved in an incident or acting in the public interest.

Q: Could fees create barriers to public access and transparency?

A: Charging per unit of video allows access at a reasonable cost while encouraging requesters to narrow requests. Large incidents can generate many hours of footage, much of which may not be relevant, and narrowing requests helps reduce

administrative burden. Agencies must still operate under reasonable rules, and they retain authority to waive or reduce fees in the public interest. The only thing that changes is who absorbs the cost — the general taxpayer or the requester generating the work. Transparency is preserved; the subsidy is what ends.

III. Treatment of Different Requesters

Q: Should journalists or media organizations be treated differently?

A: Distinguishing media from other requesters is increasingly difficult, as anyone can act as media through platforms like YouTube or podcasts.

Q: How are defense attorneys treated under current practice?

A: Defense attorneys receive records through the discovery process. Public records laws are not intended to substitute for legal discovery procedures.

Q: Should distinctions be made between commercial creators, media organizations, and individuals?

A: This is currently challenging because requesters may use false identities. The current time-based fee structure creates incentives to submit requests under different names.

IV. Scope and Definitions in the Bill

Q: How does the bill define “public records”?

A: The bill clarifies that public records include a broad range of materials—such as audio and video recordings, and electronic records—developed or received by a public agency.

Q: What is the scope of “electronic records,” and does it include text messages?

A: The definition is broad and may include various digital formats; however, practical challenges exist due to the diversity of file types and limitations in redaction capabilities.

Q: Why are audio and video recordings explicitly addressed?

A: The volume of video evidence has increased significantly—for example, DUI cases now often include multiple recordings rather than a single dashcam video—necessitating clearer statutory treatment.

Q: Should the bill be limited to specific record types like audio and video?

A: There is a policy question as to whether narrowing the bill would be more appropriate, particularly given complexities around third-party video and extracted digital content.

V. Redaction Process and Technical Considerations

Q: How long does redaction take relative to video length?

A: Redaction typically requires about four minutes of work per minute of video, though this varies depending on content.

Q: Is computer processing or rendering time included in billable costs?

A: No. Time spent downloading or exporting video is not counted, as it occurs in the background while staff perform other tasks.

Q: Should staff time during rendering be considered compensable labor?

A: Generally, no, because staff are not actively engaged in the process during that time.

VI. Fee Structure and Cost Recovery

Q: Should fees include only direct personnel costs or also overhead?

A: While the bill limits fees to personnel costs, there are real overhead expenses—such as data storage—that are not currently recovered.

Q: Should administrative or request fees be added?

A: A clear per-minute or per-video fee structure may be preferable to avoid complex fee calculations and improve transparency.

Q: Should municipalities be allowed full cost recovery?

A: There is concern that out-of-state entities benefit financially from records funded by Alaska taxpayers, suggesting a rationale for broader cost recovery.

VII. Process and Administrative Safeguards

Q: What happens if a requester declines after receiving a cost estimate?

A: Many requesters simply stop responding after receiving a quote rather than formally declining.

Q: Can requesters revise or narrow their requests?

A: Yes. Many requesters narrow requests after seeing cost estimates, reducing workload and fees.

Q: Is payment required in advance?

A: Yes. The bill allows municipalities to require advance payment before conducting work.

Q: Do municipalities have formal policies for records requests and fees?

A: Yes. Municipalities typically rely on local fee schedules and Alaska public records law.

VIII. Duplicate Requests and Cost Allocation

Q: Can multiple requesters be charged separately for the same record?

A: Yes. Redacted copies are often not retained due to storage constraints, and different requesters may require different redactions (e.g., victim vs. third party).

Q: Should the bill address duplicate requests or cost-sharing?

A: This is a policy consideration, particularly given storage limitations and varying privacy requirements.

IX. Privacy and Legal Protections

Q: How is personal privacy protected in released records?

A: Extensive redaction is performed, though video presents challenges due to the volume of frames requiring review.

Q: When are records released?

A: Records are generally released only after adjudication or when no crime has occurred (e.g., accidents or civil matters).

Q: Are there clear standards for redaction and disclosure?

A: There is interest in further clarifying expectations, particularly regarding privacy in homes, ambulances, and medical settings.

X. Broader Policy Considerations

Q: What is the core policy balance in HB 377?

A: The bill seeks to balance municipal cost recovery with public access and transparency under the Alaska Public Records Act.

XI. Additional Policy Questions

Q: Can Fairbanks implement this fee structure without legislation, or is HB 377 necessary?

A. Unless the legislature amends AS 40.25.110 as proposed under HB 377, a court would likely conclude that municipalities may not charge in a way that erases the five free hours the statute provides.

Q: Why are there existing exemptions, such as for the University of Alaska, and what is their purpose?

A. Existing exemptions under AS 40.25.110 are not arbitrary—they reflect deliberate policy choices about when the cost of producing public records should be charged to the requester rather than absorbed by government.

Q: What do the Alaska State Troopers do regarding public records fees and processing?

A: The Alaska Department of Public Safety (including the Alaska State Troopers) is not exempt from AS 40.25.110. They operate under the same basic public records framework as other executive branch agencies.