



2009 ASSEMBLY BILL 638

December 22, 2009 – Introduced by Representatives DEXTER, CLARK, BERCEAU, A. WILLIAMS and PETERSEN, cosponsored by Senators KREITLOW, TAYLOR and LEHMAN. Referred to Committee on Urban and Local Affairs.

- 1 **AN ACT** *to amend* 19.35 (1) (b) and 19.35 (1) (f); and *to create* 19.35 (3) (g) of the
2 statutes; **relating to:** the format and fees for obtaining copies of public records.

Analysis by the Legislative Reference Bureau

Currently, unless otherwise provided by law, any requester has a right to receive a copy of a public record that appears in written form. In addition, a requester is specifically permitted to obtain a copy of a record that is not in a readily comprehensible form reduced to written form on paper, and a requester may also obtain a transcript in lieu of a record that is recorded on audio tape, and may obtain a photograph of a record the form of which does not permit copying. This bill clarifies, in addition, that unless otherwise provided by law, a requester is entitled to receive a copy of a public record the form of which permits copying in the same format in which the record is maintained by its custodian, regardless of whether the record appears in written form.

Currently, the maximum fees that a governmental unit or officer may charge for obtaining copies of a public record are prescribed by law, unless a specific law prescribes the fee for obtaining a copy of a particular record or authorizes a governmental unit or officer to prescribe a fee for obtaining a copy of a particular record. The fact that a governmental unit or officer enters into a contract with a private person under which records are produced or collected does not change the law. This bill provides that if a public record is produced or collected by a private person pursuant to a contract entered into by a governmental unit or officer with that person, the authorized fees for obtaining a copy of the record may not exceed the actual, necessary, and direct cost of reproduction or transcription of the record

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incurred by the person who makes the reproduction or transcription, unless a fee is otherwise established or authorized to be established by law.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 19.35 (1) (b) of the statutes is amended to read:

2 19.35 (1) (b) Except as otherwise provided by law, any requester has a right to
3 inspect a record and to make or receive a copy of a record ~~which appears in written~~
4 form in the same format in which the record is maintained by the custodian, unless
5 the requester requests a different format authorized under this subsection. If a
6 requester appears personally to request a copy of a record that permits photocopying,
7 the authority having custody of the record may, at its option, permit the requester
8 to photocopy the record or provide the requester with a copy substantially as
9 readable as the original.

10 **SECTION 2.** 19.35 (1) (f) of the statutes is amended to read:

11 19.35 (1) (f) ~~Except~~ Notwithstanding par. (b) and except as otherwise provided
12 by law, any requester has a right to inspect any record not specified in pars. ~~(b)~~ (c)
13 to (e) the form of which does not permit copying. If a requester requests permission
14 to photograph the record, the authority having custody of the record may permit the
15 requester to photograph the record. If a requester requests that a photograph of the
16 record be provided, the authority shall provide a good quality photograph of the
17 record.

18 **SECTION 3.** 19.35 (3) (g) of the statutes is created to read:

19 19.35 (3) (g) Notwithstanding par. (a), if a record is produced or collected by a
20 person who is not an authority pursuant to a contract entered into by that person
21 with an authority, the authorized fees for obtaining a copy of the record may not

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1 exceed the actual, necessary, and direct cost of reproduction or transcription of the
2 record incurred by the person who makes the reproduction or transcription, unless
3 a fee is otherwise established or authorized to be established by law.

4 (END)