



LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

# PUBLIC RECORDS FEES AND WAIVERS

## BACKGROUND BRIEF

All 50 states, the District of Columbia, and the federal government have laws related to the availability of public records and the provision of such records to certain interested parties upon request. These laws are commonly referred to as public records, open records, or freedom of information laws. Similarly, just as the names of these laws vary between states, the District of Columbia, and the federal government, so too do the statutory authorities, associated regulations, and implementation of such laws. Despite this variation, many of these laws incorporate similar concepts, including fees, waivers, and itemized billing. This brief assesses how the 50 states and the District of Columbia have included these concepts within their respective public records statutes.

### BACKGROUND

Under Oregon’s Public Records Law ([ORS Chapter 192](#)), “every person” has a right to inspect any nonexempt public record of a public body in Oregon. All public bodies in Oregon must have a written procedure for responding to public records requests and may charge a fee to recover the cost of fulfilling a records request. Fees may be waived or reduced if doing so is in the public interest, which is when providing the record benefits the community or society as a whole instead of benefiting a private entity or person. Current law gives discretion to waive the fee to public bodies.

Oregon defines a public record as any writing with information about the conduct of public business that is prepared, owned, used, or retained by a public body, including every state officer, agency, department, bureau, board, and commission, and every county and city governing body, school district, special district, municipal corporation, or any board, department, commission, council, or agency thereof.<sup>1</sup> Writing is further defined as “handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings.”<sup>2</sup>

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<sup>1</sup> ORS 192.311 (2021).

<sup>2</sup> ORS 192.311(7) (2021).

The Legislative Policy and Research Office (LPRO) reviewed public records laws, also known as open records laws or freedom of information acts, across the 49 states and the District of Columbia to identify statutory authorities and requirements related to fees, waivers, fee reductions, cost estimates, advanced payments, and itemized billing. This Background Brief identifies the states' statutes that include such requirements—whether statutory authority or prohibition—within their public records laws and provides examples of relevant statutory language to illustrate the diversity of state public records law. The sections of Oregon's Public Records Law ([ORS Chapter 192](#)) that consider comparable themes are presented throughout for context.

The statutes cited in the following sections are examples of certain types of statutes or approaches; they are not recommendations for policy options or endorsed as such by LPRO. Additional example language can be found in the public records laws for each state ([Appendix](#)).

## FEES

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Oregon's public records law contains the following provision authorizing the collection of fees for public records requests:

*(a) The public body may establish fees reasonably calculated to reimburse the public body for the public body's actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the request.<sup>3</sup>*

Statutory authorities and requirements for charging fees related to public records requests vary widely by state. For example, certain states provide general statutory authority to charge fees for public records requests, often described as reasonable or tied to actual costs in statute, while other states specify authorities or prohibitions for charging fees for specific activities (e.g., duplication, labor, search, redaction, delivery) or by medium of the records or provided materials (e.g., paper, electronic, maps).

Selected states specify fees per page, often based on the page size or print color; allow for fees to cover a portion of the costs for related information systems; or differentiate fees based on intended use of the records—typically divided between commercial and noncommercial uses. Further, some statutes identify minimum costs or labor hours below which services are provided without charge or differentiate costs based on the type of agency or office that holds the records (e.g., state agency, other public body, or school).

Statutes commonly authorize fees related to the provision of or labor related to:

- duplication or reproduction of records;
- search or retrieval; or
- review or redaction.

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<sup>3</sup> [ORS 192.324\(4\)](#) (2021).

Still other statutes expressly prohibit levying fees for certain activities or labor related to such activities, such as:

- examining records without copying;
- copying records using personal devices; or
- review or redaction.

In the following sections, we identify states with statutory language authorizing or prohibiting the above activities and provide selected examples of such statutory language. Additional relevant statutes can be found for the identified states via the hyperlinks included in [Appendix](#).

## Fees for Duplication and Reproduction

Many public records laws provide authority for fees to be charged for copying or duplication of paper or electronic records. How fees are calculated within these authorities varies, with some states referencing that fees should reflect “reasonable” or “actual” agency costs and other states prescribing fees on a per page or per hour basis. Such authorities may differentiate or specify that fees related to these activities may include either materials or labor, or both, and some states only charge for activities such as copying, duplication, postage, or delivery except when the request is for a commercial purpose.

A common theme among public records laws relates to the provision of paper copies. Statutes in 20 states identify a per page fee for the duplication of public records for specified record types and in certain situations, such as record requests up to a certain number of pages, or for records contained in a certain format (e.g., paper records of a certain size and ink color). Other than states which require copies to be provided without a fee, the least expensive per page rate identified is in Massachusetts, which sets its fee at \$0.05 per page for black and white copies or printouts. At least five states set their fee for black and white copies at \$0.10 per page, including Georgia, Indiana, Maine, Michigan, and Missouri. At least seven states, including Connecticut, Kansas, Minnesota, New Jersey, New York, North Dakota, and Oklahoma, set a statutory rate of \$0.25 per page for copies. Some states also charge an additional fee for providing certified copies of public records.

As indicated, the level of detail on how per page fees, when authorized, are assessed varies between state authorities. For example, Delaware has one of the most detailed per page reproduction fees in its statute:

*(1) Photocopying fees. — In instances in which paper records are provided to the requesting party, photocopying fees shall be as follows:*

*Standard-sized, black and white copies: The first 20 pages of standard-sized, black and white copies material shall be provided free of charge. The charge for copying standard sized, black and white public records for copies over and above 20 shall be \$0.10 per sheet (\$0.20 for a double-sided sheet). This charge applies to copies on the following standard paper sizes: 8.5" x 11", 8.5" x 14", and 11" x 17".*

*Oversized copies/printouts: The charge for copying oversized public records shall be as follows: 18" x 22", \$2.00 per sheet; 24" x 36", \$3.00 per sheet; documents larger than 24" x 36", \$1.00 per square foot.*

*Color copies/printouts: An additional charge of \$1.00 per sheet will be assessed for all color copies or printouts for standard-sized copies (8.5" x 11", 8.5" x 14", and 11" x 17") and \$1.50 per sheet for larger copies.<sup>4</sup>*

The Rhode Island public records law provides another, less detailed example of how per page fees may be assessed:

*(a) Subject to the provisions of § 38-2-3, a public body must allow copies to be made or provide copies of public records. The cost per copied page of written documents provided to the public shall not exceed fifteen cents (\$.15) per page for documents copyable on common business or legal size paper. A public body may not charge more than the reasonable actual cost for providing electronic records or retrieving records from storage where the public body is assessed a retrieval fee.<sup>5</sup>*

## Labor

Public records laws often specify whether state agencies and other public bodies may charge for staff time or labor costs related to public records requests or whether such costs are prohibited. The typical components of labor provisions include exempting a certain number of hours of staff time, limiting the fee to actual costs, or setting a maximum hourly rate. For example, the maximum rate may be set at an actual dollar amount or specified as the lowest salary rate for an employee in the office or an employee who has the qualifications or skills necessary to complete the requested tasks. Where a maximum rate is set in statute, the most common hourly rate is \$25 like in North Dakota. The lowest rate identified is \$10 per hour in Illinois. The states that specifically allow labor costs as part of public records fees are listed in **Table 1**.

**Table 1: States Allowing Certain Labor Fees for Public Records Requests**

Alaska	Arizona	Colorado
Connecticut	Delaware	Georgia
Idaho	Illinois (commercial)	Iowa
Kansas	Kentucky	Maryland
Massachusetts	Michigan	Minnesota
Nebraska	North Dakota	South Carolina
Tennessee	Texas	Utah
Vermont		

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in [Appendix 1](#).

Provisions related to labor costs vary widely between states. Some statutes are relatively detailed, such as Michigan's which allows for labor costs and specifies that a fee for labor is charged in increments of 15 minutes or more. The statute limits labor

<sup>4</sup> Del. Code Ann. tit. 29, sect. 10001 et seq

<sup>5</sup> 38 R.I Gen. Laws 38-2-4

costs to the lowest salary rate of an employee capable of completing the activities of a public records request, and specifies:

*When calculating labor costs under subsection (1)(a), (b), or (e), fee components shall be itemized in a manner that expresses both the hourly wage and the number of hours charged. The public body may also add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used to account for benefits in the detailed itemization described in subsection (4). Subject to the 50% limitation, the public body shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits.<sup>6</sup>*

Some state statutes authorize charging a fee for labor generally while others specify fees for labor costs specifically tied to search, retrieval, compilation, review, and redaction. Examples of this are shown in the following sections. Conversely, some states prohibit fees from being levied on the labor component of public records requests when certain conditions are met. For example, Illinois' public records law prohibits, with some exceptions, charging fees related to labor:

*(a) When a person requests a copy of a record maintained in an electronic format, the public body shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the public body shall furnish it in the format in which it is maintained by the public body, or in paper format at the option of the requester. A public body may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium. If a request is not a request for a commercial purpose or a voluminous request, a public body may not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records. Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of public records when furnished in a paper format shall not be applicable to those records when furnished in an electronic format.<sup>7</sup>*

Like the Illinois statute above, some states split labor into different categories based on the type of activity. Two frequent labor types referenced in various statutes include labor related to search and retrieval and review and redaction. The following two sections discuss state statutes that explicitly provide such authority for public records requests.

**Search and Retrieval.** Several statutes authorize public records custodians to charge fees for search, research, and retrieval of public records. Conversely, as seen in the Illinois example above, some statutes restrict or prohibit charging fees for labor related to search and retrieval. The following states allow for fees associated with search and retrieval as part of their public records laws (**Table 2**).

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<sup>6</sup> Mich. Comp. Laws 15.234(2).

<sup>7</sup> 5 Ill. Comp. Stat. 140/6.

**Table 2: State Statutes Authorizing Fees for Search or Retrieval**

Alaska	Arizona	Colorado
Delaware	District of Columbia	Georgia
Hawaii	Illinois (commercial)	Indiana
Maine	Maryland	Massachusetts
Michigan	Minnesota	Mississippi
Missouri	Nebraska	North Dakota
Oklahoma (commercial, undue burden)	Rhode Island	South Carolina
Virginia	Wisconsin	

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in [Appendix 1](#).

Like other fee provisions, authorities related to search and retrieval take numerous forms. Some states, like Colorado, authorize a custodian to charge not more than a fixed rate if certain conditions are met:

*(6) (a) A custodian may impose a fee in response to a request for the research and retrieval of public records only if the custodian has, prior to the date of receiving the request, either posted on the custodian's website or otherwise published a written policy that specifies the applicable conditions concerning the research and retrieval of public records by the custodian, including the amount of any current fee. Under any such policy, the custodian shall not impose a charge for the first hour of time expended in connection with the research and retrieval of public records. After the first hour of time has been expended, the custodian may charge a fee for the research and retrieval of public records that shall not exceed thirty dollars per hour.<sup>8</sup>*

Another approach, somewhat parallel to the Illinois labor provision, is to prohibit charging for search unless certain conditions are met. For example, Oklahoma only allows charges for search when a request is for a commercial purpose or would impose an undue burden on an agency:

*4. Any request for a record which contains individual records of persons, and the cost of copying, reproducing or certifying each individual record is otherwise prescribed by state law, the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of record copying, or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no instance shall the record copying fee exceed twenty-five cents (\$0.25) per page for records having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One Dollar (\$1.00) per copied page for a certified copy. However, if the request:*

- a. is solely for commercial purpose, or*
- b. would clearly cause excessive disruption of the essential functions of the public body,*

*then the public body may charge a reasonable fee to recover the direct cost of record search and copying; however, publication in a newspaper or broadcast by news media for news purposes shall not constitute a resale or use of a record for*

<sup>8</sup> Colorado Rev. Stat. 24-72-205.



*trade or commercial purpose and charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copy. The fee charged by the Department of Public Safety for a copy in a computerized format of a record of the Department shall not exceed the direct cost of making the copy unless the fee for the record is otherwise set by law.*

*Any public body establishing fees under this act shall post a written schedule of the fees at its principal office and with the county clerk.*

*In no case shall a search fee be charged when the release of records is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.*

*The fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.<sup>9</sup>*

**Review and Redaction.** Oregon’s public records law contains the following provision authorizing fees for the cost of time spent by an attorney for redaction purposes:

*(b) The public body may include in a fee established under paragraph (a) of this subsection the cost of time spent by an attorney for the public body in reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records. The public body may not include in a fee established under paragraph (a) of this subsection the cost of time spent by an attorney for the public body in determining the application of the provisions of ORS 192.311 to 192.478.<sup>10</sup>*

Certain states specifically allow or prohibit fees for the review and redaction of public records. Of the 13 states listed in **Table 3** with review or redaction provisions, two exclude legal costs, and Illinois only allows fees for review and redaction for commercial requests.

**Table 3: State Statutes Authorizing Fees for Review and Redaction**

Allows Costs	Prohibits Costs for Legal Review	Allows Costs for Commercial Requests Only
District of Columbia	Delaware	Illinois
Georgia	Nebraska	
Hawaii		
Idaho		
Maine		
Massachusetts		
Michigan		
Mississippi		
North Dakota		
South Carolina		

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in [Appendix 1](#).

<sup>9</sup> Okla. Stat. Title 51, Section 24A.5.

<sup>10</sup> ORS 192.324(4) (2021).

States address the assessment of fees for review and redaction in numerous ways. The following represent selected examples of such provisions. For example, Idaho allows for charging review and redaction fees that are tied to the lowest paid qualified attorney in the office or retained by the office:

*(e) Fees shall not exceed reasonable labor costs necessarily incurred in responding to a public records request. Fees, if charged, shall reflect the personnel and quantity of time that are reasonably necessary to process a request. Fees for labor costs shall be charged at the per hour pay rate of the lowest paid administrative staff employee or public official of the public agency or independent public body corporate and politic who is necessary and qualified to process the request. If a request requires redactions to be made by an attorney who is employed by the public agency or independent public body corporate and politic, the rate charged shall be no more than the per hour rate of the lowest paid attorney within the public agency or independent public body corporate and politic who is necessary and qualified to process the public records request. If a request is submitted to a public agency or independent public body corporate and politic that does not have an attorney on staff, and requires redactions by an attorney, the rate shall be no more than the usual and customary rate of the attorney who is retained by the public agency or independent public body corporate and politic for that purpose.<sup>11</sup>*

Mississippi's public records law also authorizes charging fees for review and redaction but simply allows for costs to be assessed up to the actual agency cost for redacting the record:

*(2) If any public record contains material which is not exempted under this chapter, the public agency shall redact the exempted material and make the nonexempted material available for examination. Such public agency shall be entitled to charge a reasonable fee for the redaction of any exempted material, not to exceed the agency's actual cost.<sup>12</sup>*

As noted above, Illinois prohibits fees for personnel costs, with limited exceptions including for requests for a commercial purpose. For such requests, Illinois allows for personnel costs searching, retrieving, and redacting such a record, specifies the hourly rate for such activities, and sets a threshold below which there is no charge:

*(f) A public body may charge up to \$10 for each hour spent by personnel in searching for and retrieving a requested record or examining the record for necessary redactions. No fees shall be charged for the first 8 hours spent by personnel in searching for or retrieving a requested record. A public body may charge the actual cost of retrieving and transporting public records from an off-site storage facility when the public records are maintained by a third-party storage company under contract with the public body. If a public body imposes a fee pursuant to this subsection (f), it must provide the requester with an accounting of all fees, costs, and personnel hours in connection with the request*

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<sup>11</sup>Idaho Code, 74-102(e).

<sup>12</sup>Miss. Code Ann. 25-61-5.



for public records. The provisions of this subsection (f) apply only to commercial requests.<sup>13</sup>

## Information Technology, Data, and Computer Programming

Even when authorizations for fees are limited to copying or duplication, state laws often allow public bodies to charge a special fee when the request requires special or additional information technology resources to produce the requested records or when the public body has spent significant resources to build and maintain such electronic or geographic data resources. Some states also allow for the amortized costs of information technology resources to be factored into allowable fees. States that authorize such fees are listed in **Table 4**.

**Table 4: State Statutes Authorizing Fees for Data and Information Technology**

Alaska	Arizona	Arkansas
California	Colorado	Delaware
Florida	Indiana	Iowa
Kentucky	Minnesota	Mississippi
Montana	Nebraska	Nevada
New Jersey	North Carolina	South Dakota
Tennessee	Utah	Virginia
Washington	Wyoming	

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in [Appendix](#).

Florida's public records law, for example, allows a special service charge fee based on actual costs if the records requested require extensive use of information technology resources

*(d) If the nature or volume of public records requested to be inspected or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both.*<sup>14</sup>

Mississippi's statute provides an example of fees allowed for geographic information system data:

*A public body may establish a standard fee scale to reimburse it for the costs of creating, acquiring and maintaining a geographic information system or multipurpose cadastre as authorized and defined under Section 25-61-1 et seq., or any other electronically accessible data. Such fees must be reasonably related to the costs of creating, acquiring and maintaining the geographic information system, multipurpose cadastre or other electronically accessible data, for the*

<sup>13</sup> 5 Ill. Comp. Stat. 140/6.

<sup>14</sup> Fla. Stat. 119.07(4).

*data or information contained therein or taken therefrom and for any records, papers, accounts, maps, photographs, films, cards, tapes, recordings or other materials, data or information relating thereto, whether in printed, digital or other format. In determining the fees or charges under this subsection, the public body may consider the type of information requested, the purpose or purposes for which the information has been requested and the commercial value of the information.*<sup>15</sup>

## Electronic Access or Digital Copy Provision

Some state statutes, as shown in **Table 5**, allow fees specifically for providing electronic access to data or digital copies of public records.

**Table 5: State Statutes Authorizing Fees for Digital Copies or Electronic Fees**

Digital Copy Fees	Electronic Access Fees
Florida	Kentucky
New Mexico	Minnesota
Washington	Nebraska
	North Dakota
	Pennsylvania
	Virginia

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in [Appendix](#).

The level of detail in such statutory provisions varies widely. For example, several states allow fees for digital access. In New Mexico, public bodies may charge a fee for the actual costs associated with transmitting copies of public records by mail, electronic mail, or facsimile.<sup>16</sup> Washington state allows a fee of “five cents per each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery.”<sup>17</sup>

Another approach that is taken by some states is to authorize fees related to electronic access. In Virginia, for example, fees are allowed for the actual added cost of making electronic data available, including the additional cost of computer run time, any necessary analysis and programming, and the production of the report provided to the requester.<sup>18</sup>

## Electronic Media Charges

State laws also may specify whether fees can be charged for the physical electronic media used in providing public records. Most states include this fee as part of their reproduction fees, but at least 11 states have specific provisions for electronic media fees as shown in **Table 6** on page 11.

<sup>15</sup> Miss. Code Ann. 25-61-1 et seq

<sup>16</sup> N.M. Stat. Ann. 14-2-9(C)(4).

<sup>17</sup> Wash. Rev. Code 42.56.001 to .904

<sup>18</sup> Va. Code Ann. 2.2-3700

**Table 6: State Statutes Authorizing Fees for Electronic Media**

Connecticut	Florida	Georgia
Illinois	Indiana	Kentucky
Maryland	Massachusetts	Michigan
Missouri	Nevada	New Mexico
North Carolina	New York	Pennsylvania
Vermont	Washington	

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in [Appendix](#).

Many of these statutes specify that a fee may include the actual cost of the storage devices or media on which the records or data are produced. For example, Indiana's statute allows a uniform fee limited to the agency's direct costs, or \$150 for law enforcement recordings, for providing a duplicate of a "computer tape, computer disks, microfilm, or a similar or analogous record system" or law enforcement recording.<sup>19</sup>

### Other Fees

Other fees established by state statutes include those for certified copies, retrieval of offsite records held by a third party (Illinois), transcription services (Nevada), or offsite supervision for duplication (Wyoming). Six states specify an additional charge or per page rate for certified copies, including Connecticut, Florida, Indiana, Montana, North Carolina, and Wyoming.

## WAIVERS AND FEE REDUCTIONS

Oregon law includes the following waiver or fee reduction provision:

*The custodian of a public record may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public.<sup>20</sup>*

Other state statutes include provisions for waivers or fee reductions for requests that are in the public interest, of a certain size, for indigent requesters, for federal or Veteran's Administration purposes, and for which costs to the public body exceed the fee. States with these statutes are identified in the following tables, and examples are described in the following sections. LPRO's review of state statutes identified 19 states without an explicit fee reduction or waiver provision in their public records statutes.

State statutes that allow for a reduction in fees generally do not specify how the public body is to determine whether to approve a reduction or waiver, or how much of a reduction to authorize. LPRO therefore cannot determine from statutes the extent of the reduction in fees, except when a statute only authorizes a waiver.

<sup>19</sup> Ind. Code 5-14-3-8

<sup>20</sup> ORS 192.324 (5) (2021)

## Public Interest Waivers

Twenty-three states have provisions allowing for a fee reduction or waiver when the request is in the public interest, benefits the general welfare, or primarily benefits the public. **Table 7** lists the states with statutes containing public interest fee waiver or reduction provisions.

**Table 7: State Statutes Authorizing Public Interest Fee Reductions or Waivers**

Alaska	Arkansas	Colorado
Connecticut	District of Columbia	Hawaii
Idaho	Illinois	Louisiana
Maine	Maryland	Massachusetts
Michigan	Missouri	New Mexico
Ohio	Oklahoma	Pennsylvania
Rhode Island	South Carolina	Texas
Utah	Wisconsin	

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in [Appendix](#).

Many statutes contain language like Oregon’s language regarding what constitutes a public interest. Some states provide more detailed statutory definitions of public interest, such as

- Illinois, which defines public interest where the “principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit;”<sup>21</sup>
- Missouri, which determines a public interest exists because it is likely to “contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester;”<sup>22</sup> and
- Oklahoma, which defines public interest to include the release of records “to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.”<sup>23</sup>

## Waivers or Fee Reductions for Request Size or Hours

LPRO found 17 states that explicitly exempt a certain number of hours or pages of copies before a public record fee may be assessed or set a fee threshold under which a public body may not charge the fee. Those states and their exemptions, whether based on hours, pages, or cost, are listed in **Table 8** on page 13.

## Other Waivers

LPRO identified other types of waivers in state statutes. While not technically a waiver of authorized fees, many states, especially those that only allow fees for duplication,

<sup>21</sup> 5 Ill. Comp. Stat. 140/6.

<sup>22</sup> Mo. Rev. Stat. Chapter 610

<sup>23</sup> Okla. Stat. Title 51, Sections 24A.1-30



organizations on behalf of their clients who are formally designated to provide developmental disabilities assistance or the protection and advocacy for individuals with mental illness under federal law.<sup>25</sup>

## Media Accommodations and Definitions

LPRO's review of state public records statutes also identified the following ways that selected states make explicit accommodations for the media:

- The District of Columbia limits fees to a “reasonable standard charge” for document reproduction when records are not sought for commercial use and the request is made by an educational or non-commercial scientific institution for scholarly or scientific research, or by a representative of the news media. News media is not defined.<sup>26</sup>
- Illinois only charges for reproduction, unless the request is a commercial request, and then its public bodies can charge for labor. Illinois statute excludes news media and academic research from being considered a commercial purpose, which makes the news media eligible for the state's public interest waiver or fee reduction and excludes the news media from fees that may be charged for voluminous requests or a recurrent requester. Illinois defines news media as:  
*a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format, a radio station, a television station, a television network, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing.*<sup>27</sup>
- In Oklahoma, publication in a newspaper or broadcast by the news media for news purposes is excluded from consideration as a commercial purpose and may only be charged a fee for direct reproduction costs.<sup>28</sup>
- In Tennessee, public bodies may charge a reasonable fee only for the cost of reproduction for information requested by the news media for newsgathering purposes, including broadcast or publication.<sup>29</sup>
- Texas statute authorizes a governmental body to establish monthly and yearly limits on the amount of time that personnel spend producing public information for a requestor without recovering personnel costs. This provision does not apply to a requestor who “for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for...dissemination by a news medium or communication service provider.”<sup>30</sup> Texas statute defines news medium as:  
*a newspaper, magazine or periodical, a book publisher, a news agency, a wire service, an FCC-licensed radio or television station or a network of such stations, a cable, satellite, or other transmission system or carrier or*

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<sup>25</sup> Mich. Comp. Laws 15.234(f).

<sup>26</sup> D.C. Code 2-532 (b-2).

<sup>27</sup> 5 Ill. Comp. Stat 140

<sup>28</sup> Okla. Stat. Title 51, Sections 24A.1-30

<sup>29</sup> Tenn. Code Ann. 10-7-506 (c).

<sup>30</sup> Texas Government Code, Title 5, Subtitle A, 552.275 (j).



*channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or Internet company or provider, or the parent, subsidiary, division, or affiliate of that entity, that disseminates news or information to the public by any means, including: (A) print; (B) television; (C) radio; (D) photographic; (E) mechanical; (F) electronic; and (G) other means, known or unknown, that are accessible to the public.*<sup>31</sup>

Maryland and Ohio do not make any special accommodation for media in their waivers, but include the following news media definitions in their public records statutes for other purposes:

- In Maryland, “news media” means: “(1) newspapers; (2) magazines; (3) journals; (4) press associations; (5) news agencies; (6) wire services; (7) radio; (8) television; and (9) any printed, photographic, mechanical, or electronic means of disseminating news and information to the public.”<sup>32</sup>
- In Ohio, a “journalist” means “a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.”<sup>33</sup>

## ESTIMATES, PAYMENTS, AND POLICIES

This section describes state laws requiring or permitting itemized cost breakdowns, advance payments, and fee and waiver policies or schedules and how those requirements differ from Oregon’s requirements.

### Cost Estimates

Oregon’s public records law contains the following provision related to cost estimates in certain circumstances:

*(c) The public body may not establish a fee greater than \$25 under this section unless the public body first provides the requester with a written notification of the estimated amount of the fee and the requester confirms that the requester wants the public body to proceed with making the public record available.*<sup>34</sup>

Other states require public bodies to provide an itemized breakdown of estimated costs, often as part of the response required of any public body that receives a public records request. Some states, including Missouri and Vermont, only require the public body to provide an estimate if one is requested. States with estimate requirements are listed in **Table 10** on page 16.

<sup>31</sup> Texas Government Code, Title 5, Subtitle A, 552.275 (m).

<sup>32</sup> Md. Code Ann. General Provision, 4-101 (e).

<sup>33</sup> Ohio Rev. Ann. 149.43 (B)(9)(c).

<sup>34</sup> [ORS 192.324\(4\)](#) (2021).

**Table 10: State Itemized Estimate Requirements**

State	Estimate Requirements
Arkansas	Itemized breakdown
Delaware	Itemized written cost estimates must be provided for requests for email and noncustodial records and before charging administrative fees
Georgia	Estimates, within three business days, are required for requests over \$25
Idaho	Itemized estimates showing the per page costs for copies and hourly rates of employees and attorneys involved in responding to the request
Illinois	Requires estimates for commercial purpose, recurrent requester, or voluminous requests
Iowa	Estimated expenses shall be communicated to the requester upon receipt of the request
Maine	Estimates of the time necessary to complete the request and of the total cost
Maryland	Requires estimate of the range of fees that may be charged within 10 days of request
Massachusetts	Must provide itemized, good faith estimate of any fees with request response
Michigan	Detailed itemization must clearly list and explain allowable charges for each of the six allowed fee components
Montana	Fee estimates with request response
Nebraska	Estimate of the expected cost of the copies within four days
New York	Must inform requester of fees when more than two hours of staff time is needed to prepare a copy
Pennsylvania	Fee estimates included in notice to requesters
Tennessee	Requires fee estimate of “reasonable cost”
Texas	Requires written itemized statement that details all estimated charges that will be imposed for requests over \$40 with a notice about contacting the agency to discuss less costly options; requires updated statement if agency discovers costs will exceed estimate by 20 percent or more; and limits agency charges of over \$40 to the amount in itemized or updated statement
Washington	Agencies must notify before levying customized service charge

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in [Appendix](#).

LPRO staff identified a few states that require an updated statement or final cost estimate. As described in **Table 10**, Texas’s statute explicitly requires an updated statement in certain circumstances.<sup>35</sup> In Idaho, a statement of fees “shall be itemized to show the per page costs for copies, and hourly rates of employees and attorneys involved in responding to the request, and the actual time spent on the public records request.”<sup>36</sup> Other states have provisions requiring advance payments made in excess of actual costs to be refunded to the requester, but may not require a final itemized cost statement.

### Advance Payment

States may authorize or require advance payments, which may be triggered based on an estimate or cost threshold, the requester’s past payment history, or the type of request. States allowing public bodies to require advance payments typically have lower cost thresholds (\$5 – \$100) and only require a deposit, as shown in **Table 11**. States

<sup>35</sup> Texas Government Code Title 5.

<sup>36</sup> Idaho Code 74-102 (10)(g).

with advance payment requirements, as shown in **Table 12**, typically have higher cost thresholds (\$100 – \$500) or require advance payments because fees for past requests have not been paid.

**Table 11: States Allowing Advance Payments**

States Allowing Advance Payments	Conditions for Advance Payments (if any)
Alaska	
Arkansas	If more than \$25
Connecticut	If more than \$10
Delaware	
Idaho	
Illinois	For commercial purpose, recurrent requester, or voluminous requests
Iowa	
Maine	May allow unless required (see Table 12)
Michigan	Deposit equal to half of estimated fee if exceeds \$50
Nebraska	Deposit if request more than \$50
New Mexico	
Ohio	Statutorily defined circumstances
South Carolina	Deposit, not to exceed 25% of anticipated cost, prior to searching for or making copies of records.
Texas	Deposit or bond for request estimated at \$50 or \$100, depending on size of public body
Utah	If request exceeds \$50 or requester has not paid previous fees
Vermont	
Virginia	Deposit, credited toward final cost, for charges likely to exceed \$200 and any past due amounts.
Wisconsin	If more than \$5 or for adult in custody who has not paid previous fees

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in [Appendix](#).

**Table 12: State Requiring Advance Payments**

States Requiring Advance Payments	Conditions for Advance Payment (if any)
California	
Colorado	
District of Columbia	If requester previously failed to pay fees in “timely fashion” or fee will exceed \$250
Georgia	Estimates over \$500
Kansas	
Maine	Costs more than \$100 or if requester failed to pay past fees
Michigan	If requester did not pay fee for previous requests
Mississippi	
North Dakota	If previous requests have not been paid
Pennsylvania	Fee over \$100
South Carolina	Full amount at time of production

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in [Appendix](#).

Idaho and Utah require any advance payments that exceed actual costs to be returned to the requester. Georgia's law authorizes agencies to collect payments through all legal means<sup>37</sup> and require advance payments in certain situations:

*In any instance in which an agency will seek costs in excess of \$25.00 for responding to a request, the agency shall notify the requester within a reasonable amount of time not to exceed three business days and inform the requester of the estimate of the costs, and the agency may defer search and retrieval of the records until the requester agrees to pay the estimated costs unless the requester has stated in his or her request a willingness to pay an amount that exceeds the search and retrieval costs. In any instance in which the estimated costs for production of the records exceeds \$500.00, an agency may insist on prepayment of the costs prior to beginning search, retrieval, review, or production of the records. Whenever any person who has requested to inspect or copy a public record has not paid the cost for search, retrieval, redaction, or copying of such records when such charges have been lawfully incurred, an agency may require prepayment for compliance with all future requests for production of records from that person until the costs for the prior production of records have been paid or the dispute regarding payment resolved.*<sup>38</sup>

### Required Fee or Waiver Policies or Fee Schedules

Oregon's public records law requires public bodies to make the procedure for requesting records available as follows:

*A public body shall make available to the public a written procedure for making public records requests that includes:*

- (a) The name of one or more individuals within the public body to whom public records requests may be sent, with addresses; and*
- (b) The amounts of and the manner of calculating fees that the public body charges for responding to requests for public records.*<sup>39</sup>

Other states have similar policy, rule, or regulation requirements in their statutes. LPRO has focused on those state laws that require public bodies to enact or adopt fee or waiver requirements through a policy or schedule. States with those requirements are listed in **Table 13**.

**Table 13: State Fee or Waiver Policy Requirements**

State	Fee or Waiver Policy or Schedule Requirement
California	List of fees and adopt written policy to waive all or a portion of fee
Colorado	Written policy for research and retrieval of public records, including the amount of any current fee
Delaware	Policy to waive some or all administrative fees that apply equally to a particular class of persons
District of Columbia	Fee schedules adopted by Mayor or agencies

<sup>37</sup> Ga. Code Ann. 50-18-71 (c)(3).

<sup>38</sup> Ga. Code Ann. 50-18-71 (d).

<sup>39</sup> ORS 192.324 (7) (2021).

State	Fee or Waiver Policy or Schedule Requirement
Hawaii	Office of information practices shall adopt rules including fees
Indiana	Department of administration develops uniform copying fee; non-state bodies adopt a fee schedule
Kentucky	Agency rules include fees for copying
Louisiana	Commissioner of administration adopts uniform fee schedule for state agencies
Nevada	Written and posted list of fees; requires written policy to waive all or a portion of a charge or fee
New Mexico	Post procedures, including fees
New York	Adopt uniform regulations and rules, including fees
South Carolina	Develop fee schedule and post online
Tennessee	Local governments must have written policy; state government adopts rules that include a statement of any fees charged
Texas	Attorney General establishes cost regulation; copying rates for local governments set by ordinance or other statute
Washington	Model rules from Attorney General; agencies set fees

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in [Appendix](#).

In Washington state, for example, an agency may establish a statement of costs after providing notice and holding a public hearing.

*Each agency may establish, maintain, and make available for public inspection and copying a statement of the actual costs that it charges for providing photocopies or electronically produced copies, of public records and a statement of the factors and manner used to determine the actual costs. Any statement of costs may be adopted by an agency only after providing notice and public hearing.<sup>40</sup>*

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<sup>40</sup> Wash. Rev. Code 42.56.070 (7).

## Appendix

### State Public Records Laws

State	Statute Citation/Link
Alabama	<a href="#">2006 Alabama Code – sect. 36-12-40</a>
Alaska	<a href="#">AS sect. 40.25.110 et seq.</a>
Arizona	<a href="#">A.R.S. sect. 39-101 to -161</a>
Arkansas	<a href="#">Ark. Code Ann. sect. 25-19-101 to 25-19-109</a>
California	<a href="#">Cal. Gov't Code, Chapter 3.5 Inspection of Public Records</a>
Colorado	<a href="#">CRS 24-72-200</a>
Connecticut	<a href="#">Conn.Gen.Stat.sect.1-200 et seq.</a>
Delaware	<a href="#">29 Del. C. sect. 10001 et seq.</a>
District of Columbia	<a href="#">Code sect. 2-531-539</a>
Florida	<a href="#">Florida Statutes, Title X, Chapter 119</a>
Georgia	<a href="#">Georgia Law sect. 50-18-70 et seq.</a>
Hawaii	<a href="#">Chapter 92F, Hawaii Revised Statutes</a>
Idaho	<a href="#">Idaho Code sect. 74-101</a>
Illinois	<a href="#">5 ILCS 140</a>
Indiana	<a href="#">Ind.Code Ann. 5-14-3-1 to 10</a>
Iowa	<a href="#">Iowa Code Ann. 22.1 to .14</a>
Kansas	<a href="#">Kan.Stat.Ann 45-215 to 225</a>
Kentucky	<a href="#">Ky.Rev.Stat..Ann. 61.870 to .884</a>
Louisiana	<a href="#">Louisiana Revised Statutes Title 44</a>
Maine	<a href="#">1 M.R.S sect. 400 (408-A)</a>
Maryland	<a href="#">Md. Ann. Code art. GP, sect. 4-101</a>
Massachusetts	<a href="#">Massachusetts General Laws, Part 1, Title X, Chapter 66</a>
Michigan	<a href="#">MCL 15.231 et. seq.</a>
Minnesota	<a href="#">Minn. Stat. Ann. 13.03</a>
Mississippi	<a href="#">Miss. Code Ann. 25-61-1 et seq</a>
Missouri	<a href="#">Chapter 610 of the Revised Statutes of Missouri</a>
Montana	<a href="#">Mont.Code Ann. 2-6-1</a>
Nebraska	<a href="#">Neb. Rev. Stat. sect. 84-712 - 84-712.09</a>
Nevada	<a href="#">N.R.S. 239.010</a>
New Hampshire	<a href="#">New Hampshire RSA Ch. 91-A</a>
New Jersey	<a href="#">NJSA 47:1A-1 et seq.</a>
New Mexico	<a href="#">14-2-1 NMSA 1978 et seq.</a>
New York	<a href="#">N.Y. Pub. Off. Law Ch. 47 Art. 6 § 84</a>
North Carolina	<a href="#">G.S. sect.132-1</a>
North Dakota	<a href="#">N.D.C.C. sect. 44-04-18 et seq, North Dakota Constitution, Article XI, § 6</a>
Ohio	<a href="#">Ohio Rev. Code sect. 149.43 et seq.</a>
Oklahoma	<a href="#">OK Title 51, Ch. 1, sect. 24A.1-30</a>
Oregon	<a href="#">Or. Rev. Stat. Ann. 192.311 to .338</a>
Pennsylvania	<a href="#">Pa.Cons.Stat.Ann. Tit. 65, 66..1 to .4</a>



State	Statute Citation/Link
Rhode Island	<a href="#">R.I. Gen. Laws 38-2-1 to -14</a>
South Carolina	<a href="#">S.C. Code Ann. 30-4-10</a>
South Dakota	<a href="#">S.D. Codified Laws Ann. 1-25-1 to -19</a>
Tennessee	<a href="#">Tenn. Code Ann. sect. 10-7-501 et seq.</a>
Texas	<a href="#">Texas Government Code, Title 5, Subtitle A, Chapter 552</a>
Utah	<a href="#">Utah Government Records Access and Management Act 63G-2-201</a>
Vermont	<a href="#">1 V.S.A. Sec. 315-320</a>
Virginia	<a href="#">Code of Virginia, § 2.2-3700 - § 2.2-3715</a>
Washington	<a href="#">Wash. Rev. Code Ann. 42.56.001 to .904</a>
West Virginia	<a href="#">W.Va. Code sect. 6-9A-1</a>
Wisconsin	<a href="#">Wis. Stat. Ann. 19.31 to .39</a>
Wyoming	<a href="#">W.S. sect.16-4-201 through 16-4-205</a>

Source: Legislative Policy and Research Office

Data: State public records laws cited and linked in table. Note, some states use a third party to host statutes.