WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

ENROLLED

HOUSE BILL No. H.B.33

(By Delegates Damron and P. White)

Passed March 7, 1992

In Effect Cham Passage
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H. B. 4433
(By Delegates Damron and P. White)

[Passed March 7, 1992; in effect from passage.]

AN ACT to amend and reenact section three, article one, chapter twenty-nine-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section seven, relating to the freedom of information act; establishing requirements for fulfilling requests for records existing in magnetic, electronic or computer form; and authorizing recovery of attorney fees and costs by any person who prevails in a suit brought under the act for denial of access to public records.

Be it enacted by the Legislature of West Virginia:

That section three, article one, chapter twenty-nine-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section seven, to read as follows:

ARTICLE 1. PUBLIC RECORDS.

§29B-1-3. Inspection and copying.

1 (1) Every person has a right to inspect or copy any public record of a public body in this state, except as otherwise expressly provided by section four of this article.

2 (2) A request to inspect or copy any public record of
a public body shall be made directly to the custodian of such public record.

(3) The custodian of any public records, unless otherwise expressly provided by statute, shall furnish proper and reasonable opportunities for inspection and examination of the records in his or her office and reasonable facilities for making memoranda or abstracts therefrom, during the usual business hours, to all persons having occasion to make examination of them. The custodian of the records may make reasonable rules and regulations necessary for the protection of the records and to prevent interference with the regular discharge of his or her duties. If the records requested exist in magnetic, electronic or computer form, the custodian of the records shall make such copies available on magnetic or electronic media, if so requested.

(4) All requests for information must state with reasonable specificity the information sought. The custodian, upon demand for records made under this statute, shall as soon as is practicable but within a maximum of five days not including Saturdays, Sundays or legal holidays:

(a) Furnish copies of the requested information;

(b) Advise the person making the request of the time and place at which he or she may inspect and copy the materials; or

(c) Deny the request stating in writing the reasons for such denial.

Such a denial shall indicate that the responsibility of the custodian of any public records or public body to produce the requested records or documents is at an end, and shall afford the person requesting them the opportunity to institute proceedings for injunctive or declaratory relief in the circuit court in the county where the public record is kept.

(5) The public body may establish fees reasonably calculated to reimburse it for its actual cost in making reproductions of such records.
§29B-1-7. Attorney fees and costs.

Any person who is denied access to public records requested pursuant to this article and who successfully brings a suit filed pursuant to section five of this article shall be entitled to recover his or her attorney fees and court costs from the public body that denied him or her access to the records.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within was approved this the 15th day of April ..., 1992.

[Signature]
Governor