

## GENERAL ASSEMBLY OVERRIDES GOVERNOR'S VETO AND PASSES FOIA AMENDMENTS

During the 2014 veto session, the General Assembly overrode Governor Quinn's veto of House Bill 3796, which implemented practical amendments to FOIA. This new law, Public Act 98-1129, is effective immediately and amends FOIA to (1) implement procedures for voluminous requests; and (2) explicitly state that there is no duty to copy records maintained online.

### Records Maintained Online

A public body is no longer required to copy records that are published and maintained on the public body's website. Public bodies merely need to notify the requester that the public record is available online and direct the requester to the website where the record can be accessed. Requesters can re-submit a FOIA request for the record if they are unable to reasonably access the record.

### Voluminous Requests

Public bodies now have additional time to respond to "voluminous" FOIA requests. A voluminous request is defined as:

A request that (i) includes more than five (5) individual requests for more than five (5) different categories of records or a combination of individual requests that total requests for more than five (5) different categories of records in a period of twenty (20) business days; or (ii) requires the compilation of more than 500 letter or legal-sized pages of public records unless a single requested record exceeds 500 pages. "Single requested record" may include, but is not limited to, one report, form, e-mail, letter, memorandum, book, map, microfilm, tape or recording.

As with commercial requests and recurrent requesters, the definition of voluminous requests does not include requests made by news media and non-profit, scientific, or academic organizations if the principal purpose of the request is (1) to access and disseminate information concerning news and current or passing events; (2) for articles of opinion or features of interest to the public; or (3) for the purpose of academic, scientific or public research or education.

### Response Options for Voluminous Requests

If a request is determined to be a "voluminous request," the public body must notify the requester within five (5) business days that the request is being treated as a voluminous request and the reasons it is being so treated, and pro-

For more information about matters discussed in this issue, please feel free to contact Klein, Thorpe and Jenkins, Ltd.



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vide the requester ten (10) business days to amend his or her request so that it is no longer a voluminous request. The requester is under no obligation to modify the request.

If the request continues to be voluminous or the requester fails to respond to the public body's initial notification, the public body shall respond to the voluminous request within five (5) business days after (1) it receives the requester's response; or (2) the final day for the requester to respond to the initial notification.

The public body's response to a voluminous request shall do one of the following:

- Deny the request;
- Provide the records requested;
- Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable portions;
- Extend the time to respond by ten (10) business days; or
- Provide an estimate of the fees to be charged.

#### **Fees for Voluminous Requests**

- A public body may charge fees for producing electronic records:
  - ◊ PDFs: up to \$20 for up to 80 MB of data; up to \$40 for 80MB – 160 MB of data; up to \$100 for more than 160 MB of data.
  - ◊ All other electronic records: up to \$20 for up to 2 MB of data; up to \$40 for up to 4 MB of data, and up to \$100 for more than 4MB of data.
- The fees a public body may charge under Section 6 of FOIA, can be still be charged even if the requester fails to accept or collect the records.
- If a requester does not pay a fee charged pursuant to Section 6 of FOIA, the debt shall be considered a debt due and owing to the public body and may be collected in accordance with applicable law.
- The public body must provide an accounting of all costs, fees and personnel hours in connection to the voluminous request for public records.

Klein, Thorpe and Jenkins, Ltd. participated in the drafting of this statute, which we believe should help reduce the cost and time required to respond to FOIA requests. If you have any questions about its implementation, please call us.



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