



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 283

PRINTERS NO. 3150

PRIME SPONSOR: Simmons

### COST / (SAVINGS)

FUND	FY 2019/20	FY 2020/21
Commonwealth Funds	See "Fiscal Impact"	See "Fiscal Impact"
Political Subdivision Funds	See "Fiscal Impact"	See "Fiscal Impact"

**SUMMARY:** Amends the Right-to-Know Law to provide for search and compilation fees for commercial use of agency records. This legislation would take effect in 60 days.

**ANALYSIS:** This legislation amends the Right-to-Know Law of 2008 (P.L. 6, No. 3) to provide for fees where the request for information from an agency is to be used for a commercial purpose.

**Commercial Purpose Fees:** This legislation amends the Right-to-Know Law to allow state and local government agencies to establish fees specifically applicable to records to be used for a commercial purpose. The fees must be reasonable, must be approved by the Office of Open Records (OOR) and may not be established with the intent or effect of excluding or limiting access to records. These fees can be charged for the search, review and duplication of such records.

**Exceptions:** Commercial purpose fees will not be applicable to the following:

1. A request for complex and extensive data sets that are subject to duplication fees;
2. A request for records that are subject to fees established in laws or regulation that are not subject to this act; and
3. A request for records from an attorney on behalf of a client if records are not obtained for the purpose of selling, reselling, or solicitation by the attorney or the client or used by the client for a commercial purpose.

**Certification of Commercial Purpose:** Under the legislation, an agency may require a requester to certify in writing whether the request is for a commercial purpose. The certification will be submitted in a manner approved of by OOR. A requester that submits a false written statement is subject 18 Pa.C.S. §4904 (Relating to unsworn falsification to authorities).

**Alternative Fee Agreements:** An agency and a requester may enter into a contract, memorandum of understanding or other agreements that provides an alternative fee arrangement to the commercial purpose fees. The agreement will be made public.

**Appeals:** The commercial purpose fee may be appealed to OOR.

**FISCAL IMPACT:** Since this legislation would allow state and local government agencies to establish fees specifically applicable to records to be used for a commercial purpose, this would allow both the Commonwealth as well as political subdivisions to recoup a larger portion of their labor and material costs from the preparation of records that are used for commercial purposes. Any estimate of the fees levied and the amount of the costs recouped would be on a case-by-case basis.

**PREPARED BY:** Tim Rodrigo  
House Appropriations Committee (R)

**DATE:** January 17, 2020

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*