



# Legislative Council Staff

## Research Note

Version: Final

Date: 3/7/2016

### Bill Number

**Senate Bill 16-037**

### Sponsors

**Senator Kefalas  
Representative Pabon**

### Short Title

***Public Access Digitally Stored  
Data Under the Colorado Open  
Records Act***

### Research Analyst

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### Status

The bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on February 24, 2016.

### Summary

This bill amends the Colorado Open Records Act (CORA), focusing on digitally-stored data and electronic mail messages. Current law requires that governmental entities take measures to assist the public in locating and accessing public records without unreasonable delay or cost. The bill changes the requirements for the records custodian, creating a requirement that a records custodian provide records in any file format and storage medium specified by the requestor. A requestor may also request that records be provided in the same database or format in which they are maintained. However, if providing records in the database where they are maintained would disclose confidential information, the requestor may designate an alternative file format.

The bill explains that the data manipulation required to remove confidential data does not trigger CORA's fee requirements, but that a records custodian may charge a requestor for the cost of the storage medium used, and may charge a research and retrieval fee for time spent removing confidential information.

### Background

CORA generally declares that all public records are open for inspection by any person, upon request, within a reasonable time. The law considers nearly all written documents prepared, collected or maintained by a state agency or political subdivision to be public records; under

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narrowly defined circumstances a records custodian may withhold certain public records from disclosure, or may limit disclosure to the person who is the subject of the record. Records must be provided within a reasonable time, presumed to be within three business days. Under certain circumstances, a records custodian may charge the requestor a fee; custodians may charge up to 25 cents per page for copies and up to \$30 per hour for time spent on research and retrieval after the first hour.

## Senate Action

**Senate State Affairs Committee (February 24, 2016).** At the hearing, the Deputy Secretary of State, the Arapahoe County Clerk and Recorder, and representatives from Colorado Municipal League, Associated Governments of Northern Colorado, and Colorado Association of School Boards testified against the bill. One private citizen testified in a neutral capacity on the bill. Representatives from Colorado Ethics Watch, Colorado Common Cause, and Colorado Freedom of Information Coalition testified in support of the bill, along with one private citizen. The committee postponed the bill indefinitely.