



**Colorado  
Legislative  
Council  
Staff**

**SB16-037**

**FINAL  
FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0662  
**Prime Sponsor(s):** Sen. Kefalas  
Rep. Pabon

**Date:** June 30, 2016  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Josh Abram (303-866-3561)

**BILL TOPIC:** PUBLIC ACCESS DIGITALLY STORED DATA UNDER CORA

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	See State Revenue and Expenditures section.	
State Expenditures	See State Revenue and Expenditures section	
<b>Appropriation Required:</b> See State Appropriations Section.		
<b>Future Year Impacts:</b> Ongoing fee revenue change and expenditure and workload increases.		

**NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.**

**Summary of Legislation**

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 digital public records without unreasonable delay or cost. The bill modifies the requirements for the records custodian, creating a requirement that the custodian produce records in a machine-readable standard format routinely used by that custodian. "Machine readable" is defined by the bill to mean data that can be read, written, parsed, and displayed by a computer program without the need for manual human intervention.

Before providing digitally stored data, an official custodian must remove confidential information from the records. The bill permits the custodian to charge the actual cost of any digital storage medium used to fulfill a request. A custodian may, under specific circumstances, charge a fee for the research and retrieval of public records, and a fee for any necessary redaction of confidential information; however, fees are subject to existing constraints that the custodian not charge for the first hour of time expended, and limit remaining charges to no more than \$30 per hour.

**State Revenue and Expenditures**

The bill will both increase and decrease state revenue; however the specific revenue change will vary by state department. The bill increases workload and FTE expenditures for some state agencies.

In some cases, the bill may increase requests for digitally stored data, and increase fee revenue collected by state agencies to fulfill those requests. In other cases, requests for records will require that some amount of data be redacted before the digital records are released. Because the bill limits the fee for these activities to one free hour, and \$30 per hour thereafter, some state agencies will incur costs to comply that cannot be redeemed at this fixed fee level. For example, the Department of Revenue, the Department of Higher Education, and the Department of Health Care Policy & Financing maintain large data sets containing confidential or personally identifiable information that must be removed before digital records can be released.

Under current law, CORA does not require the redaction of records, and in instances where data contain significant amounts of confidential information, CORA requests may be denied. This bill requires that the official custodian remove confidential information and then make records available. The cost and effort to prepare such digital record requests will often exceed the fee revenue these departments may charge. In some cases, state agencies will require increased and permanent FTE to accommodate CORA requests that cannot be paid for with fee revenue, and will require state appropriations to backfill insufficient resources.

### **Local Government and Statutory Public Entity Impact**

Local governments, including municipalities, counties, special districts, school districts and statutory public entities are also required to provide digital public records and may also charge the fee as permitted by law.

### **State Appropriations**

The bill would have required state General Fund appropriations and allocations of FTE to numerous state agencies.

### **Effective Date**

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

### **State and Local Government Contacts**

All Departments

All Local Governments

Statutory Public Entities

### **Research Note Available**

An LCS Research Note for SB16-037 is available online and through the iLegislate app. Research notes provide additional policy and background information about the bill and summarize action taken by the General Assembly concerning the bill.