DIGEST

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Abramson

HB No. 616

Abstract: Provides a legal remedy in cases wherein a custodian fails to act on a written request for a public record.

<u>Present law</u> establishes the right of any person to examine a public record and authorizes individuals who appear in person to inspect, copy, or reproduce any public record and further authorizes written requests to obtain a copy or reproduction of any public record.

<u>Present law</u> provides an enforcement mechanism for any person who, after making an in-person request, has been denied the right to inspect or copy a record after the passage of five days. <u>Present law</u> also provides an enforcement mechanism for any person who, after making a written request, has been denied a copy or reproduction of a record based on the custodian's determination that the record being sought is not a public record but who has not received written notice thereof as required by <u>present law</u>. Such enforcement includes the right to institute a legal proceeding for the issuance of a writ of mandamus.

<u>Present law</u> as indicated in the case of *Foster v. Kemp*, 657 So.2d 681 (La. App. 1 Cir., 1995) provides no such enforcement mechanism for a person who makes a written request which is never acted upon by the custodian. <u>Proposed law</u> provides an enforcement mechanism in these cases.

<u>Present law</u> authorizes an award of attorney fees and other costs of litigation in cases in which the requestor of public records prevails at law. <u>Proposed law</u> retains <u>present law</u> but adds language used in other provisions of the Public Records Law, specifically in regard to an inperson right to inspect, copy, or reproduce any public record and a written request to obtain a copy or reproduction of any public record.

(Amends R.S. 44:35(A) and (D))