HLS 14RS-1080 ENGROSSED

Regular Session, 2014

HOUSE BILL NO. 616

BY REPRESENTATIVE ABRAMSON

PUBLIC RECORDS: Provides relative to public records requests

1 AN ACT

To amend and reenact R.S. 44:35(A) and (D), relative to public records; provides with respect to in person, written, and electronic requests for a public record; to provide an enforcement mechanism if the custodian fails to respond to a written or electronic request within a certain number of days; to assign costs and attorney fees against the custodian in certain cases; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 44:35(A) and (D) are hereby amended and reenacted to read as follows:

§35. Enforcement

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A. Any person who has been denied the right to inspect, or copy, reproduce, or obtain a copy or reproduction of a record under the provisions of this Chapter, either by a final determination of the custodian or by the passage of five days, exclusive of Saturdays, Sundays, and legal public holidays, from the date of his in person, written, or electronic request without receiving a final determination in writing by the custodian or an estimate of the time necessary for examination or review of a burdensome records request, may institute proceedings for the issuance of a writ of mandamus, injunctive or declaratory relief, together with attorney's

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1 attorney fees, costs and damages as provided for by this Section, in the district court 2 for the parish in which the office of the custodian is located. 3 4 D. If a person seeking the right to inspect, copy, or reproduce a record or to receive or obtain a copy or reproduction of a public record prevails in such suit, he 5 shall be awarded reasonable attorney's attorney fees and other costs of litigation. If 6 7 such person prevails in part, the court may in its discretion award him reasonable 8 attorney's attorney fees or an appropriate portion thereof. 9

## **DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Abramson HB No. 616

**Abstract:** Provides a legal remedy in cases wherein a custodian fails to act within a specified amount of time on a written or electronic 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 that any person who has been denied the right to inspect or copy a record under <u>present law</u>, either by a final determination of the custodian or by the passage of five days, exclusive of Saturdays, Sundays, and legal public holidays, from the date of his request without receiving a final determination in writing by the custodian, may institute proceedings for the issuance of a writ of mandamus, injunctive or declaratory relief, together with attorney fees, costs and damages, in the district court for the parish in which the office of the custodian is located.

<u>Proposed law</u> retains <u>present law</u>. Specifies that the right to institute an enforcement action applies to written and electronic requests in addition to requests made in person. Provides that the right to institute an enforcement action does not apply if the requestor within five days of the date of the request receives an estimate of the time necessary for examination or review of a burdensome records request. Specifies that <u>proposed law</u> applies to denial of the right to obtain a copy or reproduction of a record in addition to denial of the right to inspect or copy a record.

<u>Present law</u> provides that if a person seeking the right to inspect or to receive a copy of a public record prevails in such suit, he shall be awarded reasonable attorney fees and other costs of litigation. Provides that if such person prevails in part, the court may in its discretion award him reasonable attorney's fees or an appropriate portion thereof.

<u>Proposed law</u> retains <u>present law</u>. Specifies that attorney fees may be awarded to a person seeking the right to copy or reproduce a public record or to obtain a copy or reproduction of

a public record in addition to a person seeking the right to inspect or receive a copy of a public record.

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

## Summary of Amendments Adopted by House

Committee Amendments Proposed by <u>House Committee on House and Governmental</u> <u>Affairs</u> to the <u>original</u> bill.

- 1. Removes provisions of <u>proposed law</u> that would have repealed <u>present law</u> provisions allowing a person to institute an enforcement action before the expiration of five days upon receiving a final determination of the custodian denying the request.
- 2. Adds provisions expressly providing that <u>proposed law</u> applies to electronic requests.
- 3. Adds provisions providing that the right to institute an enforcement action does not apply if the requestor within five days of the date of the request receives an estimate of the time necessary for examination or review of a burdensome records request.