

AN ACT

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District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Administrative Procedure Act to conform the document fee costs under the District's Freedom of Information Act with the federal Freedom of Information Act as set forth in 5 USC § 552(4).

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Documents Administrative Cost Assessment Amendment Act of 2004".

Sec. 2. Section 202 of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-532), is amended as follows:

Amend,
§ 2-532

(a) Subsection (b) is amended as follows:

(1) The first sentence is amended to read as follows:

"A public body may establish and collect fees not to exceed the actual cost of searching for, reviewing, and making copies of records."

(2) Strike the last sentence.

(b) New subsections (b-1), (b-2), and (b-3) are added to read as follows:

"(b-1) Any fee schedules adopted by the Mayor, an agency or a public body shall provide that:

"(1) Fees shall be limited to reasonable standard charges for document search, duplication, and review when records are requested for commercial use;

"(2) Fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or non-commercial scientific institution for scholarly or scientific research, or a representative of the news media;

"(3) For any request for records not described in paragraphs (1) or (2) of this subsection, fees shall be limited to reasonable standard charges for document search and duplication; and

"(4) Only the direct costs of search, duplication, or review may be recovered.

"(b-2) Review costs shall include only the direct costs incurred during the initial

examination of a document to determine whether the documents must be disclosed or withheld in part as exempt under this section. Review costs may not include costs incurred to determine issues of law or policy related to the request.

“(b-3) No agency or public body may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency or public body has determined that the fee will exceed \$250.”.

Sec. 3. Applicability.

This act shall apply with respect to any requests for records pending on the effective date of this act, whether or not the request was made prior to that date, and shall apply to any civil action pending on that date.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia