HOUSE DOCKET, NO. 521 FILED ON: 1/11/2013

HOUSE . . . . . No. 2783

The Commonwealth of Massachusetts

PRESENTED BY:

Antonio F. D. Cabral

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to enhance access to electronic public records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Antonio F. D. Cabral	*13th Bristol*
Jason M. Lewis	*Fifth Middlesex*
Martha M. Walz	*8th Suffolk*
Jonathan Hecht	*29th Middlesex*
Denise Provost	*27th Middlesex*

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By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 2783) of Antonio F. D. Cabral and others relative to enchancing access to electronic public records. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1736* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to enhance access to electronic public records.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Clause twenty-sixth of section 7 of chapter 4 of the general laws, as appearing in the 2010 official edition, is hereby amended by inserting after the word "characteristics," the following words:--

including public record information which may be separately retrieved from an electronic record,

SECTION 2. Chapter 66 of the general laws, as so appearing, is hereby amended by inserting after section 3 the following new section:--

Section 3A. When designing or acquiring an electronic recordkeeping system or database, any person having custody of a public record shall ensure that such system or database is capable of providing data in a common format such as, but not limited to, the American Standard Code for Information Interchange or the Uniform Character Set Transformation Format. When records maintained electronically include both public record information and exempt information that may be withheld from public inspection, the custodian shall design its information storage and retrieval methods in a manner that permits the segregation and retrieval

17 of public record information in order to provide maximum public access. No custodian of a
18 public record may enter into a contract for the storage of electronic records containing public
19 record information that impairs or restricts public access to those records.

20 SECTION 3. Section 10 of Chapter 66 of the General Laws as so appearing is hereby
21 amended by inserting after the word "record," in line 4, the following:--

22 including public record information which may be separately retrieved from an electronic
23 record,

24 SECTION 4. Section 10 of Chapter 66 of the General Laws is hereby further amended
25 by inserting at the end thereof the following paragraph:--

26 (e) If a public record or public record information is available in electronic form, the
27 custodian shall, at the option of the requester, provide it in that form. In making a record
28 available to a requestor, the custodian shall provide the record in any format requested if the
29 record is readily reproducible in that format. If a request does not specify the format for
30 producing electronically stored information, the custodian shall provide the record information in
31 a common format that is reasonably usable. For public records in electronic form, a custodian
32 may charge the requestor only the actual cost of any storage devices or materials provided to the
33 requestor. When the custodian`s information technology capabilities are inadequate to prepare a
34 copy of the record, the custodian may charge the requestor the actual cost of engaging an outside
35 service to prepare a copy, provided that no fee shall be charged in excess of the hourly salary
36 attributed to the lowest paid state employee who has the necessary skill required to prepare such
37 a copy. Any programming necessary to retrieve a public record or public record information and
38 provide the record or record information in the requested format, or to allow the record or record
39 information to be read or printed, shall not be deemed to be the preparation or creation of a new
40 record.

41 SECTION 5. Chapter 66 of the General Laws as so appearing is hereby amended by
42 inserting after Section 10 the following new section:--

43 Section 10A. (a) Every state agency, as defined by Chapter 66A, that has the ability to
44 provide public internet access, at no charge, to a public record in its custody, shall make
45 reasonable efforts to do so. A custodian state agency shall be required to provide public internet
46 access, at no charge, to the following types of public records in searchable format: (i) final
47 opinions, decisions, orders, or votes from agency proceedings; (ii) annual reports; (iii) reports to
48 the General Court; (iv) notices of regulations proposed under chapter 30A; (v) notices of
49 hearings; (vi) winning bids for public contracts; and (vii) any public record information of
50 significant interest to the general public including, but not limited to, public record information
51 which is the subject of multiple public records requests.

52 (b) Every state agency shall prepare and maintain reference materials to enhance
53 access to public records in its custody and enable requestors to make informed requests,
54 including: (i) a reasonably detailed document classification scheme, to be updated annually,
55 outlining categories of records maintained by the agency, whether or not open for public
56 inspection,; and (ii) an index and description of all major databases, document management
57 applications, and electronic recordkeeping and locator systems maintained by the agency,
58 including an indication of which records are publicly accessible, at no charge, on the internet.
59 Each state agency that maintains a website shall post such reference materials on its website.

60 (c) The secretary of each executive office shall, on or before January 1, 2012,
61 promulgate rules and regulations to carry out the purposes of this act which shall be applicable to
62 all agencies, departments, boards, commissions, authorities, and instrumentalities within each of
63 said executive offices subject to the approval of the secretary of administration and finance, in
64 consultation with the chief information officer of the commonwealth. Any agency not within any
65 such executive office shall be subject to the regulations of the secretary of administration and
66 finance. The attorney general, the state secretary, the state treasurer and the state auditor shall
67 adopt applicable regulations for their respective departments on or before January 1, 2012.