SENATE DOCKET, NO. 628 FILED ON: 1/16/2013

SENATE . . . . . No. 1480

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 enhancing access to electronic public records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	*Middlesex and Worcester*
Sheila C. Harrington	*1st Middlesex*
Jason M. Lewis	*Fifth Middlesex*
Denise Andrews	*2nd Franklin*
Benjamin B. Downing	*Berkshire, Hampshire, Franklin and Hampden*
Tom Sannicandro	*7th Middlesex*
James Arciero	*2nd Middlesex*

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By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1480) of James B. Eldridge, Sheila C. Harrington, Jason M. Lewis, Denise Andrews and other members of the General Court for legislation to enhance access to electronic public records. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1575* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act enhancing 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:

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 in line 133 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 3B. 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 of public record information in order to provide maximum public access. No custodian of a public record may enter into a contract for the storage of electronic records containing public record information that impairs or restricts public access to those records.

SECTION 3. Section 10 of said chapter 66,as so appearing, is hereby amended by inserting after the word “record,” in line 4, the following:- including public record information which may be separately retrieved from an electronic record,

SECTION 4. Said section 10 of said chapter 66, as so appearing,is hereby further amended by inserting at the end thereof the following paragraph:-

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

SECTION 5. Said chapter 66 of the General Laws, as so appearing, is hereby further amended by inserting after Section 10 the following new section:--

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

(b) Every state agency shall prepare and maintain reference materials to enhance access to public records in its custody and enable requestors to make informed requests, including: (i) a reasonably detailed document classification scheme, to be updated annually, outlining categories of records maintained by the agency, whether or not open for public inspection,; and (ii) an index and description of all major databases, document management applications, and electronic recordkeeping and locator systems maintained by the agency,

including an indication of which records are publicly accessible, at no charge, on the internet. Each state agency that maintains a website shall post such reference materials on its website.

(c) The secretary of each executive office shall, on or before January 1, 2014, promulgate rules and regulations to carry out the purposes of this act which shall be applicable to all agencies, departments, boards, commissions, authorities, and instrumentalities within each of said executive offices subject to the approval of the secretary of administration and finance, in consultation with the chief information officer of the commonwealth. Any agency not within any such executive office shall be subject to the regulations of the secretary of administration and finance. The attorney general, the state secretary, the state treasurer and the state auditor shall adopt applicable regulations for their respective departments on or before January 1, 2014.