SENATE DOCKET, NO. 629 FILED ON: 1/16/2013

SENATE . . . . . No. 1481

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 improving access to public records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	*Middlesex and Worcester*
Jason M. Lewis	*Fifth Middlesex*
James Arciero	*2nd Middlesex*
William N. Brownsberger	*Second Suffolk and Middlesex*
Benjamin B. Downing	*Berkshire, Hampshire, Franklin and Hampden*
Cory Atkins	*14th Middlesex*

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By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1481) of James B. Eldridge, Jason M. Lewis, James Arciero, William N. Brownsberger and other members of the General Court for legislation to improve access to public records. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1576* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act improving access to 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:

O SECTION 1. Clause Twenty-sixth of Section 7 of Chapter 4 of the General Laws, as appearing in the 20010 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 appearing in the 20010 Official Edition, is hereby amended by inserting after Section 6 the following new section:--

Section 6A. Every state agency, as defined in chapter 66A, shall designate one or more employees as records access officers, who shall have the custody of all its public records other than those records for which a clerk is the statutory custodian. Each agency shall publicize by posting in a conspicuous location at its offices and in a conspicuous location on its website, if any, the name, title, business address and business telephone number of the designated records access officers. The designation of one or more records access officers shall not be construed to prohibit employees who have in the past been authorized to make records or information available to the public from continuing to do so.

Records access officers shall be responsible for coordinating such agency's response to requests for access to records under the provisions of this chapter, shall facilitate the informal

resolution of requests by timely and thorough production of records, and shall ensure that the agency:

(a) Assist requesters seeking records to identify the records sought;

(b) In responding to a request, indicate whether the records are available in electronic form and the manner in which the records are stored, filed, retrieved or generated, to assist requesters in describing the records sought;

(c) Contact requesters when the response to a request would be voluminous so the agency may, at the option of the requester, assist the requester in focusing the request in order to facilitate the timely and thorough production of the records sought;

(d) Maintain a reasonably detailed document classification scheme outlining categories of records maintained by the agency, whether or not open for public inspection. The document classification scheme shall be updated annually, conspicuously marked with the date of the most recent update, and posted on the agency's website, if any.

SECTION 3. Section 10 of said Chapter 66 is hereby amended by striking subsection (a) and inserting in place thereof the following:-

(a) Every person having custody of any public record, as defined in clause Twenty-sixth of section seven of chapter four, shall, at reasonable times and without unreasonable delay, permit it, or any segregable portion of a record which is an independent public record, including public record information which may be separately retrieved from an electronic record, to be inspected and examined by any person, under his supervision, and shall furnish one copy thereof upon payment of a reasonable fee not to exceed the actual cost of reproducing the record.

In determining the actual cost of reproducing a record, the custodian of the record may include only: (i) the actual cost of any storage devices or materials provided to the requester in complying with such request; (ii) an amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill required to prepare a copy of the requested record, provided that no fee shall be charged unless at least two hours of employee time is needed to prepare a copy of the record requested, and further provided that no fee shall be charged for employee time to prepare photocopies of records or retrieve electronic public record information; and (iii) 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. In no case shall fees for black and white photocopies exceed 5 cents per letter size page or smaller, or 7 cents per larger page.

51 Every person having custody of a record shall inform the requester of the estimated cost
52 of preparing a copy of the record if more than two hours of an employee`s time is needed, or if
53 an outside professional service would be retained to prepare a copy of the record. No fee shall
54 be charged for the following: (1) search time; or (2) review of the content of requested records to
55 determine the extent to which exempt and public information must be segregated.

56 SECTION 4. Said section 10 of said Chapter 66 is hereby further amended by inserting
57 after the final sentence of subsection (b), the following:- In any such proceeding, the court may
58 award reasonable attorney's fees to the party seeking public records if that party has substantially
59 prevailed.