

AMENDMENTS TO LB 391

Introduced by Government, Military and Veterans Affairs

1 1. Strike the original sections and all amendments
2 thereto and insert the following sections:

3 Section 1. Section 84-712, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 84-712 (1) Except as otherwise expressly provided by
6 statute, all citizens of this state, and all other persons
7 interested in the examination of the public records, as defined
8 in section 84-712.01, are hereby fully empowered and authorized
9 to (a) examine the same, and make memoranda, copies using their
10 own copying or photocopying equipment in accordance with subsection
11 (2) of this section, and abstracts therefrom, all free of charge,
12 during the hours the respective offices may be kept open for
13 the ordinary transaction of business and (b) except if federal
14 copyright law otherwise provides, obtain copies of public records
15 in accordance with subsection (3) of this section during the
16 hours the respective offices may be kept open for the ordinary
17 transaction of business.

18 (2) Copies made by citizens or other persons using their
19 own copying or photocopying equipment pursuant to subdivision
20 (1)(a) of this section shall be made on the premises of the
21 custodian of the public record or at a location mutually agreed to
22 by the requester and the custodian.

23 (3)(a) Copies may be obtained pursuant to subdivision

1 (1) (b) of this section only if the custodian has copying equipment
2 reasonably available. Such copies may be obtained in any form
3 designated by the requester in which the public record is
4 maintained or produced, including, but not limited to, printouts,
5 electronic data, discs, tapes, and photocopies.

6 (b) Except as otherwise provided by statute, the
7 custodian of a public record may charge a fee for providing copies
8 of such public record pursuant to subdivision (1) (b) of this
9 section, which fee shall not exceed the actual cost of making
10 the copies available. For purposes of this subdivision, (i) for
11 photocopies, the actual cost of making the copies available shall
12 not exceed the amount of the reasonably calculated actual cost of
13 the photocopies, (ii) for printouts of computerized data on paper,
14 the actual cost of making the copies available shall include the
15 reasonably calculated actual cost of computer run time and the
16 cost of materials for making the copy, and (iii) for electronic
17 data, the actual cost of making the copies available shall include
18 the reasonably calculated actual cost of the computer run time,
19 any necessary analysis and programming, and the production of the
20 report in the form furnished to the requester. State agencies
21 which provide electronic access to public records through a gateway
22 service shall obtain approval of their proposed reasonable fees for
23 such records pursuant to sections 84-1205.02 and 84-1205.03, if
24 applicable, and the actual cost of making the copies available may
25 include the approved fee for the gateway service.

26 (c) This section shall not be construed to require a
27 public body or custodian of a public record to copy, produce,

1 or generate (i) any public record in a new or different form or
2 format modified from that of the original public record or (ii)
3 all public records created within a certain time frame, unless a
4 general subject matter request is provided to the public body or
5 custodian by the person requesting the public records.

6 (d) If copies requested in accordance with subdivision
7 (1)(b) of this section are estimated by the custodian of such
8 public records to cost more than fifty dollars, the custodian may
9 require the requester to furnish a deposit prior to fulfilling such
10 request.

11 (4) Upon receipt of a written request for access to or
12 copies of a public record or both access and copies, the custodian
13 of such record shall provide to the requester as soon as is
14 practicable and without delay, but not more than four business
15 days after actual receipt of the request, ~~either~~ (a) access to
16 such public record if requested and or, if copying equipment is
17 reasonably available, copies of the public record, if requested
18 and copying equipment is reasonably available, (b) if there is
19 a legal basis for denial of access or copies, a written denial
20 of the request together with the information specified in section
21 84-712.04, or (c) if the entire request cannot with reasonable good
22 faith efforts be fulfilled within four business days after actual
23 receipt of the request due to the significant difficulty or the
24 extensiveness of the request, a written explanation, including the
25 earliest practicable date for fulfilling the request, an estimate
26 of the expected cost of any copies, and an opportunity for the
27 requester to modify or prioritize the items within the request.

1 Sec. 2. Section 84-1412, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 84-1412 (1) Subject to the Open Meetings Act, the public
4 has the right to attend and the right to speak at meetings of
5 public bodies, and all or any part of a meeting of a public body,
6 except for closed sessions called pursuant to section 84-1410, may
7 be videotaped, televised, photographed, broadcast, or recorded by
8 any person in attendance by means of a tape recorder, camera, video
9 equipment, or any other means of pictorial or sonic reproduction or
10 in writing.

11 (2) It shall not be a violation of subsection (1) of
12 this section for any public body to make and enforce reasonable
13 rules and regulations regarding the conduct of persons attending,
14 speaking at, videotaping, televising, photographing, broadcasting,
15 or recording its meetings. Each public body shall have a form
16 on which citizens may request subjects for discussion as possible
17 agenda items at a future meeting. Copies of such form shall be
18 made available at every meeting and at the principal office of
19 the public body during normal business hours. Within ten business
20 days after receiving such form, the secretary or other designee
21 of the public body shall, by first class mail, send the citizen
22 a written statement regarding the status of the request. If such
23 written statement denies the citizen's request to place the item
24 on the agenda, the citizen may send a second written request that
25 the subject be an agenda item at a future meeting to the secretary
26 or designee of the public body. Within five business days after
27 receiving the second request, the secretary or other designee of

1 the public body shall, by first class mail, send the citizen notice
2 of the time, place, and date of the meeting which shall include the
3 agenda item as requested. Nothing in this subsection shall prohibit
4 a citizen from requesting that a member of the public body place an
5 item on the agenda. A body may not be required to allow citizens to
6 speak at each meeting, but it may not forbid public participation
7 at all meetings.

8 (3) No public body shall require members of the public
9 to identify themselves as a condition for admission to the meeting
10 nor shall such body require that members of the public be placed
11 on the agenda prior to such meeting in order to speak to the body
12 regarding items on the agenda. The body may require any member
13 of the public desiring to address the body to identify himself or
14 herself.

15 (4) No public body shall, for the purpose of
16 circumventing the Open Meetings Act, hold a meeting in a place
17 known by the body to be too small to accommodate the anticipated
18 audience.

19 (5) No public body shall be deemed in violation of this
20 section if it holds its meeting in its traditional meeting place
21 which is located in this state.

22 (6) No public body shall be deemed in violation of this
23 section if it holds a meeting outside of this state if, but only
24 if:

25 (a) A member entity of the public body is located outside
26 of this state and the meeting is in that member's jurisdiction;

27 (b) All out-of-state locations identified in the notice

1 are located within public buildings used by members of the entity
2 or at a place which will accommodate the anticipated audience;

3 (c) Reasonable arrangements are made to accommodate the
4 public's right to attend, hear, and speak at the meeting, including
5 making a telephone conference call available at an instate location
6 to members, the public, or the press, if requested twenty-four
7 hours in advance;

8 (d) No more than twenty-five percent of the public body's
9 meetings in a calendar year are held out-of-state;

10 (e) Out-of-state meetings are not used to circumvent any
11 of the public government purposes established in the Open Meetings
12 Act;

13 (f) Reasonable arrangements are made to provide viewing
14 at other instate locations for a videoconference meeting if
15 requested fourteen days in advance and if economically and
16 reasonably available in the area; and

17 (g) The public body publishes notice of the out-of-state
18 meeting at least twenty-one days before the date of the meeting in
19 a legal newspaper of statewide circulation.

20 (7) The public body shall, upon request, make a
21 reasonable effort to accommodate the public's right to hear the
22 discussion and testimony presented at the meeting.

23 (8) Public bodies shall make available at the meeting
24 or the instate location for a telephone conference call or
25 videoconference, for examination and copying by members of the
26 public, at least one copy of all reproducible written material to
27 be discussed at an open meeting. Public bodies shall make available

1 at least one current copy of the Open Meetings Act posted in the
2 meeting room at a location accessible to members of the public. At
3 the beginning of the meeting, the public shall be informed about
4 the location of the posted information.

5 Sec. 4. Original sections 84-712 and 84-1412, Revised
6 Statutes Cumulative Supplement, 2006, are repealed.