

Glenda Wiles

From: MACO <MACO@mtcounties.org>
Sent: Monday, June 11, 2018 12:45 PM
To: MACO
Subject: Public Records Act Email

Hello,

Your county may have received a request from American Transparency for payroll related documents. The request asked counties to send the documents to Montana@OpenTheBooks.com. We believe this is a legitimate request and offer the following guidance on responding to the request.

Below is the 2015 law regarding public records. Essentially, the purpose of this law was to allow public agencies to compile requested records and charge a fee in advance based on estimated time to compile the information. This law allows public entities to require pre-payment of fees in order to prevent endless fishing expeditions.

Most of the requested information is public record, including the date and salary. Although overtime information is slightly beyond what is typically provided, it is ok to provide. Obviously, sick, vacation and other personal information is not. Bonuses are not paid to county employees so that section doesn't apply. We suggest you calculate the amount of time it will take to collect the information and request advance payment of the fees.

2-6-1006. Public information requests — fees. (1) A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons.

(2) Upon receiving a request for public information, a public agency shall respond in a timely manner to the requesting person by:

(a) making the public information maintained by the public agency available for inspection and copying by the requesting person; or

(b) providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered and any fees that may be charged pursuant to subsection (3).

(3) A public agency may charge a fee for fulfilling a public information request. Except where a fee is otherwise provided for by law, the fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible. The fee must be documented. The fee may include the time required to gather public information. The public agency may require the requesting person to pay the estimated fee prior to identifying and gathering the requested public information.

(4) A public agency is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.

(5) If a public agency agrees to a request to customize a records request response, the costs of the customization may be included in the fees charged by the agency.

(6) (a) The secretary of state is authorized to charge fees under this section. The fees must be set and deposited in accordance with 2-15-405. The fees must be collected in advance.

(b) The secretary of state may not charge a fee to a member of the legislature or public officer for any search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties.

Please don't hesitate to contact us with any questions.

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