~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 27, 2013

**H. 3163**

Introduced by Reps. Taylor, G.R. Smith, Long and Daning

S. Printed 2/27/13--H.

Read the first time January 8, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3163) to amend Section 30‑4‑30, Code of Laws of South Carolina, 1976, relating to fees and the time in which a public body must respond to a request, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting clause and inserting:

/ SECTION 1. Section 30‑4‑30 of the 1976 Code is amended to read:

“Section 30‑4‑30. (a) ~~Any~~ A person has a right to inspect ~~or~~, copy, or receive an electronic transmission of any public record of a public body, except as otherwise provided by Section 30‑4‑40, in accordance with reasonable rules concerning time and place of access.

(b) The public body may establish and collect fees ~~not to exceed the actual cost of searching for or making copies of records~~ as provided for in this section. The public body may establish and collect reasonable fees not to exceed the actual cost of the search, retrieval, and redaction of records. The public body must develop a fee schedule to be posted on line. The fee for the search, retrieval, or redaction of records shall not exceed the prorated hourly salary of the lowest paid employee who, in the reasonable discretion of the custodian of the records, has the necessary skill and training to perform the request. The fee schedule shall list the salary level of the representative of the public body designated to respond to requests and the hourly rate for the search, retrieval, or redaction of records based on the designated employee’s salary level. Fees charged by a public body must be uniform for copies of the same record or document and may not exceed the prevailing commercial rate for the producing of copies. Copy charges may not apply to records that are transmitted in an electronic format. Fees charged by a public body must be uniform for copies of the same record or document and may not exceed the prevailing commercial rate for the producing of copies. Copy charges may not apply to records that are transmitted in an electronic format. However, members of the General Assembly may receive copies of records or documents at no charge from public bodies when their request relates to their legislative duties. The records must be furnished at the lowest possible cost to the person requesting the records. Records must be provided in a form that is both convenient and practical for use by the person requesting copies of the records concerned, if it is equally convenient for the public body to provide the records in this form. Documents may be furnished when appropriate without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Fees may not be charged for examination and review to determine if the documents are subject to disclosure. ~~Nothing in this chapter prevents the custodian of the public records from charging a reasonable hourly rate for making records available to the public nor requiring a reasonable deposit of these costs before searching for or making copies of the records~~ A deposit not to exceed twenty‑five percent of the total cost for reproduction of the records may be required prior to the public body searching for or making copies of records.

(c) Each public body, upon written request for records made under this chapter, shall within ~~fifteen~~ ten days (excepting Saturdays, Sundays, and legal public holidays) of the receipt of any ~~such~~ request, notify the person making ~~such~~ the request of its determination and the reasons ~~therefor~~ for it. ~~Such a~~ This determination shall constitute the final opinion of the public body as to the public availability of the requested public record and, if the request is granted, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date of the original request or no later than thirty calendar days from the date a requested deposit is received, whichever is later, unless the records are more than twenty‑four months old in which case the public body may use no more than forty‑five additional calendar days to produce the records. If written notification of the determination of the public body as to the availability of the requested public record is neither mailed nor personally delivered to the person requesting the document within the ~~fifteen~~ ten days (excepting Saturdays, Sundays, and legal public holidays) allowed ~~herein~~, the request must be considered approved.

(d) The following records of a public body must be made available for public inspection and copying during the hours of operations of the public body, unless the record is exempt pursuant to Section 30‑4‑40, without the requestor being required to make a written request to inspect or copy the records when the requestor appears in person:

(1) minutes of the meetings of the public body for the preceding six months;

(2) all reports identified in Section 30‑4‑50(A)(8) for at least the fourteen‑day period before the current day; ~~and~~

(3) documents identifying persons confined in any jail, detention center, or prison for the preceding three months; and

(4) all documents produced by the public body or its agent that were distributed to or reviewed by any member of the public body during a public meeting for the preceding six month period.

(e) A public body complies with the provisions of subsection (d) by placing the records in a form that is both convenient and practical for use on a publicly available Internet site, provided that the public body also must produce documents pursuant to this section if requested to do so.”

SECTION 2. Section 30‑4‑100 of the 1976 Code is amended to read:

“Section 30‑4‑100. (a) ~~Any~~ A citizen of the State may apply to the circuit court for ~~either or both~~ a declaratory judgment ~~and~~, injunctive relief, or both, to enforce the provisions of this chapter in appropriate cases ~~as long as such~~ if the application is made no later than one year ~~following~~ after the date ~~on which the~~ of the alleged violation ~~occurs~~ or one year after a public vote in public session, whichever comes later. The court may order equitable relief as it considers appropriate, and a violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists.

(b) A citizen of this State may file a request for hearing with the Office of Freedom of Information Act Review pursuant to Section 1‑23‑665 in the following instances:

(1) To seek specific enforcement of a request made pursuant to Section 30‑4‑30 when the public body from which the records are requested fails to comply with the time limits provided in Section 30‑4‑30(c).

(2) To challenge the reasonableness of a fee assessed pursuant to Section 30‑4‑30.

A determination of the Office of Freedom of Information Act Review may be appealed to the Administrative Law Court or enforced by an administrative law judge pursuant to Section 1‑23‑665.

(c) A public body may file a request for hearing with the Office of Freedom of Information Act Review pursuant to Section 1‑23‑665 to seek relief from unduly burdensome, overly broad, or otherwise improper requests.

(~~b~~d) If a person or entity seeking ~~such~~ relief under this section prevails, he ~~or it~~ may be awarded reasonable attorney fees and other costs of litigation. If ~~such~~ the person or entity prevails in part, the court may in its discretion award him ~~or it~~ reasonable attorney fees or an appropriate portion ~~thereof~~ of them.”

SECTION 3. Section 30‑4‑110 of the 1976 Code is amended to read:

“Section 30‑4‑110. ~~Any~~ A person or group of persons who ~~willfully~~ wilfully violates the provisions of this chapter ~~shall be deemed~~ is guilty of a misdemeanor and, upon conviction ~~shall~~, must be fined not more than ~~one~~ five hundred dollars or imprisoned for not more than thirty days for the first offense, ~~shall be~~ fined not more than ~~two hundred~~ one thousand dollars or imprisoned for not more than sixty days for the second offense, and ~~shall be~~ fined ~~three~~ fifteen hundred dollars or imprisoned for not more than ninety days for the third or subsequent offense. The responsible officer or public official of an agency found to have wilfully violated the provisions of this chapter may be punished pursuant to this chapter.”

SECTION 4. Chapter 23, Title 1 of the 1976 Code is amended by adding:

“Section 1‑23‑665. (A) There is created within the Administrative Law Court the Office of Freedom of Information Act Review. The chief judge of the Administrative Law Court shall serve as the director of the Office of Freedom of Information Act Review. The hearing officers and staff must be appointed, hired, contracted, and supervised by the chief judge of the court, shall exercise their adjudicatory functions, duties, and responsibilities under the auspices of the Administrative Law Court as directed by the chief judge, and shall perform such other functions and duties as the chief judge of the court prescribes. All employees of the office shall serve at the discretion of the chief judge. The chief judge is solely responsible for the administration of the office, the assignment of cases, and the administrative duties and responsibilities of the hearing officers and staff. Notwithstanding another provision of law, the chief judge also has the authority to promulgate rules governing practice and procedures before the Office of Freedom of Information Act Review. These rules are subject to review as are the rules of procedure promulgated by the Supreme Court pursuant to Article V of the South Carolina Constitution.

(B) Notwithstanding another provision of law, the hearing officers shall conduct hearings in accordance with Chapter 23 of Title 1, the Administrative Procedures Act, and the rules of procedure for the Office of Freedom of Information Act Review, at suitable locations as determined by the chief judge.

(C) The hearing officers are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules. The State Ethics Commission is responsible for the enforcement and administration of those rules and for the issuance of advisory opinions on the requirements of those rules for administrative law judges and hearing officers pursuant to the procedures contained in Section 8‑13‑320. Notwithstanding another provision of law, an administrative law judge or hearing officer, and the judge’s or hearing officer’s spouse or guest, may accept an invitation to, and attend, a judicial‑related or bar‑related function, or an activity devoted to the improvement of the law, the legal system, or the administration of justice.

(D) Appeals from decisions of the hearing officers must be filed with the ALC pursuant to the court’s appellate rules of procedure. Recordings of all hearings must be made part of the record on appeal, along with all evidence introduced at hearings, and copies will be provided to parties to those appeals at no charge. The chief judge shall not hear any appeals from these decisions.

(E) A hearing officer must issue an order containing findings of fact and conclusions of law. If a hearing officer determines that information is subject to disclosure, the order must set forth in writing what information must be disclosed and when that disclosure must occur. If the decision of the hearing officer is not timely appealed to the ALC, a prevailing party may apply to the ALC to enforce the determination. If the decision is appealed to the ALC, and the administrative law judge upholds a decision ordering disclosure of information, the administrative law judge may enforce the hearing officer’s determination as the court considers appropriate. If the administrative law judge rules that the determination must be enforced, the court may hold a person, the responsible officer, or the public official of a public body in civil contempt for failing to comply with the provisions of Section 30‑4‑30 or an order of the court relating to Section 30‑4‑30. The administrative law judge may also award attorney’s fees pursuant to Section 30‑4‑100(c).”

SECTION 5. Section 30‑4‑40 of the 1976 Code is amended to read:

“Section 30‑4‑40. (a) A public body may but is not required to exempt from disclosure the following information:

(1) Trade secrets, which are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential and work products, in whole or in part collected or produced for sale or resale, and paid subscriber information. Trade secrets also include, for those public bodies who market services or products in competition with others, feasibility, planning, and marketing studies, marine terminal service and nontariff agreements, and evaluations and other materials which contain references to potential customers, competitive information, or evaluation.

(2) Information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy. Information of a personal nature shall include, but not be limited to, information as to gross receipts contained in applications for business licenses and information relating to public records which include the name, address, and telephone number or other such information of an individual or individuals who are handicapped or disabled when the information is requested for person‑to‑person commercial solicitation of handicapped persons solely by virtue of their handicap. This provision must not be interpreted to restrict access by the public and press to information contained in public records.

(3) Records of law enforcement and public safety agencies not otherwise available by state and federal law that were compiled in the process of detecting and investigating crime if the disclosure of the information would harm the agency by:

(A) disclosing identity of informants not otherwise known;

(B) the premature release of information to be used in a prospective law enforcement action;

(C) disclosing investigatory techniques not otherwise known outside the government;

(D) by endangering the life, health, or property of any person; or

(E) disclosing any contents of intercepted wire, oral, or electronic communications not otherwise disclosed during a trial.

(4) Matters specifically exempted from disclosure by statute or law.

(5) Documents of and documents incidental to proposed contractual arrangements and documents of and documents incidental to proposed sales or purchases of property; however:

(A) these documents are not exempt from disclosure once a contract is entered into or the property is sold or purchased except as otherwise provided in this section;

(B) a contract for the sale or purchase of real estate shall remain exempt from disclosure until the deed is executed, but this exemption applies only to those contracts of sale or purchase where the execution of the deed occurs within twelve months from the date of sale or purchase;

(C) confidential proprietary information provided to a public body for economic development or contract negotiations purposes is not required to be disclosed.

(6) All compensation paid by public bodies except as follows:

(A) For those persons receiving compensation of fifty thousand dollars or more annually, for all part‑time employees, for any other persons who are paid honoraria or other compensation for special appearances, performances, or the like, and for employees at the level of agency or department head, the exact compensation of each person or employee;

(B) For classified and unclassified employees, including contract instructional employees, not subject to item (A) above who receive compensation between, but not including, thirty thousand dollars and fifty thousand dollars annually, the compensation level within a range of four thousand dollars, such ranges to commence at thirty thousand dollars and increase in increments of four thousand dollars;

(C) For classified employees not subject to item (A) above who receive compensation of thirty thousand dollars or less annually, the salary schedule showing the compensation range for that classification including longevity steps, where applicable;

(D) For unclassified employees, including contract instructional employees, not subject to item (A) above who receive compensation of thirty thousand dollars or less annually, the compensation level within a range of four thousand dollars, such ranges to commence at two thousand dollars and increase in increments of four thousand dollars.

(E) For purposes of this subsection (6), ‘agency head’ or ‘department head’ means any person who has authority and responsibility for any department of any institution, board, commission, council, division, bureau, center, school, hospital, or other facility that is a unit of a public body.

(7) Correspondence or work products of legal counsel for a public body and any other material that would violate attorney‑client relationships.

(8) ~~Memoranda, correspondence, and working papers in the possession of individual members of the General Assembly or their immediate staffs; however, nothing herein may be construed as limiting or restricting public access to source documents or records, factual data or summaries of factual data, papers, minutes, or reports otherwise considered to be public information under the provisions of this chapter and not specifically exempted by any other provisions of this chapter.~~

~~(9)~~ Memoranda, correspondence, documents, and working papers relative to efforts or activities of a public body and of a person or entity employed by or authorized to act for or on behalf of a public body to attract business or industry to invest within South Carolina; however, an incentive agreement made with an industry or business: (1) requiring the expenditure of public funds or the transfer of anything of value, (2) reducing the rate or altering the method of taxation of the business or industry, or (3) otherwise impacting the offeror fiscally, is not exempt from disclosure after:

(A) the offer to attract an industry or business to invest or locate in the offeror’s jurisdiction is accepted by the industry or business to whom the offer was made; and

(B) the public announcement of the project or finalization of any incentive agreement, whichever occurs later.

(~~10~~9) Any standards used or to be used by the South Carolina Department of Revenue for the selection of returns for examination, or data used or to be used for determining such standards, if the commission determines that such disclosure would seriously impair assessment, collection, or enforcement under the tax laws of this State.

(~~11~~10) Information relative to the identity of the maker of a gift to a public body if the maker specifies that his making of the gift must be anonymous and that his identity must not be revealed as a condition of making the gift. For the purposes of this item, ‘gift to a public body’ includes, but is not limited to, gifts to any of the state supported colleges or universities and museums. With respect to the gifts, only information which identifies the maker may be exempt from disclosure. If the maker of any gift or any member of his immediate family has any business transaction with the recipient of the gift within three years before or after the gift is made, the identity of the maker is not exempt from disclosure.

(~~12~~11) Records exempt pursuant to Sections 9‑16‑80(B) and 9‑16‑320(D).

(~~13~~12) All materials, regardless of form, gathered by a public body during a search to fill an employment position, except that materials relating to not fewer than the final three applicants under consideration for a position must be made available for public inspection and copying. In addition to making available for public inspection and copying the materials described in this item, the public body must disclose, upon request, the number of applicants considered for a position. For the purpose of this item ‘materials relating to not fewer than the final three applicants’ do not include an applicant’s income tax returns, medical records, social security number, or information otherwise exempt from disclosure by this section.

(~~14~~13)(A) Data, records, or information of a proprietary nature, produced or collected by or for faculty or staff of state institutions of higher education in the conduct of or as a result of study or research on commercial, scientific, technical, or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or private concern, where the data, records, or information has not been publicly released, published, copyrighted, or patented.

(B) Any data, records, or information developed, collected, or received by or on behalf of faculty, staff, employees, or students of a state institution of higher education or any public or private entity supporting or participating in the activities of a state institution of higher education in the conduct of or as a result of study or research on medical, scientific, technical, scholarly, or artistic issues, whether sponsored by the institution alone or in conjunction with a governmental body or private entity until the information is published, patented, otherwise publicly disseminated, or released to an agency whereupon the request must be made to the agency. This item applies to, but is not limited to, information provided by participants in research, research notes and data, discoveries, research projects, proposals, methodologies, protocols, and creative works.

(C) The exemptions in this item do not extend to the institution’s financial or administrative records.

(~~15~~14) The identity, or information tending to reveal the identity, of any individual who in good faith makes a complaint or otherwise discloses information, which alleges a violation or potential violation of law or regulation, to a state regulatory agency.

(~~16~~15) Records exempt pursuant to Sections 59‑153‑80(B) and 59‑153‑320(D).

(~~17~~16) Structural bridge plans or designs unless: (a) the release is necessary for procurement purposes; or (b) the plans or designs are the subject of a negligence action, an action set forth in Section 15‑3‑530, or an action brought pursuant to Chapter 78 of Title 15, and the request is made pursuant to a judicial order.

(~~18~~17) Photographs, videos, and other visual images, and audio recordings of and related to the performance of an autopsy, except that the photographs, videos, images, or recordings may be viewed and used by the persons identified in Section 17‑5‑535 for the purposes contemplated or provided for in that section.

(~~19~~18) Private investment and other proprietary financial data provided to the Venture Capital Authority by a designated investor group or an investor as those terms are defined by Section 11‑45‑30.

(b) If any public record contains material which is not exempt under subsection (a) of this section, the public body shall separate the exempt and nonexempt material and make the nonexempt material available in accordance with the requirements of this chapter.

(c) Information identified in accordance with the provisions of Section 30‑4‑45 is exempt from disclosure except as provided therein and pursuant to regulations promulgated in accordance with this chapter. Sections 30‑4‑30, 30‑4‑50, and 30‑4‑100 notwithstanding, no custodian of information subject to the provisions of Section 30‑4‑45 shall release the information except as provided therein and pursuant to regulations promulgated in accordance with this chapter.

(d) A public body may not disclose a ‘privileged communication’, ‘protected information’, or a ‘protected identity’, as defined in Section 23‑50‑15 pursuant to a request under the South Carolina Freedom of Information Act. These matters may only be disclosed pursuant to the procedures set forth in Section 23‑50‑45.”

SECTION 6. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 30‑4‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FEES AND THE TIME in which a public body must respond to a request made under THE FREEDOM OF INFORMATION ACT, SO AS TO PROVIDE for the ELECTRONIC TRANSMISSION OF PUBLIC RECORDS UNDER THE ACT, TO PROVIDE A PUBLIC BODY MAY not charge for staff time but may cHARGE THE PREVAILING COMMERCIAL RATE FOR COPY costs WHEN RESPONDING TO A REQUEST, TO PROVIDE a public body may not assess a copy charge when PROVIDING a RECORD STORED OR TRANSMITTED IN ELECTRONIC FORMAT, TO PROVIDE A public body MAY REQUIRE a deposit BEFORE fulfilling A REQUEST, TO REVISE THE TIME LIMITS FOR RESPONDING TO A REQUEST, to provide that during the hours of operation of a public body it must make available without written request all documents received or reviewed by a member of the body in a public meeting during the preceding six months, AND TO PROVIDE THAT A PUBLIC BODY MAY SATISFY This requirement BY MAKING THE RECORDS AVAILABLE ON THE INTERNET; TO AMEND SECTION 30‑4‑100, RELATING TO EQUITABLE REMEDIES AVAILABLE UNDER THE ACT, SO AS TO PROVIDE FOR SPECIFIC ENFORCEMENT AND CIVIL CONTEMPT REMEDIES WHEN A PUBLIC BODY FAILS TO COMPLY WITH THE TIME LIMITS FOR RESPONDING TO A REQUEST; AND TO AMEND SECTION 30‑4‑110, RELATING TO FINES AND CRIMINAL PENALTIES FOR A VIOLATION OF THE ACT, SO AS TO INCREASE THE FINES AND PROVIDE AN OFFICER OR PUBLIC OFFICIAL WHO WILFULLY VIOLATES THE ACT MAY BE PUNISHED PURSUANT TO THE ACT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 30‑4‑30 of the 1976 Code is amended to read:

“Section 30‑4‑30. (a) ~~Any~~ A person has a right to inspect ~~or~~, copy, or receive an electronic transmission of any public record of a public body, except as otherwise provided by Section 30‑4‑40, in accordance with reasonable rules concerning time and place of access.

(b) The public body may establish and collect fees not to exceed the actual cost of ~~searching for or~~ making copies of records. The public body may not charge for staff time associated with gathering or reproducing the records. Fees charged by a public body must be uniform for copies of the same record or document and may not exceed the prevailing commercial rate for the producing of copies. Copy charges may not apply to records that are stored or transmitted in an electronic format. However, members of the General Assembly may receive copies of records or documents at no charge from public bodies when their request relates to their legislative duties. The records must be furnished at the lowest possible cost to the person requesting the records. Records must be provided in a form that is both convenient and practical for use by the person requesting copies of the records concerned, if it is equally convenient for the public body to provide the records in this form. Documents may be furnished when appropriate without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Fees may not be charged for examination and review to determine if the documents are subject to disclosure. ~~Nothing in this chapter prevents the custodian of the public records from charging a reasonable hourly rate for making records available to the public nor requiring a reasonable deposit of these costs before searching for or making copies of the records~~ A deposit not to exceed twenty‑five percent of the total cost for reproduction of the records may be required prior to the public body searching for or making copies of records.

(c) Each public body, upon written request for records made under this chapter, shall ~~within fifteen~~ as soon as possible but in no more than seven calendar days ~~(excepting Saturdays, Sundays, and legal public holidays)~~ of the receipt of any ~~such~~ request, notify the person making ~~such~~ the request of its determination and the reasons ~~therefore~~ for it. ~~Such a~~ This determination shall constitute the final opinion of the public body as to the public availability of the requested public record and, if the request is granted, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date of the original request, unless the records are more than twenty‑four months old in which case the public body may use no more than forty‑five additional calendar days to produce the records. If written notification of the determination of the public body as to the availability of the requested public record is neither mailed nor personally delivered to the person requesting the document within the ~~fifteen~~ seven calendar days allowed ~~herein~~, the request must be considered approved.

(d) The following records of a public body must be made available for public inspection and copying during the hours of operations of the public body, unless the record is exempt pursuant to Section 30‑4‑40, without the requestor being required to make a written request to inspect or copy the records when the requestor appears in person:

(1) minutes of the meetings of the public body for the preceding six months;

(2) all reports identified in Section 30‑4‑50(A)(8) for at least the fourteen‑day period before the current day; ~~and~~

(3) documents identifying persons confined in any jail, detention center, or prison for the preceding three months; and

(4) all documents produced by the public body or its agent that were distributed to or reviewed by any member of the public body during a public meeting for the preceding six month period.

(e) A public body complies with the provisions of subsection (d) by placing the records in a form that is both convenient and practical for use on a publicly available Internet site, provided that the public body also must produce documents pursuant to this section if requested to do so.”

SECTION 2. Section 30‑4‑100 of the 1976 Code is amended to read:

“Section 30‑4‑100. (a) ~~Any~~ A citizen of the State may apply to the circuit court for ~~either or both~~ a declaratory judgment ~~and~~, injunctive relief, or both to enforce the provisions of this chapter in appropriate cases ~~as long as such~~ if the application is made no later than one year ~~following~~ after the date ~~on which the~~ of the alleged violation ~~occurs~~ or one year after a public vote in public session, whichever comes later. The court may order equitable relief as it considers appropriate, and a violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists.

(b) A citizen of this State may apply to the appropriate magistrate court for specific enforcement of a request made pursuant to Section 30‑4‑30 when the public body from which the records are requested fails to comply with the time limits provided in Section 30‑4‑30(c). A person, the responsible officer, or the public official of a public body may be held in civil contempt by the magistrates court for failing to comply with the provisions of Section 30‑4‑30 or an order of the magistrates court relating to Section 30‑4‑30.

(~~b~~c) If a person or entity seeking ~~such~~ relief under this section prevails, he ~~or it~~ may be awarded reasonable attorney fees and other costs of litigation. If ~~such~~ the person or entity prevails in part, the court may in its discretion award him ~~or it~~ reasonable attorney fees or an appropriate portion ~~thereof~~ of them.”

SECTION 3. Section 30‑4‑110 of the 1976 Code is amended to read:

“Section 30‑4‑110. ~~Any~~ A person or group of persons who ~~willfully~~ wilfully violates the provisions of this chapter ~~shall be deemed~~ is guilty of a misdemeanor and, upon conviction, ~~shall~~ must be fined not more than ~~one~~ five hundred dollars or imprisoned for not more than thirty days for the first offense, ~~shall be~~ fined not more than ~~two hundred~~ one thousand dollars or imprisoned for not more than sixty days for the second offense, and ~~shall be~~ fined ~~three~~ fifteen hundred dollars or imprisoned for not more than ninety days for the third or subsequent offense. The responsible officer or public official of an agency found to have wilfully violated the provisions of this chapter may be punished pursuant to this chapter.”

SECTION 4. This act takes effect upon approval by the Governor.

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