

**Local Government Mandate Statement  
Kentucky Legislative Research Commission  
2021 Regular Session**

**Part I: Measure Information**

Bill Request #: 1406

Bill #: HB 312 SCS 1

Document ID #: 6834

Bill Subject/Title: AN ACT relating to public records.

Sponsor: Representative Bart Rowland

Unit of Government:  City  County  Urban-County  
Unified Local  
 Charter County  Consolidated Local  Government

Office(s) Impacted: All local government agencies.

Requirement:  Mandatory  Optional

Effect on  
Powers & Duties:  Modifies Existing  Adds New  Eliminates Existing

**Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government**

HB 312 SCS 1 deals with Open Records Request for state agencies and all public agencies which include local governments. This Local Government Mandate Statement addresses only the impact to local governments.

**Section 1:**

HB 312 SCS 1 defines "resident of the Commonwealth" to be:

- an individual residing in the Commonwealth;
- a domestic business entity with a location in the Commonwealth;
- a foreign business entity registered with the Secretary of State;
- an individual that is employed and works at a location within the state;
- an individual or business that owns real property within the state;
- any individual or business authorized to act on behalf of an entity meeting the above definitions; or
- a news-gathering organization as defined by KRS 189.635(8)(b)1.a. to e.

HB 312 SCS 1 replaces the term “person” with “resident of the Commonwealth” in regards to open records requests.

**Section 2:**

Expands the provisions as to which residents of the Commonwealth may request public records through submission of a standardized form developed by the Attorney General or a form of their choice. Expands the means of delivery to include email sent to the public agency’s records custodian or his or her designee.

Expands the length of time a custodian must respond to the applicant for an open records request from three days to five days.

**Section 3:**

Requires the custodians mailing address and email address to be included in the agency’s rules and regulations regarding access to public records. The custodian’s mailing address and email address, the agencies rules and regulations, and the form to be used when requesting public records shall be not only displayed in a prominent locations but also made available on the agencies web site. The form to be used by every public agency to request public records will be developed by the Attorney General and shall be used. HB 312 SCS 1 provides guidance regarding what information is required to be provided on the form inclusive of a statement of residency, how the requester qualifies as a resident as defined in Section 1, and signature, but does not have to include the requester’s phone number.

**Section 5:**

If the requester is not been notified within five days whether or not the request will be complied with, he or she may complain in writing to the Attorney General.

**The fiscal impact of HB 312 SCS 1 on local governments will be indeterminable but is expected to be minimal.** We may assume that although the handling of Open Records Request is standardized among local governments and agencies in as far as current statute dictates, each county and each agency adapts to their specific environment.

The great majority, if not all, local agencies have the ability to accept email request. Those that don’t may have up front computer expenses including the capability to get online.

Form design is the responsibility of the Attorney General. Local agencies might see minor expense in regards to updating their rules and regulations to conform to this proposal.

**Part III: Differences to Local Government Mandate Statement from Prior Versions**

HB 312 SCS 1 keeps the provisions of HB 312 GA with the following changes:

- expands the definition of resident to include an individual employed or working at a location within the state;

- a news-gathering organization does not have to have a location in the state or be affiliated with another news organization that has a location in the state to be a resident;
- deletes the requirement that request be made only on the form designed by the Attorney General;
- deletes language forbidding inspection of records that are available through civil discovery or by a party involved in a civil lawsuit with the public agency;
- deletes the requirement that the request for records include the phone number of the requesting party;
- requires the requester to provide a statement residency and how he or she qualifies as a resident as defined in Section 1;
- the request must be signed; and
- provides that the requester may complain in writing to the Attorney General if after five days he or she has not heard whether the request has been approved.

Part II, above, refers to HB 312 GA. HB 312 GA keeps all the provisions of HCS 1 and amends the title to read “AN ACT relating to public records.” The introduced version of HB 312 did not require a local mandate designation.

**Data Source(s):** LRC Staff

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