

As we were expecting, a bill to allow custodians to impose a new fee for the time they spend reviewing and redacting records has been introduced in the current legislative session. It is AB 26. The text is [here](#) .

This bill has been scheduled for a hearing next Wednesday, Feb. 27, in Room 225 of the state Capitol, 10 a.m. It is one of two bills set for a hearing that day. Council members and supporters are encouraged to attend and testify.

The bill has nine listed cosponsors, eight Republicans and one Democrat. It has been referred to the Assembly Committee on Government Operations and State Licensing.

The Wisconsin Freedom of Information Council considers this bill a serious threat to the public's ability to obtain public information. It will allow custodians to make some records unaffordable to some requesters, and it will inevitably lead to abuse. The state of Wisconsin got along just fine for many years without these fees being imposed. Custodians only began charging them in the wake of a 2002 Wisconsin Supreme Court decision known as [Osborn v. the Board of Regents](#) . In that case, the Supreme Court included some imprecise language regarding the charges that custodians could impose. (See Osborn ruling, P. 3, last line of introduction, and P. 39.) Some custodians seized on this language to begin charging for the time they spent reviewing and redacting records.

When these fees were challenged in a case decided by the court last year, [Milwaukee Journal Sentinel v. the City of Milwaukee](#) , the Supreme Court unanimously ruled that the law did not allow for these costs to be passed on to requesters.

Having been caught imposing what were determined to be illegal fees, custodians have now enlisted the support of some state legislators to change the law to permit these charges.

We urge our members and supporters to stand in opposition to this troubling new tax on the public's right to know. The state's open records law states, in the second sentence of its Declaration of Policy (19.31, state Stats.), the following: "Further, providing persons with such

information is declared to be an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility it is to provide such information."

The law clearly says that providing records is part of public officials' job. Why should public officials be allowed to charge extra for doing it?