

**HB 3796 “VOLUMINOUS REQUEST” FACT SHEET  
UNNECESSARY & ANTI-DEMOCRATIC CHANGES TO ILLINOIS FOIA**

**BACKGROUND**

**ILLINOIS FOIA LEGISLATIVE INTENT:** All persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees. Access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments, and monitoring government to ensure that it is being conducted in the public interest. Illinois Freedom Information Act, 5 ILCS 140 §1 (2010).

**2009 REFORM:** Reforms implemented January 2010 lessened the gap between the intent of the FOIA and government practice in responding to FOIA requests. Primary reform objectives achieved include:

- Increased access to public records.
- An increased threshold that public bodies must meet to withhold information.<sup>i</sup>
- Enforcement authority by the Illinois Attorney General’s Public Access Counselor’s office.<sup>ii</sup>

**ROLL-BACK LEGISLATION:** As soon as reforms went into effect, Illinois legislators immediately introduced and continue to pursue roll-back legislation to substantially weaken FOIA.<sup>iii</sup>

**PART ONE: THE “VOLUMINOUS REQUEST”**

HB 3796 was spontaneously introduced to address the alleged problem of large FOIA requests submitted in acrimonious environments.

**What is a “Voluminous Request?”<sup>iv</sup>**

Language taken directly from HB 3796

- Request that includes more than 5 individual requests for more than 5 different categories of records,  
OR
- A combination of individual requests that total requests for more than 5 different categories of records in a period of 20 business days,  
OR
- Requires the compilation of more than 500 letter or legal-sized pages of public records unless a single requested record exceeds 500 pages.

**Definition: “Single Requested Record”**

One public record, such as one report, form, e-mail, letter, memo, map, microfilm, tape, or recording.

**Definition: “Request”**

A written document (or oral request, if the public body chooses to honor oral requests) that is submitted to a public body via personal delivery, mail, telefax, electronic mail, or other means available to the public body and that identifies the particular public record or records the requester seeks. One request may identify multiple individual records to be inspected or copied.

**Who is exempt from the Voluminous Request designation?**

News media = Exempt!

Non-profits = Exempt!

Scientific organizations = Exempt!

Academic organizations = Exempt!

**To whom may the Voluminous Request designation apply?**

Members of the public who want to be civically engaged = NOT EXEMPT!

Lawyers who assist members of the public who want to be civically engaged = NOT EXEMPT!

**Impact of “Voluminous Request” designation:**

Delayed Production of Public Records + Increased Cost Charged for Public Records (see flow chart)

**PART TWO: ELECTRONIC RECORDS**

HB 3796 introduces a fee scale for electronic records by format type and size.

**How much will electronic records cost if the request is considered “voluminous”?**

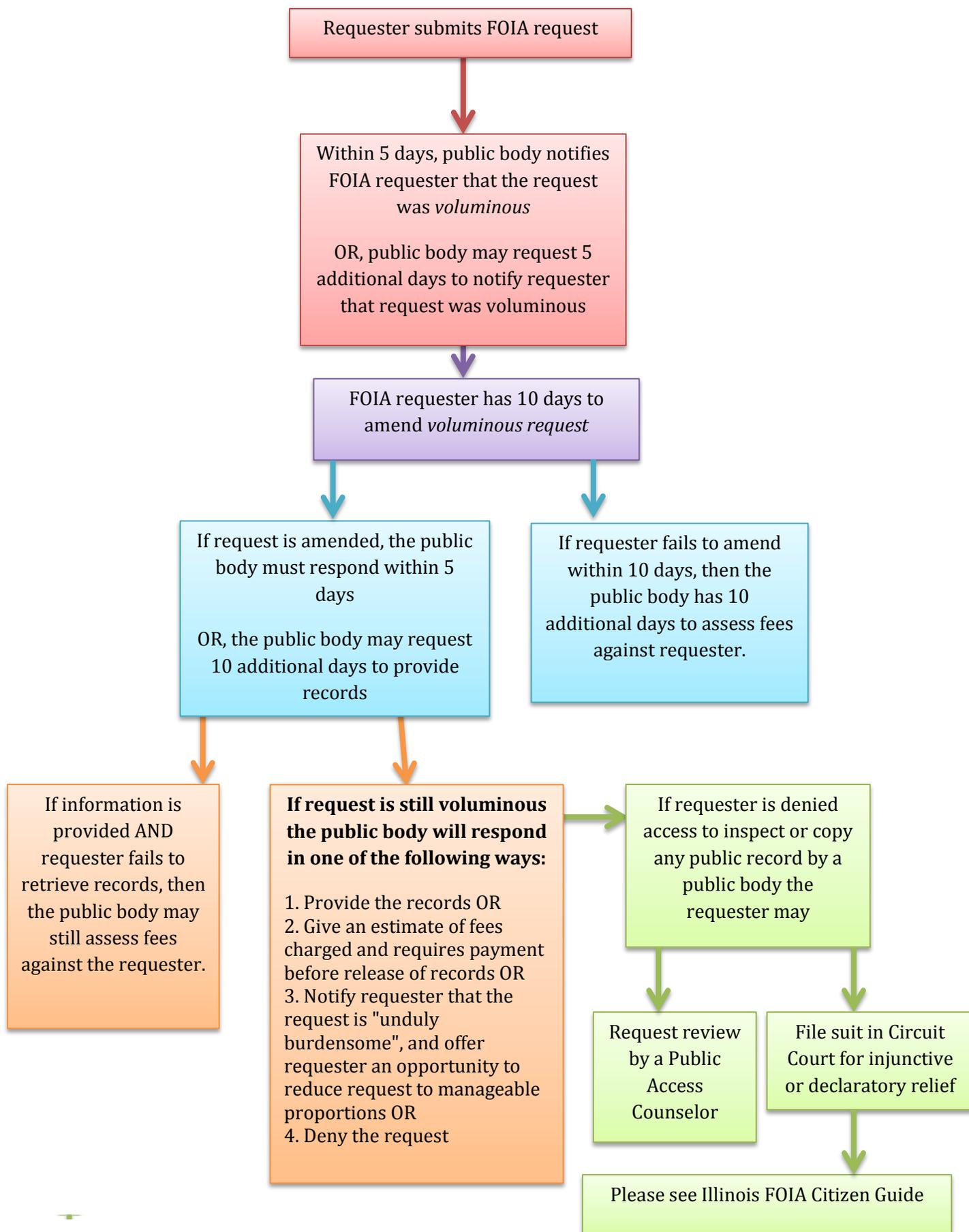
<b>Format and Data Size:</b>	<b>Public Body May Charge:</b>
non-PDF, 2 MB or less	up to \$20.00
non-PDF, more than 2MB up to 4 MB	up to \$40.00
non-PDF, more than 4MB	up to \$100
PDF, 80 MB or less	up to \$20.00
PDF, more than 80MB up to 160 MB	up to \$40.00
PDF, more than 160 MB	up to \$100

**What if the record is published on the public body’s website?**

If the record requested is published on the public body’s website, the public body only needs to direct the requester to its website to fulfill the FOIA request.

This provision:

- Takes away the right of the requester to inspect original documents,
- Fails to certify that the website record is a “true and accurate” copy of the original, and
- Requires requesters without online access to re-submit their FOIA request and state their inability to “reasonably” access the record online.



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<sup>i</sup> 5 ILCS 140/2; Illinois Freedom of Information Act sets forth a clear presumption: all records in the custody or possession of a public body are presumed to be open to inspection or copying. Unless a public body can assert that a record is exempt from disclosure by clear and convincing evidence, the record must be produced. The public body must provide a detailed factual basis for each exemption it claims as applied to each record it withholds or each redaction taken. 5 ILCS 140/9

<sup>ii</sup> 5 ILCS 140/9.5

<sup>iii</sup> In 2011, more than 3 dozen bills were introduced to amend FOIA, most with the goal to reduce access to public records. Stephan Roth, "Freedom of Information Act – Recent & Proposed Changes" 12 Public Servant 4 (June 2011).

<sup>iv</sup> H.R. 3796, 98<sup>th</sup> Gen. Assemb., Reg. Sess. (Ill. 2014).

<sup>v</sup> If the principle purpose of the request is: 1) to access and disseminate information concerning news and current or passing events; 2) for articles of opinion or features of interest to the public; or 3) for the purpose of academic, scientific, or public research or education.