

Public record, fee for copies

Number: AGO 90-81

Date: November 04, 1996

Subject:
Public record, fee for copies

Mr. Larry Haag
Citrus County Property Appraiser
107 North Park Avenue, Suite 8
Inverness, Florida 32650

RE: PUBLIC RECORDS--COUNTIES--imposition of less than statutorily set fee for copies of public records. s. 119.07, F.S.

Dear Mr. Haag:

You ask substantially the following question:

May the board of county commissioners charge less than the 15 cents per page specified in Ch. 90-43, Laws of Florida?

In sum:

When imposing a charge for copies of public records, the board of county commissioners must charge a fee of 15 cents for duplicated copies of not more than 14 inches by 8 1/2 inches and for all other copies, the actual cost of duplication. The board may charge, but is not required to, up to an additional 5 cents for a two-sided duplicated copy and up to \$1 per copy for a certified copy of a public record.

Section 119.07(1)(a), F.S., as amended by s. 1, Ch. 90-43, Laws of Florida, provides in pertinent part:

"The custodian [of a public record] shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law or, if a fee is not prescribed by law, for duplicated copies of not more than 14 inches by 8 1/2 inches, upon payment of 15 cents per one-sided copy, and for all other copies, upon payment of the actual cost of duplication of the record. An agency may charge no more than an additional 5 cents for each two-sided duplicated copy. For purposes of this section, duplicated copies shall mean new copies produced by duplicating, as defined in s. 283.30. . . . An agency may charge up to \$1 per copy for a certified copy of a public record."

Chapter 90-43, Laws of Florida, became effective July 1, 1990.[1] An examination of the legislative history surrounding the enactment of Ch. 90-43, Laws of Florida, indicates that the Legislature sought to eliminate the disparity which existed among governmental agencies charging fees for copies of public records, by establishing a set fee for most copies of public

records when a fee is charged by an agency.[2]

As amended, s. 119.07(1)(a), F.S., also provides that an agency may charge an additional 5 cents for two-sided duplicated copies and up to \$1 for a certified copy. Thus, the statute appears to authorize, but not require, agencies to establish additional fees to obtain two-sided or certified copies.[3] No such discretion, however, appears to have been granted regarding the imposition of the 15 cents per one-sided copy of not more than 14 inches by 8 1/2 inches, when a fee is not otherwise prescribed by law and the agency seeks to impose a fee for furnishing public records.[4]

Accordingly, I am of the opinion that the board of county commissioners, when imposing charges for copies of public records, must charge a fee of 15 cents for duplicated copies of not more than 14 inches by 8 1/2 inches and for all other copies, the actual cost of duplication. The board may charge, but is not required to, up to an additional 5 cents for a two-sided duplicated copy and up to \$1 per copy for a certified copy of a public record.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw

[1] See s. 2, Ch. 90-43, Laws of Florida. *And see* s. 283.30(4), F.S., which defines "Duplicating" as "the process of reproducing an image or images from an original to a final substrate through the electrophotographic, xerographic, or offset process or any combination of these processes, by which an operator can make more than one copy without rehandling the original."

[2] See Tape of Committee on Governmental Operations, Florida Senate, April 18, 1990, on CS/SB 940, enacted as Ch. 90-43, Laws of Florida. *And see* Senate Staff Analysis and Economic Impact Statement, Governmental Operations Committee, April 18, 1990, stating that the bill amends s. 119.07(1)(a), F.S. "to set the actual cost of duplication for copies not larger than 14 inches by 8 1/2 inches at 15 cents per one-sided copy, unless otherwise provided by law."

[3] See *generally* City of Miami v. Save Brickell Avenue, Inc., 426 So.2d 1100 (3 D.C.A. Fla., 1983) (in statutory construction, the word "may" denotes a permissive term rather than a mandatory connotation).

[4] It appears that the intent of Ch. 90-43, Laws of Florida, was to regulate the *fees* which are charged by public agencies for copies of public records and to eliminate the disparity that existed among the fees charged by such agencies. An examination of the legislative history, however, does not reveal any evidence of legislative intent to prohibit the common practice of agencies to provide informational copies to the public without charge.