

House Bill 1071

By: Representative Scott of the 153rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 50-18-73 of the Official Code of Georgia Annotated, relating to
2 jurisdiction to enforce the inspection of public records, attorney's fees and litigation
3 expenses, and good faith reliance as defense to action, so as to provide for the award of
4 attorney's fees to a person or entity bringing a successful action to enforce compliance with
5 the requirements relating to the inspection of public records; to provide for related matters;
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 50-18-73 of the Official Code of Georgia Annotated, relating to jurisdiction
10 to enforce the inspection of public records, attorney's fees and litigation expenses, and good
11 faith reliance as defense to action, is amended by striking subsection (b) and inserting in its
12 place the following:

13 "(b)(1) For purposes of this subsection, the term:

14 (A) 'Custodial party' means the person, agency, or other entity having custody of
15 records open to the public under this article.

16 (B) 'Requesting party' means the person, firm, corporation, or other entity bringing
17 an action against a custodial party to enforce compliance with the provisions of this
18 article.

19 (2) In any action brought to enforce the provisions of this chapter in which the court
20 finds in favor of the requesting party, the court shall assess in favor of the requesting
21 party reasonable attorney's fees and other litigation costs reasonably incurred.

22 (3) In any action brought to enforce the provisions of this chapter in which the court
23 determines that either the requesting party acted without substantial justification either
24 in not complying with this chapter or in instituting the litigation, the court shall, unless
25 it finds that special circumstances exist, assess in favor of the complaining custodial party
26 reasonable attorney's fees and other litigation costs reasonably incurred. Whether the

1 position of the ~~complaining~~ requesting party was substantially justified shall be
2 determined on the basis of the record as a whole which is made in the proceeding for
3 which fees and other expenses are sought."

4 **SECTION 2.**

5 All laws and parts of laws in conflict with this Act are repealed.