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1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

Court of Appeals of New Mexico
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3 Filing Date: May 20, 2026



Mark Reynolds

4 **No. A-1-CA-41767**

5 **NEW MEXICO ETHICS WATCH,**

6 Plaintiff-Appellee,

7 v.

8 **LEGISLATIVE COUNCIL SERVICE,**

9 **as Records Custodian for the New**

10 **Mexico Legislature; and THE NEW**

11 **MEXICO LEGISLATURE,**

12 Defendants-Appellants.

13 **APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY**

14 **Kathleen McGarry Ellenwood, District Court Judge**

15 Daniel Yohalem

16 Santa Fe, NM

17 for Appellee

18 Hinkle Shanor LLP

19 Thomas M. Hnasko

20 Timothy B. Rode

21 David A. Lynn

22 Santa Fe, NM

23 for Appellants

1 **OPINION**

2 **HOUGHTON, Judge.**

3 {1} This case concerns a dispute over records that committees within the New
4 Mexico Legislature submitted to Defendant Legislative Counsel Service (LCS) for
5 use in drafting an appropriations bill. Plaintiff New Mexico Ethics Watch (Ethics
6 Watch) argued to the district court that the records should be subject to public
7 inspection pursuant to the Inspection of Public Records Act (IPRA), NMSA 1978,
8 §§ 14-2-1 to -12 (1947, as amended through 2025). LCS insisted that the records
9 were excepted from inspection under IPRA by the New Mexico Constitution, statute,
10 and rule. The district court ordered LCS to produce the records and awarded
11 attorneys’ fees to Ethics Watch, pursuant to IPRA. We reverse and hold as follows.

12 {2} The confidentiality statute under which LCS operates, NMSA 1978, § 2-3-13
13 (1951) (the Confidentiality Statute), is a valid exception to public inspection under
14 IPRA’s catchall exception, “as otherwise provided by law,” Section 14-2-1(N).¹ We
15 conclude that the public records ordered produced by the district court are
16 confidential pursuant to the Confidentiality Statute because their “contents” include
17 a “request or statement for service.” Section 2-3-13. Accordingly, the district court
18 erred by ordering their production. As a result, Ethics Watch’s suit can no longer be

¹This section of IPRA has been amended twice in the years since the complaint was filed but, as the amendments do not impact our analysis, we rely on the current statute for convenience.

1 considered “successful,” as defined by IPRA, and thus Ethics Watch is not entitled
2 to the district court’s award of attorneys’ fees under IPRA’s fee-shifting provision,
3 § 14-2-12(D). Finally, because we decide that the Confidentiality Statute shields the
4 records from public inspection, we do not reach LCS’s other claimed exceptions.

5 **BACKGROUND**

6 {3} Ethics Watch describes itself as a “New Mexico non-partisan, nonprofit
7 organization dedicated to promoting ethics and accountability in government and
8 public life in New Mexico.” One facet of its work is “document[ing] persistent
9 problems with both the reporting and enforcement mechanisms used to ensure that
10 individual legislators comply with . . . mandatory [financial] disclosures[,] and to
11 ensure that such disclosures serve their intended purpose of both preventing and
12 revealing potential conflicts of interest and corruption.” To that end, Ethics Watch
13 submitted a written public records request to LCS, seeking records created during
14 the 2021 legislative session that would allow Ethics Watch to identify which
15 legislators requested which supplemental appropriations of funds.

16 {4} Ethics Watch initially requested five categories of records but abandoned four
17 of those requests when, in the course of its enforcement suit, it learned that one
18 category of records did not relate to individual legislators, and that LCS did not
19 create or maintain records responsive to the other three requests. The remaining
20 request—the subject of this appeal—sought the production of “[a]ll requests for

1 appropriations from House Bill 2 Junior submitted to the [Legislative Finance
2 Council], [House Appropriations and Finance Committee], or [Senate Finance
3 Committee] in the 2021 legislative session by individual senators and
4 representatives.” LCS produced some records related to the request, but asserted that
5 other records sought by Ethics Watch were excepted from inspection, including
6 pursuant to the Confidentiality Statute. Ethics Watch filed suit in district court to
7 compel full production.

8 {5} During the litigation below, LCS claimed the Confidentiality Statute was
9 “necessary to protect all members of the [L]egislature and their staff” from “abuses
10 that could result from . . . requests for disclosure.” Ethics Watch acknowledged that
11 the Confidentiality Statute allows lawmakers “to seek research, analys[is] or drafting
12 assistance on . . . contemplated legislation without fear of public scrutiny for any
13 personal ignorance or . . . unpopular legislative solutions.” Nevertheless, Ethics
14 Watch maintained that the requested records were public and subject to inspection.

15 {6} The disputed records specifically related to the Legislature’s 2021 House Bill
16 2 Junior (junior bill). In its summary judgment motion, LCS explained that the term
17 “‘junior’ is a nickname given to a bill for the appropriation of non-recurring funds,
18 or excess funds available to the [L]egislature in a particular year.” This is
19 differentiated from a general appropriations act that funds operation of the three
20 branches of the state government for the upcoming fiscal year. The junior bill allows

1 each member of the Legislature to allocate remaining funds to various projects, with
2 the amount available to each lawmaker determined by the projected excess revenue
3 for the year apportioned equally to each chamber, and then divided by the number
4 of members. These individual allocations are compiled and submitted to LCS to be
5 incorporated into the junior bill. In 2021, once the junior bill was drafted by LCS, it
6 then made its way through the committee process before being passed by both
7 chambers of the Legislature. The records that the district court ordered for inspection
8 are those generated near the start of this process, when the finance committees of
9 both the house and senate compiled the supplemental appropriation requests from
10 individual lawmakers into spreadsheets to be used by LCS to draft the junior bill.

11 {7} LCS claimed that the withheld records fell within IPRA’s catchall exception,
12 which provides that public records made confidential by laws other than IPRA itself
13 are excepted from inspection under IPRA. *See* § 14-2-1(N) (excepting from
14 inspection “public records . . . as otherwise provided by law”). LCS identified three
15 sources of law external to IPRA that it claimed barred inspection of the requested
16 records: the Confidentiality Statute; the speech and debate clause of the New Mexico
17 Constitution, Article IV, Section 13; and Joint Legislative Rule 12-1, *see* H. Con.
18 Res. 1, Reg. Sess. (N.M. 2013). The district court rejected LCS’s arguments and
19 found that the records at issue were improperly withheld, granting summary
20 judgment in favor of Ethics Watch and ordering production of “the spreadsheets

1 compiling all the appropriations created by [the House Appropriations and Finance
2 Committee] and [the Senate Finance Committee].” The district court based its
3 decision on (1) the well-established tenet that IPRA favors public disclosure; (2)
4 subsequent enactments that require disclosure of information tying legislators to
5 supplemental allocations after the enactment of the junior bill; and (3) the reasoning
6 that “[t]here is no difference between the appropriations in the junior bill being tied
7 to a specific legislator and a certain legislator sponsoring a bill [because i]n each
8 circumstance[,] the public becomes aware of what their specific legislator is doing
9 on their behalf.”

10 **DISCUSSION**

11 **I. Standard of Review**

12 {8} We review de novo the district court’s grant of summary judgment. *See*
13 *Zamora v. St. Vincent Hosp.*, 2014-NMSC-035, ¶ 9, 335 P.3d 1243. Our standard of
14 review for the statutory questions raised by LCS is also de novo. *See Beck v. State*
15 *ex rel. Child., Youth & Fams. Dep’t*, 2024-NMCA-082, ¶ 14, 560 P.3d 24 (“The
16 questions raised by the parties on appeal are questions of statutory interpretation.
17 Where . . . there are no facts in dispute, we review such questions de novo.”). “Our
18 primary goal” in construing a statute “is to give effect to the intent of the
19 Legislature.” *Sacred Garden, Inc. v. N.M. Tax’n & Revenue Dep’t*, 2021-NMCA-
20 038, ¶ 5, 495 P.3d 576 (alteration, internal quotation marks, and citation omitted).

1 **II. The Requested Records Fall Within an Exception to Inspection Under**
2 **IPRA**

3 **A. The Confidentiality Statute Is an Exception to Inspection Under IPRA**

4 {9} IPRA was “enacted . . . to promote the goal of transparency in our state
5 government.” *Republican Party of N.M. v. N.M. Tax’n & Revenue Dep’t*, 2012-
6 NMSC-026, ¶ 12, 283 P.3d 853. “IPRA is intended to ensure that the public servants
7 of New Mexico remain accountable to the people they serve. The citizen’s right to
8 know is the rule and secrecy is the exception.” *Id.* (internal quotation marks and
9 citations omitted). “Under IPRA, every person has a right to inspect public records
10 by making a request.” *Id.* ¶ 13 (alteration, internal quotation marks, and citations
11 omitted). But IPRA itself shields certain records from inspection, including through
12 a catchall exception, precluding inspection “as otherwise provided by law.” *See*
13 § 14-2-1(N).

14 {10} We first determine whether IPRA’s catchall provision encompasses the
15 Confidentiality Statute, invoked by LCS. When evaluating whether a provision
16 external to IPRA is incorporated through the catchall provision, our analysis is
17 restricted “to whether disclosure under IPRA may be withheld because of . . .
18 statutory or regulatory exceptions, or privileges adopted by this Court or grounded
19 in the constitution.” *Republican Party of N.M.*, 2012-NMSC-026, ¶ 16; *see, e.g.*,
20 *Beck*, 2024-NMCA-082, ¶¶ 22-31 (determining that the catchall provision
21 encompasses CYFD regulation); *Republican Party of N.M.*, 2012-NMSC-026,

1 ¶¶ 16, 45-50 (holding that the catchall provision encompasses executive privilege
2 conferred by the New Mexico Constitution); *Pacheco v. Hudson*, 2018-NMSC-022,
3 ¶¶ 39-45, 415 P.3d 505 (explaining that the catchall provision encompasses judicial
4 privilege). We may not consider policy reasons as a basis for creating new
5 exceptions, nor should we do so in deciding whether to give effect to laws that
6 clearly shield certain records from public inspection. *See Republican Party of N.M.*,
7 2012-NMSC-026, ¶ 16 (overruling “cases applying the ‘rule of reason’ to all of the
8 exceptions enumerated by the Legislature”); *State ex rel. Helman v. Gallegos*, 1994-
9 NMSC-023, ¶ 22, 117 N.M. 346, 871 P.2d 1352 (explaining that it is not the role of
10 the judiciary to “second-guess the [L]egislature’s selection from among competing
11 policies”).

12 {11} Turning to the text, the relevant portion of the Confidentiality Statute reads:

13 Neither the director nor any employee of the council service shall reveal
14 to any person outside of the service the contents or nature of any request
15 or statement for service, except with the consent of the person making
16 such request or statement.

17 Section 2-3-13. This is a clear statutory command preventing disclosure of a
18 category of information by LCS, and is therefore among the exceptions to IPRA, “as
19 otherwise provided by law.” *See State v. Hubble*, 2009-NMSC-014, ¶ 10, 146 N.M.
20 70, 206 P.3d 579 (“Under the plain meaning rule, when a statute’s language is clear
21 and unambiguous, we will give effect to the language and refrain from further
22 statutory interpretation.” (internal quotation marks and citation omitted)); *cf. Beck*,

1 2024-NMCA-082, ¶¶ 2, 30 (holding that CYFD’s regulation prevented disclosure
2 under IPRA’s catchall exception where it provided that “all case records and
3 identifying information including foster and adoptive families, and applicant files
4 are confidential and may not be publicly disclosed” (internal quotation marks and
5 citation omitted)). Nor does Ethics Watch meaningfully disagree with LCS that the
6 Confidentiality Statute provides an exception to IPRA: rather, the dispute concerns
7 the scope and applicability of that exception generally, and to the records in this case
8 specifically.

9 {12} Nonetheless, the district court found that confidentiality under the
10 Confidentiality Statute would frustrate IPRA’s purpose. The district court did not
11 consider that IPRA’s own text contemplates exceptions, indicating that IPRA’s
12 reach, while broad, was never meant to be limitless. “It is apparent both from the
13 plain language of the catchall provision, and from its construction by our courts over
14 the years, that the Legislature’s purpose is to allow the confidentiality provisions of
15 other statutes, regulations, court rules, and constitutional privileges to be applied as
16 exceptions to IPRA inspection.” *Beck*, 2024-NMCA-082, ¶ 26. We reiterate that it
17 is consistent, and not contrary, with IPRA to give effect to its own catchall provision.

1 **B. Under the Confidentiality Statute, the Requested Records Are the**
2 **Contents of a Request for Service and Thus Confidential**

3 {13} Having determined that the Confidentiality Statute is an exception to IPRA
4 “as otherwise provided by law,” we now determine whether the records at issue are
5 made confidential by the statute. To do so, we determine whether the records are the
6 “contents or nature” of a “request or statement for service.” *See* § 2-3-13. The district
7 court’s order does not address this question, instead reasoning that because the
8 requested records “related to a bill that has already been enacted” there was no need
9 for continued confidentiality. But nothing in the statutory text ties the confidentiality
10 of a request to enactment. The text of Section 2-3-13 makes requests for service
11 confidential, and the sole waiver provided by the statute is the requestor’s consent.
12 *Id.* (“Neither the director nor any employee . . . shall [disclose] . . . the contents or
13 nature of any request or statement for service, except with the consent of the person
14 making such request or statement.”).

15 {14} Although the parties dispute how expansively to define “request or statement
16 for service,” in light of the statute’s silence, Ethics Watch refers us to LCS’s
17 enumerated duties listed in NMSA 1978, Section 2-3-8 (1955). These duties are:

18 A. to assist the [L]egislature . . . in the proper performance of
19 its constitutional functions by providing its members with impartial and
20 accurate information and reports concerning the legislative problems
21 which come before them; by providing digests showing the practices of
22 other states and foreign nations in dealing with similar problems;

1 B. when so requested to secure information for and to report
2 to the legislators of this state on the social and economic effects of
3 statutes of this state or elsewhere by cooperating with the legislative
4 service agencies in other states and other reference agencies and
5 libraries;

6 C. to furnish to the members of the [L]egislature . . . the
7 assistance of expert draftsmen, qualified to aid the legislators in the
8 preparation of bills for introduction into the [L]egislature;

9 D. to recommend to the [L]egislature measures which will
10 improve the form and working of the statutes . . . , and clarify and
11 reconcile their provisions;

12 E. to provide for the [L]egislature adequate staff facilities and
13 to provide the adequate expert assistance without which no
14 [L]egislature can properly perform its required functions;

15 F. to prepare and index for printing as promptly as possible
16 after the adjournment of each session the session laws therefor, which
17 compilation shall include all resolutions and acts which the
18 [L]egislature has adopted or passed during the session, and have
19 received the approval of the governor when such approval is necessary.

20 {15} We agree that these enumerated duties help define what are “request[s] or
21 statement[s] for service” under Section 2-3-13. *See In re Camino Real Env’t Ctr.,*
22 *Inc.*, 2010-NMCA-057, ¶ 17, 148 N.M. 776, 242 P.3d 343 (“[A] court must look to
23 the neighboring words in a statute to construe contextual meaning.” (internal
24 quotation marks and citation omitted)); *N.M. Pharm. Ass’n v. State*, 1987-NMSC-
25 054, ¶ 8, 106 N.M. 73, 738 P.2d 1318 (“[Appellate courts] should read the entire
26 statute as a whole so that each provision may be considered in relation to every other
27 part.”). One of LCS’s enumerated duties is “to furnish to the members of the

1 [L]egislature . . . the assistance of expert draftsmen, qualified to aid the legislators
2 in the preparation of bills for introduction into the [L]egislature.” Section 2-3-8(C).
3 Thus, “assistance . . . in the preparation of bills,” *id.*, is a requested service
4 contemplated by the Confidentiality Statute. Logically, the “contents” of that request
5 include the spreadsheets compiling each legislator’s requested appropriation. *See*
6 § 2-3-13.

7 {16} In its briefing and at oral argument, LCS urged this Court to hold that “*any*
8 preenactment activity” involving LCS prior to a bill’s introduction on the floor is a
9 confidential request for service under the statute. We decline LCS’s invitation to
10 broadly define the reach of the Confidentiality Statute because we need not define
11 the precise boundary to reach our holding. As just explained, Section 2-3-8(C)
12 encompasses the type of service performed in the present case and that provision is
13 limited to “the assistance of expert draftsmen” to aid “in the preparation of bills.”

14 {17} Ethics Watch, for its part, urges us to narrowly interpret the Confidentiality
15 Statute in two ways. First, Ethics Watch asks us to interpret “persons” as individual
16 legislators such that only individual requests are confidential, and not committee
17 requests. Second, Ethics Watch argues that simple tasks, such as “converting a
18 spreadsheet compiled by a legislative committee into a bill format,” is not
19 sufficiently complex to constitute a “request for service to which confidentiality

1 attaches.” We see nothing in the text of the Confidentiality Statute to support the
2 narrow reading advanced by Ethics Watch.

3 {18} We are not persuaded by Ethics Watch’s argument that confidentiality only
4 attaches to individual legislator requests. The statute creating LCS specifically
5 contemplates serving a broad audience, as it may be used by “the members of the
6 [L]egislature,” but also “the governor and the various departments, institutions and
7 agencies” of the state, as well as “any interim legislative committee or commission
8 created by the [L]egislature.” NMSA 1978, § 2-3-2 (1955). In support of its
9 argument, Ethics Watch groups the six services enumerated in Section 2-3-8 into
10 two groups: (1) “services to assist the functioning of the Legislature as a whole,” and
11 (2) “critical analysis, research and drafting expertise to assist individual legislators
12 in the performance of their duties.” But nothing in the statute itself divides the
13 enumerated services in this way. And we see no indication that requests by *groups*
14 of legislators, rather than *individual* legislators, are to be treated differently.
15 Moreover, both our courts and the Legislature have long recognized the term
16 “person” as including “bodies politic and corporate.” *See, e.g., Donalson v. Cnty. of*
17 *San Miguel*, 1859-NMSC-001, ¶ 2, 1 N.M. 263; NMSA 1941, § 1-202(Fifth) (1880)
18 (“The word, person, may be extended to bodies corporate”). All of this indicates that
19 “person” as used in the Confidentiality Statute encompasses more than natural

1 persons, to include the committees that submitted the request in this case. *See* § 2-3-
2 13.

3 {19} Similarly, there is nothing in the text of the statute indicating “request[s] or
4 statement[s] for service” only include services that require a certain level of rigor.
5 *See id.* Aside from the strong jurisprudential distaste for inserting additional words
6 into a statute, *see Regents of Univ. of N.M. v. N.M. Fed’n of Tchrs.*, 1998-NMSC-
7 020, ¶ 28, 125 N.M. 401, 962 P.2d 1236, such an interpretation would put the
8 judiciary in the impractical position of measuring each request for service by degree
9 of complexity in order to determine whether the request should be kept confidential.
10 *State v. Santillanes*, 1982-NMSC-138, ¶ 4, 99 N.M. 89, 654 P.2d 542 (providing that
11 appellate courts are to “adopt[] a construction which will not render the statute’s
12 application absurd, unreasonable, or unjust”).

13 {20} Finally, the district court erred in concluding that the subsequent enactments
14 in 2022 and 2023 were intended to make these records available for public inspection
15 all along. *See* 2022 N.M. Laws, 3rd Spec. Sess., ch. 3, § 20; 2023 N.M. Laws, ch.
16 209, § 1. The subsequent enactments required LCS to publish information that
17 connects *enacted* junior appropriations to the requesting lawmaker. That information
18 would normally be, as it was here, stripped out of the bills when drafted by LCS. *See*
19 2022 N.M. Laws, 3rd Spec. Sess., ch. 3, § 20. We do not find the district court’s
20 reliance on these subsequent enactments to be persuasive.

1 {21} First, nothing in the subsequent enactments indicates the Legislature intended
2 that these disclosures be made retroactive. *See Salopeck v. Hoffman (In re Salopek)*,
3 2005-NMCA-016, ¶ 5, 137 N.M. 47, 107 P.3d 1 (“[S]tatutes . . . are presumed to
4 operate prospectively unless there is clear legislative intent to give the statute
5 retroactive effect.”). Second, the district court’s order to produce “the document that
6 ties the appropriation to the member” *prior* to submission to LCS is inconsistent with
7 the disclosures required by the subsequent enactments. The information contained
8 in the records at issue is likely more expansive than the disclosures required under
9 the subsequent enactments, because the requested information includes any
10 appropriations requests that were winnowed out during LCS’s drafting process or
11 the legislative approval process. Third, the relevant portion of the first subsequent
12 enactment begins with the phrase, “[n]otwithstanding the provisions of Section 2-3-
13 13,” which indicates that the Legislature understood the normal operation of the
14 statute would be to make confidential the information now required to be disclosed.
15 2022 N.M. Laws, 3rd Spec. Sess., ch. 3, § 20. If anything, these amendments stand
16 for the opposite proposition than that reached by the district court: that the
17 Legislature understood the Confidentiality Statute made all of this information
18 confidential and sought to allow public disclosure of some of that information in the
19 future.


20 **CONCLUSION**

1 {22} To summarize, we hold that the Confidentiality Statute falls within IPRA’s
2 exception to the inspection of public records “as otherwise provided by law.” *See*
3 § 14-2-1(N). The records the district court ordered produced were the “contents” of
4 a “request . . . for service” made confidential by the Confidentiality Statute. *See* § 2-
5 3-13. Because that confidentiality was not waived, the district court erred in ordering
6 the records produced and we accordingly reverse the district court’s entry of
7 summary judgment in Ethics Watch’s favor. As a result, Ethics Watch’s IPRA suit
8 can no longer be considered “successful,” and we additionally reverse the district
9 court’s order awarding attorneys’ fees under Section 14-2-12(D). *See Am. Civ.*
10 *Liberties Union of N.M. v. Duran*, 2016-NMCA-063, ¶ 40, 392 P.3d 181 (describing
11 a successful IPRA suit as one that “secure[s] the production of previously denied
12 responsive public records”).

13 {23} Because we hold that the district court erred by ordering the production of
14 records excepted from inspection under IPRA by the Confidentiality Statute, we do
15 not reach the other exceptions advanced by LCS, including the speech and debate
16 clause of the New Mexico Constitution. *See State ex rel. Torrez v. Bd. of Cnty.*
17 *Comm’rs for Lea Cnty.*, 2025-NMSC-011, ¶ 4, 572 P.3d 837 (refraining “from
18 deciding constitutional issues unnecessary to the disposition of this case”).

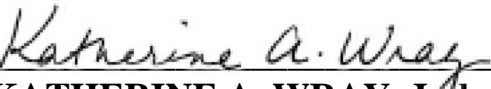
1 {24} For the foregoing reasons, the district court's order of summary judgment in
2 favor of Ethics Watch, as well as the district court's award of fees, is reversed. We
3 remand for entry of judgment consistent with this opinion.

4 {25} **IT IS SO ORDERED.**

5 
6 **KRISTOPHER N. HOUGHTON, Judge**

7 **WE CONCUR:**

8 
9 **JENNIFER L. ATTREP, Judge**

10 
11 **KATHERINE A. WRAY, Judge**