

HOUSE BILL REPORT

HB 1650

As Reported By House Committee On:
State Government

Title: An act relating to public records.

Brief Description: Providing administrative review of agency decisions concerning access to public records.

Sponsors: Representatives Romero, Campbell, Rayburn, Chappell, Ludwig, Jacobsen, Veloria and Pruitt.

Brief History:

Reported by House Committee on:
State Government, March 3, 1993, DPS.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Anderson, Chair; Veloria, Vice Chair; Reams, Ranking Minority Member; Vance, Assistant Ranking Minority Member; Campbell; Conway; Dyer; King; and Pruitt.

Staff: Kenneth Hirst (786-7105).

Background: The state's public disclosure laws require public records to be available for public inspection and copying. State and local agencies receiving a request for an identifiable public record are directed to make it promptly available. Public records to which public access is required may exist in a broad range of formats, including diskettes and existing data compilations from which information may be obtained or translated.

Agencies must respond to a public record request within five business days of receiving a public record request by: (1) providing the record; (2) acknowledging that the agency has received the request and providing a reasonable estimate of the time the agency will require to respond to the request; or (3) denying the public record request. If a state agency denies a person's public record request, the person may request the attorney general to review the matter. The attorney general is to provide a written opinion on whether the record is exempt from public access.

Summary of Substitute Bill: The attorney general must examine the implementation of current law which allows members of the public to request and receive review by the attorney general of a decision by a state agency to deny access to a record. The attorney general must report to the Legislature by December 31, 1993, the results of the examination and any recommendations regarding the review process.

Substitute Bill Compared to Original Bill: The original bill: directs the Public Disclosure Commission to adopt rules governing the public's access to public records and regarding reasonable fees for copying records; and establishes the commission as an administrative review body for reviewing the decisions of state agencies regarding requests for public records. The substitute bill replaces these provisions with the study by the attorney general.

Fiscal Note: Available on original bill. Not requested on substitute bill.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: On Substitute Bill: (1) Providing the public a review of the decisions made by state agencies regarding access to public records is a high priority of the new attorney general. She has assigned a senior assistant attorney general for this task. (2) The Attorney General's Office will carefully track the requests for review filed with the office and the responses rendered and will complete an update of a records access guide for state agencies and the public. (3) Once the Attorney General's Office has advised a citizen that a record should be made available, it will work with the agency involved to influence compliance. (4) The new law giving the attorney general review authority should be given a chance to work. (5) Another layer of bureaucracy should not be added to review records requests; more bureaucracy means more delays.

Testimony Against: (1) The current system does not work. A request for attorney general review was filed in November 1992, but no response has been rendered. (2) Under current law, the attorney general has no authority to compel compliance. The original bill granted the commission that authority. (3) It has taken Massachusetts 18 years to provide a satisfactory review program for public record requests; Washington should act now, rather than studying the matter further. (4) No one audits agencies for compliance with current law regarding indexes to public records. Enforcement is needed; the substitute bill does

not address the problem. (5) Uniform rules regarding copying costs should be set by someone.

Witnesses: On Substitute Bill: Representative Romero (in favor); Kathy Spong, Office of the Attorney General (in favor); Becky Bogard, Association of Broadcasters (in favor); Rowland Thompson, Allied Daily Newspapers (in favor); Rob Cavanaugh (opposed); Richard Shepard, Libertarian Party (opposed); Sherry Bockwinkel, LIMIT (opposed); and Chris Stearns, Judicial Review Board.