

FINAL BILL REPORT

SHB 1897

C 391 L 07

Synopsis as Enacted

Brief Description: Expressing the legislature's intent that public disclosure requirements do not allow attorney invoices to be exempt in their entirety.

Sponsors: By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Williams and Hunt).

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations & Elections

Background:

The Public Records Act (Act) requires state and local government agencies to make public records available for public disclosure unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally, and the exemptions narrowly, in order to effectuate a general policy favoring disclosure.

Records that are relevant to a controversy to which an agency is a party that would not be discoverable to another party under the superior court rules of pretrial discovery are exempt from disclosure under the Act. Specifically exempt from disclosure is an attorney's work product. The courts have defined work product to include factual information which is collected or gathered by an attorney, as well as the attorney's legal research, theories, opinions, and conclusions.

The attorney-client privilege also exempts certain public records from disclosure. The attorney-client privilege, however, is a narrow privilege and protects only communication or advice between attorney and client in the course of the attorney's professional employment.

Summary:

The Legislature intends to clarify that the public's interest in open, accountable government includes an accounting of any expenditures of public resources on private legal counsel or private consultants.

It is the intent of the Legislature to clarify that no reasonable construction of the Act has ever allowed attorney invoices to be withheld in their entirety by a public entity. It is further the intent of the Legislature that specific descriptions of work performed be redacted only if they would reveal an attorney's mental impressions, actual legal advice, theories, or opinion, or are otherwise exempt from public disclosure under the Act or other laws. The burden is on the public entity to justify each redaction and narrowly construe any exception to full disclosure.

Votes on Final Passage:

House 94 2
Senate 44 4

Effective: July 22, 2007