

# SENATE BILL REPORT

## SB 6529

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As of January 18, 2010

**Title:** An act relating to increasing access to public records.

**Brief Description:** Increasing public access to public records.

**Sponsors:** Senator Roach.

**Brief History:**

**Committee Activity:** Government Operations & Elections: 1/19/10.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Staff:** Alison Mendiola (786-7483)

**Background:** The Public Records Act (PRA) requires that all state and local government agencies make all public records available for public inspection and copying 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.

The PRA requires agencies to respond to public records requests within five business days. The agency must either provide the records, provide a reasonable estimate of the time the agency will take to respond to this request deny the request. Additional time may be required to respond to a request where the agency needs to notify third parties or agencies affected by the request. Additional time may also be needed to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

When a state agency concludes that a public record is exempt from disclosure, the requester may ask the attorney general (AG) to review the matter and the AG must provide the requester with a written opinion as whether the record is exempt.

For practical purposes, the law treats a failure to properly respond as denial. A denial of a public records request must be accompanied by a written statement of the specific reasons for denial. Any person who is denied the opportunity to inspect or copy a public record may file a motion to show cause in superior court why the agency has refused access to the record. The burden of proof rests with the agency to establish that the refusal is consistent with the

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statute that exempts or prohibits disclosure. Judicial review of the agency decision is de novo and the court may examine the record in camera.

Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record must be awarded all costs, including reasonable attorney fees. In addition, the court has the discretion to award such person no less than \$5 and no more than \$100 for each day the person was denied the right to inspect or copy the public record. The court's discretion lies in the amount per day, but the court may not adjust the number of days for which the agency is fined.

**Summary of Bill:** Under the Light of Day Act, each agency must make available to the public, at no cost to the public, all public records of that agency through computer terminals located in the agency. Agencies without the capacity to provide such a space may coordinate with another agency to provide this information.

If an agency concludes that a public record is exempt from disclosure, the agency must inform the requester that he or she may ask the AG to review the matter and the AG must provide the requester with a written opinion as to whether the record is exempt.

If the requester prevails in court, the court must award the requester between \$5 and \$100 per day for each day the requester was denied the right to inspect or copy the public record requested.

**Appropriation:** None.

**Fiscal Note:** Requested on January 16, 2010.

**Committee/Commission/Task Force Created:** No.

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