

HOUSE BILL REPORT

HB 1675

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to requiring agencies to disclose the estimated costs of compliance with a request for public records.

Brief Description: Requiring agencies to disclose the estimated costs of compliance with public records requests.

Sponsors: Representatives Reykdal, Hunt, Kenney, McCoy, Frockt and Ormsby.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/7/11, 2/16/11 [DP].

Brief Summary of Bill

- Requires that an agency, upon the completion of a records request under the Public Records Act, provide the person requesting the records with a written statement of the estimated direct costs incurred by the agency in complying with the records request.
- Requires an agency to maintain a written or electronic record of all records request direct cost estimates and to annually calculate the estimated total yearly costs of responding to requests for public records.
- Requires an agency to make available to the public all individual records request cost estimates and total yearly cost estimates.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 6 members: Representatives Hunt, Chair; Darneille, Dunshee, Hurst, McCoy and Miloscia.

Minority Report: Do not pass. Signed by 4 members: Representatives Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander and Condotta.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Thamas Osborn (786-7129).

Background:

The Public Records Act (PRA) requires that 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 public 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, or 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 or needs to determine whether any of the information requested is exempt. In effect, 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.

A person making a public records request cannot be charged fees for the inspection of records or for an agency's efforts to locate records or make them available for copying. A reasonable fee may be charged by public agencies for the cost of providing copies and for the use of agency equipment for the copying of public records. Such charges may not exceed those necessary to reimburse the agency for the actual costs directly incident to such copying. An agency may not charge a per page cost greater than the actual per page cost as established and published by the agency.

Summary of Bill:

At the time of completing a public records request pursuant to the PRA, an agency must provide the person requesting the records with a written statement of the estimated direct costs incurred by the agency in complying with the request. The estimated direct costs may include:

- personnel costs;
- the per page cost of providing photocopies;
- shipping or mailing costs; and
- any other costs directly related to providing the records.

The agency's estimate of the direct costs of completing a public records request is for *informational purposes only* and does not constitute a statement of the costs that may be charged to the person requesting the records. Any costs that may be charged to the requester must be determined in accordance with the pertinent provisions of the PRA.

An agency must maintain a written or electronic record of all records request direct cost estimates. Based upon this data, at the end of each fiscal year the agency must calculate the estimated total yearly costs of responding to requests for public records. All individual

records request cost estimates and total yearly cost estimates must be made available to the public.

An agency's written estimate of the direct costs of providing records to a requester must include the following statement by the agency: "The estimated cost of completing your public records request is \$... This disclosure of agency costs is required under RCW 42.56.070(9)."

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The PRA provides a critical state service, yet we have no idea what the actual, direct costs are of compliance by state and local agencies. This bill would provide a much needed record of the actual cost of all individual records requests under the PRA, as well as the yearly aggregate cost of agency compliance with the PRA. Furthermore, it will likely be very helpful for citizens to receive accurate information about the true public cost of individual records requests. Most people requesting records have no idea of the actual cost to the agencies involved. However, providing cost estimates will encourage some people to make less sweeping, more reasonable requests. This is a good bill that does not unduly burden the agencies involved. The public should be made aware of the costs underlying PRA compliance.

(With concerns) This bill is well-intentioned, but it does not go far enough. Many other state functions should be subject to the same sort of accounting. For example, the actual cost of permitting processes should also be studied.

(Opposed) None.

Persons Testifying: (In support) Representative Reykdal, prime sponsor.

(With concerns) Rowland Thompson, Allied Daily Newspapers; and Arthur West.

Persons Signed In To Testify But Not Testifying: None.