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**State Government & Tribal Affairs**  
**Committee**

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**HB 1899**

**Brief Description:** Changing penalty amounts for public records violations.

**Sponsors:** Representatives Miloscia, Overstreet, Hurst, Taylor, Hunt, Armstrong, McCoy and Condotta.

**Brief Summary of Bill**

- Changes the range of the monetary penalty that may be assessed against an agency under the Public Records Act from \$0 up to \$500 for each day the agency has unlawfully failed to provide requested records.

**Hearing Date:** 2/16/11

**Staff:** Thamas Osborn (786-7129).

**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 exceptions narrowly, in order to effectuate a general policy favoring disclosure.

*Responding to PRA Requests.*

An agency must respond to requests for public records promptly. Within five business days of a request, an agency must:

- provide the record; or
- acknowledge receipt of the request and provide a reasonable estimate of the time that is required to respond to the request; or
- deny the request.

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*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.*

The agency may take additional time to clarify the intent of the request, to locate the requested information, to notify third persons or agencies affected by the request, or to determine whether the requested information is protected by an exemption.

Judicial Remedies.

A person who is denied a public record, or who believes an agency's time estimate is unreasonable, may appeal the agency decision in the superior court of the county in which the record is maintained. In such court actions, the agency has the burden to prove, by a preponderance of the evidence, that the agency action was valid. If the person prevails in the action, he or she must be awarded all costs of maintaining the action, including reasonable attorney fees. In addition, it is within the court's discretion to assess a monetary penalty against the agency and award the proceeds to the prevailing party. The penalty must be an amount of not less than \$5 and not more than \$100 for each day the person was unlawfully denied the opportunity to inspect or copy the requested records.

**Summary of Bill:**

The range of the daily monetary penalty that may be assessed by a superior court against an agency for violation of the PRA is revised. The per day penalty may range from \$0 up to \$500 for each day the agency has unlawfully failed to provide the records, subject to the discretion of the court.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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