

SENATE BILL REPORT

SB 5693

As Reported by Senate Committee On:
Government Operations, Tribal Relations & Elections, February 21, 2011

Title: An act relating to defining "copy" for purposes of the public records act.

Brief Description: Defining "copy" for purposes of the public records act.

Sponsors: Senators Swecker and Pridemore.

Brief History:

Committee Activity: Government Operations, Tribal Relations & Elections: 2/21/11 [DP].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Majority Report: Do pass.

Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker, Ranking Minority Member; Chase, Nelson and Roach.

Staff: Sharon Swanson (786-7447)

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 while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

The PRA contains definitions for the terms agency, public record, and writing.

Summary of Bill: A definition of copy is added to the PRA to mean a reproduction of a record, either in paper or electronic format, that includes all content of a record that relates to the conduct of government or the performance of any governmental or proprietary function.

An agency satisfies its obligation under the PRA when it produces a copy consistent with the definition of copy or where any differences between the original record and the copy have been automatically generated by a computer system in the ordinary course of business.

Appropriation: None.

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.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill is about two recent court cases that deal with meta-data, the data that a computer generates each time an email or file is open and accessed. Meta-data is basically an electronic envelope. This bill attempt to create a way for public entities to comply with a request to capture a document under the PRA and also provide the electronic envelope information generated by the computer. The bill is trying to create a standard where an agency has complied if they provide a copy of the document.

CON: Meta-data can provide the chain of events that occurs within a government entity. The data can show when people received an email, if the email was opened, if the email was altered, etc. This bill creates a standard that is detrimental to public disclosure. Paper copies cannot and should not be allowed to supplement actual documents. If this bill were to become law it would send us back to square one in the courts. This is not a good direction to move in.

OTHER: There are concerns with this bill. If an agency is allowed to provide hard copies and not electronic copies, does the agency then get to charge the public \$0.15 per copy? Meta-data needs to be provided, per the recent court ruling, as the data can show how government operates internally. Meta-data needs to be released.

Persons Testifying: PRO: Victoria Lincoln, Association of Washington Cities; Scott McColl, City of Shoreline.

CON: Rowland Thompson, Allied Daily Newspaper; Bill Will, Washington Newspaper Publishers, Washington Coalition for Open Government.

OTHER: Shankar Narayan, ACLU - Washington.