
Local Government Committee

HB 1128

Brief Description: Regarding local agencies' responses to public records requests.

Sponsors: Representatives Takko, Rodne, Appleton, Johnson, Klippert, Fitzgibbon, Sullivan, Green, Clibborn, Nealey, Ryu, Walsh, Jinkins, Wylie, Moscoso, Sells, Angel, Seaquist, Hunt, Springer, Maxwell, Riccelli, Morrell, Hudgins, Bergquist and Fey.

Brief Summary of Bill

- Authorizes issuance of court injunctions against public records requests made to agencies pursuant to the Public Records Act (PRA) under specific circumstances.
- Establishes a summary court proceeding for seeking and obtaining an injunction against a public records request as authorized by this section.
- Authorizes agencies to adopt a policy limiting the number of hours they devote to responding to public records requests, if the agency makes certain documents publicly available and meets other conditions.

Hearing Date: 1/25/13

Staff: Michaela Murdock (786-7289).

Background:

The Public Records Act (PRA) requires that most records maintained by state, county, and city governments, and all special purpose districts be made available to members of the public. The definition of "public record" includes any writing that contains information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. The term "writing" includes handwriting, typewriting, printing, photographing, and every other means of recording any form of communication or representation.

Agencies must make available for public inspection and copying all public records, unless the record falls within a specific exemption. Additionally, upon receiving a request for public

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records, agencies must respond 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. The law treats a failure to properly respond as a denial. The PRA provides any person denied an opportunity to inspect or copy a public record, or who believes that an agency has not made a reasonable estimate of the time that it requires to respond to a request, with judicial review of the agency action.

An agency or its representative, or a person who is named in the record or to whom the record specifically pertains, may seek injunctions against specific public records requests in circumstances prescribed by statute. An injunction may be ordered where examination of a record clearly would not be in the public interest and would substantially and irreparably damage any person or vital government function. Also, public records requests by persons serving criminal sentences in correctional facilities may be enjoined under certain circumstances.

Summary of Bill:

Two new sections relating to public records responses by agencies are added to the Public Records Act.

Injunctions Against Public Records Requests.

Under the first section, the inspection or copying of any public record may be enjoined upon the request of a local agency, a person named in the record, or a person to whom the request specifically pertains, or any of their representatives.

To issue an injunction under this section, a superior court must find that the request: (1) was made to harass or intimidate an agency or its employees; (2) was made in retaliation or to punish the agency for an action it took or proposed to take; (3) creates an undue burden on the agency; (4) if fulfilled, would likely threaten the safety or security of staff, or specified others; or (5) if fulfilled, would likely assist criminal activity. The court may consider all relevant factors, including factors specifically set out in the section, in deciding whether to issue an injunction.

An injunction may be requested by motion in a summary proceeding. If the motion is granted, a court may enjoin all or any part of a request, approve a plan for fulfilling all or part of the request, or enjoin, for a time, future requests by the same requestor.

Records requestors must be notified of an agency's intent to seek an injunction, and they have 15 days to revise their requests. Agencies must continue to fulfill requests while motions for injunctions are pending.

Limiting Agency Time Responding to Records Requests.

Under the second section, a local agency may limit the number of hours it devotes to responding to public records requests.

To adopt a policy limiting response hours, an agency must make certain documents publicly available, including budgets, agendas and minutes, salary schedules, resolutions and ordinances, and certain contracts. Different standards for whether documents are "publicly available" are established for agencies with a general fund budget of equal to or greater than \$1 million and for

agencies with a general fund budget of less than \$1 million. Agencies may also prioritize the order in which requests will be fulfilled.

If the value of the time allotted by an agency to respond to requests equals 1 percent of the agency's annual operations and maintenance budget, or less in some circumstances, it will be presumed reasonable. However, in no cases may an agency's policy allow it to spend fewer than five hours per month responding to requests.

Appropriation: None.

Fiscal Note: Requested on January 17, 2013.

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