

SENATE BILL REPORT

HB 1189

As of March 20, 2015

Title: An act relating to hours of availability for inspection and copying of public records.

Brief Description: Regarding hours of availability of cities, towns, and special purpose districts for inspection and copying of public records.

Sponsors: Representatives S. Hunt, Holy, Bergquist, Johnson, Appleton and Buys.

Brief History: Passed House: 3/04/15, 95-1.

Committee Activity: Government Operations & Security: 3/19/15.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Staff: Samuel Brown (786-7470)

Background: The Public Records Act (PRA). Under the PRA, all state and local agencies must make all public records available for public inspection and copying, unless a specific exemption in the PRA or another statute applies. The PRA must be interpreted to promote a general policy favoring disclosure, including narrow construction of PRA exemptions.

Public records must be available for inspection and copying during the customary office hours of an agency for a minimum of 30 hours per week, with the exception of weeks that include state holidays. A requestor and the agency or office subject to the request may agree on a different time. Agency facilities must also be made available for the copying of public records, except when doing so would unreasonably disrupt the operations of the agency. Customary business hours must be posted on the agency or office's website and made known by other means designed to provide the public with notice.

Agency Responses to Public Record Requests. Within five business days of receiving a public record request, an agency must respond by:

- providing the record;
- providing an Internet address and link on the agency's website to the specific record request, unless the requestor is unable to access the record online, in which case the agency must provide a copy of it or allow the requestor to use an agency computer to view the copy;
- acknowledging that the request has been received and providing a reasonable estimate of time when the agency or office will be able to respond; or

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- denying the request.

Additional time required to respond to a request may be based on the need to clarify the request, locate and assemble responsive records, notify affected third persons or agencies, or determine whether any exemptions apply and whether denial of part or all of the request is appropriate. Failure to respond in a timely fashion to a public records request or denial of a public records request where no exemption applies may subject the agency to penalties, including costs, attorney's fees, and a statutory monetary penalty, if the requestor prevails at trial against the agency.

Summary of Bill: Provisions relating to PRA compliance for cities, towns, and special purpose districts that customarily do not maintain office hours for a minimum of 30 hours per week (jurisdictions) are modified. Jurisdictions are not required to maintain a minimum number of office hours under the PRA, but must post on the agency headquarters and website, if any, directions on how to contact agency personnel to inspect or copy public records.

Agency personnel are considered contacted with the request when agency personnel actually knows that a request to inspect or copy public records was made or upon proof that delivery of a certified letter was made or attempted upon the agency, with return receipt requested.

At the jurisdiction's next regularly scheduled meeting following a public record requestor's contact with agency personnel, the request must be included in the business of the meeting and the agency must respond promptly to the request within five days of the date of the meeting in accordance with provisions of the PRA.

Appropriation: None.

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 provides an escape hatch for small governments that are legally vulnerable because they don't have 30 office hours per week. Some small districts don't have full-time staff or have no staff at all. They want to comply with the PRA, but aren't able to. No penalties have been imposed for violations, this is a technical clean-up bill. Some special purpose districts meet very infrequently, and the bill should be amended to treat a request as received within 30 days. Districts with no staff should designate a governing board member as the records officer.

OTHER: The bill should be limited to legitimately small entities. Larger entities shouldn't be able to avoid PRA requirements by being open for fewer hours.

Persons Testifying: PRO: Representative Hunt, prime sponsor; Mike Schwisow, WA State Water Resources Assn.; Ginger Eagle, WA Public Ports Assn.; Rowland Thompson, Allied Daily Newspapers of WA.

OTHER: Arthur West, citizen.

Persons Signed in to Testify But Not Testifying: No one.