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**State Government & Tribal  
Affairs Committee**

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**HB 1897**

**Brief Description:** Expressing the legislature's intent that public disclosure requirements do not allow attorney invoices to be exempt in their entirety.

**Sponsors:** Representatives Williams and Hunt.

**Brief Summary of Bill**

- Declares that it is the intent of the Legislature to clarify that attorney invoices from private legal counsel are not exempt from disclosure under the Public Records Act.

**Hearing Date:** 2/23/07

**Staff:** Alison Hellberg (786-7152).

**Background:**

The Public Records Act requires that all state and local government agencies make all public records available for public disclosure 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 general policy favoring disclosure.

Records that are relevant to a controversy to which an agency is a party that would not be discoverable to another party under the superior court rules of pretrial discovery are exempt from disclosure under the Act. Specifically exempt from disclosure is an attorney's work product. The definition of work product includes "factual information which is collected or gathered by an attorney, as well as the attorney's legal research, theories, opinions and conclusions." *Limstrom v. Ladenburg*, 136 Wn.2d 595 (1998).

The attorney-client privilege also exempts certain public records from disclosure. The attorney-client privilege, however, is a narrow privilege and protects only "communications and advice between attorney and client." The privilege does not exempt documents prepared for purposes

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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.*

other than communicating with an attorney. *Hangartner v. City of Seattle*, 151 Wn.2d 439 (2004).

**Summary of Bill:**

The Legislature intends to clarify that the public's interest in open, accountable government includes an accounting of any expenditures of public resources upon private legal counsel or private consultants.

It is the intent of the Legislature to clarify that no reasonable construction of the Public Records Act has ever allowed attorney invoices to be withheld in their entirety by a public entity. It is further the intent of the Legislature that specific descriptions of work performed be redacted only if they would reveal an attorney's mental impressions, actual legal advice, theories, or opinion. The burden is on the public entity to justify each redaction and narrowly construe any exception to full disclosure.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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