

SENATE BILL REPORT

SB 5251

As of January 21, 2009

Title: An act relating to charges for copying under the public records act.

Brief Description: Defining per page cost for the purpose of copying costs under the public records act.

Sponsors: Senators Fairley and Sheldon.

Brief History:

Committee Activity: Government Operations & Elections: 1/20/09.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Staff: Edward Redmond (786-7471)

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 the record, or information on the record, is specifically exempt from disclosure. A public record is any writing containing information relating to the conduct of government or the performance of any government or proprietary function prepared, owned, used, or retained by any state or local agency. The provisions requiring public records disclosure must be interpreted liberally and the exemptions narrowly in order to effectuate a general policy favoring disclosure.

The PRA requires agencies to respond to public records requests 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. Agencies may charge reasonable fees for providing copies of public records in accordance with actual per page costs or other costs that are established and published by the agency. Currently, agencies only charge for the copies of documents that are taken by the requestor, but not for any additional documents made in order to fulfill the request.

Summary of Bill: "Per page cost" means the cost of all photocopies made to fulfill the particular request divided by the number of pages. Agencies may recover per page costs regardless of whether the photocopies are taken by the requestor.

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.

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 bill is not about limiting public access to records. Rather, it is about providing reasonable access. It gets to the issue of when taxpayers should be forced to bear the burden of open government. This bill deals with the situation where a requestor asks for copies of documents but does not bother to pick them up. Taxpayers should not bear the burden of paying these costs.

CON: Agencies may be overly responsive and provide additional documents that are not wanted. The requestor, however, will still be liable for the payment of these additional documents. The bill may also be internally inconsistent. Section 1 states that no fee shall be charged for inspection of public records. The proposed amendments under subsections 2 and 3 seem to create a methodology for assessing an inspection fee. This would be a serious impediment to inspecting records.

Persons Testifying: PRO: Ramsey Ramerman, attorney; Victoria Lincoln, Association of Washington Cities; Dan Steele, Washington State School Directors' Association.

CON: Toby Nixon, Washington Coalition for Open Government; Greg Overstreet, attorney; David Koerig, Arthur West, citizens; Rowland Thompson, Allied Daily Newspapers.