
**State Government, Elections &
Information Technology Committee**

HB 1594

Brief Description: Improving public records administration.

Sponsors: Representatives McBride, Nealey, Springer, Clibborn, Hayes, Gregerson, Peterson, Koster, Griffey, Klippert, Kilduff, Muri, Senn, Goodman, Haler, Robinson, Sells, Steele, Fitzgibbon, Fey, Kraft, Bergquist, Smith, Tharinger, Stanford, Kloba, Jinkins, Hargrove, Slatter and Kagi.

Brief Summary of Bill

- Requires the Attorney General to establish a consultation program to assist local governments with best practices for managing public records requests.
- Requires the agency to offer to participate in mediation with a requester to clarify a public records request or to resolve any disagreement regarding disclosure.
- Requires the Division of Archives and Records Management (State Archives) to conduct a feasibility study for establishing a statewide internet portal for public records management.
- Authorizes a \$1 surcharge on county recorded documents for the State Archives local competitive grant program and local trainings on records retention practice.

Hearing Date: 2/10/17

Staff: Sean Flynn (786-7124).

Background:

Public Records Act

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request, unless the information fits into

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one of the various specific exemptions in the PRA or as otherwise provided in law. The stated policy of the PRA favors disclosure and requires narrow application of the listed exemptions.

Agencies must respond to a records request within five business days. The response must provide the record, deny the request, or provide an estimate of time when the records will be available. An agency may ask the requester to clarify what information the requester is seeking. If the requester fails to clarify the request, the agency is not obligated to respond.

Agencies must adopt rules for providing public access to records, protecting public records from damage or disorganization, and preventing excessive interference with other essential functions of the agency. The Attorney General also publishes model rules for agencies on PRA compliance issues.

Each agency must appoint a public records officer to oversee agency compliance with the PRA. Every four years, each records officer must complete a training course on PRA compliance. The training must be consistent with the Attorney General's model rules.

State Archives - Local Records Management

The Office of the Secretary of State includes the Division of Archives and Records Management (State Archives), which is responsible for safeguarding state public records. The State Archivist administers the Division and manages the retention, cataloging, and preservation of the public records inventory. The State Archives also operates regional offices that support state and local agencies with records management.

The Local Government Archives Account (Local Archives Account) is a funding source for to support local government record keeping services. The State Archives provides services, resources, and training to assist with local government archives, including access to digital data systems. The State Archives also administers a competitive grant program to fund specific local government archives projects. Finally, funding is used for the construction of archives facilities in Eastern Washington that support local government records management needs.

Revenue from the account comes from surcharges on documents recorded with a county auditor. A \$1 surcharge funds the State Archives supportive services for local governments. A second \$1 charge is collected exclusively to fund the capital projects.

Summary of Bill:

Public Records Training.

In addition to publishing model rules, the Attorney General must establish a consultation program to assist local governments with best practices for managing records requests, updating technology, and mitigating costs and liability. The Chief Information Officer, State Archivist, and other relevant agencies may provide consultation in developing and managing the program. The State Archivist also must offer consultation and training services for local agencies on improving record retention practices. The public records officer training course must address improvements for technology information services and management of electronic records.

Public Records Request - Mediation

An agency must offer to participate in mediation with a requester to clarify a request or resolve any disagreement regarding disclosure. The agency must offer the mediation within five business days of receiving a requester's response to the agency's request for clarification. If the requester refuses to participate in the offered mediation, that fact may be considered by a court in any subsequent litigation regarding whether the agency has satisfied its obligations in responding to the request.

State Records Portal - Study

The State Archives is authorized to administer a feasibility study on implementing a statewide open records portal that would administer public records request through a single access point Internet website. The study must be conducted by a consultant hired by the State Archives. The consultant must prepare a report that includes findings and recommendations. The is due to the Legislature by September 1, 2018. An appropriation of \$25,000 is made in the 2017-19 budget for funding the study.

The study must address the following topics:

- The feasibility of a central portal can provide a timely response to records requests;
- An evaluation of other states that have implemented such an open records portal system;
- The length of time and estimated costs to develop and implement a portal;
- Possible fees collected from requesters using the portal;
- The possibility of the portal to track records requests, provide notice to the requester on record availability, and provide direct responses to requests.

The State Archives must convene a workgroup by September 1, 2017, to develop the scope and direction of the study. The work group must have seven members, including four legislators and three community representatives selected by the legislature leadership.

Local Resources - Records Management

An additional \$1 surcharge is assessed on documents recorded with the county auditor for the Local Archives Account to be used for the State Archives local competitive grant program as well as resources for the State Archivist's training on records retention practices.

Appropriation: None.

Fiscal Note: Requested on January 25, 2017.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. Section 7 and Section 8 expire September 30, 2018.