

SENATE BILL REPORT

SB 5787

As of February 17, 2019

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

Brief Description: Concerning hours of availability for inspection and copying of public records.

Sponsors: Senators Walsh, Hunt and Saldaña.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 2/15/19.

Brief Summary of Bill

- Allows cities, towns, and special purpose districts that customarily do not maintain office hours for a minimum of 30 hours per week, to not maintain a minimum number of office hours for purposes of the Public Records Act if certain criteria are met.
- Allows cities, towns, and special purpose districts that maintain office hours for fewer than 30 hours per week, and meet other specified criteria, to respond to requests for public records within five days of the agency's next regularly scheduled meeting.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Staff: Samuel Brown (786-7470)

Background: Public Records Act. Under the Public Records Act (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. Courts interpret the PRA 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

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.

on a different time. Agency facilities must also be made available for copying 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 be made known by other means designed to provide notice to the public.

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;
- acknowledging that the request has been received, that some portions are unclear, and requesting clarification on the unclear portions; or
- 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 (covered jurisdictions) are modified. Covered 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.

A public records request is considered made to the jurisdiction 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 covered jurisdiction's next regularly scheduled meeting after the request is made, 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.

Covered jurisdictions with no personnel must designate a member of the governing body as the public records officer.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Many irrigation districts are seasonal in nature, so for much of the year, there is nobody in the office. We believe this is a reasonable alternative for many entities of all sorts that simply do not need to pay staff to keep the door open in case of a public record request.

CON: This bill needs a better determination of how small an agency is than how many office hours it maintains, perhaps revenue or population size. This bill as drafted may result in large agencies cutting their hours in order to exempt themselves.

Persons Testifying: PRO: Mike Schwisow, Washington State Water Resources Association.

CON: Arthur West, citizen.

Persons Signed In To Testify But Not Testifying: No one.