

# HOUSE BILL REPORT

## HB 1189

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**As Passed House:**  
March 4, 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:**

**Committee Activity:**

Local Government: 1/20/15, 1/28/15 [DP].

**Floor Activity:**

Passed House: 3/4/15, 95-1.

**Brief Summary of Bill**

- Establishes that cities, towns, and special purpose districts that customarily do not maintain office hours for a minimum of 30 hours per week are not required to maintain a minimum number of office hours for purposes of the Public Records Act, provided they comply with specified criteria.
- 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.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass. Signed by 9 members: Representatives Takko, Chair; Gregerson, Vice Chair; Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Fitzgibbon, McBride, McCaslin, Peterson and Pike.

**Staff:** Michaela Murdock (786-7289).

**Background:**

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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.*

### The Public Records Act.

Under the Public Records Act (PRA), all state and local agencies must make available for public inspection and copying all public records, unless a record falls within the specific exemptions set forth in the PRA, or other statute prohibits the disclosure of specific information or records. Agencies governed by the PRA include all state offices, departments, divisions, bureaus, boards, or commissions, and every county, city, town, or special purpose district, as well as their associated offices, departments, divisions, bureaus, boards, or commissions. The PRA's provisions requiring disclosure must be interpreted liberally and its exemptions must be narrowly construed to effectuate a general policy favoring disclosure.

### Availability of Public Records.

Public records must be available for inspection and copying during the customary office hours of an agency, the Office of the Secretary of the Senate (Senate), and the Office of the Chief Clerk of the House of Representatives (House) 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.

Upon receiving a request for identifiable public records, agencies must make them promptly available to any person, including on a partial or installment basis as records that are part of a larger set of responsive records are assembled or made ready for inspection or disclosure. Requests received by mail for identifiable public records must be honored.

### Agency Responses to Public Record Requests.

Responses to requests for public records must be made promptly by agencies, the Senate, and the House. Within five business days of receiving a public record request, an agency must respond by:

1. providing the record;
2. 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;
3. 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
4. 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.

### **Summary of Bill:**

Cities, towns, and special purpose districts that customarily do not maintain office hours for a minimum of 30 hours per week are not required to maintain a minimum number of office

hours under the Public Records Act. If a city, town, or special purpose district does not maintain office hours for a minimum of 30 hours per week, it is required to post on its headquarters location and website, if any, directions on how to contact agency personnel to inspect or copy public records.

Contacting agency personnel includes: (1) any contact that results in agency personnel actually knowing that a request to inspect or copy public records is being made; or (2) proof that delivery of a certified letter, return receipt requested, was made or attempted upon the agency.

At the city, town, or special purpose district'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. Specifically, the agency must respond 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.

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

**Staff Summary of Public Testimony:**

(In support) This bill was heard in committee and passed out of the House twice before.

This bill will help smaller jurisdictions. Many small special purpose districts have either no staff or a limited number of staff, and they do not keep regular office hours. For example, some landowners operate districts among themselves, have no staff, and no office hours. This bill will help them comply with the Public Records Act (PRA). Several years ago, it was brought to a district's attention that a strict reading of the PRA requires all agencies subject to the PRA to keep office hours of at least 30 hours per week; this requirement in the PRA was an initial oversight that should be fixed.

Concern has been expressed by some about the timing of the five-day response period to a public records request under this bill; it is argued that five days after the next regularly scheduled meeting is too late to respond. Proponents of the bill are willing to work with other stakeholders to come up with an agreeable solution

(Opposed) Provisions of the bill that define what constitutes receipt of a request are necessary and are a supported part of the bill, because they will prevent agencies from avoiding records requests. While it is reasonable for agencies to have limited office hours, the response date of five days after the next regularly scheduled meeting is concerning. The PRA's current five-day response requirement is reasonable and ensures that requests are dealt with promptly and expeditiously. If agencies are not required to respond until the next meeting they will delay or postpone regular meetings to avoid responding to requests, or they will forget about the request.

**Persons Testifying:** (In support) Representative Hunt, prime sponsor; Brandi Vena, Washington Public Ports Association; and Mike Schwisow, Washington State Water Resources Association.

(Opposed) Arthur West.

**Persons Signed In To Testify But Not Testifying:** None.