

HOUSE BILL REPORT

HB 1431

As Passed House:
March 4, 2015

Title: An act relating to modifying exemptions relating to real estate appraisals.

Brief Description: Modifying exemptions relating to real estate appraisals.

Sponsors: Representatives Bergquist, Holy and S. Hunt.

Brief History:

Committee Activity:

State Government: 2/4/15, 2/5/15 [DP].

Floor Activity:

Passed House: 3/4/15, 78-20.

Brief Summary of Bill

- Exempts disclosure relating to an agency's consideration to purchase or sell property where public knowledge would likely affect the property price.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass. Signed by 6 members: Representatives S. Hunt, Chair; Bergquist, Vice Chair; Holy, Ranking Minority Member; Van Werven, Assistant Ranking Minority Member; Appleton and Hawkins.

Staff: Sean Flynn (786-7124).

Background:

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 one of the various specific exemptions. The stated policy of the PRA favors disclosure and requires narrow application of the listed exemptions.

An exemption exists for real property appraisals regarding the acquisition of property made for or by an agency. The exemption lasts until the prospective sale or project is abandoned or

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all property related to the appraisal has been sold or acquired. The exemption does not apply to appraisals regarding the acquisition of property for the purpose of providing relocation housing.

Summary of Bill:

Documents related to an agency's real estate transactions are exempt from disclosure if the documents are prepared for determining a site or acquisition of property by lease or purchase when public knowledge of such consideration would likely cause an increase in the property price. Documents prepared to consider the minimum selling price of property offered to be sold or leased is exempt when public knowledge would likely cause a decrease in the price. The exemptions for these purposes includes records prepared for the executive session of an agency's governing body.

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 received a unanimous recommendation from the Sunshine Committee. The discussion and consideration of real estate values can be sensitive information when negotiating the price of a real estate transaction. Disclosure of this information can skew negotiations between an agency and buyers and sellers. Such documents can include offers, counter offers, restrictive covenants, and other real estate documents.

The Open Public Meetings Act (OPMA) protects executive session consideration of offers to sell or buy property, but the underlying documents to those discussions are not exempt from public disclosure, including electronic mail, notes and other records. The bill essentially links the PRA to the existing exemptions under the OPMA. The information would become available once the transaction is complete.

(With concerns) There is no problem with protection of documents surrounding an agency's contemplation to buy property. This exemption is too broad regarding the sale of public property because it applies to all property sales by all agencies, even in cases where the public agency is not required to provide public notice of a sale. Under this bill, there is a possibility that agencies will not be able to realize the fair market value of a sale by failing to fully publicize sale offers.

Generally, the wide disclosure of sale offers creates opportunities for more people to participate in the bidding process, which helps to achieve the fair market value of the property sold. This bill should be tied to a specific statute where public notice of the offer is already required.

(Opposed) None.

Persons Testifying: (In support) Representative Bergquist, prime sponsor; Doug Levy, City of Kent and other cities; Tom Brubaker, City of Kent; and Ginger Eagle, Washington Public Ports Association.

(With concerns) Rowland Thompson, Allied Daily Newspapers.

Persons Signed In To Testify But Not Testifying: None.