

Multiple Agency Fiscal Note Summary

Bill Number: 1595 HB	Title: Public records request costs
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Estimated Cash Receipts

Agency Name	2017-19		2019-21		2021-23	
	GF- State	Total	GF- State	Total	GF- State	Total
SWF Statewide Fiscal Note - OFM	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Total \$	0	0	0	0	0	0

Estimated Expenditures

Agency Name	2017-19			2019-21			2021-23		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
SWF Statewide Fiscal Note - OFM	.0	0	0	.0	0	0	.0	0	0
Total	0.0	\$0	\$0	0.0	\$0	\$0	0.0	\$0	\$0

Local Gov. Courts *									
Loc School dist-SPI									
Local Gov. Other **	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Impact

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

<http://www.ofm.wa.gov/tax/default.asp>

Prepared by: Shane Hamlin, OFM	Phone: (360) 902-0547	Date Published: Final 2/ 7/2017
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 46880

FNS029 Multi Agency rollup

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1595 HB	Title: Public records request costs
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☒ Cities: An indeterminate, but non-zero expenditure impact with the likelihood that expenditure savings are produced
- ☒ Counties: An indeterminate, but non-zero expenditure impact with the likelihood that expenditure savings are produced
- ☒ Special Districts: An indeterminate, but non-zero expenditure impact with the likelihood that expenditure savings are produced
- ☐ Specific jurisdictions only:
- ☐ Variance occurs due to:

Part II: Estimates

- ☐ No fiscal impacts.
- ☐ Expenditures represent one-time costs:
- ☐ Legislation provides local option:
- ☒ Key variables cannot be estimated with certainty at this time: The number of local governments that would exercise the local option to produce an actual statement of costs, and the impact this legislation may have on increasing or decreasing public records requests

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Buck Lucas	Phone: 360/725-5040	Date: 02/01/2017
Leg. Committee Contact:	Phone:	Date: 01/25/2017
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 02/01/2017
OFM Review: Shane Hamlin	Phone: (360) 902-0547	Date: 02/07/2017

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

This legislation would modify the fee structure for public records requests.

Section 1 -- Amendatory language removing shall and placing may into the establishment and availability of the actual costs charged for providing photocopies of public records as well as electronically produced copies. A statement of costs must be approved via the public hearings process. The actual cost calculation may include the actual costs of the electronic production or file transfer of a record, including the costs to use cloud-based data storage, and the costs to transmit public records in an electronic format, including the use of any physical media device.

Section 2 -- A public records request must be for an identifiable record, and requests for all or substantially all records is not a valid public records request under this standard. A "bot request," or an automatically generated request for a public record, may be denied.

Section 3 -- Charges for public records may only be those costs as established by a jurisdiction through a public process. Jurisdictions have the option to calculate the actual costs for a records request if it would be unduly burdensome to do so. Changes the cost structure of public records requests to reflect a fee-based structure. The fee structure proposed by this legislation is as follows:

- \$0.15 cents for photocopies or the use of a jurisdiction's photocopy equipment, in addition to the actual postage or delivery charge and the cost of the container or envelope;
- \$0.10 cents per page scanned into electronic format or use of a jurisdiction's equipment;
- \$0.10 cents per minute of audio or video recording copies or use of a jurisdiction's equipment;
- \$0.40 cents per each group of 25 attachments uploaded to email, cloud-based data storage service, or other electronic delivery;
- \$0.10 cents per gigabyte for the transmission of public records or use of a jurisdiction's equipment; and
- \$5.00 flat fee for any request as an alternative to the fees established under this standard.

A jurisdiction may include a customized service charge for complex records requests that require staffing, resources, or expertise not normally available. This charge must be no more than the actual cost of providing records. A customized service charge would require the following to be imposed:

- Extensive use of technology resources to identify or locate records, format or translate an electronic records, prepare data compilations, or provide customized electronic access services; and
- Specialized analytical, research, or supervisory assistance to identify, locate, compile, or transfer records.

A jurisdiction may waive any charges assessed for services. A jurisdiction may also enter a contract or other agreement with a requestor that provides an alternative fee arrangement, or in response to a voluminous or frequent request.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

This legislation would result in an indeterminate, but likely reduction in local government expenditures. According to the State Auditor's Office, requesters paid less than 1 percent of the actual cost for a public records request statewide, and 66 percent of all public records requests went to local governments (cities and towns, counties, and special districts). This legislation would require that public records requesters pay the actual costs to locate and copy public records if a jurisdiction exercised the location option to impose an actual statement of costs. The level of expenditure reductions based on the actual cost standard is unknown and would vary based on the number of local governments that adopt an actual statement of costs, and the level of activity for public records requests.

The largest expenditure increases under this standard would be for a public hearing process to adopt an actual statement of costs, in addition to the staff-related expenditures to study, review, and draft the statement of actual costs. This legislation also establishes this process as a local option, and it is unknown how many jurisdictions would choose to develop and pass an actual statement of costs.

In addition, local governments may experience expenditure reductions for records requests that are not for identifiable records. The number of public records requests for records other than identifiable records that may be denied by a jurisdiction are also unknown. The magnitude of expenditure savings for the denial of public records requests for records that are not identifiable would vary based on the magnitude of requests for records that qualify as unidentifiable records requests. There is no current data on the number of requests for records that are not identifiable.

PUBLIC HEARINGS COSTS:

For jurisdictions that exercise the local option to produce a statement of actual costs, Local Government Fiscal Note Program staff assume

a moderate to complex hearing process would be required. The range of costs for a moderate-to-complex public hearings process, public notification included, would be between \$824 and \$1,300 per jurisdiction. These costs assume meeting material preparation 50 percent by professional staff and 50 percent by administrative and technical staff, media publications (2) and special mailing (2); in addition to meeting attendance by one management, lead professional, and one administrative staff member.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

This legislation would not result in a local government revenue gain. The fee structure proposed under this standard must represent the actual costs to provide services, and for this reason local governments may not expect additional revenues.

SOURCES:

Municipal Research and Services Center (MRSC)

State Auditor's Office

Individual State Agency Fiscal Note

Bill Number: 1595 HB	Title: Public records request costs	Agency: SWF-SWF Statewide Fiscal Note - OFM
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Part I: Estimates

☒ No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

<http://www.ofm.wa.gov/tax/default.asp>

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 01/25/2017
Agency Preparation: Jim Jenkins	Phone: 360-902-0403	Date: 01/30/2017
Agency Approval: Aaron Butcher	Phone: (360) 902-5555	Date: 01/30/2017
OFM Review: Shane Hamlin	Phone: (360) 902-0547	Date: 02/07/2017

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

There are no anticipated additional costs or resources needed to implement this bill.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

The Office of Financial Management (OFM) estimates the bill will generate approximately \$300 in additional revenue per year for agencies of similar size as OFM (250 FTEs) and smaller. The source of the revenue would be from fees charged to public records requesters asking for electronic records under RCW 42.56.

Because larger agencies could have a significantly higher number of requests or requests that may be more complex, we cannot estimate the impact on them. Therefore, the impact is indeterminate.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.