

Multiple Agency Fiscal Note Summary

Bill Number: 1594 E S HB AMS SGOV S2414.2	Title: Public records admin.
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Estimated Cash Receipts

Agency Name	2017-19		2019-21		2021-23	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of the Secretary of State	0	3,007,250	0	1,504,800	0	0
Office of Attorney General	0	48,783	0	11,087	0	0
Total \$	0	3,056,033	0	1,515,887	0	0

Estimated Expenditures

Agency Name	2017-19			2019-21			2021-23		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Joint Legislative Audit and Review Committee	2.3	659,700	659,700	2.3	576,400	576,400	2.3	576,400	576,400
Office of the Secretary of State	3.0	25,000	2,281,000	1.5	0	1,128,750	.0	0	0
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	4.2	0	1,020,735	2.8	0	679,351	2.8	0	668,264
Consolidated Technology Services	.0	0	0	.0	0	0	.0	0	0
Total	9.5	\$684,700	\$3,961,435	6.6	\$576,400	\$2,384,501	5.1	\$576,400	\$1,244,664

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 4/25/2017
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 48879

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Bill Number: 1594 E S HB AMS SGOV S2414.2	Title: Public records admin.	Agency: 014-Joint Legislative Audit and Review Committee
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Part I: Estimates

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No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	2.3	2.3	2.3	2.3	2.3
Account					
General Fund-State 001-1	371,500	288,200	659,700	576,400	576,400
Total \$	371,500	288,200	659,700	576,400	576,400

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>

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.

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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: 03/30/2017
Agency Preparation: John Woolley	Phone: 360 786-5184	Date: 03/31/2017
Agency Approval: Keenan Konopaski	Phone: 360-786-5187	Date: 03/31/2017
OFM Review: Derek Rutter	Phone: (360) 902-0409	Date: 03/31/2017

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.

BILL SUMMARY

The striking amendment makes changes to public records statutes, including training on retention and other provisions of this bill for public records officers.

It includes a direction to the Attorney General to establish a consultation program to provide information to local agencies requesting assistance in compliance with the public records act. The program expires June 30, 2020. The bill also requires the State Archivist to offer and provide consultation and training services through June 30, 2020 for local agencies on improving record retention practices.

The striking amendment directs the Division of Archives and Records Management in the Secretary of State's Office to establish and administer a competitive grant program for local agencies to improve public records management technology information systems.

The striking amendment directs county auditors to charge a one dollar surcharge on document recording fees for deposit into the Local Government Archives account to fund the program and other provisions of the bill.

The striking amendment includes direction to JLARC to conduct a review of the Attorney General's consultation program and the State Archivist's training services. In addition, agencies (state and local) are to maintain a log of public records requests. Agencies with staff and legal costs associated with meeting requests of \$40,000 per year must report to JLARC on 17 metrics by July 1 of each year. Those with costs less than \$40,000 may report on the metrics.

JLARC ANALYSIS AND DATA COLLECTION

By December 1, 2019, JLARC is to conduct an analysis of the Attorney General's consultation program, the State Archivist's training services, and the local government grant program.

JLARC's review is to include:

- Information on the number of local governments served.
- The effectiveness of the consultation program and the training services provided.
- Information on the number of local governments that applied for and participated in the competitive grant program, and the amount of funding awarded, and how such funding was used.
- The effectiveness of the grant program in improving local government technology information systems for public records retention, management, disclosure and training.

JLARC is to report its findings and recommend whether the competitive grant program, consultation program, and training services should continue or be allowed to expire.

In addition to the JLARC review, agencies are to report to JLARC by July 1 of each year on 17 metrics contained in the 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.

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.

ANALYSIS

Shortly after enactment of the bill JLARC will coordinate with the Office of the Attorney General and the Office of the Secretary of State to ensure they develop performance measures and establish a data collection plan to make certain the data necessary to complete the analysis in 2019 is available.

JLARC will review processes used by the Attorney General and the Secretary of State's offices to implement the consultation and training programs. JLARC will review the administrative records for the consultation and grant award programs, and conduct interviews and/or surveys of program managers, grant recipients, and stakeholders. JLARC will provide findings and recommendations about program implementation and effectiveness to the Legislature in December 2019.

NOTE: The evaluation is required within 2 years of a newly established program. Funding for the grants are dependent on a newly established fee. It is unknown whether program implementation will be impacted by the amount of fees collected.

REPORT ON METRICS BY AGENCIES

Establishing a system to collect, maintain, and report on the 17 metrics required by agencies will require coordinating data collection across 2,362 local governments and state agencies.

Immediately on passage of the bill, JLARC will work with the State Auditor to determine how their current processes work for collecting financial information from local governments. Their expertise will be leveraged to then contract with a system design consultant to develop a process to collect the information on the 17 metrics.

In estimating the size of the needed data collection system, JLARC staff referred to SAO's report on public records.

According to the SAO report, they sent surveys to 2,362 government agencies to evaluate the costs of responding to public records requests. The potential universe of potential respondents then is approximately 2,400. SAO states that 1,311 of these are "special districts". The special districts that responded indicated that their average expenditures were \$24,000 per year. They would submit data only on a voluntary basis. For system planning purposes, however JLARC staff need to assume the system would need to be sized to solicit, collect, maintain, and report on all 2,400 government agencies.

To fully scope and design the system, JLARC staff would contract with a consultant with expertise in system design. JLARC staff will also need to work extensively with staff of the Legislative Technology (LegTech) center to make certain the system conforms with the Legislature's requirements regarding security and design.

This fiscal note includes JLARC staff costs equivalent to 1.5 full time analysts dedicated to meeting the requirements of the striking amendment, and consultant costs. It does not include any costs for LegTech's assistance.

JLARC estimates its costs to be divided between a) JLARC staff costs, and b) the costs associated with engaging external experts to assist JLARC staff in completing its assignment.

a) JLARC estimates its costs based on audit months (approximately \$16,000 per audit month). JLARC estimates it will take 108 audit months to complete the assignment required by this bill.

b) Consultant Costs: JLARC anticipates engaging consultant(s) to scope, design, and develop a data collection system. We estimate consultant costs of \$83,300.

JLARC assumes comparable consultant efforts and costs made available for previous studies, and estimated costs reflect JLARC's recent experience in contracting with external entities for similar work.

JLARC Audit Months: JLARC calculates its staff resources in "Audit Months" to estimate the time and effort to undertake and complete its studies. An "Audit Month" reflects a JLARC analyst's time for a month, together with related administrative, support, and goods/services costs. JLARC's anticipated 2017-19 costs are calculated at approximately \$16,000 per audit month.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	2.3	2.3	2.3	2.3	2.3
A-Salaries and Wages	191,700	191,700	383,400	383,400	383,400
B-Employee Benefits	60,800	60,800	121,600	121,600	121,600
C-Professional Service Contracts	83,300		83,300		
E-Goods and Other Services	32,300	32,300	64,600	64,600	64,600
G-Travel	3,400	3,400	6,800	6,800	6,800
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$371,500	\$288,200	\$659,700	\$576,400	\$576,400

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2018	FY 2019	2017-19	2019-21	2021-23
Research Analyst	95,283	1.5	1.5	1.5	1.5	1.5
Support staff	65,053	0.8	0.8	0.8	0.8	0.8
Total FTE's	160,336	2.3	2.3	2.3	2.3	2.3

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.

Individual State Agency Fiscal Note

Bill Number: 1594 E S HB AMS SGOV S2414.2	Title: Public records admin.	Agency: 085-Office of the Secretary of State
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Part I: Estimates



No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2018	FY 2019	2017-19	2019-21	2021-23
Public Records Efficiency, Preservation & Access Acct-State 006-1	3,500		3,500		
Local Government Archives Account-State 441-1	1,500,000	1,503,750	3,003,750	1,504,800	
Total \$	1,503,500	1,503,750	3,007,250	1,504,800	

Estimated Expenditures from:

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	3.0	3.0	3.0	1.5	0.0
Account					
General Fund-State 001-1	10,000	15,000	25,000	0	0
Public Records Efficiency, Preservation & Access Acct-State 006-1	3,500	0	3,500	0	0
Local Government Archives Account-State 441-1	1,124,500	1,128,000	2,252,500	1,128,750	0
Total \$	1,138,000	1,143,000	2,281,000	1,128,750	0

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>

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: 03/30/2017
Agency Preparation: Temple Allen	Phone: 360-704-5215	Date: 04/03/2017
Agency Approval: Mark Neary	Phone: 360-902-4186	Date: 04/03/2017
OFM Review: Shane Hamlin	Phone: (360) 902-0547	Date: 04/03/2017

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.

DIFFERENCE BETWEEN THIS AMENDMENT AND THE PREVIOUS VERSION:

A new Section 1 is added that adds to the definition of “Public record.” The amendment state’s that records not required to be retained by an agency that are held by volunteers who have not been appointed to an agency board, commission, internship, or supervisory role that has delegated authority, are not public records.

The remaining sections are re-numbered.

Section 10 discussing the Joint Legislative Audit and Review Committee (JLARC), expands the number and type items for JLARC to review for the Attorney General and OSOS training programs, as well as the local records grant program.

None of the changes alter any of the fiscal impacts on OSOS from the previous version of the bill.

DIFFERENCES BETWEEN THIS BILL AND THE PREVIOUS VERSION:

Consultation and training services provided to local governments by the Attorney General (AGO) and the Office of the Secretary of State, State Archivist (OSOS) now end on June 30, 2020.

The surcharge collected by the county auditors must be used as follows: No more than 50% of funds may be used by the AGO’s and OSOS’s consultation and training program. The remaining 50% must be used by the Archives for the competitive grant program.

Adds requirements to Section 7 and the feasibility study conducted by OSOS.

Adds Section 9 that requires the Joint Legislative Audit and Review Committee (JLARC) to review and report on the consultation and trainings programs of the AGO and OSOS, as well as the competitive grant program. The report is due by December 1, 2019.

Adds an expiration date to Sections 5 and 6 of June 30, 2020.

SUMMARY OF THE BILL:

This legislation would establish a competitive grants program within the Office of the Secretary of State to provide local governments with technical assistance, training, and technology solutions to aid public records programs. This legislation also adds an additional \$1 surcharge, as assessed by county auditors, for each document recorded. Revenues would be deposited into the Local Government Archives Account, from which funds may only be used for the competitive grants program in addition to the Attorney General's consultation program and the State Archivist's training services program.

Section 3 -- Requires the Archives to provide consultation and training services for local agencies on improving record retention practices.

Section 4 -- Provides that no more than 50% of the funds deposited in the local government archives account as per Section 6 of this bill, may only be expended by the AGO and OSOS for consultation and training services on public disclosure and records retention schedule compliance. The remaining 50% is to be used by the OSOS competitive grants program described in Section 5.

Section 5 -- Requires the Archives to establish and administer a competitive grants program for local government agencies to improve technology information systems for public records retention.

Section 6 -- Authorizes the county auditors to increase the recording surcharge for every recorded document by \$1. The funds may be used for the AGO and OSOS consultation and training programs described in Section 3, as well as the competitive grants program outlined in Section 5.

Section 7 -- OSOS must conduct a study to assess the feasibility of implementing a statewide open records portal.

Section 8 -- OSOS must convene a stakeholder group by September 1, 2017 to develop the scope and direction of the study under Section 7 of this standard.

Section 9 -- Requires the Joint Legislative Audit and Review Committee (JLARC) to study the effectiveness of the AGO and OSOS training programs and the competitive local government grant program.

Section 10 -- Expires Sections 5 and 6 of the bill on June 30, 2020.

Section 11 -- Appropriates \$25,000 for OSOS to conduct a study described in Section 7.

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.

Section 6 -- Authorizes the county auditors to increase the recording surcharge for every recorded document by \$1. The funds may be used for the AGO and OSOS consultation and training programs described in Section 3, as well as the competitive grants program outlined in Section 5.

Based upon revenue estimates, the addition of the \$1 surcharge would generate approximately \$3.0 - \$3.2 million in funds per biennium. The \$1 surcharge would expire on June 30, 2020.

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.

Section 3 -- Requires the Archives to provide consultation and training services for local agencies on improving record retention practices.

To effectively meet the expected demand for statewide consultations and trainings, two additional FTE (Program Specialist 4s), one for Northwest Washington, and one for the Central Puget Sound Region would be required. Salaries and Benefits for both FTEs are estimated at \$176,500 per fiscal year. Additional expenses per fiscal year would be: \$37,000 in goods and services (supplies and ongoing costs for payroll, human resources, information technology support, and fiscal services) and \$3,000 for travel. There would be one-time costs of \$10,000 for equipment. All costs associated with Section 3 would expire on June 30, 2020.

Sections 4, 5 and 6 -- Establish and fund a competitive grant program for local government agencies to improve technology information systems for public records retention, management, and disclosure. Section 4 provides that no more than 50% of the funds may be used for the consultation and training programs described in Section 3, with the remaining being used for the competitive grant program. Section 5 provides that up to 6% of the appropriated grant funds may be used for administration of the grant.

The Archives would need one FTE (Program Specialist 4) to manage the competitive grant program. Salary and benefits for this FTE are estimated to be \$88,000 per fiscal year. Additional expenses per fiscal year would be: \$12,000 in goods and services (supplies and ongoing costs for payroll, human resources, information technology support, and fiscal services) and \$1,500 for travel. There would be a one-time costs of \$5,000 for equipment.

Based upon anticipated revenue and the lower appropriation for the grant program in the new version of the bill, the 6% assigned for administration of the grant, would be insufficient to cover costs by approximately \$60,000 per fiscal year. All costs associated with Sections 4, 5 and 6 would expire on June 30, 2020.

Based upon revenue estimates, the addition of the \$1 surcharge would generate approximately \$3.0 - \$3.2 million in funds per biennium. Section 4 provides that no more than 50% of the funds may be used for the consultation and training programs described in Section 3, with the remaining being used for the competitive grant program.

For purposes of this fiscal note 25% (\$375,000) of the revenue per fiscal year is provided to the attorney general for its consultation and training program. The expanded Archives training and consultation is estimated to cost \$320,500, significantly less than twenty-five percent of the revenue provided in Section 4. The unspent Archives training funds, \$54,500, would provide \$804,000 for the competitive grant program.

Sections 7 and 8 – Directs OSOS to conduct a study to assess the feasibility of implementing a statewide open records portal. A stakeholder group is created to define the initial scope and direction of the study. The Archives would need an additional \$3,500 appropriation to cover the travel and per diem costs of the stakeholder group.

Section 11 – Provides a \$25,000 appropriation for the study required in Section 7.

*For each section, please see attached spreadsheet for detailed expenditures.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	3.0	3.0	3.0	1.5	
A-Salaries and Wages	194,000	194,000	388,000	194,000	
B-Employee Benefits	70,500	70,500	141,000	70,500	
C-Professional Service Contracts	10,000	15,000	25,000		
E-Goods and Other Services	37,000	36,500	73,500	36,500	
G-Travel	7,500	4,500	12,000	4,500	
J-Capital Outlays	15,000		15,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	804,000	822,500	1,626,500	823,250	
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$1,138,000	\$1,143,000	\$2,281,000	\$1,128,750	\$0

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2018	FY 2019	2017-19	2019-21	2021-23
Program Specialist 4	64,500	3.0	3.0	3.0	1.5	
Total FTE's	64,500	3.0	3.0	3.0	1.5	0.0

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.

Section 5 – Establishes a competitive grant program for local governments. This grant program expand the scope of the current local government grants program to include technology investments and the Office of the State Chief Information Officer.

To accommodate the expansion of the grant program, OSOS will need to amend WAC 434-670.

Individual State Agency Fiscal Note

Bill Number: 1594 E S HB AMS SGOV S2414.2	Title: Public records admin.	Agency: 090-Office of State Treasurer
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Part I: Estimates



No Fiscal Impact

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>

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- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 03/30/2017
Agency Preparation: Dan Mason	Phone: 360-902-9090	Date: 04/04/2017
Agency Approval: Dan Mason	Phone: 360-902-9090	Date: 04/04/2017
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 04/05/2017

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.

ESHB 1594 AMS SGOV S2414.2 requires the county auditor to charge a surcharge of one dollar per instrument for every document recorded and transmit the money to the state for deposit in the local government archives account. The administering agency of the account, office of the secretary of state, records the revenue. Therefore, there is no fiscal impact to the office.

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.

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.

Individual State Agency Fiscal Note

Revised

Bill Number: 1594 E S HB AMS SGOV S2414.2	Title: Public records admin.	Agency: 100-Office of Attorney General
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Part I: Estimates

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No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2018	FY 2019	2017-19	2019-21	2021-23
Legal Services Revolving Account-State 405-1	37,696	11,087	48,783	11,087	
Total \$	37,696	11,087	48,783	11,087	

Estimated Expenditures from:

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	5.6	2.9	4.2	2.8	2.8
Account					
Legal Services Revolving Account-State 405-1	328,633	32,320	360,953	41,743	30,656
Local Government Archives Account-State 441-1	340,978	318,804	659,782	637,608	637,608
Total \$	669,611	351,124	1,020,735	679,351	668,264

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>

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.

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- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 03/30/2017
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 04/10/2017
Agency Approval: Deborah Feinstein	Phone: 360-586-3003	Date: 04/10/2017
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 04/11/2017

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.

Section 1 amends RCW 42.56.010 to exclude from the definition of “public record” records that are not otherwise required to be retained by the agency and are held by volunteers who do not serve in an administrative capacity and have not been appointed by the agency to an agency board, commission, internship, or supervisory role that has delegated agency authority.

Section 2 amends RCW 42.56.152 to require public records officers to complete a training course that addresses particular issues related to the retention, production, and disclosure of electronic documents, including updating and improving technology information services.

Section 3 amends RCW 42.56.520 to authorize a response to a public record request that acknowledges receipt of the request and asks the requestor to provide clarification for a request that is unclear, and providing, to the greatest extent possible, a reasonable estimate of the time that will be required to respond to the request if it is not clarified. If the requestor fails to respond to a request to clarify and the entire request is unclear, a response is not required. Otherwise, a response is required to those portions of the request that are clear.

Section 4 amends RCW 42.56.570 to require the Attorney General’s Office (AGO), until June 30, 2020, to establish a consultation program to provide information for developing best practices for local agencies requesting assistance in compliance with this chapter. The State Archivist also until June 30, 2020, must offer and provide consultation and training services for local agencies on improving record retention practices.

Section 5 amends RCW 40.14.024 to provide that amounts deposited in the Local Government Account in accordance with RCW 36.22.175(4) may be expended only for the purposes authorized under that provision. Further, no more than 50% may be used for the AGO’s consultation program and the State Archivist’s training services, and the remainder for the local government grant program under Section 6 of this act.

Section 6 adds a new section to RCW 40.14 to require the division of Archives and Records Management in the Office of the Secretary of State (SEC) to establish and administer a competitive grant program for local agencies to improve technology information systems for public record retention, management, and disclosure, and any related training. Any local agency may apply to the grant program.

Section 7 amends RCW 36.22.175 to authorize county auditors to impose a surcharge of one dollar per instrument for every document recorded for deposit in the local government archives account to fund the grant program authorized by section 6 of this act, and for the AGO’s consultation program and State Archivist’s training services authorized in RCW 42.56.570.

Section 8 is a new section requiring the division of archives and records management in SEC to conduct a study to assess the feasibility of implementing a statewide open records portal through which a user can request and receive a response through a single internet web site related to public records information. Various requirements for the study and report are listed. This section expires December 31, 2018.

Section 9 is a new section requiring the division of archives and records management in SEC to convene a stakeholder group by September 1, 2017, to develop the initial scope and direction of the study in Section 7 of this act. This section expires September 30, 2018.

Section 10 is a new section requiring the Joint Legislative Audit and Review Committee (JLARC) to conduct a review of the AGO's consultation program and the State Archivist's training program created under section 4 of this act. Review requirements are provided. Each agency is required to maintain a log of public record requests submitted to and processed by the agency, which must require certain specified information. In addition, agencies with estimated staff and legal costs associated with fulfilling public record requests of a least \$40,000 per year must report on 17 required metrics to the Joint Legislative Audit and Review Committee by July 1 each year. By December 1, 2019, JLARC must report its findings on the review to the Legislature.

Section 11 is a new section providing that Sections 6 and 7 of this act expire June 30, 2020.

Section 12 is a new section appropriating \$25,000 for the fiscal biennium ending June 30, 2019, from the general fund to SEC for purposes of Section 8 of this act.

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.

Cash receipts are assumed to equal the Legal Service Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is SEC. The AGO will bill SEC \$37,696 in FY 2018 and \$11,087 in FY 2019 and FY 2020 for legal services rendered.

These cash receipts represent the AGO authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's fiscal note. Appropriation authority is necessary in the AGO budget.

The AGO assumes new costs for agency administrative activities that will be distributed among all legal services client agencies following the enactment of this bill. Costs of administrative activities are billed as part of AGO overhead. AGO overhead is billed to all clients proportionate to service levels provided. It is the AGO standard practice to spread these type of costs pro-rata through the Legal Services component of the Central Service Model. Not including these costs in the Legal Services component of the Central Service Model is putting the Legal Services Revolving Account out of balance.

This bill will have an impact on HQ-Admin because Public Records Act (PRA) training materials by the AGO Ombuds will now include training on disclosure of electronic documents and updating/improving technology information services. The AGO Ombuds currently prepares PRA training materials on the legal requirements of the PRA. However, the AGO Ombuds will need to consult with persons knowledgeable in these additional areas in order to design new training materials. We assume no cost for training materials.

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.

In order to provide legal services, the AGO estimates a workload impact of:

FY 2018: 1.52 Assistant Attorney General (AAG), 1.0 Paralegal (PL), 0.75 Legal Assistant (LA), 0.3 Information Technology Specialist 4 (ITS4), 0.3 Information Technology Specialist 5 (ITS5), 0.3 Fiscal Analyst 4, 0.3 Accounting Manager-WMS (AM), 0.25 Project Specialist 3, 0.5 Records Director-WMS (RD) and

\$38,615 to be spread between all client agencies in the Central Service Model (CSM) for a total cost of \$669,611.

FY 2019: 1.05 AAG, 1.0 PL, 0.5 LA, 0.05 AM and \$15,328 to be spread between all client agencies in the CSM for a total cost of \$351,124.

FY 2020: 1.05 AAG, 1.0 PL, 0.5 LA, and \$15,328 to be spread between all client agencies in the CSM for a total cost of \$345,219.

FY 2021 and in each FY thereafter: 1.0 AAG, 1.0 PL, 0.5 LA and \$15,328 to be spread between all client agencies in the CSM for a total cost of \$334,132 per fiscal year.

AGO Agency Assumptions:

1. Legal services associated with the enactment of this bill will begin on July 1, 2017.
2. The AGO completed an analysis for legal services and fiscal impact from the most likely state agencies. The AGO assumes there will not be substantial increases in legal services for these agencies, and any new costs are considered nominal and not included in this request. These agencies include, but are not limited to:

Department of Corrections
Department of Ecology
Department of Financial Institutions
Department of Fish & Wildlife
Department of Health
Department of Labor & Industries
Department of Licensing
Department of Natural Resources
Department of Social & Health Services
Department of Transportation
Joint Legislative Audit & Review Committee
Utilities & Transportation Commission
University of Washington
Washington State University

Assumptions for the AGO Legal Services (aside from those specific to legal services for the Secretary of State):

1. This bill, in new Section 10 (2) and (3) requires every executive and legislative agency – state and local, to:
 - A. Maintain a log of public records requests that includes specific information described in the bill that is subject to public disclosure, and
 - B. Report annually to JLARC with 17 detailed data points regarding the agency's response to public records and management and retention of records.
2. The bill provides that only agencies with estimated staff and legal costs of \$40,000 or more associated with fulfilling public records requests are required to report to JLARC. However, agencies will need to track some information on which to base that estimate. Considering that every agency is required to appoint a Public Records Officer, depending upon that person's salary, most agencies are likely covered by the mandatory

provisions in this section of the bill with that salary alone (and not considering other costs attributable to processing Public Records Act (PRA) requests).

3. The bill does not specify what JLARC is to do with this data and does not provide any date by which agencies are no longer obligated to provide this information annually. Last year, JLARC was provided a State Auditor's Office study of public records costs and other data from state and local agencies, detailing (conservatively) that more than 285,000 Public Records Act requests had been made statewide, totaling more than \$60 million in costs. The study also made several recommendations to the Legislature which have not yet been implemented. Section 10 of this bill replicates many of the areas covered by the study, but now requires agencies to gather 17 data points on a continual basis, and to submit the data to JLARC annually.

4. In order to provide JLARC with the information required by the bill, the AGO must collect and be able to report on multiple data points for each individual public records request, including:

- *length of time to acknowledge request,
- *whether records were provided within five days of receipt of request,
- *a comparison of the agency's initial estimate of time to provide records compared to the actual time, whether the estimate of time was revised,
- *whether clarification was sought,
- *if request was denied and reasons for denial,
- *whether the requester abandoned request,
- *type of requester if known,
- *whether the request was fulfilled electronically or by producing physical records,
- *whether agency had to scan physical records,
- *estimated agency staff time spent on each individual request,
- *cost to fulfill each individual request in order to calculate average cost per request,
- *expenses recovered from requesters, and
- *measure of the requester's satisfaction.

5. The AGO must provide JLARC information and costs related to claims and litigation alleging a violation of the Public Records Act or other unspecified public records statutes.

6. The AGO must provide JLARC the costs incurred by the agency for managing and retaining records, including staff compensation, equipment, hardware, software, and services to manage and retain records and assist in fulfilling records requests.

7. Some of the non-cost related information regarding specific public records requests is currently tracked by the AGO, but not to the level of detail required by the bill. Costs of responding for each individual public records request is not tracked. In 2016, the AGO provided data to the State Auditor as required by a legislative directive to the SAO to conduct a study of the costs of public records responses of agencies. The AGO data was for calendar year 2014, and the AGO provided a cost estimate of \$560,000 for that year – which the AGO acknowledged to under report the time spent generally on searching for, reviewing, and redacting records. Staff costs were calculated based on:

A. FTEs assigned in whole or part in their position description forms to handle the public records process; and

B. FTEs who tracked time to certain very large requests.

8. This bill will require new tracking of time across all staff for all Public Records Act requests and as to each request. The AGO has received the following totals of Public Records Act requests in the last several years:

*FY 2011: 894
*FY 2012: 813
*FY 2013: 791
*FY 2014: 711
*FY 2015: 718

Assuming 700 to 800 requests per year remain consistent in subsequent years, this bill will require providing an estimated cost in staff time to respond to each request. Equally significant, this bill will also require tracking of time for all staff for the management and retention of AGO records generally.

9. This tracking and reporting requirement is a substantial departure from the current practice and will require establishing a timekeeping system and codes for these activities, and a procedure for being able to establish a timekeeping code accessible to all staff for each of the requests received each year. This includes records that are managed by staff each year. Training for staff to track and report their time related to records production, management and retention will be required.

10. The bill has no funding source for these new activities.

11. Each of the AGO's individual staff members is responsible for searching for and providing to the AGO's Public Records Unit (PRU) responsive records that are within their control. The PRU conducts a centralized search of vaulted email and certain databases, but individual staff and division public records coordinators must search other electronic files and paper records. In addition, because many of the AGO records are potentially privileged, they must all receive some level of legal review and redaction, most times by the AAG or paralegal (PL) assigned to relevant case or matter. Each staff member will be required, under this bill, to track time as to each request they work on, including the time for such reviews.

12. Section 10 contributes to the following costs:

A. Establishing data collection and reporting systems for the 17 data points. It is assumed that in FY 2018 a multi-disciplinary AGO internal workgroup will be assembled to establish the systems and processes with representatives from:

1) Information Services Division (ISD). 0.3 ITS4 and 0.3 ITS 5 in FY 2018 (\$62,911). For the first fiscal year, the AGO will need ISD support to ensure the agency can use current mechanisms to create the required log, identify an efficient way (possibly with new software) to track time across the agency as to individual requests, assist the public records unit staff in improving its tracking and reporting tools regarding individual requests, develop leading practices and costs for electronic records management and retention, and identify costs for and possibly create a method to deliver and track a customer survey to measure requester satisfaction.

2) Financial Services Division (FIS). 0.3 FA4 and 0.30 AM in FY 2018 (\$59,652); 0.05 AM in FY 2019 (\$5,905): FIS will have multiple responsibilities in creating timekeeping codes and identifying how to track other costs. Once systems are established to report and collect the data, the data must be collated and submitted to JLARC annually. FIS staff will convert staff time to costs, and assist with collating and reporting other costs. No costs are assumed beginning in FY 2020.

3) Public Records Unit (PRU). 0.25 PS3 in FY 2018 (\$20,618). PRU will need to expand information it tracks as to each request and will need to change its procedures to capture and record this information.

4) Facilities Service team (FST). 0.50 Records Director (\$53,706) in FY 2018. FST is responsible for office records management of physical records and will have to provide input on tracking of records management and retention costs (staff and non-staff costs). It is assumed that in FY 2018 training materials on new timekeeping and data reporting requirements and policies for public records requests, records management, and records retention will need to be developed, and all staff will need to receive training.

5) Administration Division (HQ-Admin). 0.25 AAG & 0.12 LA (\$55,435) in FY 2018. HQ-Admin will provide legal and policy support in designing the tracking systems.

B. Other costs assumed to be in various divisions:

1) A 30-minute training commitment per AGO staff member is assumed. Total \$23,287 in FY 2018.
 $1,273 \text{ staff} \times 0.5 \text{ hours} = 610 \text{ hours of training at an average cost of } \$36.51 \text{ per hour} = \$23,287.$

2) Data collection: Aggregate time for staff to collect and report time to responding to individual Public Records Act requests, and to manage and retain their records:

a. PRSC-PRU staff (staff responding to and processing Public Records Act requests): 0.5 hours/day for 4.0 FTE in unit = \$8,634 ($\$16.51 \text{ average PRU hourly pay} \times 261 \text{ days} / 2 (1/2 \text{ hour}) \times 4 \text{ FTE}$).

b. All other AGO staff (staff who are responding to and searching for records responsive to Public Records Act requests for records not centrally searched and reviewing those records, and managing and retaining AGO records, and reviewing records):

i) 10 minutes per day per attorney staff member = \$3,972. $\text{Average } \$88,911 \text{ average salary} / 2,088 \text{ annual hours} \times .16 \text{ hours (10 minutes)} \times 583 \text{ FTE}.$

ii) 10 minutes per day per non-attorney staff member = \$2,722. $\text{Average } \$51,500 \text{ average salary} / 2,088 \text{ annual hours} \times .16 \text{ hours (10 minutes)} \times 690 \text{ FTE}.$

The AGO assumes new costs for these administrative activities that will be distributed among all legal services client agencies following the enactment of this bill. Costs are billed as part of AGO overhead. AGO overhead is billed to all clients proportionate to service levels provided. It is the AGO standard practice to spread these type of costs pro-rata through the Legal Services component of the Central Service Model. Not including these costs in the Legal Services component of the Central Service Model is putting the Legal Services Revolving Account out of balance.

Assumptions for the AGO HQ-Admin Legal Service related to the consultation program for local governments:

1. HQ-Admin activities will focus on the consultation program for local governments which the AGO assumes will be funded with Local Government Archives Account dollars per section 5 of the bill.

2. This bill will have an impact on HQ-Admin because Public Records Act (PRA) training materials by the AGO Ombuds will now include training on disclosure of electronic documents and updating/improving

technology information services. The AGO Ombuds currently prepares PRA training materials on the legal requirements of the PRA. However, the AGO Ombuds will need to consult with persons knowledgeable in these additional areas in order to design new training materials. The AGO estimates 0.1 AAG for increased workload in FY 2018 for these new requirements. The AGO assumes no cost for training materials.

3. This bill will have a direct impact to HQ-Admin to implement the requirement to create a public records consultation program for local governments. The AGO Ombuds currently answers phone calls and emails where a local government may have a particular issue, and provides information or directs them to other resources. These are handled as constituent correspondence. This bill envisions a much greater role for the AGO, and most likely along the lines of a similar consultation program that currently exists in the State Archives. According to State Archivist Steve Excell, currently four staff in the State Archives performs local government records retention consultations around the state, for an equivalent of about 1.0 FTE total. Some consultations are done by phone, some require travel. The State Archivist noted the consultation program for the AGO in this bill would be more complicated because PRA issues are typically more complex than are records retention issues, and the consultations in this bill must address best practices on technology as well. He said he could envision the AGO would receive double the number of consultation requests than the State Archives receives.

While the State Archivist says the AGO could expect double the number of requests for consultations than the State Archives has experienced, presumably the AGO can control how we would operate the consultation program, and could do only a set number per month or year. As a result, the AGO assumes 1.0 AAG work per fiscal year.

Some consultations may be handled by other AGO staff familiar with records production (Public Records Officer or a Paralegal (PL)). On the expectation that the local agencies will need consultations not only on what the law requires, but also will need “hands on” technical assistance (examples include: how to use redaction tools, how to do searches for electronic records, etc.) the costs of a paralegal are included in this fiscal assessment. To cover this workload we assume 1.0 Paralegal FTE per fiscal year.

The AGO assumes a travel estimate of \$500 per month for the first fiscal year, and \$1,000 per month beginning the second fiscal year. Given the large number of local jurisdictions (counties, cities, school districts, special purpose districts, towns, etc.), and the size of the state, (while acknowledging that some consultations could be done by phone) some of the consultations will require travel and an overnight stay. When the AGO designs the consultation program, it can identify how many trips per month the agency is willing to do that require overnight stays (and thereby build in some control of travel costs in the program design). The estimate here is based on one to two trips per month, at least in the middle to latter part of the first year. The first year will also include the time needed to set up the program. Once the program is up and running and becomes widely known, the AGO projects that many local governments will be asking for this consultation, and the demand will begin to increase in the second year.

In addition, as the bill recognizes, this consultation program likely requires AGO coordination with other state agencies.

4. Summary of impact:

FY 2018: 1.1 AAG, 0.5 LA and 1.0 PL in FY 2018 at a cost of \$340,978. This cost includes an additional \$6,000 for travel requirement assumptions.

FY 2019 and each fiscal year thereafter: 1.0 AAG, 0.5 LA and 1.0 PL in FY 2018 at a cost of \$318,804. This cost includes an additional \$12,000 for travel requirement assumptions.

Assumptions for the AGO Government Compliance & Enforcement (GCE) Legal Services for Washington Secretary of State (SEC):

1. GCE will bill SEC for legal services based on the enactment of this bill. GCE is responsible for providing legal advice to SEC on issues related to this bill.
2. This bill will require the SEC Division of Archives and Records Management (Archives) to establish and administer a competitive grant program for local agencies to improve technology information systems for public record retention, management, and disclosure.
3. GCE assumes legal issues arising from the establishment and administration of this new grant program will result in approximately 50 AAG hours of legal advice in FY 2018, FY 2019 and FY 2020. Legal advice required in FY 2021 is considered a nominal amount and costs are not included in this request.
4. GCE assumes that the AGO will provide PRA training related to electronic documents under this bill, but that Archives will provide the records retention training.
5. GCE assumes the provision of legal advice relating to records retention training. GCE also assume legal advice relating to the consultation and training services for local agencies. This will result in approximately 75 AAG hours of additional work in FY 2018, and 50 AAG hours in FY2019 and FY 2020.
6. This bill will require SEC to conduct a feasibility study of a statewide open records portal and to convene a stakeholder group by September 1, 2017, to develop the initial scope and direction of the feasibility study. GCE assumes that the stakeholder group, and feasibility study will result in approximately 175 AAG hours in FY 2018.
7. As a result of this bill, we assume 300 additional AAG hours of advice in FY 2018 and 100 additional AAG hours of advice in FY 2019 and FY 2020.
8. Total workload impact of:
 - FY 2018: 0.17 AAG and 0.08 LA at a cost of \$37,696.
 - FY 2019 and FY 2020: 0.05 AAG at a cost of \$11,087.

Note: Agency administration support FTEs are included in the tables below, using a Management Analyst 5 as a representative classification.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	5.6	2.9	4.2	2.8	2.8
A-Salaries and Wages	454,130	227,427	681,557	440,848	435,842
B-Employee Benefits	148,724	75,107	223,831	145,906	144,408
C-Professional Service Contracts					
E-Goods and Other Services	53,832	31,215	85,047	57,972	53,514
G-Travel	9,655	14,825	24,480	29,575	29,500
J-Capital Outlays	3,270	2,550	5,820	5,050	5,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$669,611	\$351,124	\$1,020,735	\$679,351	\$668,264

III. B - Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2018	FY 2019	2017-19	2019-21	2021-23
Accounting Manager (WMS)	90,000	0.3	0.1	0.2		
Assistant Attorney General	100,128	1.5	1.1	1.3	1.0	1.0
Fiscal Analyst 4	58,548	0.3		0.2		
Information Technology Specialist 4	74,964	0.3		0.2		
Information Technology Specialist 5	82,728	0.3		0.2		
Legal Assistant III	48,060	0.8	0.5	0.6	0.5	0.5
Management Analyst 5	73,140	0.3	0.3	0.3	0.3	0.3
Paralegal	63,036	1.0	1.0	1.0	1.0	1.0
Project Specialist 3	60,012	0.3		0.1		
Records Director (WMS)	81,000	0.5		0.3		
Total FTE's	731,616	5.6	2.9	4.2	2.8	2.8

III. C - Expenditures By Program (optional)

Program	FY 2018	FY 2019	2017-19	2019-21	2021-23
Various Programs (CSM)	38,615	15,328	53,943	30,656	30,656
Financial Services (FIS)	59,652	5,905	65,557		
Facilitiv Services (FST)	53,706		53,706		
Government Compliance & Enforcement (GCE)	37,696	11,087	48,783	11,087	
Headquarters Administration (HQ)	396,413	318,804	715,217	637,608	637,608
Information Services Division (ISD)	62,911		62,911		
Public Records Unit (PRU)	20,618		20,618		
Total \$	669,611	351,124	1,020,735	679,351	668,264

Part IV: Capital Budget Impact

None.

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.

None.

Individual State Agency Fiscal Note

Bill Number: 1594 E S HB AMS SGOV S2414.2	Title: Public records admin.	Agency: 163-Consolidated Technology Services
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Part I: Estimates



No Fiscal Impact

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: 03/30/2017
Agency Preparation: Christina Winans	Phone: 360-407-8908	Date: 04/05/2017
Agency Approval: Wendi Gunther	Phone: 360-407-8779	Date: 04/05/2017
OFM Review: Regan Hesse	Phone: (360) 902-0650	Date: 04/10/2017

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.

Section 1 amends RCW 42.56.010 to clarify the definition of public record.

Section 2 amends RCW 42.56.152 to require that the public records officers have training on the retention, production, and disclosure of electronic documents.

Section 3 amends RCW 42.56.520 to allow acknowledging a public disclosure request by asking clarified questions. It also clarifies that the agencies must provide the record related to the portions of the request that are clear.

Section 4 amends RCW 42.56.570 to require the attorney general's office (AGO) to establish a consultation program to assist local government with best practices for managing public record requests until June 30, 2020. The section also requires the Division of Archives and Records Management (State Archives) to offer consultation and training services for local agencies on improving record retention practice until June 30, 2020.

Section 5 amends RCW 40.14.024 to allow the funding in the local government archives account to be used for the AGO's consulting program, the State Archives' training services, and the local government grant program.

Section 6 adds a new section in RCW 40.14 to require the State Archives to establish and administer a grant program for the local government to improve technology information systems for public record retention, management, and disclosure. State Archives must consult with Office of Chief Information Officer (OCIO) to develop criteria for grant recipient selection.

Section 7 modifies RCW 36.22.175 to authorize surcharge of one dollar per instrument for every document recorded to fund the local government grant program described in Section 6, the AGO's consulting program, and the State Archives' training program.

Section 8 adds a new section to require the State Archives to conduct a feasibility study for establishing a statewide internet portal for public records management.

Section 9 adds a new section to require the State Archives to convene a stakeholder meeting by September 1, 2017 to develop the initial scope and direction of the study in Section 8. This section expires September 30, 2018.

Section 10 adds a new section to require the Join Legislative Audit and Review Committee (JLARC) to conduct a review of the AGO's consultation program, the State Archives' training services, and the local government program created under Section 6. Each agency is required to maintain a log of public records requests, responses, and final dispositions. The agencies that estimating costs associated with fulfilling public records requests to be more than \$40,000 must report metrics to JLARC annually which JLARC must compile and report to the Legislature.

Section 11 adds a new section to sunset Section 6 and 7 on June 30, 2020.

Section 12 adds a new section to provide funding for the study in section 7.

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.

None.

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.

Consolidated Technology Services (WaTech) anticipates minimal impact to staff workload to provide consultation to State Archives and will manage within existing resources.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

None

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.

None

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1594 E S HB
AMS SGOV
S2414.2

Title: Public records admin.

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

☒ Cities: Increased short-term expenditures to increase public records training, and positive revenue impacts to implement technology information systems, and ongoing expenses for jurisdictions with more than \$40,000 in annual costs to fulfill public records requests to report to JLARC

☒ Counties: Same as above

☒ Special Districts: Same as above

☐ Specific jurisdictions only:

☐ Variance occurs due to:

Part II: Estimates

☐ No fiscal impacts.

☐ Expenditures represent one-time costs:

☒ Legislation provides local option: Jurisdictions with fulfillment costs less than \$100,000 have the option to track and report selected metrics to JLARC

☒ Key variables cannot be estimated with certainty at this time: The total expenditures for increased personnel training, including the staff time, hourly rates of affected personnel, and the number of competitive grants that may be issued to local governments, including the local government types that would receive competitive grant revenue

Estimated revenue impacts to:

Indeterminate Impact

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Buck Lucas	Phone: 360/725-5040	Date: 04/25/2017
Leg. Committee Contact:	Phone:	Date: 03/30/2017
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 04/25/2017
OFM Review: Shane Hamlin	Phone: (360) 902-0547	Date: 04/25/2017

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 establish the competitive grants program within the Office of the Secretary of State to provide local governments with technical assistance, training, and technology solutions to aid public records programs. This legislation also adds an additional \$1 surcharge, as assessed by county auditors, for each document recorded. Revenues would be deposited into the Local Government Archives Account, from which funds may only be used for the competitive grants program in addition to the Attorney General's consultation program and the State Archivist's training services program.

Section 1 -- Provides definitions.

Section 2 -- Imposes additional training requirements on public records officers, including retention, production, and disclosure of electronic documents, and updating and improving technology information services.

Section 3 -- A public agency receiving a records request that is unclear may ask the requestor for clarification. A reasonable timeframe must be provided for a response to unclear requests. If the requestor fails to respond and the request is still unclear, the reporting agency must provide a response and records to those portions of the request that are clear.

Section 4 -- Local governments should consult the advisory model rules, as published by the Attorney General's Office (AGO), when establishing local ordinances related to public records requests. The AGO, in collaboration with other public agencies and the State Archivist, must offer and provide consultation and training services to local governments. The AGO's consultation and the State Archivist's training services programs would conclude June 30, 2020.

Section 5 -- Any deposits made to the Local Government Archives Account may only be expended as follows: No more than 50 percent of funds may be used by the AGO and the State Archivist to provide the consultation and training services programs, while the remaining 50 percent must be used for the Office of the Secretary of State's competitive grant program.

Section 6 -- The Division of Archives and Records Management in the Office of the Secretary of State (OSOS) must establish and administer a competitive grant program for local governments to improve technology solutions, management, and disclosures, and related public records training. Up to 6 percent of the Division of Archives and Records Management's program budget to implement this standard. Grants must be awarded annually, with preference given to small local government agencies based on need and an ability to improve public records management and technology solutions.

Requires the Joint Legislative Audit and Review Committee (JLARC) to study the effectiveness of the consultation and training services programs, as provided by the AGO and State Archivist.

Each agency must shall maintain a log of public records requests submitted to and processed by the agency. Information collected shall include: identity provided by the requestor, date request received, the text of the original request, a description of the records produced in response to the request, a description of the records redacted or withheld and the reasons therefore, and the date of final disposition of the request. This record also qualifies as a public record.

Agencies that estimate staff and legal costs associated with public records requests of at least \$100,000 per year must report selected metrics to JLARC by July 1st of each year.

Section 7 -- Adds a \$1 surcharge per document recorded, as assessed by county auditors. Revenues must be deposited into the Local Government Archives Account and may only be used for the AGO and State Archivist consultation and training services in addition to the competitive grant program, as organized under the Division of Archives and Records Management in the OSOS, and outlined in Section 6.

Section 8 -- The Division of Archives and Records Management in the OSOS must conduct a study to assess the feasibility of implementing a statewide open records portal.

Section 9 -- The Division of Archives and Records Management in the OSOS must convene a stakeholder group by September 1, 2017 to develop the scope and direction of the study under Section 8 of this standard.

Section 10 -- The \$1 surcharge provided in Section 6 and the competitive grants programs established in Section 7 expire June 30, 2020.

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 a moderate but indeterminate expenditure impact on local governments in three ways:

-- To train public records personnel (less than \$200,000 annually). The costs to train public records personnel would decrease annually as the number of trained public records personnel increases, and would expect to increase with the rate of turnover amongst these positions. Training costs are outlined in detail below.

-- To document and maintain a log of public records requests. The costs to document and maintain a log of public records requests are indeterminate, and would vary based on the availability of compatible electronic reporting systems and infrastructure, such as enterprise content management software, query software, and multi-function tools. The State Auditor's Office presents various electronic options in their August 2016 report on public records requests. It is unclear which and how many jurisdictions have access to such systems, and how much staff time would be necessary to document and maintain a public records request log. Record keeping costs are likely to increase with the presence of inefficient electronic systems that require manual data entry, and would expect to decrease with the level of automation and custom report generation included in a records system.

-- Jurisdictions with fulfillment costs greater than \$100,000 annually must track and report metrics to JLARC, while jurisdictions with costs less than \$100,000 have a local option. The cost to track and report public records request data to JLARC is indeterminate, and would vary based on the number of jurisdictions that reach the qualifying expenditure threshold, the number and complexity of requests, and similarly to the second cost area, costs would be likely to decrease with the availability of compatible electronic systems that offer ease in data entry and query generation. The specialized nature of some of the selected metrics, including estimated agency staff time spent on each request and the number of requests to scan physical records, would require local government staff to modify internal tracking processes to accurately capture, at each stage of the public records request process, specific information that may not be currently tracked or documented. By creating specialized fields within existing public records request systems or databases, more information can be documented by staff more completely. The costs to update systems, to obtain new systems, if necessary, and the staff costs to facilitate data tracking and reporting are indeterminate and cannot be clearly estimated.

TRAINING COSTS:

Training costs are indeterminate and would vary based on the number of public records officers that require the additive training, and the duration and frequency of any training that may occur.

The following is an illustration of the potential costs a moderate-sized jurisdiction (population between 15,000 to 29,999) may encounter for training. These costs will then be extrapolated to produce a statewide cost estimate for training. Administrative services personnel, such as a Municipal Services Clerk, who may lead such public records requests in the City of Moses Lake earn between \$19 and \$24 per hour. The costs for training, assuming four hours per training annually would expect to cost between \$76 and \$96 per employee. The assumed four-hour training period was calculated by taking half of the total time of the recorded webinar videos (7.43 hours) for public records training available on the Office of the Secretary of State website and rounding up to the next whole hour.

As of 2012, there were 1,759 local governments statewide (excluding school districts). If each local government statewide had one employee that required such training, and which earned between \$19 and \$24 per hour, then the cumulative training costs for one training at four hours per training would expect to be between \$133,684 and \$168,864. This figure would decrease annually as the number of trained public records personnel increases, and would increase with the rate of turnover among these positions.

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 have an indeterminate impact on local government revenues. Administration of the competitive grants program within the Office of the Secretary of State (OSOS) would provide 50 percent of the approximate \$1.5 million in revenue generated by the county auditor surcharge for the implementation of technology information systems for public records retention. The local governments that would receive grants, the number of grants awarded, and the value of any grants awarded are unknown.

According to OSOS, county auditors would generate an average of \$1.5 million annually from the \$1 surcharge outlined in Section 6. County auditors would not receive a portion of this surcharge. According to OSOS, the competitive grants program would provide \$804,000 for local government grants.

SOURCES:

State Auditor's Office
Office of the Secretary of State
Association of Washington Cities
Municipal Research and Services Center (MRSC)
Muckrock
OpenText
GovQA