

# SENATE BILL REPORT

## SB 6351

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As of January 31, 2012

**Title:** An act relating to the inspection and copying of any public record.

**Brief Description:** Regarding inspection and copying of any public record.

**Sponsors:** Senators Prentice, Swecker and Haugen.

**Brief History:**

**Committee Activity:** Government Operations, Tribal Relations & Elections: 1/31/12.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

**Staff:** Sharon Swanson (786-7447)

**Background:** The Public Records Act requires that all state and local government agencies make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally, and the exemptions narrowly, in order to effectuate a general policy favoring disclosure.

Current law provides that a court must not award penalties to a person who was serving a criminal sentence in a state, local, or privately operated correctional facility on the date a request for a public record was made, unless the court finds that the agency acted in bad faith in denying the request. Additionally, the inspection or copying of any nonexempt public record by persons serving a criminal sentence in state, local, or privately operated correctional facility may be enjoined. A court may issue an injunction if the court makes a finding from an enumerated list.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** The inspection or copying of any public record may be enjoined. If an agency can demonstrate that it faces a significant burden in fulfilling a public record request a court can issue an injunction against the request.

Before filing a request for an injunction, an agency must notify the public record requestor that it intends to seek an injunction. The requestor is allowed 15 days to revise its public

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record request. If the requestor submits a revised public record request, the agency may still seek judicial review without allowing the requestor to further revise the request. The agency continues to fulfill the request in a manner consistent with the public records act until the court issues a decision on the injunction request, unless the court orders otherwise.

An agency may adopt a policy limiting the number of hours than an agency must devote to responding to public records requests to prevent excessive interference with its other essential functions if it makes the following documents publicly available:

- agency budgets for the current and past three fiscal years;
- agendas and minutes for all public meetings for the past three fiscal years;
- salary schedule for all current positions and the names of all employees;
- resolutions and ordinances; and
- contracts that exceed \$35,000 that are currently in place or that terminated in the past three fiscal years.

The policy may include rules on setting priorities on what requests will be fulfilled in what order based on the size of the request and the number of other requests from that requester made in the preceding 12 months.

Any time an agency anticipates that it will take more than 60 calendar days to fulfill a request, the agency must inform the requester of the factors that go into this time estimate, including a list of all other pending requests. The agency's time estimate is subject to a court challenge.

In no case may an agency adopt a rule that allows it to spend fewer than five hours per month responding to requests.

For agencies with a General Fund budget that exceeds \$1 million, documents are publicly available if they are accessible through a central website. For agencies with a General Fund budget of less than \$1 million, documents are publicly available if they are produced for inspection within five business days of being requested.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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