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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/06/09

SPONSOR HHGAC LAST UPDATED \_\_\_\_\_ HB 507/HHGACS

SHORT TITLE Public Records Inspection and Requests SB \_\_\_\_\_

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with HB534 and HB598

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

#### No Responses Received From

Commission of Public Records (CPR)

### SUMMARY

#### Synopsis of Bill

The House Health and Government Affairs Committee substitute to House Bill 507 like the original bill, amends the Inspection of Public Records Act, which governs requests to inspect and copy public records maintained by state and local public bodies. The substitute bill:

- expands the form of requests that are subject to IPRA’s procedures and penalties to include not only “written” requests, but also requests made by facsimile and email;
- requires a public body to provide notification to requesters in the same manner the request was made, i.e., in writing or by facsimile or email;
- requires a records custodian’s supervisor or supervisor’s designee to review records covered by an inspection request to ensure that only properly exempt records are withheld from inspection.

Provisions of the original bill that shortened the deadlines for acknowledging and responding to requests to inspect public records and that required additional details regarding records deemed exempt from inspection are not included in the substitute bill.

### **SIGNIFICANT ISSUES**

The provisions of the bill allowing facsimile and email requests clarify the law. However, indicates the Attorney General's Office, requiring a public body to notify requesters in kind may present problems. For example, a person who requests inspection of public records might use a fax machine at a copy shop or other business. If the public body acknowledged the request by return fax, there is no guarantee that the requester would receive it. Or problems with the public body's or the requester's Internet connection might make it impossible to respond in kind to an email request. In light of these and other potential problems, it is probably best to let public bodies retain the flexibility to communicate with requesters in the most appropriate way under the circumstances. In most cases, this probably will be in the same manner as the request.

The AGO also states, "In at least three ways, the bill's requirement that a records custodian's supervisor review the separation of exempt from nonexempt information before records are made available unnecessarily increases the burden on agency personnel and other resources. First, meeting the requirement will be impossible for public bodies whose records custodians have no supervisor. Presumably, IPRA is not intended to require or affect a public body's hiring decisions. Second, IPRA now puts the burden of separating out exempt and nonexempt information on the records custodian, who presumably is trained or otherwise has the necessary expertise to respond properly to inspection requests. This may not be true of the custodian's supervisor, if any. Third, the additional layer of review may increase the likelihood that inspection of public records will be delayed until the last day permitted by IPRA, i.e., 15 days after the public body receives the inspection request."

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The bill conflicts with HB534 and HB598, which also amend the Inspection of Public Records Act to allow inspection requests by email and facsimile.

EO/svb