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FISCAL IMPACT REPORT

SPONSOR HGUAC DATE TYPED 3/16/05 HB CS/449/aHJC/aSFL#1

SHORT TITLE Local Government Databases as Public Records SB _____

ANALYST Ford

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			Minimal – See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates
SB319/SPACS

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of SFl #1 Amendment

Senate Floor Amendment #1 to the House Government and Urban Affairs committee substitute for House Bill 449 removes the provision creating a misdemeanor for the unauthorized release of information from, or the unauthorized copying or distribution of, local government databases.

Synopsis of HJC Amendment

The House Judiciary Committee amendment makes several changes. It removes the reference to the Open Meetings Act in the provision allowing local governments to adopt ordinances establishing a fee for the use of geographic information system products.

The amendment requires a county or municipality that has inserted data into a database to authorize an electronic copy to be made of the computer database. Previously, this section was permissive. The amendment also strikes the prohibition on an individual making unauthorized copies of the computer database.

The amendment strikes the provision that subjects access to a database for other governmental entities to confidentiality provisions in local ordinance.

The amendment strikes the existing provision regarding fees for the search or manipulation of a database and inserts a new provision in its place. The new provision specifies that a county or municipality may, at its option, permit access or use of its computers and network system to search, manipulate or retrieve information from a database. The provision allows the county or municipality to charge reasonable fees.

The amendment removes the criminal penalties for the unauthorized release of information, unauthorized copying or distribution of any computer database.

Finally, the amendment specifies that counties and municipalities shall set reasonable fees pursuant to this section by local ordinance.

Synopsis of Original Bill

The House Government and Urban Affairs Committee substitute for House Bill 449 provides that information contained in a computer database of a county or municipality is a public record and subject to disclosure pursuant to the Public Records Act. The bill allows for the release of information in an electronic format under specified conditions and allows counties or municipalities to charge certain fees for the information.

Significant Issues

The bill provides that a county or municipality may charge a reasonable fee, to be established by ordinance, for the use of a document or product generated by a geographic information system.

The bill establishes that information contained in a computer database shall be a public record and shall be subject to disclosure in printed or typed format by a county or municipality that has inserted that information into the database, in accordance with the Public Records Act.

Section 14-2-9 NMSA 1978 provides for a custodian of public records to charge reasonable fees for copying the records. It may be wise for the bill to specifically authorize a county or municipality to charge fees pursuant to this section.

The bill provides that a county or municipality may authorize an electronic copy of the database to be made for a person if the person agrees to:

- not to make unauthorized copies of the computer database; and
- to pay a reasonable fee based upon the cost of materials, making an electronic copy of the computer database and personnel time to research and retrieve the electronic record.

This provision allows the jurisdiction to provide an electronic copy, which may be its preference and/or the requestor's preference, but does not require them to do so.

If information in a database is searched, manipulated or retrieved or a copy of that database is made for private or nonpublic use, the municipality or county may charge a fee for access or use of the database.

Finally, the bill provides that a person who reveals to an unauthorized person information contained in a database or permits the unauthorized copying or distribution of a database is guilty of a misdemeanor. The penalty shall be up to one year of jail time and/or a fine of up to \$5,000.

FISCAL IMPLICATIONS

The bill may result in minor costs to the commission on public records to advise counties and municipalities on procedures, schedules and technical standards for the retention of computer databases.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill is a duplicate of the Senate Public Affairs Committee substitute for Senate Bill 319.

TECHNICAL ISSUES

As mentioned above, it may be prudent for the bill to specifically authorize a county or municipality to charge reasonable fees for printed or typed information from a computer database, pursuant to Section 14-2-9 NMSA 1978.

EF/yr