

Fiscal Note

BILL # HB 2593

TITLE: public records; time frame

SPONSOR: Carbone

STATUS: House Engrossed

PREPARED BY: Cameron Mortensen

Description

The bill would require a public entity, within 5 business days of receiving a public records request, to provide the requestor with notice of receipt, contact information for an employee who can provide the information requested, and the expected date the request will be processed. The bill also establishes a \$500-\$5,000 civil penalty for public bodies not in compliance with public records request requirements.

Estimated Impact

Based on information provided by a sampling of state agencies, we do not expect the bill to generate costs for compliance with the bill's requirements. To the extent that civil penalties are assessed to agencies not in compliance, the bill would result in additional General Fund revenue. We cannot predict the level of new revenue in advance.

If a state entity is required to identify violations and determine the level of civil penalties assessed for each occurrence, the bill could generate administrative costs. The bill does not specify an enforcing agency and we cannot determine the potential costs.

Analysis

Current law allows any person to request public records that are not otherwise available on a public body's website. Public bodies are required to provide contact information for an employee that is authorized to provide the information for public records requests on the entity's website and requires notification of receipt within 5 business days. The bill would require this information, along with the expected date the request will be processed, to be included in a notification to the requestor upon receipt.

If a public records request is denied, A.R.S. § 39-121.02 allows the requestor to appeal through a special action in the Superior Court and may be awarded attorney legal fees and other legal costs reasonably incurred if the person seeking public records has substantially prevailed.

If a public body willfully or intentionally refuses to comply with public record requirements, the bill would impose new civil penalties of at least \$500 and not more than \$5,000 for each occurrence. In assessing the penalty, the aggravation or mitigation of the entity and whether the entity has previously been assessed a penalty would be considered. The process in which the civil penalties would be determined and collected is unclear. The bill does not specify an enforcing agency to identify violations and assess the fees. In the absence of language directing the civil penalties to a specific fund, our understanding is that any penalties collected would be deposited to the General Fund under the umbrella of A.R.S. § 35-142.

We surveyed a sampling of state agencies for their perspective on the fiscal impact of complying with the bill's requirements. The Arizona Board of Regents, the Board of Dental Examiners, and the Corporation Commission expect-no

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fiscal impact. We are awaiting responses from the Arizona Health Care Cost Containment System, the Arizona Department of Administration, and the Attorney General.

Local Government Impact

See above.

3/28/24