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**SFA****BILL ANALYSIS**

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Senate Bill 1362 (as reported without amendment)  
Sponsor: Senator Bill Bullard, Jr.  
Committee: Government Operations

Date Completed: 11-20-98

### **RATIONALE**

The Enhanced Access to Public Records Act was approved in 1996 to provide for the immediate availability to public records for public inspection, purchase, or copying by digital means. The Act also provides for access to a public body's "geographical information system"; that is, "an informational unit or network capable of producing customized maps based on a digital representation of geographical data". Reportedly, a number of counties are in the process of producing these maps, which will include such information as land records, drain locations, and census data. Although a public body may provide access to its geographical information system without charge, it also may charge a reasonable fee for providing access to the system or to output from the system.

Under the Act's definition of "reasonable fee", a public body may recover only "those operating expenses directly related to the public body's provision of enhanced access". This means that if a county provides access to its geographical maps to a municipality without charge, and the municipality then provides access to a third party, the municipality cannot collect little, if anything, from the third party because the municipality incurred few expenses in providing the access. Since the cost of producing these maps apparently can be quite high, it has been suggested that if a public body provides a third party with access to another public body's maps, it should be able to recover from the third party its own expenses and the expenses of the public body that originally provided the information.

### **CONTENT**

**The bill would amend the Enhanced Access to Public Records Act to allow a public body to provide another public body with access to or**

**output from its geographical information system under an intergovernmental agreement; and to permit the public body receiving access or output to collect from a third party the expenses of both public bodies.**

The Act defines "public body" with reference to the definition in the Freedom of Information Act. The bill would define "third party" as a person who requested a geographical information system or output from such a system under the Enhanced Access to Public Records Act; "third party" would not include a person from whom a fee authorized under the Act was waived in accordance with an intergovernmental agreement.

Under the bill, a public body could provide another public body with access to or output from its geographical information system for the official use of that other public body, without charging a fee, if the access were provided in accordance with a written intergovernmental agreement. The agreement would have to state that the public body receiving access to or output from the system without charge would be prohibited from providing access to the system's output to a third party unless that public body did both of the following:

- Collected from the third party a fee, or waived that fee in accordance with the terms of the intergovernmental agreement.
- Conveyed to the providing public body that portion of any fee collected from the third party that was directly attributable to the operating expenses of the providing public body in furnishing the output from the system to the third party.

The intergovernmental agreement also would have to specify the public purpose for which access to or

output from the system was being provided, and specify the portion of any fee collected from a third party that the receiving public body would convey to the providing public body.

A public body that received access to or output from a system under an intergovernmental agreement could collect a reasonable fee from a third party to whom it provided access to output from the system. The fee would include an amount that enabled the public body providing access or output to recover its operating expenses directly related to providing access to output from its system to a third party. The fee also would include an amount that enabled the receiving public body to recover over time its operating expenses directly related to providing a third party with access to or output from its system.

The bill specifies that the language of the Act relating to the sharing of access to or output from systems among public bodies would have to be liberally construed to facilitate the sharing of access to and output from systems without financial detriment to the public bodies.

MCL 15.442 & 15.553

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The bill would enable public bodies to share their geographical information maps with other public bodies (or with the public) for free, but eventually to recover their costs if a public body receiving the information then provided access or output to a third party. These maps can be beneficial to public bodies and members of the public, but producing them apparently is very expensive. If the information is provided to a third party, such as a mortgage company, then the public body that produced the maps should be able to recover its costs--either directly, if that public body dealt with the third party, or indirectly, if another public body received the information and then provided it to the third party. In addition, if the receiving public body added its own data to the maps, then that public body would be able to recover its expenses from the third party as well.

Legislative Analyst: S. Lowe

## **FISCAL IMPACT**

The bill would have an indeterminate impact on State and local government. Under the bill, a public body that received access to or output from a geographic information system from another public body would be able to charge third parties for operating expenses incurred by it and the public body that originally provided the access or output.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.