



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 366 (Substitute S-1 as reported)
Sponsor: Senator Curtis Hertel, Jr.
Committee: Commerce

CONTENT

The bill would create the "Solicitation of Public Records Act" to require a person soliciting a fee for a copy of a public record to state the following: a) that the solicitation was not from a public body, b) that no action was legally required by the person being solicited, c) the statutory fee for obtaining a copy of the public record from the public body, d) contact information for the public body that had custody of the record, and e) the name and address of the person soliciting the fee.

A solicitation document could not be in a form, or use language, that would make the document appear to be issued by a public body or that appeared to impose a legal duty on the person being solicited. The Department of Attorney General could promulgate rules specifying the contents and form of a solicitation document.

The bill would prohibit a person from charging for a copy of a record more than four times the statutory fee charged by the public body that had custody of the record.

The bill would require a person soliciting a fee for a copy of a deed to give a copy of the solicitation document to the register of deeds at least 15 days before distributing it.

The Department could investigate violations of the proposed Act, and could bring an action or request a county prosecutor to bring an action against any person who violated the Act. The court could order a person who violated the Act to refund all of the money paid to the violator. Also, for each solicited document distributed in violation of the Act, the court could order the person to forfeit up to \$100 for a first violation, and up to \$200 for a subsequent violation.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill could have an indeterminate fiscal impact on the Department of Attorney General and local units. Potential costs associated with the promulgation of rules by the Attorney General, as well as the investigation and prosecution of violations by the Attorney General or a county prosecutor, are indeterminate and would depend on the number of actual cases. Depending on the number of violations, the costs to the Department or a county could be covered by current annual appropriations; however, if the number of cases were substantial, additional appropriations could become necessary, and it could be necessary for the Department to hire one additional attorney at an estimated annual cost of \$160,000.

A violator could be required to forfeit an amount for illegal solicitation documents, but the bill is unclear as to whom this money would be forfeited.

Date Completed: 7-1-15

Fiscal Analyst: Joe Carrasco

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Bill Analysis @ www.senate.michigan.gov/sfa

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