

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6909
BILL NUMBER: SB 1

DATE PREPARED: Dec 18, 1998
BILL AMENDED:

SUBJECT: Public Access Counselor and complaint procedure.

FISCAL ANALYST: Susan Preble
PHONE NUMBER: 232-9867

FUNDS AFFECTED: **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill creates the Office of the Public Access Counselor. It provides for the appointment of a Public Access Counselor by the Governor. It establishes a formal complaint procedure for the Office of the Public Access Counselor. It provides that the Office of the Public Access Counselor and the formal complaint procedure expire July 1, 2003. It requires a court to expedite the hearing of an action filed under the open door law (IC 5-14-1.5) or the public records law (IC 5-14-3). It requires a court to award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to a prevailing plaintiff. (Current law allows a court to award attorney's fees, court costs, and other reasonable expenses of litigation to a prevailing plaintiff if the court finds the defendant's violation was knowing and intentional.) It requires, rather than permits, a court to award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to a prevailing defendant if the court finds that the action is frivolous or vexatious. It also requires the Public Access Counselor to submit a report to the General Assembly not later than June 30 of each year concerning the activities of the Counselor for the previous year.

Effective Date: July 1, 1999.

Explanation of State Expenditure: Court caseloads may be impacted due to the requirement that hearings on actions filed under the public access law be expedited, depending upon the number of hearings required and the extent that court dockets must be rearranged.

The bill provides that the Office of the Public Access Counselor be funded and gives the Counselor the discretion to hire additional staff if necessary to carry out the duties of the Office. Currently, the Office of the Public Access Counselor is funded through the operating fund of the Commission on Public Records. The appropriation for the Commission on Public Records is \$1,526,074 for FY 99. The estimated expense for the Public Access Counselor for FY 99 is \$108,359. The Commission is requesting \$115,359 in FY 2000 and \$107,459 in FY 2001 for the Public Access Counselor.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Office of the Public Access Counselor

Local Agencies Affected:

Information Sources: Fred Biesecker, Office of the Governor, 232-4567; Anne Mullin O'Connor, Public Access Counselor, 233-9435.