1997 ASSEMBLY BILL 817

February 24, 1998 – Introduced by Representatives DOBYNS, FREESE, HUEBSCH, BRANDEMUEHL, SERATTI, OLSEN, GOETSCH, HUBER, POWERS, OTT, VRAKAS, HAHN, ALBERS and F. LASEE, cosponsored by Senators WELCH, HUELSMAN and DRZEWIECKI. Referred to Committee on Government Operations.

1   AN ACT *to amend* 19.32 (2); and *to create* 16.61 (2) (b) 7., 19.32 (4), 19.35 (1m)

2   and 19.35 (3) (g) of the statutes; **relating to:** production by the state and local

3   governments of customized work products compiled from public records.

Analysis by the Legislative Reference Bureau

Currently, a state or local governmental unit must provide access to records in its custody unless otherwise provided by law or unless the custodian demonstrates that the public interest in withholding access to a record outweighs the strong public interest in providing access. Copies of records are available for a fee that may not exceed the actual, necessary and direct cost of reproduction and the costs of locating a record, if those costs are $50 or more. With limited exceptions, however, no unit of government is required to create a new record by extracting information from existing records and compiling the information in a new format.

This bill permits any state or local governmental unit, upon request of any person, to create a customized work product in any medium, compiled from information contained in existing records maintained by that governmental unit that are accessible to that person by law. The bill also permits a governmental unit that provides a customized work product to charge a reasonable fee for this service, which may include the actual, necessary and direct cost of reproduction of the records from which the product is compiled, plus a reasonable allowance for the labor, materials and equipment, and for the maintenance and depreciation of the equipment, used to produce the product. The bill provides for revenue collected by state agencies from such fees to be deposited in the state general fund. Under the

bill, a customized work product does not become a public record for purposes of laws governing records access and retention.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1   SECTION 1. 16.61 (2) (b) 7. of the statutes is created to read:

2   16.61 **(2)** (b) 7. Any work product created by a state agency in response to a

3   request made under s. 19.35 (1m).

4   SECTION 2. 19.32 (2) of the statutes is amended to read:

5   19.32 **(2)** "Record" means any material on which written, drawn, printed,

6   spoken, visual or electromagnetic information is recorded or preserved, regardless

7   of physical form or characteristics, which has been created or is being kept by an

8   authority. "Record" includes, but is not limited to, handwritten, typed or printed

9   pages, maps, charts, photographs, films, recordings, tapes (including computer

10   tapes), computer printouts and optical disks. "Record" does not include drafts, notes,

11   preliminary computations and like materials prepared for the originator's personal

12   use or prepared by the originator in the name of a person for whom the originator is

13   working; materials which are purely the personal property of the custodian and have

14   no relation to his or her office; materials to which access is limited by copyright,

15   patent or bequest; ~~and~~ published materials in the possession of an authority other

16   than a public library which are available for sale, or which are available for

17   inspection at a public library; or any work product created by an authority in

18   response to a request made under s. 19.35 (1m).

19   SECTION 3. 19.32 (4) of the statutes is created to read:

20   19.32 **(4)** "State agency" has the meaning given in s. 20.001 (1).

1   **SECTION 4.** 19.35 (1m) of the statutes is created to read:

2   19.35 **(1m)** CREATION OF CUSTOMIZED WORK PRODUCTS FROM RECORDS. Upon

3   request of any person, an authority may create a customized work product in any

4   medium, compiled from information contained in records maintained by the

5   authority that are accessible to that person by law.

6   **SECTION 5.** 19.35 (3) (g) of the statutes is created to read:

7   19.35 **(3)** (g) Except as otherwise provided by law, an authority who or which

8   creates a customized work product under sub. (1m) may charge a reasonable fee for

9   this service. The fee may include the actual, necessary and direct cost of

10   reproduction of the existing records from which the product is compiled, plus a

11   reasonable allowance for the labor, materials and equipment, and for the

12   maintenance and depreciation of the equipment used to produce the product. An

13   authority which is a state agency shall deposit all revenues received from such fees

14   in the general fund.

15   **(END)**