

SENATE BILL REPORT

SB 5295

As Reported by Senate Committee On:
Government Operations & Elections, February 19, 2009

Title: An act relating to the unanimous recommendations of the public records exemptions accountability committee.

Brief Description: Implementing unanimous recommendations of the public records exemptions accountability committee.

Sponsors: Senators Kline, Oemig, Rockefeller, Holmquist, King, Hatfield and Hobbs.

Brief History:

Committee Activity: Government Operations & Elections: 2/09/09, 2/19/09 [DPS, w/oRec].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5295 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach, Ranking Minority Member; McDermott, Pridemore and Swecker.

Minority Report: That it be referred without recommendation.

Signed by Senator Benton.

Staff: Aaron Gutierrez (786-7448)

Background: In 1972 Washington voters approved the Public Disclosure Act by initiative. At the time of approval, the Act contained ten exemptions from disclosure. As of 2006 there were approximately 300 exemptions.

In 2007 the Legislature created the Public Records Exemption Accountability Committee (Sunshine Committee) to review all disclosure exemptions and make recommendations to the Legislature.

In November of 2008 the Sunshine Committee submitted a report to the Legislature documenting 12 recommendations for modifications to disclosure exemptions. Of these, eight were unanimous and four were not.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Recommended Substitute): The unanimous recommendations of the Sunshine Committee are adopted as follows:

1. Child Mortality Review. Health care information collected as part of a child mortality review is not subject to review. Descriptions of types of documents not subject to review are added to RCW 70.05.170. Local health departments may release aggregate compilations and reports.
A cross-reference is added to RCW 42.56.360 referring to the child mortality review exemption in RCW 70.05.170. If an agency provides copies of records that are exempt to another agency, the records will stay exempt to the same extent as if they had stayed in the possession of the original entity. An agency may mark a document exempt so the receiving agency is aware of the exemption, but the mark will not affect whether the record is actually exempt.
2. Agricultural Exemptions. Cross-references to other statutes contained in RCW 42.56.380 are rewritten to describe the subject matter of the referenced statute. A new section is added to RCW 42.56 stating that if a brief description in a cross-reference conflicts with the statute referenced, then the referenced statute controls.
3. Wellness Programs. All documents received pursuant to a wellness program are not subject to review, except statistical reports that do not identify an individual. This exemption was moved from RCW 41.04.364 to RCW 42.56.360, and RCW 41.04.364 was repealed.
Statutes previously related to the State Wellness Program apply to all wellness programs run by state and local government entities.
4. Candidate Lists. Candidate lists for the directors of the Work Force Training and Conservation Board and the Recreation and Conservation Board are subject to public disclosure.
5. Transit Passes and Other Fare Payment Media. Personally identifying information of persons who acquire and use transit passes may not be disclosed to the media. Personally identifying information may be disclosed to the entity, such as the employer or educational institution that is responsible for the pass for the purpose of preventing fraud, and may also be released to law enforcement agencies if the request is accompanied by a court order. Information may be released in aggregate form.
6. Criminal History Records Checks. A cross-reference is added to RCW 42.56.250 referring to exemptions for criminal history records checks for finalist candidates for the State Investment Board in RCW 43.33A.025.
7. Maritime Employees. Salary and benefit information for maritime employees collected from private employers is not subject to review.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & ELECTIONS COMMITTEE (Recommended Substitute as Passed Committee): Adds a requirement to the child mortality review exemption stating that if a record is exempt, it will stay exempt even if copies are provided to a local health department for a child mortality review. Agencies may mark a record exempt for notice purposes without affecting whether or not the document is actually exempt.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & ELECTIONS COMMITTEE (Proposed Substitute as Heard in Committee): Section 4, RCW 42.56.360, was amended by Initiative 1000, but the new language does not take effect until

July 1, 2009. The substitute incorporates the July 1, 2009, version of the statute and renumbers accordingly.

Section 2 removes duplicate language that correctly appears in section 10.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The committee is equally divided between those requesting, and those responding to requests for information. This bill only addresses the unanimous recommendations. The main concern is to get all public records exemptions into one statute. The current exemptions are both under and over inclusive.

OTHER: Section (1)(3)(a) would result in less participation in the child mortality review process. Over half the deaths reviewed were preventable, and 66 reviews resulted in changes to the system. New language covering other types of information would be preferred.

Persons Testifying: PRO: Senator Kline, prime sponsor; Ramsey Ramerman, citizen; Rowland Thompson, committee member.

OTHER: Scott Daniels, Kitsap County Health District, Washington State Association of Local Public Health Officials.