

FINAL BILL REPORT

SSB 5295

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Synopsis as Enacted

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

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senators Kline, Oemig, Rockefeller, Holmquist, King, Hatfield and Hobbs).

Senate Committee on Government Operations & Elections
House Committee on State Government & Tribal Affairs

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.

Summary: The unanimous recommendations of the Sunshine Committee are adopted as follows:

1. Child Mortality Reviews. The Committee agreed with the goals to exempt certain documents from disclosure used for child mortality reviews but felt the exemptions were broader than necessary. The statute governing the confidentiality of child mortality reviews is modified. Health care information collected as part of a child mortality review is not subject to disclosure. Witness statements, documents collected from witnesses, or documents prepared solely for the mortality review are not subject to disclosure. Health departments may continue to disclose statistical compilations and reports that do not identify individual cases or sources. The exemption contained in the Public Records Act is modified and makes reference to the exemption as described in the statute on child mortality reviews. Further, if an agency provides copies of exempt documents to another agency, the documents remain exempt to the same extent as with the originating entity. The documents may

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be marked as exempt to provide notice to the receiving agency, but this marking is not determinative of the document's actual exemption from disclosure.

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.
8. Investigations Related to Workplace Discrimination. The Committee recommends that exemptions providing confidentiality for those who seek advice from an agency on potential discrimination and for the confidentiality of a current discrimination investigation be retained but clarified. This exemption is clarified in that a current investigation means an active and on-going investigation.

Votes on Final Passage:

Senate	42	0	
Senate	47	0	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 10, 2010