

SENATE BILL REPORT

SB 6835

As of February 10, 2010

Title: An act relating to clarifying that private nonprofit membership organizations are not defined as agencies for purposes of the open public meetings act and the public records act.

Brief Description: Clarifying that private nonprofit membership organizations are not defined as agencies for purposes of the open public meetings act and the public records act.

Sponsors: Senator Fairley.

Brief History:

Committee Activity: Government Operations & Elections: 2/04/10.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Staff: Sharon Swanson (786-7447)

Background: A nonprofit organization is an organization that does not distribute its surplus funds to owners or shareholders but instead uses the surplus funds to pursue its goals. Examples of nonprofits include charities and trade unions.

The Open Public Meetings Act (OPMA) states that all meetings of the governing body of a public agency must be open and public, and all persons must be permitted to attend any meetings of the governing body of a public agency.

The OPMA defines public agency as:

- any state board, commission, committee, department, education institution, or other state agency which is created by or pursuant to statute, other than courts and the Legislature;
- any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;
- any sub-agency of a public agency which is created by or pursuant to statute, ordinance, or another legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies; and
- any policy group whose membership includes representatives of publicly owned utilities formed by, or pursuant to, the laws of this state when meeting together as, or on behalf of, participants who have contracted for the output of generating plants being planned or built by an operating agency.

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.

The Public Records Act (PRA), passed by the voters of the state in 1972, provides that public records must be available for inspection and copying, and agencies must, upon request for identifiable public records, make them promptly available to any person. The PRA defines agency as including all state agencies, and all local agencies. State agency includes every state office, department, division, bureau, board, commission, or other state agency. Local agency includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

Summary of Bill: For the purposes of the OPMA, public agency does not include private nonprofit membership organizations whose members include local public agencies.

For the purposes of the PRA, agency does not include private nonprofit membership organizations whose members include local agencies.

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: PRO: WASAC and WACO have never been considered public agencies for the purpose of the Open Public Meetings Act or the Public Records Act. The Judge in the case created a new classification called a "quasi-public agency" and has determined through his ruling that now WASAC, WACO, and other organizations fall under this category. This type of classification will cost the organizations a great deal of money. The ruling is unnecessary as we have never denied anyone access to our meetings.

CON: This bill will take in many organizations beyond the counties and cities who want the bill. This matter is before the courts right now, so passage of this bill will mute that case. This bill will close the window on information relating to public risk pools and will cover organizations that are funded almost entirely with public money. This bill will promote a shadow government and will protect quasi-public agencies funded by tax payer dollars. They will have no accountability. This bill shows contempt for the powers and integrity of the judiciary. The bill is before this committee because the counties have been found to be a quasi-public agency and must now comply with the OPMA and PRA. This bill is designed by the counties and their unholy trinity of darkness and associated minions to evade public scrutiny. This bill is unnecessary.

Persons Testifying: PRO: Eric Johnson, Washington Association of Counties; Mike McCarty; Association of Washington Cities; James McMahan, Washington Association of County Officials.

CON: Rowland Thompson, Allied Daily Newspapers; Arthur West, citizen.