SSB 5435 - H COMM AMD
By By Committee on State Government & Tribal Affairs

NOT ADOPTED 4/12/2007

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature recognizes that public disclosure exemptions are enacted to meet objectives which are determined to be in the public interest. Given the changing nature of information technology and management, record keeping, and the increasing number of public disclosure exemptions, the legislature finds that periodic reviews of public disclosure exemptions are needed to determine if the exemption serves the public interest.

NEW SECTION. **Sec. 2.** (1) The public records exemptions accountability committee is created to review public disclosure exemptions.

(2) The committee has seven members as follows:

(a) One member is the attorney general, who is a nonvoting member;

(b) One member is the chair of the joint legislative audit and review committee, who is a nonvoting member;

(c) The chair of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives shall each appoint a member. None of these appointees may be members of the legislature; and

(d) The governor shall select the seventh member.

(3) Persons appointed by the caucus chairs should be individuals who represent a balance of perspectives and constituencies, and have a basic understanding of public records law, government operations, and information technology. These appointees should have knowledge and expertise in public records policy, public records access, public information, or closely related fields.

(4) The committee shall select a chair from among its voting or nonvoting members. Decisions of the committee shall be made using the sufficient consensus model. For the purposes of this subsection, "sufficient consensus" means the point at which the majority of the committee favors taking a particular action. If the committee determines that sufficient consensus cannot be reached, a vote must be taken. The committee must allow a minority report to be included with a decision of the committee, if requested by a member of the committee.

(5) Members serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term. In the case of the initial terms, however, the members appointed by the chairs of the senate caucuses shall serve four-year terms, the members appointed by the house of representatives caucuses shall serve three-year terms, and the member appointed by the governor shall serve a two-year term, with each of the terms expiring on June 30th of the applicable year. Appointees may reappointed to serve more than one term.

(6) The joint legislative audit and review committee shall provide clerical, technical, and management personnel to the committee to serve as the committee's staff. In addition, the code reviser, the office of program research, the senate committee services, and the office of the attorney general shall provide support and information to the committee as the chair may request.

(7) The committee shall meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the committee. The members of the committee shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 3.** (1) The public records exemptions accountability committee shall develop a schedule to accomplish an orderly review of all exemptions to public disclosure at least once every four years. The committee shall determine the order of review of public disclosure exemptions.

(2) The committee shall revise the schedule as needed each year, taking into account newly created or terminated public

disclosure exemptions. The committee shall deliver the schedule to the joint legislative audit and review committee by July 1st of each year.

(3) The committee shall provide a process for effective citizen input during its deliberations.

NEW SECTION. **Sec. 4.** (1) The joint legislative audit and review committee shall review public disclosure exemptions according to the schedule developed under section 3 of this act. The committee shall consider, but not be limited to, the following factors in the review:

(a) Public policy objectives that might provide a justification for the public disclosure exemption, including but not limited to, the legislative history, any legislative intent, or the extent to which the public disclosure exemption is warranted;

(b) The individuals, organizations, or industries who are directly affected by the public disclosure exemption;

(c) The extent to which the continuation of the public disclosure exemption might contribute to the public policy objectives;

(d) The extent to which the public disclosure exemption may provide unintended benefits to an individual, organization, or industry other than those the legislature intended;

(e) The extent to which terminating the public disclosure exemption may have negative effects on the group that currently benefits from the public disclosure exemption;

(f) The feasibility of modifying the public disclosure exemption to provide for adjustment to continue the public policy of open government;

(g) Impacts of the public disclosure exemption, including past impacts and expected future impacts if it is continued;

(h) The extent to which termination of the public disclosure exemption would affect liability of the state; and

(i) Consideration of similar public disclosure exemptions adopted or repealed in other states or by the federal government and potential public policy benefits that might be gained by taking corresponding action in Washington.

(2) For each public disclosure exemption, the committee shall provide a recommendation as to whether the public disclosure

exemption should be continued without modification, modified, scheduled for sunset review at a future date, or terminated immediately. The committee may recommend accountability standards for the future review of public disclosure exemptions.

NEW SECTION. **Sec. 5.** (1) The joint legislative audit and review committee shall report its findings and recommendations for scheduled public disclosure exemptions to the public records exemptions accountability committee by October 30th of each year. The joint legislative audit and review committee may revise its report based on the comments, prepare a final report that includes the comments, and submit the final report to the house of representatives and the senate by November 30th.

(2) Following receipt of a report under this section, the appropriate committees of the house of representatives and the senate shall jointly hold a public hearing to consider the final report and any related data.

NEW SECTION. **Sec. 6.** By July 1, 2007, the code reviser shall provide the committee with a list of all exemptions from public disclosure in the revised code of Washington and those not codified in the order they have been enacted into law.

NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act are each added to chapter 42.56 RCW."

Correct the title.

EFFECT: Strikes the provisions of the current bill. Establishes the public records exemptions accountability committee. Provides for seven members of the committee: 1) the attorney general, 2) the chair of the joint legislative audit and review committee, 3) the chair of each of the two largest caucuses of the senate and the chair of each of the two largest caucuses of the house of representatives shall each appoint one member, and 4) the governor shall appoint one member. Requires that the members represent a balance of perspectives and constituencies and have knowledge and expertise in the relevant areas. Provides for selection of chair, frequency of meetings, and expenses of the members. Requires that the committee use the "sufficient consensus model" of decision making. Provides that members will serve staggered four-year terms. Specifies

that the joint legislative audit and review committee shall staff the committee. Requires that the committee create a schedule and review each public records exemption every four years. Requires that the joint legislative audit and review committee review the exemptions and report its findings to the committee by October 30th of each year. Requires that the appropriate legislative committees jointly hold a public hearing on the final report each year.