
State Government & Tribal Affairs
Committee

HB 2612

Brief Description: Exempting signature petitions from disclosure.

Sponsors: Representatives Armstrong, Kristiansen and Kretz.

Brief Summary of Bill

- Exempts signature petitions for referenda and initiatives from disclosure under the Public Records Act.

Hearing Date: 1/15/10

Staff: Tracey O'Brien (786-7196).

Background:

The Public Records Act.

The Public Records Act (PRA) requires that all state and local government agencies make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally and the exemptions narrowly in order to effectuate a general policy favoring disclosure.

The PRA requires agencies to respond to public records requests within five business days. The agency must either provide the records, provide a reasonable estimate of the time the agency will take to respond to this request, or deny the request. Additional time may be required to respond to a request where the agency needs to notify third parties or agencies affected by the request or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. For practical purposes, the law treats a failure to properly respond as denial. A denial of a public records request must be accompanied by a written statement of the specific reasons for denial.

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.

Any person who is denied the opportunity to inspect or copy a public record may file a motion to show cause in superior court why the agency has refused access to the record. The burden of proof rests with the agency to establish that the refusal is consistent with the statute that exempts or prohibits disclosure. Judicial review of the agency decision is de novo and the court may examine the record in camera.

Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record shall be awarded all costs, including reasonable attorney fees. In addition, the court has the discretion to award such person no less than \$5 but not to exceed \$100 for each day he or she was denied the right to inspect or copy the public record. The court's discretion lies in the amount per day, but the court may not adjust the number of days for which the agency is fined.

An agency or its representative, or a person who is named in the record or to whom the record specifically pertains, may file a motion or affidavit asking superior court to enjoin disclosure of the public record. The court may issue an injunction if it finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital government functions.

Initiative & Referendum

The Legislature adopted processes for initiative and referendum in 1912. The law as enacted allows each of the following:

- Initiatives to the People, where if petitions are certified to have a sufficient number of signatures by registered voters, the issue is submitted for a vote of the people at the next state general election.
- Initiatives to the Legislature, where if petitions are certified to have a sufficient number of signatures by registered voters, the issue is submitted to the Legislature at its next regular session.
- Referendum Measures, where laws recently passed by the Legislature are placed on the ballot after certification of petitions signed by registered voters.
- Referendum Bills, where voters adopt laws proposed by the Legislature.

A petition must conform to statutory requirements and must include a place for each petitioner to sign and print his or her name, and the address, city and county at which she or he is registered to vote. In addition, a warning statement of not less than 4 square inches must be printed on the front of the petition sheet saying:

"WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter, or makes any false statements on this petition may be punished by fine or imprisonment or both."

Under the State Constitution, initiative petitions require signatures from 8 percent of the total number of votes cast for the office of governor at the last regular gubernatorial election; referendum petitions require 4 percent.

Summary of Bill:

The Legislature finds that the disclosure of signature petitions may chill the desire of citizens to sign a petition and participate in the political process. Signing a petition does not mean that a person is in favor or against a proposition being brought forward, but means that the person believes that the voters should decide the issue by a vote of the people.

Signature petitions for referenda and initiatives shall be exempt from disclosure under the PRA.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.