

HOUSE BILL REPORT

SSB 5435

As Reported by House Committee On:
State Government & Tribal Affairs

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

Brief Description: Creating the public records exemptions accountability committee.

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senators Kauffman, Pflug, Swecker and Keiser; by request of Attorney General).

Brief History:

Committee Activity:

State Government & Tribal Affairs: 3/16/07, 3/28/07 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Creates the Public Records Exemptions Accountability Committee.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass as amended. Signed by 9 members: Representatives Hunt, Chair; Appleton, Vice Chair; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Green, Kretz, McDermott, Miloscia and Ormsby.

Staff: Alison Hellberg (786-7152).

Background:

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

Summary of Amended Bill:

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 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.

The Public Records Exemptions Accountability Committee (Committee) is created, with two nonvoting members and five voting members. The Attorney General and the Chair of the Joint Legislative Audit and Review Committee (JLARC) are nonvoting members. 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 voting member. None of these appointees may be members of the Legislature. The Governor shall appoint the seventh member. All members serve staggered four-year terms.

The Committee must develop a schedule for review of public disclosure exemptions at least once every four years. The Committee must provide a process for effective citizen input during its deliberations.

The JLARC must review public disclosure exemptions according to the four-year schedule developed by the Commission. The JLARC is to consider, but not be limited to, the following factors in the review:

- public policy objectives that might provide a justification for the public disclosure exemption, including the legislative history, any legislative intent, or the extent to which the exemption is warranted;
- the individuals, organizations, or industries who are directly affected by the public disclosure exemption;
- the extent to which the continuation of the exemption might contribute to the public policy objectives;
- the extent to which the exemption may provide unintended benefits to an individual, organization, or industry other than those the Legislature intended;
- the extent to which terminating the exemption may have negative effects on the group that currently benefits from the exemption;
- the feasibility of modifying the exemption to provide for adjustment to continue the public policy of open government;
- impacts of the exemption, including past impacts and expected future impacts if it is continued;
- the extent to which termination of the exemption would affect liability of the state; and
- 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.

The JLARC will submit a report to the Committee by August 30 of each year. The Committee may review and comment on the JLARC report. The JLARC must prepare a

final report that includes any comments of the Committee and submit the report to the appropriate legislative committees by November 30. The legislative committees are to hold a joint hearing on the report.

For each public disclosure exemption, the Committee must provide a recommendation as to whether the exemption should be continued without modification, modified, scheduled for sunset review at a future date, or terminated immediately.

By July 1, 2007, the Code Reviser must provide the Committee with a list of all exemptions to public disclosure in the Revised Code of Washington.

Staff support to the Commission is provided by the JLARC. The Office of the Attorney General, the Senate Committee Services, the Office of Program Research, and the Code Reviser are directed to provide information needed by the Committee.

Amended Bill Compared to Substitute Bill:

The amendment reduces the size of the Committee from 15 to seven members. Five of those are voting members and the Attorney General and the Chair of the JLARC serve as nonvoting members. All members serve staggered four-year terms rather than the two-year terms. The JLARC will staff the Committee with support from the Code Reviser, Office of Program Research, Senate Committee Services, and the Office of the Attorney General. The amendment provides for expenses of the Committee.

The amendment requires that the Committee develop a four-year schedule to review public disclosure exemptions. According to the schedule, the JLARC must review the exemptions and submit a report to the Committee each year. The Committee will review the report and make recommendations to the appropriate legislative committees.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This is a good little bill and has amazing public support. There are over 300 exemptions to public disclosure and even the Attorney General's office is unsure of the exact number. This is a major problem. The amendment to this bill is fantastic and adds some good detail.

(Opposed) None.

Persons Testifying: Senator Kauffman, prime sponsor; and Greg Overstreet, Office of the Attorney General.

Persons Signed In To Testify But Not Testifying: None.