

SENATE BILL REPORT

SB 6139

As of January 31, 2018

Title: An act relating to increasing public access to the records of the legislature and judiciary.

Brief Description: Concerning public access to the records of the legislature and judiciary.

Sponsors: Senator Miloscia.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 1/31/18.

Brief Summary of Bill

- Designates the Legislature and judiciary as agencies subject to the disclosure requirements of the Public Records Act (PRA) for all records created after the effective date of the bill.
- Designates public records officers for the Legislature and judiciary, with requirements to advise on the necessity of keeping public records.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Staff: Samuel Brown (786-7470)

Background: The PRA. The PRA, enacted in 1972 as part of Initiative 276, requires that all state and local government agencies make all public records available for public inspection and copying unless certain statutory exemptions apply. Over 500 specific references in the PRA or other statutes remove certain information from application of the PRA, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential. The provisions requiring public records disclosure must be interpreted liberally while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

PRA Definitions. For purposes of the PRA, agency means all state and local agencies, which includes every state office, department, division, bureau, board, commission, or other state agency. In January 2018, the Thurston County Superior Court held, on a case pending appeal, that the offices of individual state legislators are state offices, and thus agencies, for

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the purposes of PRA interpretation, subject to the PRA's disclosure requirements. The court also held that the Legislature itself and its chambers, administered by the Secretary of the Senate (Secretary) and the Chief Clerk of the House (Chief Clerk), were not agencies under the PRA.

In 1995, for the Secretary and the Chief Clerk, public records were defined to mean legislative records and:

- budget and financial records;
- personnel leave, travel, and payroll records;
- records of legislative sessions;
- reports to the Legislature; and
- other records designated as public.

Public Records Officers. Each agency must appoint and identify a public records officer, who serves as a point of contact for all public records requests. Public records officers must complete training in PRA requirements and records retention protocols within 90 days of assuming their responsibilities, and complete refresher training at least once every four years.

Summary of Bill: The Legislature and Judiciary are defined as agencies, subject to PRA requirements, for all records created after the bill takes effect.

The Secretary and Chief Clerk are designated as the public records officers for each respective chamber of the Legislature. The Secretary and Chief Clerk must advise each individual legislative office on the necessity of keeping public records. The clerk of the Supreme Court must appoint a public records officer for each division of the courts, and advise on the necessity of keeping public records. The state archivist must assist in instructing on methods for public records preservation.

Appropriation: None.

Fiscal Note: Requested on January 29, 2018.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: What is good for executive branch agencies is good for the Legislature and judiciary; the system should be fair. The judicial exemption is completely at odds with the language and intent of the people in adopting the initiative that gave rise to the PRA.

CON: The court General Rule adopted in 2016 treating administrative records public records is working very well.

OTHER: With no stay on the order or injunction, this is currently the law of the land as applied to the Legislature. Court records should be available, but that is not the Legislature's call.

Persons Testifying: PRO: Senator Mark Miloscia, Prime Sponsor; Arthur West, citizen.

CON: Brady Horenstein, Board for Judicial Administration.

OTHER: Rowland Thompson, Allied Daily Newspapers of Washington.

Persons Signed In To Testify But Not Testifying: No one.