
HOUSE BILL 1856

State of Washington

68th Legislature

2023 Regular Session

By Representatives Abbarno, Volz, Schmick, Robertson, Walsh, Graham, Christian, Eslick, Low, Cheney, Griffey, Couture, Corry, Schmidt, Rude, Sandlin, Goehner, Steele, Harris, Waters, Orcutt, Ybarra, Klicker, and Dye

Read first time 04/14/23. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to enhancing access to public records through
2 studying the efficacy of establishing the Washington office of
3 transparency ombuds as an independent state agency; creating new
4 sections; and providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 reaffirm its commitment to open, transparent, and accountable
8 governance through commissioning a broad-based study on the
9 establishment of the Washington office of transparency ombuds as a
10 nonpartisan and independent agency. The legislature finds that
11 residents of Washington have every right to know how their elected
12 officials and government agencies come to critical decisions which
13 impact their livelihoods so greatly. Barriers to accessing these
14 records only act as a disservice to the public. The legislature
15 further intends to build upon the foundation set by the voters
16 through their adoption of Initiative Measure No. 276, also known as
17 the public records act, by ensuring individuals have an independent
18 advocate holding lawmakers and public agencies accountable as
19 stewards of official public records.

1 NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts
2 appropriated for this specific purpose, the joint legislative audit
3 and review committee, in coordination with the joint legislative
4 committee on transparency established under section 3 of this act, a
5 representative from the office of the attorney general who works in
6 the area of open government, and the public records exemptions
7 accountability committee created under RCW 42.56.140, shall conduct a
8 study on the efficacy of establishing the Washington office of
9 transparency ombuds as an independent state agency to assist
10 individuals with accessing public records.

11 (2) At a minimum, the study must:

12 (a) Include a comprehensive overview and comparison of each
13 state's public records laws, right to know laws, open government
14 laws, or other substantially related laws which seek to provide
15 public access to government-produced or maintained records. The
16 comparison must identify the aspects of chapter 42.56 RCW that are
17 similar to the related laws of other states, as well as the aspects
18 of chapter 42.56 RCW which substantially differ from related laws of
19 other states;

20 (b) Evaluate states with independent state agencies dedicated to
21 serving individuals who seek to access public records, and provide
22 findings from the evaluation. Included in the states that must be
23 evaluated for the purpose of this subsection is Pennsylvania and the
24 Pennsylvania office of open records. This evaluation must include,
25 but is not limited to a review of:

26 (i) Each state's public records and open government laws;

27 (ii) Each state's appeals processes available to individuals who
28 submit a public records request and are denied their request or
29 receive an incomplete response from the agency;

30 (iii) Whether litigation pertaining to public records requests
31 has decreased after the creation of the state's independent agency;
32 and

33 (iv) Resources provided by the state to assist individuals in
34 understanding public records and open government laws, and how to
35 access public records;

36 (c) Determine the efficacy of establishing an independent state
37 agency in Washington dedicated to promoting open government and
38 assisting individuals to access public records. Efficacy must be
39 measured by:

1 (i) Potential cost savings from reduced litigation costs
2 associated with public records requests and from decreased workloads
3 for employees who process or otherwise respond to public records
4 requests;

5 (ii) Increased ease of access to public records created or
6 maintained by state or local government;

7 (iii) Potential additional resources that would be made available
8 by an independent agency to assist individuals in understanding
9 public records laws and regulations; and

10 (iv) The prospect of an independent agency to provide individuals
11 with alternative avenues for appeal or relief when a person's public
12 records request is denied, or when the agency's response to a
13 person's public records request is incomplete or untimely; and

14 (d) Recommend appropriate duties of the Washington office of
15 transparency ombuds.

16 (3) The joint legislative audit and review committee must submit
17 a report, in compliance with RCW 43.01.036, on the findings of the
18 study conducted pursuant to this section to the appropriate
19 committees of the legislature by December 1, 2024.

20 NEW SECTION. **Sec. 3.** (1) The joint legislative committee on
21 transparency is established to coordinate with the joint legislative
22 audit and review committee, a representative from the office of the
23 attorney general who works in the area of open government, and the
24 public records exemptions accountability committee created under RCW
25 42.56.140 in conducting and completing the study required under
26 section 2 of this act.

27 (2) The committee shall consist of the following members:

28 (a) One member from each of the two largest caucuses in the house
29 of representatives, one appointed by the speaker of the house of
30 representatives and one appointed by the minority leader of the house
31 of representatives;

32 (b) One member from each of the two largest caucuses in the
33 senate, one appointed by the majority leader of the senate and one
34 appointed by the minority leader of the senate;

35 (c) The chair of the public records exemptions accountability
36 committee;

37 (d) Four representatives from media and broadcasting
38 organizations, with the senate majority leader, senate minority
39 leader, speaker of the house of representatives, and the minority

1 leader of the house of representatives each appointing one
2 representative;

3 (e) One member appointed by the governor;

4 (f) One member appointed by the attorney general; and

5 (g) One representative from the joint legislative audit and
6 review committee, which may include committee staff, selected by the
7 joint legislative audit and review committee created under RCW
8 44.28.010.

9 (3) Senate committee services and the office of program research
10 shall provide staff support to the committee.

11 (4) Legislative members of the committee must be reimbursed for
12 travel expenses in accordance with RCW 44.04.120. Nonlegislative
13 members, except those representing an employer or organization, are
14 entitled to be reimbursed for travel expenses in accordance with RCW
15 43.03.050 and 43.03.060.

16 (5) The chair of the public records exemptions accountability
17 committee shall serve as chair of the committee. The committee may,
18 if desired and by a majority vote of the members, select a different
19 chair from among its membership.

20 (6) The chair shall convene an initial meeting of the committee
21 by June 1, 2024. The committee must meet at least once a month and
22 may hold additional meetings at the call of the chair or by a
23 majority vote of the members of the committee. Meetings required
24 under this subsection may be held virtually.

25 (7) Based on the findings of the study conducted pursuant to
26 section 2 of this act, and by December 1, 2024, the committee shall
27 make recommendations, in compliance with RCW 43.01.036, to the
28 legislature related to the efficacy of establishing the Washington
29 office of transparency ombuds as a nonpartisan and independent state
30 agency to assist individuals with accessing public records. The
31 committee may make additional recommendations related to improving
32 public records access.

33 NEW SECTION. **Sec. 4.** This act expires December 31, 2024.

--- END ---