

SENATE BILL REPORT

SB 5677

As Reported by Senate Committee On:
Government Operations, Tribal Relations & Elections, February 21, 2011

Title: An act relating to the immunity of unincorporated area councils and their volunteers from lawsuits under the public records act.

Brief Description: Regarding the immunity of unincorporated area councils and their volunteers from lawsuits under the public records act.

Sponsors: Senator Nelson.

Brief History:

Committee Activity: Government Operations, Tribal Relations & Elections: 2/17/11, 2/21/11 [DP-WM].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker, Ranking Minority Member; Chase, Nelson and Roach.

Staff: Karen Epps (786-7424)

Background: The authority for the creation of unincorporated area councils (UAC) is by order of the King County Executive in 1994. There are currently six UACs recognized by the King County Council. They are organized as nonprofit corporations.

The Executive Order directs governmental departments in King County to seek advice and comment from UACs regarding policies, county programs, citizen appointments to advisory committees, community plans, subarea plans, and other plans and issues specifically affecting the citizens within the geographic boundary of the UAC. All departments must, to the best of their ability, respond to the requests of the UACs for notice and information regarding policies, county programs, citizen appointments to advisory committees, community plans, subarea plans, and other plans and issues affecting the citizens living within the geographic boundary of the UAC.

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.

UAC membership must be open to any person who lives within the recognized boundaries of the UAC. These boundaries should correspond to and respect existing community identities.

The UAC must maintain a complete and up-to-date set of bylaws at a public location designated by King County. Each UAC must, in its bylaws, provide for a public and democratic process for voting and choosing its officers and board members. Each UAC sets forth meeting requirements for the membership in the bylaws and abides by the Washington State Open Public Meetings Act (RCW 42.30.010) relative to public meetings and public records.

In contrast, the statutory authority for community councils for unincorporated areas applies to counties with populations exceeding 30,000 composed entirely of islands. Their purpose is to serve as forums for the discussion of local issues, especially growth management and zoning issues. At this time, the only qualifying county is Island County.

Statutory community councils are created by the filing of a petition of at least 10 percent of the voters, with the county legislative authority holding public hearings, calling a special election within the community to determine whether the council is created, and to elect initial community council members at the next state general election. Creation of the community council requires approval by a simple majority vote.

Community council members are elected according to general election laws for four-year staggered terms at nonpartisan elections. The county provides administrative and staff support for each community council.

There are currently no statutory community councils in Island County.

The Public Records Act (PRA) applies to state agencies and local agencies. Local agencies are cities, counties, towns, municipal corporations, quasi-municipal corporations, special purpose districts, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

Summary of Bill: Unincorporated area councils and their volunteer members are neither state nor local agencies under the PRA.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill addresses a situation of public disclosure gone wild with thousands of dollars spent in forensic specialists searching computers. Everyone over the age of 18 can vote and come to meetings of the King County community council on Vashon and Maury Island. They do not have legal representation, computer specialists, paid staff, office space, or filing cabinets. Volunteers are fleeing the

organization because of fear of lawsuits brought to harass and intimidate. The entire board resigned after a King county prosecutor's opinion that the UAC is subject to the PRA. The work of the UAC suffers under these circumstances. Use of the PRA this way does not further transparency. Home owners' associations and independent community councils should also be exempt.

CON: Transparency is necessary, however, we should disentangle the liability or curtail it in the face of good faith efforts. A council created by executive order should get compliance assistance. The PRA and the Open Public Meetings laws are essential to protect people's rights and should not be undermined. Federal and state law already protect the UAC from everything except willful negligence. This bill reaches beyond that. It is the King County governance that is flawed. The current board of the UAC was not informed or consulted about the bill. Washington has 1.7 million volunteers. It is the PRA that holds the UAC accountable for the money given it by King county.

Persons Testifying: PRO: Senator Nelson, prime sponsor; Dan Schueler, Voice of Vashon; Hilary Emmer, Vashon Maury Island Community Council; Jim Hedrick, King County.

CON: Tim Johnson, Vashon Maury Island Community Council; Thomas Bangasser, Vashon Maury Island Community Council.