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**HOUSE BILL 1856**

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**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

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

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

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

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

(2) At a minimum, the study must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Four representatives from media and broadcasting organizations, with the senate majority leader, senate minority leader, speaker of the house of representatives, and the minority leader of the house of representatives each appointing one representative;

(e) One member appointed by the governor;

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

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

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

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

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

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

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

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

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