

# HOUSE BILL REPORT

## HB 1055

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**As Reported by House Committee On:**  
State Government & Tribal Relations

**Title:** 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.

**Brief Description:** Enhancing access to public records.

**Sponsors:** Representatives Abbarno, Low, Leavitt, Penner, Marshall and Pollet.

**Brief History:**

**Committee Activity:**

State Government & Tribal Relations: 1/15/25, 2/7/25 [DP].

**Brief Summary of Bill**

- Establishes the Joint Legislative Committee on Transparency (JLCT) to coordinate with the Joint Legislative Audit and Review Committee (JLARC), the Office of the Attorney General, and the Public Records Exemptions Accountability Committee (Sunshine Committee) to conduct a study on the efficacy of establishing an independent state agency to assist individuals with accessing public records.
- Requires JLARC to submit a report on the findings of the study and recommendations by the JLTC.

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### HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

**Majority Report:** Do pass. Signed by 7 members: Representatives Mena, Chair; Stearns, Vice Chair; Waters, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Chase, Doglio and Farivar.

**Staff:** Desiree Omli (786-7105).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

The Public Records Act (PRA), enacted in 1972 as part of Initiative 276, requires all state and local government agencies to 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 confidential.

The PRA requires agencies to take certain actions to assist the public in making and navigating disclosure requests. For example, state and local agencies are required to appoint and publicly identify a public records officer who serves as the point of contact for members of the public requesting public records and to oversee the agency's compliance with disclosure requirements. State and local agencies are also required to prominently display their agency-specific PRA policy which must serve as a guide and facilitate public access to public records. The policy must describe the process of how to make requests, including the places in which, and the employees from whom, the public may obtain information and submit PRA requests. For informational purposes, each agency is also required to publish a list of every disclosure exemption found outside of the PRA, and local agencies are required to maintain an index for the identification and location of certain records.

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## **Summary of Bill:**

Subject to amounts appropriated, the Joint Legislative Audit and Review Committee (JLARC) must coordinate with the newly created Joint Legislative Committee on Transparency (JLCT), the Office of the Attorney General, and the Public Records Exemptions Accountability Committee (Sunshine Committee) to conduct a study on the efficacy of establishing an independent nonpartisan agency dedicated to promoting open government and assisting individuals with accessing public records. The office would be named the Washington Office of Transparency Ombuds (OTO). The study must:

- include an overview of each state's public records laws, or similar laws, and compare those laws with Washington's public records laws;
- evaluate independent state agencies that are located in other states and are dedicated to serving individuals who seek to access public records, which must include, among other things, information on whether litigation pertaining to public records requests has decreased after the creation of the state's independent agency and resources provided by the state to assist individuals in understanding public records laws;
- determine the efficacy of establishing the OTO, which will be measured by potential cost savings from reduced litigation costs, increased ease of access to public records, additional resources to assist the public in understanding public records laws, and the prospect of an independent agency to provide individuals with alternatives to litigation; and

- include recommended duties of the OTO.

The JLCT is created to coordinate with JLARC on the study. The JCLT is staffed by the Office of Program Research and Senate Committee Services. Members of the committee include:

- the Chair of the Sunshine Committee, who will serve as the Chair of the JLCT unless its membership chooses otherwise;
- four legislative members, one from each of the minority and majority caucuses of each chamber, appointed by the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate;
- four representatives from the Media and Broadcasting Committee, appointed by the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate;
- one member appointed by the Governor;
- one member appointed by the Attorney General; and
- one representative from JLARC.

The JLCT must meet no later than June 1, 2026, and at least once a month thereafter. JLARC must submit a report to the Legislature no later than December 1, 2026, on the findings of the study and a recommendation on the efficacy of establishing the OTO. The JLCT and study sunset on December 31, 2026.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Establishing this committee will start the conversation about whether the PRA in its current form is actually working for agencies, local governments, and requesters. It is in government's best interest to examine the current process and determine whether it is the most cost effective and efficient way to ensure that the public is getting what they are requesting in a reasonable amount of time without overburdening public agencies. Currently there is one option if an agency does not comply with the PRA and that is to sue in court which drives costs up. This committee will be tasked with evaluating different options. There needs to be a focus on administrative processes rather than judicial processes to find resolutions to PRA disputes.

The language of the act can be modified to accommodate JLARC's workload, such as modifying the timelines in the act or modifying the committee's duty to evaluate systems in other states.

(Opposed) Making public records accessible is vital to democracy and a basic government responsibility. There is an unacceptable level of dysfunction in the state's current public records request and maintenance processes. Local jurisdictions are concerned about the costs and nuanced law suits that this bill does not address. The real solution is to provide funding to local jurisdictions to help them fulfill their PRA obligations and provide better protection of digital data. Looking at systems in other states might create more problems and obstacles in our state.

The existing system of judicial enforcement was approved by an overwhelming vote of the people. The volume of lawsuits brought under the PRA has been essentially steady since 2018 despite the increase in the state's population. JLARC data showed that 0.3 percent of records requests under the PRA lead to a lawsuit and that litigation dropped in 2023 by 16 percent. The model in Pennsylvania is terrible and should not be adopted in Washington.

The proposal to create a new agency comes when the budget is already strained. It would make receiving records slower and would cost more for requesters and jurisdictions.

(Other) The state needs to acknowledge that records management is the core function of government and the state needs to help small jurisdictions in their records management, including investing in appropriate software and hiring dedicated professional staff to handle public records requests rather than adding it to someone's already existing list of responsibilities. It is important work that someone needs to do, but the Sunshine Committee and JLARC do not have the capacity to do the work required under the bill. The state should also have a dedicated open government employee who handles PRA issues and issues related to the Open Public Meetings Act.

**Persons Testifying:** (In support) Representative Peter Abbarno, prime sponsor.

(Opposed) DONNA CHRISTENSEN; Robert McClure, Washington Coalition for Open Government; Jim Simon, individual; and Ellen Hiatt, Washington Newspaper Publishers Association.

(Other) Joe Kunzler; and Rowland Thompson, Myself.

**Persons Signed In To Testify But Not Testifying:** None.