HOUSE BILL REPORT
HB 1934

As Passed Legislature

Title: An act relating to the disclosure of information pertaining to complainants, accusers, and witnesses in an employment investigation.

Brief Description: Concerning the disclosure of information pertaining to complainants, accusers, and witnesses in an employment investigation.

Sponsors: Representatives Chase, Doglio and Schmidt.

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/18/25, 2/19/25 [DP].

Floor Activity:

Passed House: 3/4/25, 92-4.
Senate Amended.
Passed Senate: 4/8/25, 48-1.
House Concurred.
Passed House: 4/22/25, 92-5.
Passed Legislature.

Brief Summary of Bill

- Modifies an existing Public Records Act exemption related to investigations of unfair practices or workplace discrimination or harassment to require the agency, prior to disclosure of the investigative records, to also redact the images, employee agency job titles, email addresses, and phone numbers of complainants, accusers, and witnesses, and alter their voices on audio recorded during the investigation while retaining inflection and tone, with exceptions.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

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.

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).

Background:

The Public Records Act (PRA) requires state and local agencies to make all public records available for public inspection and copying unless a record falls within an exemption under the PRA or another statute that exempts or prohibits disclosure of specific information or records. Exemptions under the PRA are permissive, meaning that an agency, although not required to disclose, has the discretion to provide an exempt record. The exemptions under the PRA are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be redacted from the specific records sought. The PRA is liberally construed, and its exemptions are narrowly construed.

Investigative records compiled by an employing agency in connection with pending investigations of unfair practices under the Washington Law Against Discrimination (WLAD) or other possible violations involving discrimination or harassment in employment are exempt. After the outcome of the investigation, the employing agency may disclose the records after the names of complainants, accusers, and witnesses are redacted, unless there is consent to disclosure.

Summary of Bill:

The disclosure exemption for records relating to investigations of unfair practices under the WLAD or other possible violations involving discrimination or harassment in employment is modified to expand the list of items that must be redacted from investigative records. Prior to disclosing any records after an investigation is concluded, the employing agency must also redact the images, employee agency job titles, email addresses, and phone numbers of complainants, accusers, and witnesses, except that the name and title of a complainant may not be redacted if the complainant is an elected government official. In addition, the employing agency must ensure that the voices of complainants, accusers, and witnesses on audio recordings taken during the course of the investigation are altered while retaining inflection and tone. The additional redaction requirements do not need to be met if there is consent to disclosure.

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) The goal of this bill is to protect public employees involved in an investigation of workplace harassment by protecting personal identifiers. This will help to protect public employees against retaliation while still providing the public with the information they need about the substantive matters of the investigation. Although the PRA is a tool for open government, it should not be misused as a tool for retaliation and harassment of employees who cooperate in an investigation of workplace misconduct. If an accused person wants unredacted information, there is a discovery process for that during litigation. Public employees serve as the eyes and ears of an agency and they play an important role in reporting wrongdoings and ensuring that government employers are held accountable for misconduct. However, making personal identifiers public in cases involving sensitive information, such as in workplace harassment claims, has a chilling effect on people and makes people less likely to report misconduct or to cooperate in an investigation.

There was an incident in Spokane where a public official was accused of harassment. Employees reported the incident and an investigation commenced. The accused used the PRA to obtain records of the investigation and identify employees who were involved in the investigation using information from the records such as the person's job title. Those employees experienced further retaliation and harassment by the accused. The protections in this bill will prevent victims of workplace harassment, who have already suffered from a stressful situation, from being revictimized.

(Opposed) This will create more challenges and ambiguities that may be unintended. Retaliation is an interesting dynamic where an employer can be the party that is retaliating against an employee for various reasons. The PRA is a helpful tool that an employee in that position can use to prove that their employer acted improperly. This bill would allow agencies to edit records and hide records from someone who needs to use the PRA as a tool to prove their innocence, thereby enabling government conspiracies. People have a right to confront their accusers, which is a fundamental tool for due process.

Persons Testifying: (In support) Representative Rob Chase, prime sponsor; James Trefry, WSCCCE, AFSCME Council 2; Candice Bock, Association of Washington Cities; Patricia Rhoades; Marci Patterson; Deanna Horton; John Whitehead, HR Director, City of Spokane Valley; and Kelly Konkright, City Attorney, City of Spokane Valley.

(Opposed) Albert Merkel, Spokane Valley; and Brady Horenstein, Attorney at Law.

Persons Signed In To Testify But Not Testifying: None.