

# HOUSE BILL REPORT

## SSB 5295

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

**Title:** An act relating to the unanimous recommendations of the public records exemptions accountability committee.

**Brief Description:** Implementing unanimous recommendations of the public records exemptions accountability committee.

**Sponsors:** Senate Committee on Government Operations & Elections (originally sponsored by Senators Kline, Oemig, Rockefeller, Holmquist, King, Hatfield and Hobbs).

**Brief History:**

**Committee Activity:**

State Government & Tribal Affairs: 3/17/09, 3/26/09 [DPA].

**Brief Summary of Substitute Bill  
(As Amended by House)**

- Addresses recommendations from the Public Records Exemption Accountability Committee.

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### HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

**Majority Report:** Do pass as amended. Signed by 7 members: Representatives Hunt, Chair; Appleton, Vice Chair; Armstrong, Ranking Minority Member; Alexander, Flannigan, Hurst and Miloscia.

**Staff:** Pam Madson (786-7111)

**Background:**

The Public Records Act (PRA) requires that all state and local government agencies make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally while the exemptions are interpreted narrowly to effectuate the general policy

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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 a part of the legislation nor does it constitute a statement of legislative intent.*

favoring disclosure. The PRA contains a provision that if a conflict occurs between a provision of the PRA and any other law, the provisions of the PRA shall govern.

In 1972 voters approved Initiative 276. The initiative addressed, among other issues, access to public records. At the time the initiative was passed, there were 10 exemptions from public records disclosure. Today, there are at least 300 specific references in the PRA or other statutes that remove certain information from application of the act, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential.

In 2007 the Legislature created the Public Records Exemption Accountability Committee, known as the Sunshine Committee (Committee), to review all public records exemptions and make annual recommendations to the Legislature whether to maintain the exemption, modify the exemption, schedule it for sunset review at some later time, or terminate the exemption.

In November 2008, the Committee made 12 recommendations, eight of which were unanimous. The unanimous recommendations covered the following:

- child mortality reviews;
- agricultural exemptions;
- State Investment Board criminal history checks;
- employee wellness program information about individuals;
- application materials for two state agency directors;
- personal information of participants in transportation programs;
- identity of persons and current investigations related to workplace discrimination; and
- maritime employment salary survey data.

In some cases, exemptions are contained within the PRA, and other cases the exemption is found in statutes outside the PRA but are referenced in the PRA.

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### **Summary of Amended Bill:**

Based on the recommendations of the Public Records Exemption Accountability Committee (Committee) that were made unanimously, the following changes are made to public disclosure and copying of the following records.

Child Morality Reviews. The statute governing the confidentiality of child mortality reviews is modified. Health care information collected as part of a child mortality review is not subject to disclosure. Witness statements, documents collected from witnesses, or documents prepared solely for the mortality review are not subject to disclosure. Health departments may continue to disclose statistical compilations and reports that do not identify individual cases or sources.

The exemption contained in the PRA makes reference to the exemption found in the statute on child mortality reviews. Further, if an agency provides copies of exempt documents to another agency, the documents remain exempt to the same extent as with the originating

entity. The documents may be marked as exempt to provide notice to the receiving agency but this marking is not determinative of the documents actual exemption from disclosure.

Agricultural Exemptions. Descriptions of the following agricultural exemptions are included in the PRA: (1) information on the purchase, sale, or production of individual American ginseng growers or dealers; (2) information for issuance of certificates of compliance for packers and shippers of fruits and vegetables; and (3) financial statements used to determine whether an applicant meets the minimum net worth requirements to operate a public livestock market.

Employee Wellness Programs. The exemption is moved into the PRA. All documents received under a wellness program are exempt from public disclosure, except statistical reports that do not identify individual participants. The statute establishing a state wellness program is modified to apply to all state and local government wellness programs.

Candidate Lists. The lists of candidates provided to the Governor for the Director of the Workforce Training and Education Coordinating Board and the Director of the Recreation and Conservation Office are no longer exempt but are now subject to public disclosure.

Personal Information of Participants in Transportation Programs. The exemption for personally identifying information of persons who acquire and use transit passes is modified. This information is exempt from disclosure to news media reporting on public transportation or public safety. This information may be disclosed to entities that are financially responsible for the payment of the fare program for purposes of preventing fraud. It may also be released to law enforcement agencies if accompanied by a court order which is consistent with another exemption for persons using devices to facilitate paying tolls.

Investigations Related to Workplace Discrimination. Exemptions providing confidentiality for those who seek advice from an agency on potential discrimination and for the confidentiality of a current discrimination investigation are retained but clarified. A current investigation is an active and on-going investigation.

Maritime Employees. The cross-reference under the PRA for an exemption for salary and benefit information for maritime employees collected from employers for salary and benefit surveys is clarified. This exemption applies to information collected from private employers.

#### **Amended Bill Compared to Original Bill:**

The amendment removes a section that provides if the textual description of an exemption in the PRA conflicts with the statute it references, the referenced statute controls.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) This bill deals with eight different items that are tied together because they are the subject of unanimous recommendations of the Sunshine Committee (Committee). The Committee is made up of legislators, businesses, and agencies who are users of the public disclosure laws or who must respond to requests for public disclosure. Much time was spent by the committee on these recommendations. After a good deal of time, discourse, and work on the language, these recommendations were unanimous.

(Opposed) None.

**Persons Testifying:** Senator Kline, prime sponsor.

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