

SENATE BILL REPORT

SB 6411

AS OF FEBRUARY 4, 1992

Brief Description: Making changes in public disclosure laws.

SPONSORS: Senators Madsen and Murray

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Staff: Rod McAulay (786-7754)

Hearing Dates: February 6, 1992

BACKGROUND:

The Open Public Meetings Act of 1971 and Initiative 276 in 1972 (public disclosure) established the rules for public access to government records and meetings. House Concurrent Resolution 4418, passed during the 1991 Regular Session established a Joint Select Committee on Open Government to study the adequacy of these laws. The committee was charged to develop recommendations including proposed legislation addressing: (1) recodification and clarification of existing laws; (2) revision and clarification of exemptions; (3) provision of a means to inform government officials and citizens of their rights and enforcement procedures; and (4) reduction in delay and cost of obtaining decisions on access.

SUMMARY:

Open public records: The definition of "writing" includes motion pictures, film and video recordings, diskettes, sound recordings, and data compilations from which information may be obtained or translated.

Agencies must publish a list of every law that exempts or prohibits disclosure of specific information or records of the agency.

When a record that is scheduled for destruction is requested, the agency shall retain the record until the request is resolved.

Information revealing the identity of persons who are witnesses to or victims of crime is exempt from disclosure. The identity of an agency employee making an informal inquiry regarding his or her rights in connection with unfair or discriminatory labor practice may not be disclosed if confidentiality is requested by the employee.

Agencies must respond to a request for information within five days by either (1) providing the record; (2) acknowledging the

request and providing an estimate of the time needed to respond; or (3) denying the request.

Only a person, other than an agency, who is named in a record or to whom the record pertains may request a court to enjoin disclosure. An agency may, but is not required to, notify affected persons of a request for disclosure.

A person requesting information from an agency may request court review of an agency's estimate of the time needed to produce the requested information if the requester believes that it is unreasonable. At any court hearing, the burden of proving that the delay is reasonable is on the agency. In any judicial review of agency actions under this act, a court may conduct a hearing based solely on affidavits. Any person who prevails in an action against an agency may be awarded, in addition to costs and attorneys' fees, penalty charges of not less than \$5 per day to no more than \$100 per day for each day of delay.

The Attorney General shall publish a pamphlet, written in plain language, explaining the public records disclosure laws. The Attorney General shall provide a letter opinion on the applicability of an exemption when requested by a person who has been denied access to information.

No public agency, official or employee shall be liable for any damage based upon the release of a public record if acting in good faith.

The Legislature urges the creation of a body to address electronic data issues. The Washington State Institute for Public Policy shall conduct a review of current exemptions.

Open public meetings: Entities subject to the open public meeting laws include any authority; council; standing, special or advisory committees; boards; commissions; task forces; subcommittees or other subagencies. "Public agency" does not include any agency of the judicial or legislative branches nor does it include any advisory groups involving agency personnel or officials.

"Meeting" includes teleconferences, but not a majority of the members traveling or gathered for purposes other than a regular or special meeting.

No action may be taken on any matter during executive session other than the matter for which a specific purpose has been previously announced. The proceedings at executive sessions must be recorded. Violations of provisions regarding the providing of agendas and running executive sessions shall render actions null and void. Void actions shall not be taken again unless there is opportunity for a de novo discussion and action is undertaken at a properly conducted meeting.

The time and place of meetings shall be established with consideration for the convenience of the public. The times scheduled shall not be overly broad or have unreasonable

breaks such that the public cannot determine when actual meetings will occur.

Appropriation: none

Revenue: none

Fiscal Note: requested January 29, 1992