HOUSE BILL REPORT
ESHB 2483

As Passed House:
February 11, 1998

Title: An act relating to the protection of taxpayer funded computer software.

Brief Description: Exempting specified computer software from public disclosure.

Sponsors: By House Committee on Government Administration (originally sponsored by Representatives Dunn, Wolfe and D. Schmidt; by request of Department of Information Services).

Brief History:
  Committee Activity:
    Government Administration: 1/28/98, 2/5/98 [DPS].
  Floor Activity:
    Passed House: 2/11/98, 95-0.

HOUSE COMMITTEE ON GOVERNMENT ADMINISTRATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives D. Schmidt, Chairman; D. Sommers, Vice Chairman; Scott, Ranking Minority Member; Gardner, Assistant Ranking Minority Member; Doumit; Dunn; Dunshee; Murray; Reams; Smith; L. Thomas and Wolfe.

Minority Report: Do not pass. Signed by 1 member: Representative Wensman.

Staff: Caroleen Dineen (786-7156).

Background: Information held by a public agency is generally subject to public disclosure. Numerous exemptions to the public disclosure requirements are codified in statute. Some of these exemptions relate to records containing personal information and proprietary business information. State and local agencies are required to make records not included within a statutory exemption available for public inspection and copying.

Summary of Bill: A new exemption for computer software is added to the public disclosure requirements. An intent section specifies the new statutory exemption is designed to protect taxpayer investments in software development and to encourage public-private cooperation with respect to software development.

A state agency's computer software is exempt from public inspection and copying. The exemption applies to computer software: (a) wholly owned by a state agency; and (b) owned by a state agency in conjunction with a private entity. For purposes of the exemption, "computer software" is defined as the programming source code or object code necessary for the operation of a computer program. Records accessible through the computer program are not included within the exemption and are subject to public disclosure unless otherwise exempt.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This is request legislation from the Department of Information Services. This public disclosure exemption will protect the significant taxpayer investment in software development and is needed to allow for better negotiations with vendors. Because agency owned software is now subject to disclosure, agencies have no intellectual property protections, may pay increased costs for applications purchased from outside vendors, and may not be able to obtain licensing rights from vendors. (Original bill) Systems developed by agencies and local governments are public assets.

The amendment clarifies that only the software, not the records, is exempt and ensures the software application will be made available to access the records.

Testimony Against: Public money is used to develop software, and keeping the software in the public domain will increase competition and foster better software development. People are not going to use the public records law to obtain free software to sell to others. Too many exemptions to the public disclosure law already exist.

Testified: Representative Dunn, prime sponsor; Todd Sander and Paul Taylor, Department of Information Services; Rowland Thompson, Allied Daily Newspapers Association; and Jim Justin, Association of Washington Cities (all pro). Sherry Bockwinkel, Citizens for Leaders with Ethics and Accountability Now (CLEAN) (con).