

HOUSE BILL REPORT

HB 2754

As Reported By House Committee On:

Government Administration

Title: An act relating to the distribution of certain governmental lists and information.

Brief Description: Allowing state agencies to provide other government agencies or business entities not engaged in commercial solicitation with lists of public information.

Sponsors: Representatives Dyer and Wolfe.

Brief History:

Committee Activity:

Government Administration: 2/3/98, 2/5/98 [DPS].

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; L. Thomas; Wensman and Wolfe.

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

Staff: Steve Lundin (786-7127).

Background: 1. Open public records generally.

The open public records law requires that all public records of state agencies and local governments be open for public inspection and copying unless expressly excluded. Among other express exclusions, the following public records are not available for inspection and copying by the public: (1) Personal information in files the disclosure of which would violate the right to privacy; (2) certain taxpayer information; (3) certain financial and commercial information supplied by individuals applying for various programs; and (4) valuable formulae or designs.

Unless specifically authorized, the open public records law does not authorize the use of lists of individuals for commercial purposes. The term commercial purposes— is not defined.

2. State tax information.

State tax returns and information are confidential and privileged. However, the Department of Revenue is expressly authorized to disclose certain tax information, including: (1) Sharing such information with law enforcement agencies and other governmental agencies; and (2) taxpayer names, addresses, and other information not associated with tax information– if this information is not used for commercial purposes. The term commercial purposes– is not defined.

3. Motor vehicle registration information.

The Department of Licensing may provide lists of the owners of registered vehicles for various purposes, including the provision of information to motor vehicle dealers and businesses making loans for the purchase of motor vehicles.

4. Public electronic records with personally identified information.

State and local governments that collect and enter personally identified information into electronic records are required to establish procedures for individuals to review this information and recommend changes they feel are not accurate.

Summary of Substitute Bill: Changes are made to the disclosure and use of personally identifiable information in public records.

1. State agencies in general.

State agencies may furnish lists of publically disclosable records about individuals to private data base companies providing on-line computer data base services with data consisting primarily of public records. Prior to providing these lists to private data base companies, the state agency must obtain written agreement and assurances that the data base company will only supply this information to governmental agencies.

The company receiving this information assumes full responsibility and liability for prohibitions on secondary use of this information. A company that knowingly allows the unauthorized use of this information is subject to a penalty of \$500 or actual damages for the unauthorized use of each name on the list. A company may not obtain these lists for five years if it knowingly makes an unauthorized use of this information.

2. Department of Licensing.

The Department of Licensing is given express authority to provide lists of public information to private data base companies under the restrictions described above. A private data base company may not provide these lists to anyone else, except for purposes authorized by law.

3. Department of Revenue.

The Department of Revenue is given express authority to provide lists of taxpayer names and addresses, and certain other non-tax information, to private data base companies under the restrictions described above.

4. Notice of public information disclosure.

State agencies and local governments that collect information subject to disclosure must, to the extent practicable, post public notice that the information may be disclosed as part of a public record. When requested, state and local governments must provide written statements detailing the potential disclosure of public records and the common business uses of these public records. Failure to post this notice or provide these statements may not limit access to public records.

Each state agency and local government is required to maintain a list of all agreements with other governments and business entities for the release and disclosure of public records information.

Substitute Bill Compared to Original Bill: Non-commercial solicitation business use of this information was deleted. Only disclosable information may be obtained.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This allows a narrow use of this information. A similar bill passed unanimously from the House last year.

Testimony Against: This has privacy implications. There are no adequate controls on secondary uses.

Testified: Representative Wolfe, sponsor (pro); Sharon Foster, Commercial Information Systems (pro); Janeane Dubuar, Computer Professionals for Social Responsibility (con); and Jerry Sheehan, American Civil Liberties Union (con).