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**State Government Committee**

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**SB 6545**

**Brief Description:** Exempting from public disclosure certain records filed with the utilities and transportation commission.

**Sponsors:** Senators Schmidt, Eide and Esser.

**Brief Summary of Bill**

Revises the process for disclosure and protection of confidential records filed with the Utilities and Transportation Commission:

- after a request for disclosure, the owner of the information must provide reasons why the information requested should remain confidential;
- requester of information must demonstrate in court a need to know and that release is in the public interest; and
- in a legal proceeding, the owner of the information must be joined as a party to the action.

**Hearing Date:** 2/26/04

**Staff:** Marsha Reilly (786-7135).

**Background:**

The open public records law was approved by state voters in 1972 as part of Initiative Measure No. 276. All public records of state agencies and local governments are open to public inspection and copying unless a record is expressly excluded by law. This disclosure requirement is liberally construed and any exception is narrowly constructed.

Commercial information filed with Utilities and Transportation Commission (UTC) or the Attorney General may be exempt from public disclosure either through a commission proceeding or by court order.

An exemption from disclosure exists for confidential records filed with the UTC or the Attorney General under the Public Disclosure Act, and the process for seeking protective court orders for this information is contained in a related statute concerning UTC records. When submitting information to the UTC or Attorney General, persons must designate which records or portions of records contain "valuable commercial information." Valuable commercial information is not subject to disclosure if the following events have occurred: (1) the persons directly affected by

the information have been given notice of the records request; and (2) the persons have obtained a protective court order within ten days of the notice. In granting the order, a court must determine that the information is confidential and that disclosure would result in private loss, which includes an unfair competitive disadvantage.

**Summary of Bill:**

The Public Disclosure Act and a related statute that governs protective court orders for records submitted to the UTC are revised. If the UTC receives a request for records that contain valuable commercial information, the owner of the information must be notified of the request. Within ten business days of receiving the notice, the owner of the information must provide a written statement of the continuing need for confidentiality, which must be provided to the requester. After receiving this notice, the UTC and the Attorney General must continue to exempt the information from disclosure.

If the requester of information seeks a court order to compel disclosure, the owner of the information must be joined as a party to that action. The requester must demonstrate the following to the court: (1) actual and pressing need to obtain the information; and (2) that the release of the information is in the public interest. The court shall not order the release of the information without a specific finding that the release will not produce undue hardship on the owner of the information. Under appropriate circumstances, the court may issue an order allowing the release of the information to the requester with restrictions.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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