

# HOUSE BILL REPORT

## HB 1133

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**As Reported by House Committee On:**  
State Government Operations & Accountability

**Title:** An act relating to creating the public records act by recodifying and making technical changes to existing law.

**Brief Description:** Reorganizing public disclosure law.

**Sponsors:** Representatives Nixon, Haigh and Shabro.

**Brief History:**

**Committee Activity:**

State Government Operations & Accountability: 2/1/05, 2/11/05 [DPS].

**Brief Summary of Substitute Bill**

- Reorganizes the public records disclosure laws into a new chapter in the Revised Code of Washington (RCW) that contains laws pertaining to open government.

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### HOUSE COMMITTEE ON STATE GOVERNMENT OPERATIONS & ACCOUNTABILITY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Haigh, Chair; Green, Vice Chair; Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Hunt, McDermott, Miloscia, Schindler and Sump.

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

**Background:**

In 1972, voters approved Initiative 276. The initiative called for disclosure of campaign finances, lobbyists activities, financial affairs of elective officers and candidates, and access to public records.

At the time the initiative was passed, there were 10 exemptions from public records disclosure. In a 1978 decision, *Hearst v. Hoppe*, the state's Supreme Court observed that the scheme set in statute by the disclosure statutes establishes a positive duty for a public agency to disclose public records *unless* they fall within the specific exemptions.

The public records disclosure statutes are contained in between the statutes for campaign finance reporting and campaign finance contribution limits, causing some confusion over who is responsible for enforcement.

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**Summary of Substitute Bill:**

The public records provisions in chapter 42.17 are recodified, amended, and reorganized as new sections in Title 42, cited as the Public Records Act. Exemptions from disclosure are reorganized into separate sections and, where possible, grouped by discrete subjects, as follows:

- personal information;
- investigative, law enforcement, and crime victim information;
- licensing and employment information;
- real estate;
- financial, commercial, and proprietary information;
- education information;
- public utilities and transportation information;
- health care information;
- agricultural and livestock information;
- insurance and financial institutions information;
- fish and wildlife information; and
- security information.

Statutes referencing chapter 42.17 are changed to reference the new chapter. No exemptions are modified, deleted, or added.

**Substitute Bill Compared to Original Bill:**

The public records section of the public disclosure act is recodified in a separate chapter within Title 42 instead of in 42.30 RCW. The section referring to powers granted to the Public Disclosure Commission is deleted. Subject titles are changed from "law enforcement" to "investigative, law enforcement, and crime victim" and "employment" to "employment and licensing" to better identify the exemptions contained within those sections. The effective date of the act is corrected to July 1, 2006, for the entire act.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect July 1, 2006.

**Testimony For:** This bill was an attempt to reduce the amount of paper used every time an amendment is made to RCW 42.17.310 because the law requires you to amend an entire section. It makes much more sense to reorganize exemptions by topic so that when the act is

amended, only a small section is quoted instead of 10 pages. Most of the chapter is administered by the PDC. The middle section having to do with public records disclosure is not administered by the PDC, it is administered by the attorney general and the auditor. It has more in common with the Open Public Records Act so the intent is to move it to 42.30 RCW, rename the chapter as the Open Government Act, and reorganize the exemptions. There is no substantive change. The PDC supports the intent of this bill. The Commission believes that it would alleviate confusion about who administers and who has authority to enforce. The open records provisions are in 42.17 and the Commission only has administration and enforcement authority over campaign finance and lobbying disclosure and personal financial affairs reporting. The PDC receives approximately three questions a week asking for advice on public records requests and by the time callers are referred to the proper authority, the frustration level of the caller increases substantially. It is suggested, however, that section 291 of the bill be deleted so that the Commission's power and authority would not extend to open public meetings, as this was not the intent of the bill. The State Auditor is a staunch supporter of open public meetings and records. It is essential to good government. Anything that can be done to technically improve the ability to make changes to strengthen the law would be a good idea. The Allied Daily Newspapers of Washington are in favor of the bill. It has been an issue for us that the two acts are not related, and that there is confusion regarding enforcement. Currently, open public meetings and public records are bifurcated from each other. One could say that a meeting was a meeting and a record is a record. There currently are 11 exemptions to the Open Public Meetings Act relating to closing a meeting. If a disclosed item is discussed at an open public meeting it becomes open to the public. It is suggested that something be codified to make sure that there is no "bleed through" of exemptions from the Public Records Act to the exemptions under the Open Public Meetings Act.

**Testimony Against:** None.

**Persons Testifying:** Representative Nixon, prime sponsor; Vicki Rippie, Public Disclosure Commission; Brian Sontag, State Auditor; Rowland Thompson, Allied Daily Newspapers of Washington; and Armen Yousoufian.

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