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**SUBSTITUTE HOUSE BILL 1134**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on State Government Operations & Accountability  
(originally sponsored by Representatives Nixon, Haigh, Williams, P.  
Sullivan, Shabro and Linville)

READ FIRST TIME 03/07/05.

1 AN ACT Relating to an open government ombudsman; amending RCW  
2 42.17.325, 42.17.348, and 42.30.210; adding new sections to chapter  
3 42.17 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** OFFICE CREATED--PURPOSE. (1) The office of  
6 the open government ombudsman is created within the office of the  
7 attorney general to provide information on public records and open  
8 public meetings to state and local agencies and the public, represent  
9 the public in obtaining public records from state and local agencies,  
10 and maintain a web site to assist the public in obtaining information  
11 and public records under this chapter.

12 (2) The ombudsman shall report directly to the attorney general.

13 (3) The ombudsman may hire staff to implement this chapter.

14 NEW SECTION. **Sec. 2.** OMBUDSMAN--APPOINTMENT, TERM OF OFFICE. (1)  
15 The attorney general shall appoint an ombudsman who is a person of  
16 recognized judgment, independence, objectivity, and integrity, a member  
17 of the Washington state bar association, and who is qualified by

1 training or experience, or both, in issues of public disclosure and  
2 public records.

3 (2) The person appointed ombudsman shall hold office for a term of  
4 three years and shall continue to hold office until reappointed or  
5 until his or her successor is appointed. The attorney general may  
6 remove the ombudsman only for neglect of duty, misconduct, or inability  
7 to perform duties. Any vacancy shall be filled by similar appointment  
8 for the remainder of the unexpired term.

9 NEW SECTION. **Sec. 3.** DUTIES. The office of the open government  
10 ombudsman shall perform the following duties:

11 (1) Provide training and legal advice to state and local agencies  
12 and the public on the rights and responsibilities of individuals  
13 requesting public records, on the procedures for obtaining public  
14 records, and on the responsibilities of state and local agencies to  
15 release records;

16 (2) Upon receipt of a legally sufficient complaint, investigate the  
17 refusal of an agency to disclose public records and provide legal  
18 representation for individuals alleging:

19 (a) They have a legal claim of access to public records;

20 (b) The agency has redacted information that should be disclosed;

21 or

22 (c) There has been a delay in disclosing records;

23 (3) Provide training to state and local agencies on agency  
24 responsibilities relating to open public meetings;

25 (4) Submit annually by November 1st to the attorney general and  
26 appropriate committees of the legislature a report analyzing the work  
27 of the office of the open government ombudsman;

28 (5) Establish and maintain a public records clearinghouse and  
29 informational web site; and

30 (6) Adopt rules necessary to implement this chapter.

31 NEW SECTION. **Sec. 4.** COMPLAINTS. The office of the open  
32 government ombudsman shall adopt rules establishing a formal complaint  
33 process to be used by members of the public and the office. A  
34 complaint shall be considered legally sufficient for purposes of  
35 sections 1 through 4 of this act if it states the grounds and factual

1 basis upon which the complainant believes a complaint should be  
2 conducted and is signed by the complainant.

3 **Sec. 5.** RCW 42.17.325 and 1992 c 139 s 10 are each amended to read  
4 as follows:

5 Whenever a state agency concludes that a public record is exempt  
6 from disclosure and denies a person opportunity to inspect or copy a  
7 public record for that reason, the person may request the (~~attorney~~  
8 ~~general~~) open government ombudsman to review the matter. The  
9 (~~attorney general~~) open government ombudsman shall provide the person  
10 with his or her written opinion on whether the record is exempt.

11 Nothing in this section shall be deemed to establish an attorney-  
12 client relationship between the (~~attorney general~~) open government  
13 ombudsman and a person making a request under this section.

14 **Sec. 6.** RCW 42.17.348 and 1992 c 139 s 9 are each amended to read  
15 as follows:

16 The (~~attorney general's~~) office of the open government ombudsman  
17 shall publish, and update (~~when appropriate~~) annually, a pamphlet,  
18 written in plain language, explaining the provisions of (~~the~~) public  
19 records (~~subdivision of~~) disclosure under this chapter and open  
20 public meetings under chapter 42.30 RCW.

21 **Sec. 7.** RCW 42.30.210 and 2001 c 216 s 2 are each amended to read  
22 as follows:

23 The (~~attorney general's office~~) open government ombudsman may  
24 provide information, technical assistance, and training on the  
25 provisions of this chapter.

26 NEW SECTION. **Sec. 8.** CAPTIONS NOT LAW. Captions used in this act  
27 are not any part of the law.

28 NEW SECTION. **Sec. 9.** Sections 1 through 4 of this act are each  
29 added to chapter 42.17 RCW.

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