
HOUSE BILL 1134

State of Washington 59th Legislature 2005 Regular Session

By Representatives Nixon, Haigh, Williams, P. Sullivan, Shabro and Linville

Read first time 01/17/2005. Referred to Committee on State Government Operations & Accountability.

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 state
7 auditor to provide information on public records and open public
8 meetings to state and local agencies and the public, represent the
9 public in obtaining public records from state and local agencies, and
10 maintain a web site to assist the public in obtaining information and
11 public records under this chapter.

12 (2) The ombudsman shall report directly to the state auditor.

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

14 NEW SECTION. **Sec. 2.** OMBUDSMAN--APPOINTMENT, TERM OF OFFICE. (1)
15 The state auditor 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 state auditor may remove
6 the ombudsman only for neglect of duty, misconduct, or inability to
7 perform duties. Any vacancy shall be filled by similar appointment for
8 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 auditor and appropriate
26 committees of the legislature a report analyzing the work of the office
27 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 this
35 chapter if it states the grounds and factual basis upon which the

1 complainant believes a complaint should be conducted and is signed by
2 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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