
HOUSE BILL 1676

State of Washington

61st Legislature

2009 Regular Session

By Representatives Kessler, Miloscia, Ross, and Kelley; by request of Attorney General and State Auditor

Read first time 01/27/09. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to the open public meetings act; and amending RCW
2 42.30.030, 42.30.120, and 42.30.210.

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

4 **Sec. 1.** RCW 42.30.030 and 1971 ex.s. c 250 s 3 are each amended to
5 read as follows:

6 (1) All meetings of the governing body of a public agency shall be
7 open and public and all persons shall be permitted to attend any
8 meeting of the governing body of a public agency, except as otherwise
9 provided in this chapter.

10 (2) A governing body of a public agency may record its closed
11 executive session meetings described under RCW 42.30.110. Executive
12 session recordings by a governing body are public records exempt from
13 disclosure, inspection, or copying under chapter 42.56 RCW unless
14 disclosure of specific recordings is explicitly authorized by
15 resolution of the governing body. If an agency elects to disclose a
16 recording that may otherwise be protected by a privilege or statutory
17 exemption, any privilege or statutory exemption is waived only for the
18 record produced.

1 **Sec. 2.** RCW 42.30.120 and 1985 c 69 s 1 are each amended to read
2 as follows:

3 (1) Each member of the governing body who attends a meeting of such
4 governing body where action is taken in violation of any provision of
5 this chapter applicable to him or her, with knowledge of the fact that
6 the meeting is in violation thereof, shall be subject to personal
7 liability in the form of a civil penalty in the amount of one hundred
8 dollars. The civil penalty shall be assessed by a judge of the
9 superior court and an action to enforce this penalty may be brought by
10 any person. A violation of this chapter does not constitute a crime
11 and assessment of the civil penalty by a judge shall not give rise to
12 any disability or legal disadvantage based on conviction of a criminal
13 offense.

14 (2) Any person who prevails against a public agency in any action
15 in the courts for a violation of this chapter shall be awarded all
16 costs, including reasonable attorneys' fees, incurred in connection
17 with such legal action. Pursuant to RCW 4.84.185, any public agency
18 (~~who~~) that prevails in any action in the courts for a violation of
19 this chapter may be awarded reasonable expenses and attorneys' fees
20 upon final judgment and written findings by the trial judge that the
21 action was frivolous and advanced without reasonable cause.

22 (3) As a remedy for any intentional violation of this chapter, a
23 court shall order the recording of a governing body's closed executive
24 sessions for a period of two years from the date of the order.
25 Recordings shall be retained for a period of two years and are exempt
26 from disclosure, inspection, or copying under the public records act,
27 chapter 42.56 RCW.

28 (4) An agency has conditional immunity from liability for damages
29 to any person that are a consequence of specific actions made without
30 legal authority in an executive session where the governing body:

31 (a) Self-discloses those specific actions in writing and by reading
32 aloud in public at the first regular meeting after the agency
33 discovers, should have discovered, or receives a complaint of an
34 unauthorized action in an executive session. The disclosure shall be
35 available for public inspection and copying;

36 (b) Before the self-disclosure, there is no final action related to
37 the specific action; and

1 (c) There is no actual or anticipated litigation related to the
2 specific action.

3 **Sec. 3.** RCW 42.30.210 and 2001 c 216 s 2 are each amended to read
4 as follows:

5 (1) The attorney general's office may provide information,
6 technical assistance, and training on the provisions of this chapter.

7 (2) The attorney general's office shall publish, and update when
8 appropriate, a pamphlet explaining this chapter written in plain
9 language.

10 (3) The attorney general and state auditor shall appoint an
11 advisory committee of public and governmental entity representatives to
12 make recommendations on the adoption of advisory model rules as
13 described in this section. The attorney general shall, by January 1,
14 2010, adopt advisory model rules for public agencies, as defined in RCW
15 42.30.020, with assistance from a committee of stakeholders, to address
16 the following subjects:

17 (a) Agencies, governmental entities, and advisory committees
18 subject to the open public meetings act;

19 (b) Meetings and actions required to be conducted openly;

20 (c) Procedures and requirements regarding quorums, notice, and
21 actions for meetings;

22 (d) Matters that may be conducted in closed session;

23 (e) Penalties and other consequences for failure to comply with
24 this chapter; and

25 (f) Any other issues pertaining to meetings under this chapter, as
26 determined by the attorney general.

27 (4) The attorney general, in his or her discretion, may from time
28 to time revise the model rules.

29 (5)(a) Each elected or appointed official who is a member of a
30 governmental body subject to this chapter shall complete training and
31 receive certification regarding the responsibilities of the
32 governmental body and its members under this chapter.

33 (b) Currently elected and appointed officials shall complete and
34 certify training within ninety days after the adoption of the attorney
35 general's model rules.

36 (c) Newly elected or appointed officials shall complete and certify

1 training within ninety days of assuming the responsibilities of office
2 after the adoption of the attorney general's model rules.

3 (6) The attorney general shall ensure that certified training is
4 made available that is based upon and consistent with the attorney
5 general's model rules. The office of the attorney general may provide
6 the training and may also approve any acceptable course of training to
7 be offered by a governmental body or other entity. The attorney
8 general or other entity providing the training shall provide a
9 certification of course completion to elected or appointed officials
10 who complete an approved training curriculum. The attorney general
11 shall ensure that at least one course of training approved or provided
12 by the attorney general is available by internet, videotape, or a
13 widely available medium at little or no cost.

14 (7) A governmental body shall maintain and make available for
15 public inspection and copying the record of each member's certification
16 of completion of training.

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