

# HOUSE BILL REPORT

## ESB 5964

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**As Reported by House Committee On:**  
Government Operations & Elections

**Title:** An act relating to training public officials and employees regarding public records, records management, and open public meetings.

**Brief Description:** Concerning training public officials and employees regarding public records, records management, and open public meetings requirements.

**Sponsors:** Senators Fain, Rivers, Braun, Hasegawa, Rolfes, Conway, Frockt, Tom, Keiser, Mullet and Hill; by request of Attorney General.

**Brief History:**

**Committee Activity:**

Government Operations & Elections: 2/25/14, 2/26/14 [DPA].

**Brief Summary of Engrossed Bill**  
**(As Amended by Committee)**

- Requires training for members of a governing body of a public agency on the requirements of the Open Public Meetings Act.
- Requires training for local and statewide elected officials on the requirements of the Public Records Act (PRA) and records retention and destruction procedures.
- Requires training for public records officers and agency records retention officers on the PRA and records retention and destruction procedures.

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### HOUSE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Majority Report:** Do pass as amended. Signed by 6 members: Representatives S. Hunt, Chair; Bergquist, Vice Chair; Carlyle, Orwall, Robinson and Van De Wege.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Taylor, Ranking Minority Member; Young, Assistant Ranking Minority Member; Christian, Kretz and Manweller.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Jasmine Vasavada (786-7301).

**Background:**

The Open Public Meetings Act (OPMA) requires that all meetings of the governing body of a public agency be open to the public and all persons must be allowed to attend. For the purposes of the OPMA, a "public agency" is defined broadly and includes, but is not limited to, any state board, commission, department, education institution, agency, local government, and special purpose district. A "governing body" is defined as a multi-member board, commission, committee, council, or other policy or rulemaking body of a public agency, or any committee thereof that is acting on behalf of the public agency.

The Public Records Act (PRA) requires that all state and local government agencies make all public records available for public inspection and copying unless certain statutory exemptions apply. Over 300 specific references in the PRA or other statutes remove certain information from application of the PRA, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential. Under the PRA, a public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency, regardless of physical form or characteristics. The provisions requiring public records disclosure must be interpreted liberally while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

The Office of the Attorney General (ATG) hosts an "Open Government" webpage which includes training and resources for compliance with open public records laws. The online training curriculum includes four lessons, including lessons on the PRA, the OPMA, and records management and retention. Agencies can use materials that fit their training needs.

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**Summary of Amended Bill:**

Every member of the governing body of a public agency must complete training in the OPMA requirements within 90 days of assuming their duties, and complete training at least once every four years as long as the individual is a member of the agency's governing body. The training may be completed remotely.

Officials in statewide or local elective office must complete training in the PRA requirements and records retention protocols within 90 days of assuming their duties, and complete refresher training at least once every four years as long as they remain in office. The training must be consistent with the ATG's model rules for the PRA compliance and may be completed remotely.

Public records officers and records retention officers must complete training in the PRA requirements and records retention protocols within 90 days of assuming their responsibilities, and complete refresher training at least once every four years as long as they

remain designated as such. The training must be consistent with the Attorney General's model rules for the PRA compliance and may be completed remotely.

The ATG may provide technical assistance and training. The act may be known and cited as the "Open Government Trainings Act."

**Amended Bill Compared to Engrossed Bill:**

The requirements for records retention training are repeated in chapter 40.14 RCW, the records retention chapter, rather than only being included in the chapter pertaining to the PRA.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect on July, 1 2014.

**Staff Summary of Public Testimony:**

(In support) The ATG has launched an Open Government training page, including a PRA training video that is a free, online, 22-minute long training resource. Online training is great for the state in controlling costs, increasing accessibility, and accommodating distance learning. This is a budget control bill that deserves the committee's support. This bill provides training on records retention, which is important because an agency cannot release a document that the agency has failed to retain. The Secretary of State's Office requests that the committee amend the bill to include the records retention provisions in the records retention chapter.

Of hundreds of public records disputes between reporters and government agencies, 80 percent are due to confusion or lack of knowledge about the proper application of the public records law. In the unfortunate event that a case ends in litigation, agency training is a mitigating factor that can reduce the penalty award to an agency.

County officials and other local governments regularly provide the PRA training that meets the bill's requirements and support the concept in this bill. This bill alone does not solve all the PRA problems, such as harassing and burdensome public records requests.

(Opposed) None.

**Persons Testifying:** Katie Blinn, Office of the Secretary of State; Nancy Krier, Office of the Attorney General; Bill Will, Washington Newspaper Publishers Association and the Washington Coalition for Open Government; and James McMahan, Washington Association of County Officials.

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