
Government Operations & Elections Committee

SB 6141

Brief Description: Concerning the confidentiality of certain records filed with the utilities and transportation commission or the attorney general.

Sponsors: Senators Roach, Hasegawa, Fain, Hobbs, Hatfield, Honeyford and Tom.

Brief Summary of Bill

- Exempts from public disclosure and copying certain records filed by solid waste collection companies with the Attorney General's Office and the Utilities and Transportation Commission, if a court determines such disclosure would result in an unfair competitive disadvantage.

Hearing Date: 2/25/14

Staff: Jasmine Vasavada (786-7301).

Background:

Public Records Act Exemptions for Certain Utility Records.

The Public Records Act (PRA) requires that all state and local government agencies make all public records available for public inspection and copying unless they fall within a statutory exemption. A statutory exemption exists for certain records filed with the Utilities and Transportation Commission (UTC) or the Attorney General's Office by privately-owned utilities providing electric, gas, water, and telecommunications services: records containing valuable commercial information, including trade secrets or confidential marketing, cost, or financial information, or customer-specific usage information. Such records are exempt from disclosure until notice to the public utility has been given and if, within 10 days of such notice, the utility obtains a court order protecting the records as confidential. The court must determine that the records are confidential and not subject to inspection and copying if disclosure would result in private loss, including an unfair competitive disadvantage.

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.

Solid Waste Collection Company Regulation.

The rates, services, and practices of transportation companies, including certain solid waste collection companies, are also regulated by the UTC. The UTC is a three-member commission that has broad authority to regulate in the public interest. The UTC regulates the rates of all solid waste collection companies operating in the unincorporated area of a county, and some collection companies operating in cities and towns. The UTC also regulates curbside recycling by residential customers. The UTC does not regulate waste collection by a municipality or commercial recycling.

Regulated solid waste collection companies have exclusive authority to operate in a service area and may recover their costs through rates. Some regulated solid waste collection companies also engage in other business activities, such as commercial recycling, that are not regulated by the UTC. Regulated companies are only authorized to recover in their rates the costs of regulated activities. To ensure that the regulated companies are not cross-subsidizing (recovering through regulated rates the costs or expenses from non-regulated activities or affiliate interests), the UTC obtains and inspects the company's non-regulated activity records, as well as records of affiliated interests, which are companies with ownership interests in the regulated companies. Regulated companies file reports of the affiliated contracts and interest relationships annually and also provide information to the UTC about revenues and costs of affiliated and non-regulated transactions when there is a rate case.

Summary of Bill:

Solid waste collection companies are provided notice if a requestor seeks disclosure of solid waste collection company records, filed with the Attorney General's Office or the UTC, containing valuable commercial information. The solid waste collection company records are exempt from disclosure under the PRA until notice has been given to the company and if, within 10 days of such notice, the solid waste collection company obtains a court order protecting the records as confidential. The court must issue such an order preventing public disclosure if the court determines that disclosure would result in private loss, including an unfair competitive disadvantage. This process is identical to an existing process by which other privately-owned utilities may seek to prevent disclosure of such commercially valuable records.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.