

# SENATE BILL REPORT

## SHB 2121

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As of February 25, 2014

**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:** House Committee on Government Operations & Elections (originally sponsored by Representatives Pollet, S. Hunt, Rodne, Bergquist, Holy, Moeller, Hayes, Carlyle, Fitzgibbon, Lias, Takko, Springer, Appleton, Morrell, Reykdal, Jinkins, Moscoso, Ryu, Fagan, Farrell, Riccelli and Freeman; by request of Attorney General).

**Brief History:** Passed House: 2/12/14, 64-34.

**Committee Activity:** Governmental Operations: 2/25/14.

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### SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

**Staff:** Samuel Brown (786-7470)

**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 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 purposes 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

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liberally while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

**Summary of Bill:** Every member of the governing body of a public agency must complete training in 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 state or local elective office must complete training in 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 Attorney General's model rules for PRA compliance and may be completed remotely.

Public records officers and records retention officers must complete training in 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 PRA compliance and may be completed remotely.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The cornerstones of trust in state government are access to public records and open meetings. It is not too much to ask of officials to take a 30-minute or less training, and records officials to take training consistent with the Attorney General's model rules. The State Auditor found 40 violations of open government laws in the last few years, usually related to lack of training. Openness and transparency starts from the top, so if the top officials are engaged with the laws, understand them, and push that culture from the top down, that is one of the most important things we can foster to make sure these laws are complied with. These provisions should be mandatory. Lack of PRA training is an aggravating factor for increasing penalties for violations, but training is a mitigating factor. Many county officials would probably already be in compliance with this bill. There is hope that the Legislature would not enact a bill like this and just assume that work on public records is done.

**Persons Testifying:** PRO: Representative Pollet, prime sponsor; Bill Will, WA Newspaper Publishers Assn.; Nancy Krier, Attorney General's Office; James McMahan, WA Assn. of County Officials.