

SENATE BILL REPORT

SB 5964

As Reported by Senate Committee On:
Governmental Operations, February 6, 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: Senators Fain, Rivers, Braun, Hasegawa, Rolfes, Conway, Frockt, Tom, Keiser, Mullet and Hill; by request of Attorney General.

Brief History:

Committee Activity: Governmental Operations: 1/16/14, 2/06/14 [DPS].

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Majority Report: That Substitute Senate Bill No. 5964 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Hasegawa, Ranking Member; Conway, Dandel and McCoy.

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

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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.

Summary of Bill (Recommended Substitute): Every member of the governing body of a public agency may, but is not required to, 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 may, but are not required to, 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.

EFFECT OF CHANGES MADE BY GOVERNMENTAL OPERATIONS COMMITTEE (Recommended Substitute): Training in OPMA requirements for members of the governing body of a public agency is optional, rather than mandatory.

Training in PRA requirements and records retention protocols for officials in state or local elective offices is optional, rather than mandatory.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2014.

Staff Summary of Public Testimony on Original Bill: PRO: Discontinuity in training for public officials has led to lawsuits, uncertainty, and delayed public access to records. Hopefully this reduces liabilities that agencies might have as a result of innocent misunderstandings of the law. There is a need to streamline and help counties of all sizes understand the requirement to keep the public's records accessible by the public. The Sunshine Committee receives numerous requests from agencies seeking to help them clarify public records problems and disputes. These folks could benefit from some training. The public records laws are constantly changing, and it is impossible for smaller agencies to keep up.

OTHER: We have not had the opportunity to discuss this bill with our legislative committee yet, but we have long supported the PRA and training for the PRA. I encourage taking a comprehensive approach to public records issues.

Persons Testifying: PRO: Senator Fain, prime sponsor; Michael Schwab, Sunshine Committee.

OTHER: James McMahan, WA Assn. of County Officials.