

# HOUSE BILL REPORT

## HB 1349

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**As Reported by House Committee On:**  
State Government

**Title:** An act relating to requesting public records for the purpose of obtaining exempted information relating to employment and licensing.

**Brief Description:** Concerning requesting public records for the purpose of obtaining exempted information relating to employment and licensing.

**Sponsors:** Representative S. Hunt.

**Brief History:**

**Committee Activity:**

State Government: 2/18/15, 2/19/15 [DPS].

**Brief Summary of Substitute Bill**

- Prohibits a party from using the identity of an agency employee or volunteer to obtain personal information about such person that is exempted from disclosure under the Public Records Act.
- Creates a penalty of \$500 per item of exempted employee or volunteer personal information obtained in violation of this act.

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### HOUSE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives S. Hunt, Chair; Bergquist, Vice Chair; Appleton and Gregory.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Holy, Ranking Minority Member; Van Werven, Assistant Ranking Minority Member; Hawkins.

**Staff:** Sean Flynn (786-7124).

**Background:**

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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.*

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request, unless the information fits into one of the various specific exemptions. The stated policy of the PRA favors disclosure and requires narrow application of the listed exemptions.

One exemption prohibits agencies from providing access to lists of persons that are requested for commercial purposes, unless otherwise specifically authorized by law. However, agencies must provide lists of licensees and applicants for professional licenses to the professional associations and educational organizations recognized by the respective licensing board.

Another exemption exists for certain employment and licensing information from public disclosure, including:

- test question and scoring keys for licensing, academic, or employment examinations;
- materials submitted in applications for public employment;
- certain personal information in public employee personnel records and volunteer rosters;
- identifying information of an employee seeking advice or involving an ongoing investigation regarding discriminatory practices; and
- other specific exemptions regarding particular agencies.

The exempted personal information in employee personnel files and volunteer rosters includes residential addresses and telephone numbers, cell phone numbers, electronic mail addresses, social security numbers, driver's license and Identocard numbers, emergency contact information, and similar personal information of an employee's and volunteer's dependents.

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### **Summary of Substitute Bill:**

Anyone obtaining the identity of agency employees or volunteers may not use that information to obtain information under the employment and licensing exemption. An aggrieved party of such a violation may recover \$500 per item of exempt information improperly obtained, plus reasonable costs and attorneys' fees. A person requesting the identity of a public employee or volunteer must swear under oath to never use the identity of the employee or volunteer for purposes of obtaining information that is exempt from disclosure, or for a commercial purpose.

### **Substitute Bill Compared to Original Bill:**

The substitute bill includes the requirement for a requestor to swear under oath not to use a public employee or volunteer's identity to obtain exempt information or for a commercial purpose.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) Persons seeking retaliation are able to access an employee's name through a records request and use it to obtain otherwise exempt personal information about the employee. This makes employees, particularly those working in correctional facilities, vulnerable to retaliation and harassment. Employees should have a reasonable expectation of being protected from these kinds of abuses.

The Legislature already has made the decision to exempt this information, but people are finding loopholes to get around the exemption for nefarious purposes. This bill closes a loophole for people who obtain exempted information indirectly. This protects public employees, especially when dealing with people who may want to retaliate against them or cause them harm. This is a minor change that protects the original intent of the PRA.

This bill does not limit a person's right to lawfully obtain information regarding an employee's name and job position. There is no constitutional right to obtain personal information from public employees and this bill does not infringe on any rights.

(Opposed) This bill is drawn too broadly and actually would penalize any person who simply obtained a person's name from an employee roster and used that to obtain the employee's address from a telephone directory. This bill will impede reasonable transparency, including reporters searching for a source, an attorney looking for potential class action participants, and union organizers.

This bill does address the underlying problem of protecting employees from retaliation. There are protections against targeted retaliation under existing law. Usually, the victim of retaliation is already known to the perpetrator, so they do not need to use a public records request.

**Persons Testifying:** (In support) Geoff Simpson, Washington State Council of Fire Fighters; and Sarena Davis and Brenda Wiest, Teamsters 117.

(Opposed) Rowland Thompson, Allied Daily Newspapers; and Jami Lund, Freedom Foundation.

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