

SENATE BILL REPORT

SB 5678

As Reported by Senate Committee On:
Government Operations & Security, February 12, 2015

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. [**Revised for 1st Substitute:** Concerning public records requests for the purpose of obtaining exempted employment and licensing information.]

Sponsors: Senators Pearson, Roach, Schoesler and Hobbs.

Brief History:

Committee Activity: Government Operations & Security: 2/10/15, 2/12/15 [DPS].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Majority Report: That Substitute Senate Bill No. 5678 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Liias, Ranking Minority Member; McCoy.

Staff: Samuel Brown (786-7470)

Background: The Public Records Act, enacted in 1972 as part of Initiative 276, requires that all state and local government agencies make all public records available for public inspection and copying unless certain statutory exemptions apply. The provisions requiring public records disclosure must be interpreted liberally while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

Certain employment and licensing information contained in the files of a public agency is exempt from public inspection and copying under the PRA, including the following:

- examination data used to administer a license, employment, or academic examination;
- applications for public employment including names of applicants, resumes, and other related materials submitted with respect to the applicant; and
- the residential addresses, phone numbers, email addresses, social security numbers, and emergency contact information of employees or volunteers of a public agency.

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.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): The identity of employees or volunteers of a public agency may not be obtained through a public records request for the purpose of obtaining employment or licensing information about the employee or volunteer that is exempt from public disclosure. An aggrieved party must recover \$500 for each item of exempt employment or licensing information obtained resulting from disclosure of the employee or volunteer's identity in response to a public records request, plus costs and reasonable attorneys' fees.

Requesters obtaining the identity of employees or volunteers of a public agency through a public records request must swear an oath not to use that information for the purpose of obtaining information exempt from public disclosure for commercial purposes.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & SECURITY COMMITTEE (Recommended Substitute): Requesters obtaining the identity of employees or volunteers of a public agency through a public records request must swear an oath not to use that information for the purpose of obtaining information exempt from public disclosure for commercial purposes.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Proposed Substitute as Heard in Committee:
PRO: Correctional officers have concerns about disclosure of their addresses and personal information. They have difficult jobs ensuring that citizens are safe and they are concerned about retaliation. We need to find ways to protect those who are serving us. Inmates, their friends, and family outside the prison frequently file public records requests. With the help of data miners, they can find out where I live and harass me. I wonder if I have to watch over my shoulder, and if an offender who assaulted me is going to come into my community and retaliate against me. Offenders or others shouldn't be able to find out where I live just because I'm a public employee. We perform dangerous work, often interacting with criminals in our daily lives. We work in remote areas, where violators are almost always armed and willing to take drastic steps to make sure their liberties aren't taken. I've seen strange cars at night and had property vandalized. Outside groups shouldn't be able to access information about state employees and mine it for information that is exempt from disclosure. This is a minor change that ensures that spirit and intent of the PRA remains effective in an age of data mining. Persons playing important enforcement roles, such as those making child custody decisions, want to make sure their personal information isn't given to people who would retaliate or cause them harm.

CON: This bill talks about information held in the private sphere. News organizations can find out that someone is an employee of a public agency from other sources, and this bill

makes them susceptible to lawsuits. The current bill is very unworkable. This bill would make what I did in determining whether someone I was talking about actually lived in their community illegal. It repeals well-established case law that data may be used for other purposes, including independent research or discovery matters. The bill stops legitimate analysis that can only be done by this cross-matching. The bill opens the door for frivolous lawsuits and wouldn't even stop the things proponents have discussed – a public records request isn't going to be used to discover the information of someone you already know.

Persons Testifying: PRO: Senator Pearson, prime sponsor; Carl Klein, Teamsters 760; Brenda Wiest, Teamsters 117; Charlotte Berry, citizen.

CON: Rowland Thompson, Allied Daily Newspapers of WA; Jami Lund, Freedom Foundation.