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**State Government & Tribal Relations  
Committee**

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**HB 2293**

**Brief Description:** Exempting election security information from public records disclosure.

**Sponsors:** Representatives Dolan, Ryu, Tarleton, Ormsby, Wylie, Doglio and Gregerson.

**Brief Summary of Bill**

- Exempts from disclosure under the Public Records Act (Act) certain information related to election security, operations, and infrastructure.
- Specifies that certain security risk assessments currently exempt from disclosure are exempt in their entirety.

**Hearing Date:** 1/21/20

**Staff:** Carrington Skinner (786-7192).

**Background:**

The Public Records Act (PRA) requires all state and local governmental entities to make available to the public all public records, which are records prepared or retained by a governmental entity that relate to the conduct of government or the performance of governmental or proprietary functions. This general rule applies to records regardless of the form they take unless a specific exemption applies. The PRA specifies that it is to be liberally construed; any exemptions to the disclosure requirement must be interpreted narrowly. A court may enjoin the release of a record if it determines that examination of the record would clearly not be in the public interest and would substantially and irreparably damage a person or vital government functions.

There are a number of statutory exemptions for records or information contained in records, including those that involve security information. These exemptions include records related to preventing or responding to terrorist attacks, vulnerability assessments and emergency response

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plans for correctional facilities, and safe school plans. In addition, records related to public and private infrastructure of computer and telecommunications networks, which include security passwords, access codes, and security risk assessments, are also exempt from disclosure to the extent they identify specific system vulnerabilities.

As part of its emergency management duties, the Washington Military Department, through the Adjutant General, must maintain a copy of the continuity of operations plan for election operations for each county that has a plan available. These plans are developed to assist with continuing essential functions and services in response to emergencies and disasters. There is coordination among local, state, and federal entities, including the United States Department of Homeland Security, on election infrastructure issues including the security of voting systems, voter registration databases, and polling places.

**Summary of Bill:**

Two new election security exemptions to the PRA's disclosure requirements are created:

- continuity of operations plans for election operations, security risk assessments, and other audits and test results relating to physical security or cybersecurity of election operations or infrastructure are exempt in their entirety; and
- portions of records related to election infrastructure, election security, or threats to election security that would have a substantial likelihood of increasing risk to the integrity of election operations or infrastructure are exempt.

Security risk assessments related to public and private infrastructure and security of computer and telecommunications networks that are currently exempt are specified to be exempt from disclosure in their entirety.

These exemptions will apply to any public records request made prior to the effective date for which disclosure has not yet occurred.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.