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**HOUSE BILL 2115**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Representatives Walsh, Stokesbary, MacEwen, Irwin, Dufault, Boehnke, and Corry

Read first time 02/22/19. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to the disclosure of public records by the  
2 legislative branch; amending RCW 42.56.010, 42.56.580, and 40.14.140;  
3 adding a new section to chapter 42.56 RCW; and creating a new  
4 section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that the state's  
7 public disclosure law is founded on the public's right to know the  
8 business of its government, and that transparency in government is an  
9 important component of representative democracy. The legislature  
10 further finds that there is uncertainty about whether, under current  
11 law, records of individual legislators are public for purposes of the  
12 public records act. With this act, the legislature intends that the  
13 records of the legislature, including state legislators, are publicly  
14 available under the provisions of the public records act.

15 **Sec. 2.** RCW 42.56.010 and 2017 c 303 s 1 are each amended to  
16 read as follows:

17 The definitions in this section apply throughout this chapter  
18 unless the context clearly requires otherwise.

19 (1) "Agency" includes all state agencies, all legislative  
20 agencies, and all local agencies. "State agency" includes every state

1 office, department, division, bureau, board, commission, or other  
2 state agency. "Legislative agency" includes every state legislator,  
3 the office of the chief clerk of the house of representatives, the  
4 office of the secretary of the senate, and any agency created in the  
5 legislative branch. "Local agency" includes every county, city, town,  
6 municipal corporation, quasi-municipal corporation, or special  
7 purpose district, or any office, department, division, bureau, board,  
8 commission, or agency thereof, or other local public agency.

9 (2) "Person in interest" means the person who is the subject of a  
10 record or any representative designated by that person, except that  
11 if that person is under a legal disability, "person in interest"  
12 means and includes the parent or duly appointed legal representative.

13 (3) "Public record" includes any writing containing information  
14 relating to the conduct of government or the performance of any  
15 governmental or proprietary function prepared, owned, used, or  
16 retained by any state or local agency regardless of physical form or  
17 characteristics. (~~For the office of the secretary of the senate and~~  
18 ~~the office of the chief clerk of the house of representatives, public~~  
19 ~~records means legislative records as defined in RCW 40.14.100 and~~  
20 ~~also means the following: All budget and financial records; personnel~~  
21 ~~leave, travel, and payroll records; records of legislative sessions;~~  
22 ~~reports submitted to the legislature; and any other record designated~~  
23 ~~a public record by any official action of the senate or the house of~~  
24 ~~representatives.)) This definition does not include records that are  
25 not otherwise required to be retained by the agency and are held by  
26 volunteers who:~~

27 (a) Do not serve in an administrative capacity;

28 (b) Have not been appointed by the agency to an agency board,  
29 commission, or internship; and

30 (c) Do not have a supervisory role or delegated agency authority.

31 (4) "Writing" means handwriting, typewriting, printing,  
32 photostating, photographing, and every other means of recording any  
33 form of communication or representation including, but not limited  
34 to, letters, words, pictures, sounds, or symbols, or combination  
35 thereof, and all papers, maps, magnetic or paper tapes, photographic  
36 films and prints, motion picture, film and video recordings, magnetic  
37 or punched cards, discs, drums, diskettes, sound recordings, and  
38 other documents including existing data compilations from which  
39 information may be obtained or translated.

1       **Sec. 3.** RCW 42.56.580 and 2007 c 456 s 6 are each amended to  
2 read as follows:

3       (1) Each state and local agency shall appoint and publicly  
4 identify a public records officer whose responsibility is to serve as  
5 a point of contact for members of the public in requesting disclosure  
6 of public records and to oversee the agency's compliance with the  
7 public records disclosure requirements of this chapter. A state or  
8 local agency's public records officer may appoint an employee or  
9 official of another agency as its public records officer.

10       (2) For state agencies, the name and contact information of the  
11 agency's public records officer to whom members of the public may  
12 direct requests for disclosure of public records and who will oversee  
13 the agency's compliance with the public records disclosure  
14 requirements of this chapter shall be published in the state register  
15 at the time of designation and maintained thereafter on the code  
16 reviser web site for the duration of the designation.

17       (3) For local agencies, the name and contact information of the  
18 agency's public records officer to whom members of the public may  
19 direct requests for disclosure of public records and who will oversee  
20 the agency's compliance within the public records disclosure  
21 requirements of this chapter shall be made in a way reasonably  
22 calculated to provide notice to the public, including posting at the  
23 local agency's place of business, posting on its internet site, or  
24 including in its publications.

25       (4) For legislative agencies, the secretary of the senate is the  
26 public records officer for the senate and its members, caucuses,  
27 committees, and employees; the chief clerk of the house of  
28 representatives is the public records officer for the house of  
29 representatives and its members, caucuses, committees, and employees;  
30 and the chief clerk and the secretary are jointly the public records  
31 officers for other entities within the legislative branch. Any duty  
32 in this chapter imposed on a legislative agency must be performed by  
33 the public records officer or officers responsible for that agency.  
34 The chief clerk of the house of representatives and the secretary of  
35 the senate must hire additional staff to carry out the duties imposed  
36 by this chapter.

37       NEW SECTION.   **Sec. 4.** A new section is added to chapter 42.56  
38 RCW to read as follows:

1 (1) The following information or records are exempt from public  
2 inspection and copying under this chapter:

3 (a) Records prepared, owned, used, or retained by a legislative  
4 agency that were created before January 19, 2018, except the  
5 following records must be disclosed regardless of when they were  
6 created:

7 (i) Legislative records as defined in RCW 40.14.100;

8 (ii) All budget and financial records;

9 (iii) Personnel leave, travel, and payroll records;

10 (iv) Records of legislative sessions;

11 (v) Reports submitted to the legislature; and

12 (vi) Any other record designated a public record by any official  
13 action of the senate or the house of representatives;

14 (b) Personal identifying information of constituents in their  
15 correspondence with legislative agencies, including a constituent's  
16 name, address, phone number, social security number, email address,  
17 and social media usernames; and

18 (c) Information or records that are protected by the speech or  
19 debate clause of Article II, section 17 of the state Constitution,  
20 including preliminary drafts, notes, recommendations, and internal  
21 legislative and interbranch communication in which opinions are  
22 expressed or policies are formulated or recommended, whether or not  
23 the opinions or policies are implemented or adopted by a legislative  
24 agency.

25 (2) This section shall not be construed to modify the scope or  
26 applicability of any other exemption to disclosure provided by law.

27 (3) For the purposes of this section, "constituent" means any  
28 member of the public, except:

29 (a) Lobbyists required to register under chapter 42.17A RCW,  
30 public employees who lobby under RCW 42.17A.635, and lobbyist's  
31 employers as defined in chapter 42.17A RCW, when acting on behalf of  
32 another person or entity; and

33 (b) Public officials acting in their official capacity.

34 **Sec. 5.** RCW 40.14.140 and 2011 c 336 s 821 are each amended to  
35 read as follows:

36 It shall be the duty of the clerk and the secretary to advise  
37 each legislative office, legislative agency, and the party caucuses  
38 in each house concerning the necessity to keep public records. The  
39 state archivist or his or her representative shall work with the

1 clerk and secretary to provide information and instructions on the  
2 best method for keeping legislative records.

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