

FINAL BILL REPORT

SB 5459

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Synopsis as Enacted

Brief Description: Concerning requests for records containing election information.

Sponsors: Senators Hunt, Kuderer, Valdez and Wilson, C..

Senate Committee on State Government & Elections
House Committee on State Government & Tribal Relations

Background: Public Records Act. The Public Records Act (PRA), enacted in 1972 as part of Initiative 276, requires all state and local government agencies to make all public records available for public inspection and copying, unless certain statutory exemptions apply. Upon receiving a request for records, the public agency must respond within five business days in one of five ways:

- providing the records;
- providing an internet link to the records or access to an agency computer for the requestor to use the link;
- acknowledging receipt of the request and providing a reasonable estimate of the time needed to respond to the request;
- seeking clarification if the request is unclear; or
- denying the request on the basis that the records are exempt from disclosure requirements.

Over 500 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 confidential. The provisions requiring public records disclosure must be interpreted liberally, while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

Election Security Information. Certain information pertaining to election security is exempt from public disclosure requirements. This information includes:

- continuity of operations plans for election operations;
- security audits, risk assessments, and test results of physical security or cybersecurity

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- of election operations or infrastructure; and
- any information about election infrastructure, security, or potential threats, if disclosure would increase risk to the integrity of election operations or infrastructure.

Information or records pertaining to election security breaches is not exempt from disclosure requirements, except under existing security breach and reporting exemptions. A voter's signature, phone number, and e-mail address on a ballot return envelope, declaration, or signature correction form, whether on an original or copied document, are exempt from public disclosure requirements. Elections officials may disclose this information for official purposes.

State Data and Reporting Standards. Under legislation passed in 2016, the Secretary of State (SOS) develops statewide data and reporting standards for how election data are maintained and reported by county auditors, focused on improving the types and use of data files, public access to election data, and data compilation from all counties for research and analysis. The standards are public, and the SOS makes ongoing analysis of whether counties are in compliance with the current standards.

Summary: Records Requests. Requests for records from, or existing standard reports generated by, the statewide voter registration database must be submitted to the SOS rather than a county auditor. If the county auditor receives a request for records or reports generated by the statewide voter registration database, the auditor must respond within five business days to refer the requestor to the SOS.

Exemptions. If a private entity, upon submitting records of its infrastructure to elections officials, accompanies that submission with a statement that disclosure of the records would increase risk to the integrity of election operations or infrastructure, the records are exempt from public disclosure requirements for 25 years after submission.

Images, copies, photographs, or cast vote records of voted ballots are exempt from public disclosure requirements during storage through destruction.

State Data and Reporting Standards. The requirement that the SOS develop statewide standards for how election data are maintained and reported by county auditors is removed.

Votes on Final Passage:

Senate	43	4
House	58	40

Effective: July 23, 2023