

Bill Status Report – March 10, 2016

The 2016 legislative session, as with all sessions in recent years, saw much action in the area of open government.

The bill that got the most attention was House Bill 2576, which was a top priority for organizations such as the Association of Washington Cities and Washington State Association of Counties. As originally introduced, it would have allowed agencies to arbitrarily limit the amount of time spent handling public records requests, created an administrative hearing process to resolve public records disputes, and allowed agencies to charge for producing records requested for commercial purposes. Some of these are items that WCOG has previously supported, but the bill was missing critical details necessary to protect transparency and fairness and to insure that adequate resources are available for agencies to fulfill their disclosure responsibilities. Because of these flaws, WCOG and others, including Allied Daily Newspapers, opposed the bill. Much time and effort was expended in negotiations during the session to try to reach an agreement on language that could be adopted, but in the end the bill didn't receive a vote on the floor of the House and died. The House did propose in its place an interim stakeholder process to be facilitated by the Ruckleshaus Center, but the funding for that was omitted from the final adopted budget. WCOG intends to propose convening such a stakeholder discussion this summer without state funding.

Another bill of great interest was HB 2362, which establishes interim provisions for deployment of police body-worn cameras ("body cams"), including special provisions for how copies of recordings made by such cameras can be requested and disclosed. The bill includes a task force to consider and recommend permanent legislation; WCOG is specifically called out to be represented on that task force. The task force will report to the legislature for the 2018 legislative session, in time for updates to be made before the law expires at the end of that year.

One of WCOG's priority bills did pass the legislature this session – Senate Bill 6171, which increases penalties for willful violations of the Open Public Meetings Act from \$100 (which had been the penalty since the law was originally enacted in 1971) to \$500 for a first offense and \$1000 for second and subsequent offenses. We had also hoped to make it possible to impose penalties even if it could not be proven that the violation was knowing and willful, but that provision was not added to the bill.

It's always tough to identify all the new and expanded public records exemptions that the legislature creates. So far, we've identified thirteen new exemptions created in 2016. They are included in the following bills:

- HB1409 – Vessel owner information, similar to existing exemption for vehicle owner information
- HB1725 – Personal information of home health care providers and consumers used to prepare reports to the legislature on providers workloads
- HB2332 – Compensation of private-section health care provider submitted to a state health care cost database
- HB2405 – Expands the types of records that are considered part of the "official juvenile court file" that is required to be kept confidential and automatically sealed. (This is the only one I would add to our list, because it removes more records from public access.)
- HB2530 – Entire contents of the state sexual assault kit tracking database
- HB2584 – Marijuana product traceability information and marijuana operations and transport security information
- HB2726 – Information submitted with applications for certification of continuing care retirement communities
- SB5180 – Confidential financial information contained in actuarial opinions of insurance company reserves and records received in the performance of examinations to produce such opinions
- SB6170 – Confidential financial information of private investment received by city retirement investment boards
- SB6177 – Confidential proprietary and financial information submitted with marijuana research license applications and reports submitted by licensees
- SB6206 – Information submitted with an application for a license to grow industrial hemp
- SB6356 – Personal information of employees of, and security information of, private cloud service providers who have entered into a criminal justice information services agreement

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SB6534 – Records of maternity mortality reviews

SB6564 – Investigative records of the newly-created ombuds for the office of developmental disabilities.

It's rare these days for any exemptions to ever be eliminated, but HB 2663 does exactly that. It repeals exemptions associated with several government programs that no longer exist, including information about alcohol purchases by individuals for which records are no longer collected. We must be thankful for even little things!