

Bill would require public officials to take open-records training

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Lawmakers are considering a bill that would send public officials and employees to what amounts to open-records school.

House Bill 2121 would require public officials and employees to undergo training on open government laws under the state's Public Records Act and the Open Public Meetings Act.

When the public's right to know is "stymied" by a public records officer, Rep. Gerry Pollet (D-Seattle) said, "it's not a pleasant thing to deal with." Pollet is the main sponsor of the bill, and advocated for a similar bill last year.

Supporters of the bill said violations are often inadvertent errors caused by a lack of knowledge, and the training requirement would help reduce unintentional infractions.

A 2012 report from the state auditor's office identified more than 250 open government-related issues among local governments.

After receiving a public records request from the Washington Coalition for Open Government last year, former Coulee Dam Mayor Quincy Snow responded in a letter that he had a problem with the request and "I am fed up with this kind of harassment."

Under the statutes known as the Public Records Act, which Washington voters passed as an initiative in 1972, the town has a responsibility to respond to public disclosure requests.

In 2011, KING5 found that public records-request infractions cost taxpayers about \$1.7 million in financial penalties.

The Washington State Supreme Court has said that when the court is deliberating penalties, the lack of training could result in higher financial penalties, while evidence of training could reduce financial penalties.

Brian Enslow, senior policy director with the Washington State Association of Counties, testified at a recent legislative hearing that he supports the "basic mechanism" of the bill, but questions whether the training requirement would result in significant cost savings.

He asked lawmakers to pursue more comprehensive reform, and deal with "over burdensome and harassing requests."

"That is currently the biggest impediment to creating that culture of compliance within our elected officials," Enslow said.

Toby Nixon, former state House member and current president of Washington Coalition for Open Government, conceded the records-request process can be time consuming and expensive, but the public has a fundamental right to know.

"Under state law, fulfilling public records requests is a core function," Nixon said.

He said by adopting this bill, the legislators and the governor would send the message that "accountability to the public is important, and they take it seriously."

At the request of the Legislature, the William D. Ruckelshaus Center conducted a study and found that "the vast majority of public records request – and requestors – are reasonable" and there is insufficient data on abusive requests to make any conclusion on the prevalence of "nuisance requesters." The center, a joint effort between the University of Washington and Washington State University, helps communities build consensus on public-policy issues, according to its website.

Nancy Krier, the assistant attorney general for open government, is developing the training, which is expected to be low to no-cost.

“The training we hope will help not only foster a culture of compliance, but we also hope to reduce payouts,” she said in an interview.

Training could be done online or at an in-person training session. The attorney general’s office recently uploaded a training page that includes resources for understanding the public records laws. It will eventually include videos, Krier said.

“Agency compliance is only as good as it’s weakest link,” Krier said.

The fiscal note for the bill predicts no additional cost to the attorney general’s office, adding that the impact to local government is unclear. Training costs could increase, but agencies could save money as a result of reductions in civil penalties and litigation.

Pollet said the bill is more likely to affect smaller jurisdictions or state agencies with a high turnover in public records staff.

The Senate is considering a similar bill.

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