

Sunshine Committee

Criminal History Record Checks for the Board Staff Finalist Candidates (State Investment Board) RCW 43.33A.025

Exemption

The State Investment Board (SIB) is required to obtain a criminal history records check from both the Washington State Patrol and the Federal Bureau of Investigation (FBI) for specified board staff. RCW 43.33A.025 provides that the information received through this criminal history records check shall remain confidential and is not subject to the disclosure requirements of chapter 42.56 RCW, the Public Records Act.

Background

In 1999, at the request of the SIB, the Legislature provided the SIB the authority to obtain criminal background checks on final candidates for certain positions with the agency. In 2000, based on an FBI requirement, the SIB requested that the discretionary authority to obtain a criminal history records check be changed to a mandatory requirement. Both the original legislation and the subsequent amendatory legislation contained the provision that the information obtained remain confidential and exempt from disclosure. This exemption is based on an FBI requirement. Without this exemption, the FBI will not provide the SIB with criminal history records check information.

Additional Information

At the Committee's May meeting, Joe Dear, Executive Director of the State Investment Board expressed the importance of being able to receive FBI criminal history background checks for finalists seeking certain SIB positions. These are positions of trust, with great responsibility related to the management of public funds under the fiduciary responsibility of the board. Removing the exemption will not allow the information to be made available, since the FBI will no longer provide the information to the SIB. Losing this vital information will harm SIB's ability to investigate applicants for these sensitive positions. Without the exemption, the SIB will not be able to comply with its statutory and fiduciary duty to require FBI criminal history records checks.

Recommendation

Based on the narrow scope of the exemption, the need for the information being obtained and the consequences that could result from removing the exemption, it is recommended that:

The exemption should be retained without change.

The legislature may look to moving the exemption into chapter 42.56 RCW, or providing a cross-reference to this statute in chapter 42.56 RCW, to move towards having all exemptions either included or referenced in the public records act.