

## PUBLIC RECORDS EXEMPTIONS ACCOUNTABILITY COMMITTEE

Minutes of Meeting  
September 9, 2008  
Olympia, Washington

**Members Present:** Chair Tom Carr, Ramsey Ramerman, John Hughes, Senator Adam Kline, Senator Pam Roach, Representative Jay Rodne, Roselyn Marcus, Representative Lynn Kessler, Patience Rogge, Frank Garred, Tim Ford, Ken Bunting and Candy Jackson

**Staff Present:** Jean Wilkinson, Counsel; Ruthann Bryant, Staff Support

**Opening:** Chair Tom Carr called to order the meeting of the Public Records Exemption Accountability Committee at 9:00 a.m. on September 9, 2008, at the John L. O'Brien Building, Hearing Room A., Olympia, WA.

- 1) **Approval of September 9, 2008 agenda.** *John Hughes moved to adopt the minutes, seconded by Tim Ford. The motion passed unanimously.*
- 2) **Approval of Final Minutes for July 8, 2008 Sunshine Committee Meeting.** *Ramsey Ramerman moved to adopt, seconded by Patience Rogge. The motion passed unanimously.*
- 3) **Discussion of November meeting.** *Ramsey Ramerman moved to reschedule the November 11 meeting to November 12 due to the Veteran's Day holiday, seconded by Tim Ford. The motion passed unanimously.*
- 4) **Discussion of location of 2009 meetings.** The committee discussed meeting room options during the Legislative session and agreed to meet in February on the capital campus if at all possible. Meetings will resume at the current location beginning in May.
- 5) **Exemptions for records relevant to a controversy and attorney-client privileged records.** Chair Carr summarized two recommendations received from Mr. Bunting and Mr. Garred. By committee by-laws a 2/3 vote must be made in order to consider recommendations available to the public less than seven days prior to a meeting. *Mr. Garred moved to consider the recommendations, seconded by Mr. Hughes. The motion passed.*

Public Comment:

Attorney Don Austin expressed opposition to the consideration of recommendations that have not been distributed to the public and urged the committee to leave the exemption as currently written.

Tom McBride, representing the Washington Association of Prosecuting Attorneys commented that he is responsible for training and expressed concern that creating new definitions would put an unnecessary burden on all trainers by creating ambiguity. He added that doing a better job of compliance is the key.

Jeff Myers, Washington Cities Insurance Authority, supports Mr. Ramerman's recommendation and the need for additional education.

Toby Nixon, President, Washington Coalition for Open Government, stated that he is currently compiling information from public records requests to state agencies. He added that there needs to be a more specific explanation of when the exemptions apply and when they do not.

James Sabota supports adoption of Mr. Ramerman's proposal which includes a large education piece.

*Senator Kline moved to adopt Mr. Ramerman's recommendation, seconded by Mr. Ramerman. Mr. Ford moved to table all three recommendations, Senator Kline then moved to discuss the motion to table, seconded by Ms. Marcus, opposed by Mr. Garred. Following discussion, the committee voted to table all three recommendations. Voting for: Senator Roach, Mr. Ford, Ms. Rogge, Representative Kessler, Mr. Hughes, Mr. Garred, Mr. Bunting, Ms. Rogge and Ms. Jackson. Voting against: Representative Rodne, Ramsey Ramerman, Chair Carr, Senator Kline and Ms. Marcus. The motion passed.*

**6) Exemptions for lists of candidates – RCW 28C.18.020 and RCW 79A.25.150.** Chair Carr read the recommendation. *Mr. Ramerman moved to adopt the recommendation as written, seconded by Mr. Hughes. The motion passed unanimously.*

**7) RCW 42.56.250**

Chair Carr presented Mr. Ford's recommendation regarding definition of "employment" for purposes of RCW 42.52.250. The recommendation on the exemptions was discussed and approved at the July 8<sup>th</sup> meeting.

Public Comment:

Citizen Arthur West, commented that recommendations are overbroad and vague.

*Mr. Bunting moved to adopt Mr. Ford's definition as proposed. Seconded by Mr. Hughes. Voting against: Ramsey Ramerman, Roselyn Marcus and Representative Kessler. The motion passed.*

**8) RCW 42.56.330 (3) – Personal information in vanpool, carpool, ride-share programs.\***

**9) RCW 42.56.330 (4) – Personal information of current or former participants or applicants in transit services operated for those with disabilities or elderly persons.\***

**10) RCW 42.56.330 (5) – Personal information of persons who use transit passes and other fare payment media. \***

\*Agenda items 8, 9 and 10 were discussed together.

Jean Wilkinson summarized the exemptions and provided legislative history.

Public Comment:

Toby Nixon generally agreed with the exemptions, but added that (5) should be strengthened.

Following discussion, Chair Carr will prepare a recommendation for the October meeting.

**11) RCW 42.56.250(4) -- Information that identifies a person who, while an agency employee: (a) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (b) requests his or her identity or any identifying information not be disclosed. \***

**12) RCW 42.56.250(5) – Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.\***

\*Agenda items 11 and 12 were discussed together.

Jean Wilkinson summarized the exemptions and provided legislative history.

Public Comment:

Tanya Calahan, Human Rights Commission Clerk, briefly discussed the effect the exemptions have on 49.60 RCW and the work of the Commission.

Chair Carr will draft a recommendation for the October meeting.

**13) RCW 42.56.250(6) – Employee salary and benefit information collected from private employers for salary survey information for marine employees.**

Jean Wilkinson summarized the exemptions and provided legislative history.

Mr. Ramerman commented that there needed to be some level of clarification that it applies to information about private employees. He will draft a recommendation for the October meeting.

*Chair Carr adjourned the meeting at 1:00 p.m.*

**APPROVED:** October 14, 2008