



GOVERNMENT ACCOUNTABILITY:

ENFORCING THE PUBLIC RECORDS ACT

LEGISLATION:

The Attorney General and State Auditor will jointly request legislation to amend the PRA to create an independent Office of Open Records, funded through a dedicated source, with administrative authority to enforce the provisions of the PRA. The Office of Open Records should:

- Provide a speedy and inexpensive administrative appeals process for resolving disputes over disclosure of public records.
- Adopt rules to provide clear guidelines for an appeals process that is available for citizens, state and local agencies.
- Issue advisory opinions interpreting the laws to provide clarity on agency duties. This information should be available on its Web site with other relevant information.
- Submit an annual report to the Legislature on its activities, and recommend legislative reform.
- Provide periodic training, and make training materials available free on its website. This periodic training should be mandatory for all elected officials and other designated agency officials.
- Be governed by a single independent director appointed by the Governor who hires appeals officers to manage and decide appeals, has a term set by law and may only be removed for cause.

The legislation will include an effective date in 2011 to allow a smooth transition to a new appeals process.

THE PROBLEM:

State agencies and local governments face a logjam of citizen complaints, costly litigation over the Public Records Act (PRA) and the Open Public Meetings Act (OPMA), and uncertainty regarding potential liability that may require payment of attorneys' fees, costs, and daily penalties. All of this impacts ever-shrinking budgets, forcing government to cut other vital services to comply.

Citizens who are denied access to public records and public meetings currently have no choice other than to go to court, and lawsuits are often costly and time-consuming, many taking years to resolve. Going to court to enforce legal rights to access public records and public meetings is simply not an option for many citizens.

BACKGROUND:

Many states provide an independent administrative review process to resolve complaints without litigation. These states use administrative boards to offer services including mediation, dispute resolution, non-binding legal interpretations, investigation of potential violations, issuing final appealable rulings, offerings of legislative reform and training public officials about their responsibilities under the law.

The Attorney General's Office and the State Auditor's Office created the Open Government Task Force to address growing concerns among governments and the public. The task force was comprised of state and local elected officials, citizens and representatives of organizations which have worked extensively on open government issues.

The task force held two study sessions and made recommendations on the creation of an administrative board to rule on complaints of violations regarding the Public Records Act (PRA) and the Open Public Meetings Act (OPMA). The full report and recommendations of the task force is available online at:

<http://www.atg.wa.gov/OpenGovernment/TaskForce.aspx>