

Dear Representative Tharinger,

Frank Garred forwarded to me a draft bill that you've apparently been asked to sponsor. The bill has an innocuous sounding title – "Relating to public records act court procedures" – but the bill is far from innocuous. The bill, if enacted, would make it possible for any agency to obtain an injunction against any public records request or requester it deems to be "harassing".

There is no question that there are some persistent requesters out there. Some of them use the public records act for purposes other than intended. We all wish they would stop. But this is not the way to do it. If this bill were to pass, it would simply be too easy for an agency to obtain an injunction to block release of records that it thought would expose wrongdoing by public employees or that would otherwise be politically embarrassing.

It was one thing for the legislature to enact RCW 42.56.565 to allow injunctions to block inmates from making harassing requests. It's quite another to expand this injunction power to every citizen of the state, *including* the news media. Again we see the slippery slope at work – whenever the public gives a little ground on a fundamental civil right (and access to public records *is* a civil right), the government just tries all the harder to try to take more.

Supporters of open government would strenuously oppose this bill. It is entirely inconsistent with principles such as "all political power is inherent in the people" (State Constitution, Article 1, Section 1), "governments derive their just powers from the consent of the governed" (ibid.), and "the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know." (RCW 42.56.030).

My recommendation is that you not sponsor such legislation. As a former legislator myself, I don't think you want to start off your first session being viewed as an opponent of government transparency.

Best regards,

Toby Nixon  
President, Washington Coalition for Open Government  
Former State Representative, 45th District