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**SUBSTITUTE HOUSE BILL 1417**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** House State Government, Elections & Information Technology  
(originally sponsored by Representatives Hudgins and Smith)

1 AN ACT Relating to the harmonization of the open public meetings  
2 act with the public records act in relation to information technology  
3 security matters; and amending RCW 42.30.110.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 42.30.110 and 2014 c 174 s 4 are each amended to  
6 read as follows:

7 (1) Nothing contained in this chapter may be construed to prevent  
8 a governing body from holding an executive session during a regular  
9 or special meeting:

- 10 (a)(i) To consider matters affecting national security;
- 11 (ii) To consider, if in compliance with any required data  
12 security breach disclosure under RCW 19.255.010 and 42.56.590, and  
13 with legal counsel available, information regarding the  
14 infrastructure and security of computer and telecommunications  
15 networks, security and service recovery plans, security risk  
16 assessments and security test results to the extent that they  
17 identify specific system vulnerabilities, and other information that  
18 if made public may increase the risk to the confidentiality,  
19 integrity, or availability of agency security or to information  
20 technology infrastructure or assets;

1 (b) To consider the selection of a site or the acquisition of  
2 real estate by lease or purchase when public knowledge regarding such  
3 consideration would cause a likelihood of increased price;

4 (c) To consider the minimum price at which real estate will be  
5 offered for sale or lease when public knowledge regarding such  
6 consideration would cause a likelihood of decreased price. However,  
7 final action selling or leasing public property shall be taken in a  
8 meeting open to the public;

9 (d) To review negotiations on the performance of publicly bid  
10 contracts when public knowledge regarding such consideration would  
11 cause a likelihood of increased costs;

12 (e) To consider, in the case of an export trading company,  
13 financial and commercial information supplied by private persons to  
14 the export trading company;

15 (f) To receive and evaluate complaints or charges brought against  
16 a public officer or employee. However, upon the request of such  
17 officer or employee, a public hearing or a meeting open to the public  
18 shall be conducted upon such complaint or charge;

19 (g) To evaluate the qualifications of an applicant for public  
20 employment or to review the performance of a public employee.  
21 However, subject to RCW 42.30.140(4), discussion by a governing body  
22 of salaries, wages, and other conditions of employment to be  
23 generally applied within the agency shall occur in a meeting open to  
24 the public, and when a governing body elects to take final action  
25 hiring, setting the salary of an individual employee or class of  
26 employees, or discharging or disciplining an employee, that action  
27 shall be taken in a meeting open to the public;

28 (h) To evaluate the qualifications of a candidate for appointment  
29 to elective office. However, any interview of such candidate and  
30 final action appointing a candidate to elective office shall be in a  
31 meeting open to the public;

32 (i) To discuss with legal counsel representing the agency matters  
33 relating to agency enforcement actions, or to discuss with legal  
34 counsel representing the agency litigation or potential litigation to  
35 which the agency, the governing body, or a member acting in an  
36 official capacity is, or is likely to become, a party, when public  
37 knowledge regarding the discussion is likely to result in an adverse  
38 legal or financial consequence to the agency.

39 This subsection (1)(i) does not permit a governing body to hold  
40 an executive session solely because an attorney representing the

1 agency is present. For purposes of this subsection (1)(i), "potential  
2 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)  
3 concerning:

4 (i) Litigation that has been specifically threatened to which the  
5 agency, the governing body, or a member acting in an official  
6 capacity is, or is likely to become, a party;

7 (ii) Litigation that the agency reasonably believes may be  
8 commenced by or against the agency, the governing body, or a member  
9 acting in an official capacity; or

10 (iii) Litigation or legal risks of a proposed action or current  
11 practice that the agency has identified when public discussion of the  
12 litigation or legal risks is likely to result in an adverse legal or  
13 financial consequence to the agency;

14 (j) To consider, in the case of the state library commission or  
15 its advisory bodies, western library network prices, products,  
16 equipment, and services, when such discussion would be likely to  
17 adversely affect the network's ability to conduct business in a  
18 competitive economic climate. However, final action on these matters  
19 shall be taken in a meeting open to the public;

20 (k) To consider, in the case of the state investment board,  
21 financial and commercial information when the information relates to  
22 the investment of public trust or retirement funds and when public  
23 knowledge regarding the discussion would result in loss to such funds  
24 or in private loss to the providers of this information;

25 (l) To consider proprietary or confidential nonpublished  
26 information related to the development, acquisition, or  
27 implementation of state purchased health care services as provided in  
28 RCW 41.05.026;

29 (m) To consider in the case of the life sciences discovery fund  
30 authority, the substance of grant applications and grant awards when  
31 public knowledge regarding the discussion would reasonably be  
32 expected to result in private loss to the providers of this  
33 information;

34 (n) To consider in the case of a health sciences and services  
35 authority, the substance of grant applications and grant awards when  
36 public knowledge regarding the discussion would reasonably be  
37 expected to result in private loss to the providers of this  
38 information.

39 (2) Before convening in executive session, the presiding officer  
40 of a governing body shall publicly announce the purpose for excluding

1 the public from the meeting place, and the time when the executive  
2 session will be concluded. The executive session may be extended to a  
3 stated later time by announcement of the presiding officer.

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