

Vermont General Assembly

115 State Street • Montpelier, VT 05633-5201 • (802) 828-2228 • Fax: (802) 828-2424

MEMORANDUM

To: Rep. Bill Botzow, Chair, House Committee on Commerce and Economic Development
Sen. Tim Ashe, Chair, Senate Committee on Finance

From: Rep. Donna Sweaney, Chair, House Committee on Government Operations
Sen. Jeanette White, Chair, Senate Committee on Government Operations

Date: January 13, 2015

Subject: H.18, An act relating to Public Records Act exemptions

The Public Records Study Committee (Study Committee) was created in 2011, and was charged with reviewing all of the statutory exemptions to the Public Records Act and recommending whether each exemption should be amended, repealed, or kept in its existing form.

Over the last several years, the Study Committee fulfilled its charge and, in doing so, recommended that some exemptions be amended. The three House members of the Study Committee co-sponsored the enclosed bill in order to implement these recommendations.

Public Records Act exemptions relate to many different subjects. Because some of the exemptions that would be amended by the enclosed bill relate to topics typically under the jurisdiction of your committee, we are seeking feedback as to whether your committees object to the amendments.

Below is a table that lists and describes the sections of the bill affecting topics typically under the jurisdiction of your committee, and the witnesses that the Study Committee heard from on each. Because of this prior testimony, the House and Senate Committees on Government Operations intend to take limited testimony on the bill.

Also enclosed is a form that we request you return **on or before February 6**, so that the Government Operations Committees may consider your feedback. Staff will send your committee assistant a reminder about the form on January 30.

Thank you in advance for your consideration.

Sec. No.	Description	Witnesses heard by Study Committee
6	Amends an exemption for records provided to the Department of Financial Regulation in connection with its dispute-resolution role, replacing the word “individual” with the word “person,” and deleting the word “individual” in one instance, so that corporations and other entities may benefit from the exemption to the same extent as natural persons.	<ul style="list-style-type: none"> i. Karla Nuissl, DFR ii. Dave Cassetty, DFR iii. Legislative counsel
7	Amends a confidentiality provision related to records of the termination of an insurance agent of a fraternal benefits society in order to incorporate the clearer and more comprehensive confidentiality standards of another provision in Title 8 that addresses records of the termination of insurance agents generally.	<ul style="list-style-type: none"> i. Karla Nuissl, DFR ii. Dave Cassetty, DFR iii. Legislative counsel
8	Amends a provision related to trade secret information that life settlement providers are required to furnish to DFR in annual statements, in order to incorporate by reference the general standard of the Public Records Act for determining what is a trade secret.	<ul style="list-style-type: none"> i. Karla Nuissl, DFR ii. Dave Cassetty, DFR iii. Legislative counsel
23	<p>Amends the general trade secret exemption in the Public Records Act to:</p> <ul style="list-style-type: none"> (1) clarify that the phrase “trade secrets” means confidential business records or information; and (2) replace current language requiring that a trade secret be “known only to certain individuals within a commercial concern” with language that instead requires the commercial entity to make “efforts that are reasonable under the circumstances” to keep the information secret. <p>The first change is consistent with existing Vermont Supreme Court caselaw, and the second change is consistent with the definition of “trade secret” in Vermont’s Trade Secrets Act (9 V.S.A. chapter 143).</p>	<ul style="list-style-type: none"> i. Debbie Damore, Purchasing and Contracting Manager, Department of Buildings & General Services ii. Emily Kisicki, Policy and Legal Advisor, Department of Buildings & General Services iii. Geoff Commons, Director of the Public Advocacy Division, Department of Public Service iv. John Kessler, General Counsel, Agency of Commerce and Community Development v. Melissa Dever, Vice-president of Engineering, Competitive Computing vi. Susanne Young, Assistant Attorney General vii. William Reedy, Vice President and General Counsel, Vermont State Colleges viii. Legislative Counsel