

Administrative Law Section

of the Washington State Bar Association



Minutes

Administrative Law Section Executive Committee and Committee Chairs In-Person Board Retreat Meeting June 10, 2017

Executive Board Members Present: Stephen Manning (chair), Gabe Verdugo (immediate past chair), Polly McNeill (chair elect), Katy Hatfield (secretary), Jon Bashford (treasurer), Thomas Fain, Lisa Malpass, Margie Gray, Janelle Stewart, Chad Standifer, Robert Rhodes, Robert Krabill, Susan Pierini, Courtney Beebe (telephonically; appointed by chair to fill vacancy and approved by executive committee at this meeting). **Also Present:** Robert Murphy, Alex Caggiano (young lawyer liaison), Richard Potter (legislative committee chair), John Gray (diversity and outreach committee chair), Suzanne Mager (CLE committee chair), Eileen Keiffer (newsletter committee chair), Derek Peterson (2016 law student grant recipient). **Absent Board Members:** None.

Meeting called to order at 8:30 a.m.

1. **Welcome and introductions (all).**
2. **Update from Derek Peterson, 2016 law student grant recipient**

Derek, a rising 3L, was the recipient last summer of the Administrative Law Section's \$5000 grant, which is awarded to a law student working in an unpaid capacity in the area of administrative law. Derek worked last summer as an unpaid law clerk in the Licensing and Administrative Law Division of the Washington State Attorney General's Office, where he wrote motions and briefs in cases involving administrative law such as unemployment benefit cases. Derek thanked the Administrative Law Section for allowing him to have this opportunity without it being such a financial burden. This current summer, Derek is working at Northwest Justice Project, where he has a fellowship working on consumer and housing issues.

3. **Minutes from April 13, 2017 meeting**

Motion by Margie to approve the minutes, Lisa seconds. **Vote: All in favor, no opposed; minutes approved**

4. **Board approval of Courtney Beebe appointment (Stephen)**

Under our current bylaws (Section 7.5), if there is a vacancy on the Board between annual meetings, the Chair shall appoint a successor to serve for the remainder of the unexpired

term subject to Board approval. The Administrative Law Section Board had a vacancy for the 2015-2018 term when Paula Martin resigned. Chair Stephen Manning appointed Courtney Beebe to fill the remainder of Paula's term.

Action: Stephen made motion that Board approve his selection of Courtney Beebe to serve the remainder of the vacant unexpired term (to expire end of September 2018). Margie seconded. Motion approved by unanimous vote in favor.

5. Financial Update (Jon Bashford)

Jon provided four handouts: (1) WSBA's statement of activities for April 2017 (58% of the fiscal year complete) – ATTACHMENT A; (2) WSBA's FY 18 Budget Request – ATTACHMENT B; and (3) Treasurer's Report – ATTACHMENT C; and (4) three-year history of section's actual revenue and expenses – ATTACHMENT D.

Section is generally on-track with revenue and expenses this year. Section is budgeted to lose \$28,668 this year (in attempt to spend down the fund balance), but we are unlikely to lose that much due to strong revenues and modest spending. One possible way to spend down this year is that Section has budgeted for the possibility of awarding two \$5000 law student grants this year instead of only one. Current fund balance is \$51,578.

In recent past, WSBA BOG has proposed scraping section budgets to allocate to other sections that do not have as much money for programming. We opposed this idea (as did nearly every other section). Discussion of the executive committee about relationship between section's money versus WSBA's money. Concern by some that section is no longer bringing in the revenue that section used to, in part because section has moved away from full-day CLEs that were traditionally big money makers. Some sections have started co-sponsoring CLEs with outside organizations (not WSBA) to avoid having to split profits with WSBA. Publications revenue is cyclical because publications have boost when new edition or update comes out, but dwindles during the between years.

Section has until July 14, 2017 to submit 2018 proposed budget to WSBA. Remainder of financial discussion tabled to later in the meeting so that other policy decisions/priorities could be discussed first.

Stephen discussed that section had invited Robert Murphy to attend our board retreat because he is an incoming executive committee member, and new election time (in Spring rather than Autumn) gives board an opportunity to know who onboarding board members will be in advance of retreat. Board had previously voted to approve paying for travel and accommodations for one night for Judge Murphy.

Stephen moved that section pay for second night's accommodation at Alderbrook for Judge Murphy. Seconded by multiple people simultaneously. Motion approved by unanimous vote in favor.

6. Committee Updates

a. CLE (Suzanne Mager)

Suzanne had decided the past few years to focus on mini-CLEs rather than full-day CLEs, in part because full-day CLEs are very onerous to plan and because revenues with WSBA have to be split 50/50. Mini CLEs are quite easy to put on. In December, section sponsored a mini ethics CLE in Seattle that drew in people because they needed ethics credits at the end of the year.

Tomorrow (June 11) is the deadline to notify WSBA is section plans to do a full-day CLE this September. In the past, the section traditionally did a full-day CLE associated with annual meeting in Seattle or Tacoma. But last several years we have done annual meeting at Mercato in Olympia associated with a dinner mini-CLE. Due to success of Julian Bray as a speaker at the December and June mini-CLE, Suzanne volunteered to plan another mini-CLE in December in Seattle again for this year. Discussion about section's priorities for next year or two regarding CLEs. Richard suggested that another CLE about the PRA might be appropriate, especially in light of legislative changes. Discussed perhaps asking legislative staffer who staffed committees where the PRA legislation was heard could be a good resource (especially during interim). WSBA Conference Center is a good location for half-day and full-day CLEs because people working in Seattle can walk and because of video capabilities. Through discussion, executive committee appeared interested in doing a half-day CLE in the Autumn, but decided September might be too early because of planning needs, and conflict with labor day and start of school year. **Jon Bashford to call WSBA about possible dates in October.**

John Gray brought up possibility of doing another WA/OR CLE co-sponsored with the Oregon Administrative Law Section, likely to be held in 2018. Oregon is willing to go forward if we are. In Sept 2014, the sections co-sponsored a 1.5 day program that had powerhouse speakers and was very well received, but did suffer some losses due to unexpected (and likely avoidable) charges. Losses split four ways between two sections and two state bars. Oregon State Bar took the lead in 2014 on administrative functions, and the agreement was that WSBA would take the lead the next time. Executive committee is interested in pursuing this option, and **Jon Bashford will call WSBA to get some more information on whether WSBA would support a joint venture with Oregon, whether it could be held in a location other than Seattle (like Vancouver) and still get WSBA support, and how revenue/loss sharing splits would work with four parties rather than two.** Polly mentioned that Environmental Law Section's mid-year multi-day CLE is located outside of Seattle, so it is possible. **People who expressed interest in being willing to assist in planning a joint WA/OR CLE, if it was authorized by WSBA, include: Jeff Litwak, Margie Gray, Robert Krabill, Robert Rhodes, and Robert Murphy.**

b. Newsletter (Eileen)

A newsletter should be published in the next month or so. Eileen has articles regarding diversity, legislative updates, and in-process articles regarding when full administrative hearings are needed (Washington State University case). Other suggestions including an article about a recent Washington Supreme Court case involving the Yakima nation and an article about how to do administrative law research by one of the librarians at the Washington State Law Library. Eileen will follow up with these suggestions. Someone suggested that “Librarians make novel lovers” and (jokingly) asked that I be sure that I include that in the minutes. [Be careful what you wish for.]

c. Homan Award (Margie)

The Frank Homan Award is presented annually to an individual who has demonstrated an outstanding contribution to the improvement or application of administrative law. The award is named for Frank Homan, a dedicated teacher and mentor who was passionate about improving the law. Frank was generous with his time and expertise and is well-remembered for his sense of humor, his command of the English language, and his writing style — including his knowledge of legal terminology and history. His commitment to promoting justice for all and the practice of administrative law is the inspiration for the award that bears his name. Most recent winners include John Kuntz, Ramsey Ramerman, and Eric Stahl.

Deadline for nominations is currently in July, but Margie thinking about extending to August especially if presentation will be made at CLE in October rather than annual meeting in September. Margie plans to put announcement in next newsletter and post an announcement on the listserv to ensure the word gets out about the upcoming application deadline.

d. Public Service (Janell)

Each year members of the Administrative Law Section donate resources to at least one public service project, most recently in the amount of \$3000. This year, the Executive Committee is seeking grant proposals and applications from nonprofit community groups in Washington state and the application process is currently open. Law Advocates of Whatcom County was the recipient of last year’s grant to fund a technology upgrade that it needed. Janell will look at UW Gallagher Library website to see if there is a better way to advertise the grant.

e. Legislative Committee (Richard)

Richard emailed the Board his most-recent legislative update – ATTACHMENT E - and will publish a legislative update in the next section newsletter. The Legislature is still in

session. As of now, 17 bills on public records have been introduced and 7 have passed; 14 bills that would amend the APA has been introduced but 0 have passed; 4 bills on OPMA have been introduced and 1 has passed; also several additional miscellaneous bills that tough on practice of administrative law. Admin Section executive committee previously formally opposed two bills this year and expressed concerns about a third. All three of those bills appear dead for now, with no indication of revival this session. WSBA's legislative liaison left WSBA mid-session and WSBA has not yet replaced. Section's involvement in commenting on bills is strictly through WSBA. Richard watches for bills that section may be interested in (defensive stance), but section potentially could take an offensive role if section wanted to write and promote a bill through WSBA in the future. Question was asked as to whether section or WSBA would have any interest in promoting salaries of ALJs in the interest of promoting access to justice. Also discussion on Open Public Meetings Act and whether it applies to the section (and, if so, how we would be able to vote on bills via email). Understanding of executive session is that OPMA does not technically apply to our meetings, but that WSBA policy is close to OPMA. Julianne Unite most recently stated that section could vote by email and then document vote in next minutes, but someone expressed concern that this might not comport with WSBA Bylaws Article 7. Additional investigation needed.

f. Publications (Gabe)

Admin Law Section publishes two books – the PRA Deskbook (published through WSBA) and the Washington State Administrative Law Practice Manual (published through LexisNexis). Lexis contract requires us to update two chapters per year. Gabe has arranged this year for the Indian County chapter to be updated by Anthony Broadman and the Ethics chapter to be updated by Peter Jarvis. Section gets percentage of profits from book sales, unless book is sold as part of WSBA's "all publications" bundle in which case the section gets nothing. WSBA is interested in having section update the PRA deskbook again, but maybe it is better to wait a short while to see how the dust settles on the new legislation. Last PRA update was in 2014. **Gabe will reach out to Kristal Wiitala about what is involved in updating the PRA deskbook. Gabe also will reach out to KCBA about donating extra copies of the practice manual that Gabe has, and Gabe believes Lexis will transfer the updates to the new book owners.**

g. Law Student Grants (Susan)

Section provides a \$5000 grant to someone at a WA law school who has taken an unpaid position in area of administrative law. Susan sent out advertisement to all three law schools in mid-May and applications due end of June. Budget this year allows for either one or two recipients. Winner(s) must agree to have spotlight about him/her in newsletter and will be invited to attend next year's board retreat. Alex suggested getting notice out a little earlier, but don't have deadline be too much earlier because

students are still arranging their summer internships until the last minute. **Robert Rhodes agreed to work with WSBA on getting a Law Student Grant button added to WSBA's website, like what we have for our public service grant.**

h. Diversity and Outreach (John)

John reached out to minority bar associations with message of inclusion and welcoming from Administrative Law Section. John also wrote an article for newsletter about diversity, with link to civility. John also attended WSBA May 11, 2017 meeting regarding how WSBA plans to map demographics in the future.

Robert Krabill asked about possible connection between immigration law and administrative law. Robert Rhodes mentioned new Washington State Supreme Court case that discusses defense attorneys' need to know immigration consequences when advising about plea bargains. Discussion about whether CLE on topics such as these would be useful/interesting to membership.

i. Nominations (Stephen)

The nominations committee advertised for potential new board members on the section's list serv. All persons who responded with interest were added to ballot. WSBA ran election electronically. 8% of section members voted [see correction below]. Stephen concerned that ballot email may have only gone to listserv members, rather than all members [see correction below]. Three new board members elected for three-years terms starting in October (Chad, Robert Murphy, Eileen). Vacancy with approximately one year left on term was filled by next place finisher (Courtney).

[CORRECTION: Stephen incorrectly reported that only 8% of the section member voted. The actual number was 18.5%. Also the election notice was sent to 271 voting members, which was the entire section membership at the time.]

j. Bylaws (Stephen)

WSBA BOG amended WSBA Bylaws that impacts sections and requires sections to update their bylaws. June 29 is deadline for bylaws amendments to be considered by WSBA BOG at July 28-29 meeting. Julianne and WSBA did a first-editing of the section's current bylaws to make them compliant with the new BOG rules for sections, and then Stephen and bylaws committee made additional edits. Stephen sent redline of the proposed bylaws changes containing both WSBA and the bylaws committee edits to the executive committee. ATTACHMENT F. Stephen also sent notice to the entire membership via email alerting membership that the executive committee would be considering amending bylaws at this meeting as required by the current bylaws.

WSBA's new bylaws requires that sections have an alternative process for self-selection that differs from the process of having nominations committee coming up with a slate.

Jon Bashford made motion that the redline edited version of 7.3 be amended to add a new section 7.4 that addresses the alternative method and have it state: "All individuals who complete the electronic application process administered by the Bar who are not selected by the Nominating Committee will be given the opportunity to self-nominate to be included on the final list of approved nominees." Polly made friendly amendment to strike the penultimate sentence of redline version 7.3 beginning with "Section members may make..." Margie seconded the amendment and seconded the motion as amended. Motion passed, with one no vote (Janell).

Polly moves to amend the redline version 7.4 to delete "by each candidate" and "one" [card] and change card to cards. Jon seconded. In discussion, Chad raised that this provision would be difficult to administer. Motion passed, with one no vote (Janell).

Stephen moved that Section 6.3 replace "shall" to "may." Margie seconded. Motion passed unanimously.

Richard brought up that if you delete the section that establishes the four standing committees from the bylaws, then the Board will have to reconstitute them.

Gabe moved to change 7.3's "Board" to "executive committee." Robert Krabill seconded. Motion passed unanimously.

Margie moved to approve all redline bylaw edits as proposed by WSBA and bylaws committee, as amended by the executive committee in this meeting, and to give Stephen authority to make numbering changes. Katy made friendly amendment that Stephen have authority to fix any typographical or minor editing errors. Margie accepted amendment. Lisa seconded. Motion passed unanimously.

Polly made motion to create four standing committees: legislative, CLE, newsletter, and publication. Margie seconded. Motion passed unanimously.

7. Succession Planning (Stephen)

CLE Committee – Lisa will assist with Spokane CLE; Jon will serve as co-chair of CLE committee until he assumes section chair position; Alex will serve as co-chair; Robert Krabill will serve on the committee; Margie will assist with CLEs as needed

Homan Award – Chad will serve as Chair; Susan and Eileen will assist

Diversity and Outreach – John Gray will send brief description to Stephen. Follow up email from Stephen: Alexis Quinones will serve as chair

8. 2018 Annual Retreat

Discussion regarding Alderbrook location – more central and easier to get to for most people than other locations such as Suncadia. Suzanne discussed the excellent service provided by Alderbrook and its staff, easy access from Olympia and Tacoma, accommodation of social hours at the cottages, and the superior pricing compared to other venues. Discussed possible dates for next year, and picked June 8-10, 2018. Suzanne will pre-reserve dog rooms/cottages as well as double queens (as opposed to a king bed). Section will continue to do the destination mini-CLE and offer section members the group discount rate hotel room. Possibly move CLE to bigger conference room, but keep retreat meeting in current meeting room. Margie will take over logistics for 2018 annual retreat, but Suzanne will seek approval now for 2018 contract.

9. Proposals for Next Year

Budget – looking at two large CLE costs, may require adjusting predicted revenue split with WSBA to \$8500; may need to adjust law student grant from two to one depending on other expenses and quality of applicants; Jon recommends holding a meeting on approval of 2018 budget and will circulate a proposal; Suzanne suggested possibly raising money spent on annual treat; Jon recommended increasing number spent on executive committee, which is currently \$1,400.

CLEs – discussion on doing webinars, possibly over the lunch hour, as many as 4-5 per year, suggestions about possible topics should go to Jon

Meeting adjourned at 2:07 pm.

Attachment A - WSBA's statement of activities for April 2017

Attachment B - WSBA's FY 18 Budget Request

Attachment C - Treasurer's Report

Attachment D - Three-year history of section's actual revenue and expenses

Attachment E – Legislative Report, as of June 8, 2017

Attachment F - Redline of the proposed bylaws changes containing both WSBA and the bylaws committee edits

[These minutes approved at the August 9, 2017 Executive Committee meeting.]

Washington State Bar Association

Statement of Activities

For the Period from April 1, 2017 to April 30, 2017

58.33% OF YEAR COMPLETE

	FISCAL 2017 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
ADMINISTRATIVE LAW SECTION					
REVENUE:					
INTEREST - INVESTMENTS	150.00	-	-	150.00	0.00%
SECTION DUES REVENUE	5,625.00	75.00	6,586.50	(961.50)	117.09%
PUBLICATIONS REVENUE	5,000.00	-	3,347.65	1,652.35	66.95%
MINI-CLE REVENUE	1,500.00	-	815.00	685.00	54.33%
SEMINAR SPLITS W/ CLE	(3,500.00)	-	-	(3,500.00)	0.00%
TOTAL REVENUE:	8,775.00	75.00	10,749.15	(1,974.15)	122.50%
DIRECT EXPENSES:					
CONFERENCE CALLS	350.00	27.79	125.26	224.74	35.79%
PER MEMBER CHARGE	4,218.75	56.25	4,968.75	(750.00)	117.78%
AWARDS	400.00	-	-	400.00	0.00%
NEWSLETTER EXPENSES	1,000.00	-	-	1,000.00	0.00%
RECEPTION EXPENSE	2,000.00	-	-	2,000.00	0.00%
MINI-CLE EXPENSE	3,000.00	-	574.00	2,426.00	19.13%
MEMBERSHIP & RECRUITING EXP	1,000.00	-	100.00	900.00	10.00%
SCHOLARSHIPS/DONATIONS/GRANT	13,200.00	-	-	13,200.00	0.00%
ATTENDANCE AT BOG MEETINGS	125.00	-	-	125.00	0.00%
EXECUTIVE COMMITTEE EXPENSES	1,400.00	-	447.92	952.08	31.99%
LDSHIP/PROF DEVELOP/RETREATS	9,750.00	-	1,000.00	8,750.00	10.26%
ANNUAL OR OTHER MEETING EXPENSE	1,000.00	-	-	1,000.00	0.00%
TOTAL DIRECT EXPENSES:	37,443.75	84.04	7,215.93	30,227.82	19.27%
NET INCOME:	(28,668.75)	(9.04)	3,533.22		
FUND BALANCE AS OF 9/30/16:	48,045.43		48,045.43		
NEW FUND BALANCE:	19,376.68		51,578.65		

**Washington State Bar Association
Fiscal Year 2018 Budget Request
Administrative Law Section**

Please Provide a Detailed Budget Narrative for
Each Revenue/Expense Accounts

Account Name	WSBA Account #	2017 Budget	2018 Budget	
Revenues				
Operational Revenue				
Interest Income on Section Fund Balance	40500	\$ 150.00		Section Dues -
Section Dues	48200	\$ 5,625.00		
Total Operational Revenue		\$ 5,775.00	\$ -	
Other Revenue				
Publications Revenue (Practice Manual & Public Disclosure Act Manual)	40800	\$ 5,000.00		Other Revenue -
Total Other Revenue		\$ 5,000.00	\$ -	
CLE Related Revenue				
Mini-CLE Revenue <i>(Indicate planned Mini-CLE here, if known, and any applicable details)</i>		\$ 1,500.00		Mini-CLE Revenue -
Total Mini-CLE Revenue	41805	\$ 1,500.00	\$ -	
Seminar Splits with CLE- profit or (loss) (co-sponsored with WSBA CLE) <i>(Indicate planned CLE here, if known, and any applicable details)</i>		\$ (3,500.00)	\$ -	Seminar Splits with CLE Revenue -
Total Seminar Splits with CLE	41850	\$ (3,500.00)	\$ -	
Total CLE Related Revenue		\$ (2,000.00)	\$ -	
Total Revenues		\$ 8,775.00	\$ -	
Expenses				
Operational Expenses				
Conference Calls	50165	\$ 350.00		Per Member Charge -
Per Member Charge	58400	\$ 4,218.75		
Total Operational Expenses		\$ 4,568.75	\$ -	
Member Benefits				
Reception/Forum	58450	\$ 2,000.00		Reception/Forum-
Awards	58175	\$ 400.00		Awards -
Newsletters/Publication Expenses (includes printing & postage)	58375	\$ 1,000.00		Newsletter/Publication -
Total Member Benefits Expenses		\$ 3,400.00	\$ -	
CLE-Related Expenses				
Mini-CLE Expense <i>(List the expenses here and indicate which CLE it would be applied towards, if known)</i>		\$ 3,000.00	\$ -	Mini-CLE Expense -
Total Mini-CLE Expense Budget	58620	\$ 3,000.00	\$ -	
Total CLE Related Expenses		\$ 3,000.00	\$ -	
Public Service/Outreach				
Scholarships/Donations/Grants	58525	\$ 13,200.00		Scholarships/Grants -
Membership & Recruiting	58350	\$ 1,000.00		Memberships & Recruiting -
Total Service/Outreach Expenses		\$ 14,200.00	\$ -	
Executive Committee-Related Expenses				
Annual or Other Meeting Expenses	58125	\$ 1,000.00		Annual or Other Meeting Exp. -
Attendance at BOG Meetings	58150	\$ 125.00		Attendance at BOG Meetings -
Executive Committee Expenses				Executive Committee Expenses -
Travel/Lodging		\$ 700.00		
Meeting Facilities, Food, etc.		\$ 700.00		
Total Executive Committee Expenses	58300	\$ 1,400.00	\$ -	
Leadership/Professional Development/Retreats - (ABA Bar Leaders	58325	\$ 9,750.00		Leadership/Prof. Dev./Retreats -
Total Executive Committee Expenses		\$ 12,275.00	\$ -	
Total Expenses		\$ 37,443.75	\$ -	
Budgeted Net Income (Loss) for FY2017/FY2018		\$ (28,668.75)	\$ -	
Plus Fund Balance as of September 30, 2016			\$ 48,045.43	
Plus Estimated Net Income/Loss for Fiscal Year 2017			\$ (28,668.75)	
Plus Estimated Net Income/Loss for Fiscal Year 2018			\$ -	
Projected Fund Balance at 9/30/2018			\$ 19,376.68	

**WSBA Administrative Law Section
Treasurer Report - June 2017 - Board Retreat**

REVENUE:	Fiscal 2017 Budget	YTD 4/30/2017	Pending Revenue	Remaining Balance	% Used of Budget	Fiscal 2016 Budget	YTD 4/30/2016	% Used 4/30/2016	% Used Year End
Section Dues	\$ 5,625.00	\$ 6,586.50		\$ (961.50)	117.1%	\$ 5,825.00	\$ 5,612.50	96.4%	99.8%
Publications	\$ 5,000.00	\$ 3,347.65		\$ 1,652.35	67.0%	\$ 6,500.00	\$ 6,497.16	100.0%	136.3%
Mini-CLE	\$ 1,500.00	\$ 815.00		\$ 685.00	54.3%	\$ 500.00	\$ 1,070.00	214.0%	393.0%
Seminar Splits w/CLE	\$ (3,500.00)	\$ -		\$ (3,500.00)	0.0%	\$ (3,500.00)	\$ -	0.0%	0.0%
Interest - Investments	\$ 150.00	\$ -		\$ 150.00	0.0%	\$ 150.00	\$ -	0.0%	155.5%
TOTAL REVENUE:	\$ 8,775.00	\$ 10,749.15	\$ -	\$ (1,974.15)	122.5%	\$ 9,475.00	\$ 13,179.66	139.1%	178.1%

EXPENSES:	Fiscal 2017 Budget	YTD 4/30/2017	Pending Charges	Remaining Balance	% Used of Budget	Fiscal 2016 Budget	YTD 4/30/2016	% Used 4/30/2016	% Used Year End
Ldrship/Retreat/Prof. Dev.	\$ 9,750.00	\$ 1,000.00	\$ 8,803.00	\$ 8,750.00	10.3%	\$ 9,750.00	\$ 1,000.00	10.3%	68.9%
Annual Meeting	\$ 1,000.00	\$ -		\$ 1,000.00	0.0%	\$ 1,000.00	\$ -	0.0%	61.4%
Executive Committee	\$ 1,400.00	\$ 447.92		\$ 952.08	32.0%	\$ 1,400.00	\$ 363.77	26.0%	101.7%
BOG Meeting Attendance	\$ 125.00	\$ -		\$ 125.00	0.0%	\$ 125.00	\$ -	0.0%	0.0%
Conference Calls	\$ 350.00	\$ 125.26		\$ 224.74	35.8%	\$ 250.00	\$ 240.56	96.2%	147.8%
Sch'ship/Grants/Donations	\$ 13,200.00	\$ -		\$ 13,200.00	0.0%	\$ 8,200.00	\$ -	0.0%	97.6%
Membership/Recruiting	\$ 1,000.00	\$ 100.00		\$ 900.00	10.0%	\$ 1,000.00	\$ 160.80	16.1%	53.4%
Newsletter	\$ 1,000.00	\$ -		\$ 1,000.00	0.0%	\$ 1,200.00	\$ -	0.0%	34.4%
Awards	\$ 400.00	\$ -		\$ 400.00	0.0%	\$ 400.00	\$ -	0.0%	116.2%
Reception	\$ 2,000.00	\$ -	\$ 786.00	\$ 2,000.00	0.0%	\$ 2,000.00	\$ -	0.0%	68.9%
Mini-CLE Expense	\$ 3,000.00	\$ 574.00	\$ 767.00	\$ 2,426.00	19.1%	\$ 4,000.00	\$ 887.40	22.2%	71.1%
Per-Member Charge	\$ 4,218.75	\$ 4,968.75		\$ (750.00)	117.8%	\$ 4,370.00	\$ 4,218.75	96.5%	100.0%
TOTAL EXPENSES:	\$ 37,443.75	\$ 7,215.93	\$ 10,356.00	\$ 30,227.82	19.3%	\$ 33,695.00	\$ 6,871.28	20.4%	80.5%

*Note: 58.33% of fiscal year complete

TOTAL:	Budget	YTD
NET INCOME:	\$ (28,668.75)	\$ 3,533.22
FUND BALANCE 9/30/2016:	\$ 48,045.43	\$ 48,045.43
NEW FUND BALANCE:	\$ 19,376.68	\$ 51,578.65

Account Schedule

WSBA
Period 10/01/16..05/25/17
Fiscal Start Date 10/01/16
Account Schedule ACTUALS Statement of Activities
Column Layout ACTUALS

All amounts are in USD.

Acc. Schedule Line: Date Filter: 10/01/16..05/25/17, Dimension 1 Filter: SADM

Description	FISCAL 2014 ACTUAL	FISCAL 2015 ACTUAL	FISCAL 2016 ACTUAL	YEAR TO DATE ACTUAL
REVENUE				
INTEREST - INVESTMENTS	118.13	161.74	233.19	
PUBLICATIONS REVENUE	3,673.57	16,408.66	8,859.77	3,347.65
MINI-CLE REVENUE	575.00	1,675.00	1,965.00	815.00
SEMINAR SPLITS W/ CLE		10,250.34		
SECTION DUES REVENUE	5,678.25	5,975.00	5,812.50	6,586.50
TOTAL REVENUE:	10,044.95	34,470.74	16,870.46	10,749.15
EXPENSES				
CONFERENCE CALLS	115.74	178.30	369.38	158.71
ANNUAL OR OTHER MEETING EXPENS	203.70	789.88	614.32	
AWARDS		326.40	464.74	
EXECUTIVE COMMITTEE EXPENSES	275.13		1,424.33	447.92
LDSHIP/PROF DEVELOP/RETREATS	3,423.24	8,033.52	6,713.88	1,000.00
LEGISLATIVE/LOBBYING	51.25			
MEMBERSHIP & RECRUITING EXP	63.86		160.80	100.00
NEWSLETTER/PUBLICATION EXPENSE	712.50	468.75	412.50	
PER MEMBER CHARGE	4,047.00	4,242.25	4,368.75	4,968.75
RECEPTION/FORUM EXPENSE		1,478.27	1,378.50	
NEW LAWYER OUTREACH		50.00	373.50	
SCHOLARSHIPS/DONATIONS/GRANT	5,000.00	5,000.00	8,000.00	
MINI-CLE EXPENSE	2,280.74	1,823.31	2,842.24	574.00
EXPENSES TOTAL:	16,173.16	22,390.68	27,122.94	7,249.38
NET INCOME:	-6,128.21	12,080.06	-10,252.48	3,499.77

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
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A summary of just the bills passed follows the detailed table.¹

	<p>Pre-session bill drafts from the Public Records Act Stakeholder workgroup From Alison (WSBA) Dec 8, 2016 – Agency Responsiveness Alternative Dispute Resolution Cost Recovery/Commercial Requests Extraordinary Requests Grant Program Portal Study Workgroup scheduled to meet Dec to review these drafts.</p>	<p>Response to Alison Dec 12, 2016: The Admin Law Section has no comments on these drafts at this time, but of course we will be interested in subsequent revisions etc.</p> <p>Listened to the group’s 1/10/17 presentation to the House Local Government Committee. It appears that several bills will be introduced that reflect consensus among some or all of the stakeholders.</p>	
<p>HB 1005</p>	<p>Prefiled 12/5/16 by Taylor, Orcutt, Shea, J. Walsh, Haler, Condotta, Young, McCaslin, Griffey, Van Werven, Dent, Short, Manweller, Hargrove, Holy, Rodne, Buys, and Pike – all R</p> <p>Would amend RCW 34.05.030 [Exclusions from chapter or parts of chapter] and add new provisions to the Administrative Procedure Act (RCW 34.04) that would –</p> <ul style="list-style-type: none"> • Restrict new rulemaking to two types of “emergency” (“governor- declared state of emergency” and “public health emergency”) or “setting of time, place or manner for the taking of wildlife, fish or shellfish” • Establish an ongoing process by which all rules must be enacted into law by the legislature or 	<p>Similar to bills proposed by many of the same sponsors in previous sessions, including 2013’s HB 1163 (Section did not take a formal position but expressed several concerns to WSBA) and 2015’s HB 1371 (provided no new comments to WSBA), both of which died in committee.</p> <p>Obvious overall comment: the bill would act as a blanket repeal of probably hundreds of existing laws that direct agencies to implement statutes via rulemaking, substantially shutting down all rulemaking – forever, and it would add a significant workload to the legislature by putting the onus on it to enact rules to implement its own laws.</p> <p>A few specific comments:</p> <ul style="list-style-type: none"> • Could endanger federal funding and/or risk putting the 	<p>Jan 9 ref’d to State Government Feb 10 public hearing.</p> <p>DEAD per WSBA 4/24/17</p>

¹ I made entries in this chart for the first few WSBA-referred bills that were obviously not in the Sections areas of interest, but as such referrals kept coming I stopped making entries in this chart; just responded to WSBA that the bills were not of interest to the Section.

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>otherwise expire; applies even to rules adopted in 2018 on even under the emergency and wildlife exceptions (above)</p> <ul style="list-style-type: none"> • Sec 2(2)(b) notes that there may be rules “necessary to meet any federal requirement, or deadline for the receipt of federal funds,” but the bill does not exempt such rulemaking from its restrictions. <p>The bill would take effect immediately.</p>	<p>state in violation of federal laws and regulations</p> <ul style="list-style-type: none"> • Fails to distinguish between procedural rules, interpretative rules, and significant quasi- legislative rules. • It fails to account for: <ul style="list-style-type: none"> ○ Real life emergencies where the governor has not specifically declared an emergency or the situation is not a “public health emergency” (which is undefined); ○ rules relating to internal governmental operations ○ rules adopting or incorporating by reference (i.e., mirroring) a federal statute or rule; ○ rules adopting or incorporating by reference Washington state statutes, rules of other Washington state agencies, national consensus codes that generally establish industry standards; ○ rules that only correct errors, make address or name changes, or clarify language of a rule without changing its effect; ○ rules the content of which is explicitly and specifically dictated by statute; ○ rules that set or adjust fees or rates pursuant to legislative standards; ○ rules necessary to accommodate changes in technology. <p>Dec 14 2016 to WSBA: What are the chances this bill will (a) receive a hearing and (b) be passed out of committee? If it has any “legs” I would strongly recommend that the Admin Section exec committee consider a formal “oppose”</p>	

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
		<p>position. It is not a bill that can be saved by a few amendments.</p> <p>I see that it is similar to bills proposed by many of the same sponsors in previous sessions, including 2013's HB 1163 (Section did not take a formal position but expressed several concerns to WSBA) and 2015's HB 1371. [... provided WSBA prior HB 1371 comment.]</p>	
<p>HB 1014</p>	<p>Would –</p> <ul style="list-style-type: none"> • Require the Department of Ecology (ECY) to seek peer review of the small business economic impact statements and cost-benefit analyses that the ECY conducts in conjunction with the adoption of agency rules. • Require the ECY to construct optimistic and pessimistic scenarios of the probable costs and benefits of rules, taking into account feedback received during the peer review process. • Prohibit the ECY from adopting a rule whose probable benefits do not outweigh its probable costs, with a greater mathematical weighting given to pessimistic low-benefit and high-cost scenarios. <p>Includes adding new sections to the Administrative Procedure Act, RCW 34.05.</p>	<p>Appears there is typo/omission in Section 2 (2)(a): The department of ecology must accept and respond to feedback from any qualified professional who offers to provide peer review of the department's draft analysis cost to the department. Should “without” appear before “cost”? Or should “cost” be moved in front of “analysis”?</p> <p>Raises the policy issue of whether “benefits” should consist solely of dollar amount quantifications.</p> <p>Jan 16 '17 to WSBA: Would like them tracked. No formal position. We do have some technical drafting comments . .</p>	<p>Jan 9 referred to Environment Public hearing at 2:00 PM.</p> <p>DEAD per WSBA 4/24/17</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
HB 1043 SB 5124	<p>Would add a new chapter to RCW 48.02 Insurance Commissioner to prohibit the insurance commissioner from disclosing nonpublic personal health information except in the furtherance of regulatory or legal action brought as a part of the insurance commissioner's official duties.</p> <p>SHB: Corrects the typo we noted.</p>	<p>The new disclosure exemption should be put in – or at least cross-referenced in --the Public Records Act: RCW 42.56.</p> <p>Appears to be a typo/omission in “NEW SECTION. Sec. 1. (1) All nonpublic personal health information obtained by, disclosed to, or in the custody of the commissioner, regardless of the form or medium, is confidential and is subject to public disclosure. Should “not” be inserted before “subject”?</p> <p>Jan 16 '17 to WSBA: Would like it tracked. No formal position. We do have some technical drafting comments.</p>	<p>HB: Jan 9 referred to Health Care & Wellness. Jan 31 SBH passed. Feb 1 ref'd to Rules 2 Review. Apr 10 passed Senate. Apr 23 May 5 Gov'r signed. Chapter 193, 2017 Laws. Effective date 7/23/2017. SB: Jan 13 ref'd to Health Care. Jan 24 Public hearing DEAD per WSBA 4/24/17</p>
HB 1047	<p>Would add a new chapter to RCW 48.02 Insurance Commissioner to -</p> <ul style="list-style-type: none"> • Establish a drug take-back program for the safe and secure collection and disposal of unwanted 	<p>The new PRA disclosure exemption would read: (28) Proprietary information filed with the department of health under chapter 69.--- RCW (the new chapter created in section 24² of this act).</p>	<p>Jan 9 referred to Health Care & Wellness. Feb 15 SHB</p>

² Section 24 says that Sections 2 through 19 of the act would become a new chapter of RCW title 69 FOOD, DRUGS, COSMETICS, AND POISONS.

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

5 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>medications.</p> <ul style="list-style-type: none"> Amend RCW 42.56.270 of the Public Records Act to exempt from public disclosure under the public records act: Proprietary information submitted to the department of health under this act. Create the secure drug take-back program account. <p>SHB: Modifies many of the plan’s details.</p>	<p>Note that “proprietary” is used several times in the existing PRA but is not defined in that law, so that its meaning is defined by the courts.</p> <p>Jan 16 '17 to WSBA: Would like it tracked. No formal position. Feb 19: reiterated.</p>	<p>passed out of committee. Feb 17 ref'd to Appropriations. Feb 21 SHB passed out of committee Feb 24 Referred to Rules 2 Review. Mar 13 Referred to Rules 2 Consideration. DEAD per WSBA 4/24/17</p>
<p>HB 1069</p>	<p>Would revise the involuntary treatment act with regard to procedures for enforcing outpatient civil commitment orders, amending RCW 71.05.590, 71.05.590, and 71.05.590; providing effective dates; and providing expiration dates.</p>	<p>Jan 12 told WSBA: We do not find this bill to be of interest or relevant to our Section.</p>	<p>DEAD/inactive per WSBA 4/24/17</p>
<p>HB 1120</p>	<p>Concerns regulations’ impact on small businesses.</p> <p>Would amend two sections in the Regulatory Fairness Act (19.85 RCW) and one section in Title RCW 43 (Executive) to –</p> <ul style="list-style-type: none"> Exempt agencies that are able to demonstrate their proposed rule does not affect small businesses from completing a small business economic impact statement; Require agencies proposing a rule that affects only 	<p>Raises a policy issue. I do not see the Section taking a position on it. I see no technical drafting issues.</p> <p>Would like WSBA to monitor so we can report to Section members on this bill if it passes. Jan 23 '17: so advised WSBA.</p>	<p>Mar 2 2SHB passes HOUSE</p> <p>In SENATE- Mar 6 ref'd to State Gov Mar 17 public hearing Apr 7 passed Senate.</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

6 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>small businesses to consider certain mitigation costs to reduce the cost to small businesses.</p> <ul style="list-style-type: none"> • Require an agency whose proposed rule imposes more than minor costs to mitigate costs to small businesses when it does not have sufficient data to calculate disproportionate impacts. • Require the Office of Regulatory Innovation and Assistance to act as the central entity to assist agencies with meeting the requirements of the Regulatory Fairness Act and to perform extemporaneous reviews of agency compliance with the Regulatory Fairness Act. <p>1SHB: Various changes in the details. 2SHB: (analysis pending)</p>		<p>Apr 19 Governor signed. Chapter 53, 2017 Laws. Effective date 7/23/2017.</p>
<p>HB 1128</p>	<p>Would make various changes to the mandatory arbitration laws concerning the cases subject to mandatory arbitration, the time periods for setting hearing dates, permitted discovery, arbitrator qualifications, and filing fees. Would remove all references to the word "mandatory" throughout the mandatory arbitration laws, replacing "mandatory" with "civil" in some instances.</p>	<p>Jan 16 '17 to WSBA: We do not find this bill to be of interest or relevant to the Admin Law Section.</p>	
<p>HB 1160 SB 5418</p>	<p>Would amend the Public Records Act by enacting recommendations of the sunshine committee concerning disclosure exemptions.</p> <p>SHB:</p> <ul style="list-style-type: none"> • Requires public disclosure for certain otherwise 	<p>Jan 21 '17 to WSBA: Please track, but no position at this time.</p>	<p>HB: Feb 15: SHB passed House. IN SENATE Feb 16 ref'd to State Gov. Mar 15 hearing</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

7 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>exempted personal information where the subject of the information consents to disclosure.</p> <ul style="list-style-type: none"> • Exempts public employee and volunteer passport and visa numbers from public disclosure. • Provides that the exemption from public disclosure of information regarding the ongoing investigations of employment-related discrimination lasts until the agency provides notice of the outcome of the investigation. • Exempts trade secrets from public disclosure. • Allows attorney's fees to any defendant who successfully defends against an injunction of the public disclosure of financial related records. 		<p>In SENATE – Mar 15 Public hearing in State Government DEAD per WSBA 4/24/17</p> <p>SB: Jan 24 referred to State Gov Feb 10 public hearing. DEAD per WSBA 4/24/17</p>
<p>HB 1240</p>	<p>Would amend RCW 34.05.630, -.640 and -.640 of the Administrative Procedure Act to significantly increase the role of the legislature’s the joint administrative rules review committee (JARRC) in the adoption of agency rules, including by --</p> <ul style="list-style-type: none"> • Requiring most adopted rules to be approved by JARRC; • Suspending non-approved rules until the end of the next legislative session; • Establishing a new legislative process for dealing with suspended rules. 	<p>Major policy change as to the role of JARRC that would (1) greatly increase the workload of JARRC and (2) slow down – at best – adoption of new rules, with no exceptions for emergency situations, public health matters, etc.</p> <p>Feb 3 to WSBA: Please track this bill and let us know if it has a chance to pass in both houses, in which case the Section Board may want to consider taking a formal position on it.</p>	<p>Jan 13 referred to State Government Feb 10 public hearing</p> <p>DEAD per WSBA 4/24/17</p>
<p>HB 1285</p>	<p>Would requires qualified interpreters in judicial or admin proceedings to take an oath upon receiving initial qualification from the office of the deaf and hard of hearing.</p>	<p>Jan 16 '17 to WSBA: The Admin Law Section does not have any feedback on this bill.</p>	

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

8 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
<p>HB 1317 SB 5207</p>	<p>Would amend RCW 42.56.250 (employment and licensing) of the Public Records Act to –</p> <ul style="list-style-type: none"> • Change “electronic mail” to “email,” and • Add a disclosure exemption for “global positioning system data that would indicate the location of the residence of a public employee or volunteer.” <p>SHB: The exemption applies to information on the GPS device used by the employee or volunteer.</p> <p>SSB: Exempts Global Positioning System (GPS) data indicating the location of the residence of any public employee or volunteer using the GPS recording device from public disclosure requirement</p>	<p>Jan 21 to WSBA: Jan 21 to WSBA: Please track, but no position at this time.</p> <p>This is an expansion of a disclosure exemption enacted in 2015 concerning GPS data indicating the residence of a criminal justice agency employee.</p>	<p>HB: Jan 17 ref'd to State Gov Feb 17 SHB passes out of committee; ref'd to Rules 2 Review. DEAD per WSBA 4/24/17</p> <p>SB: Jan 17 ref'd to State Gov. Feb 15 SSB passes Senate. In the House - Feb 16 ref'd to State Gov Mar 15 hearing & exec session. Apr 5 passed House. Apr 17 Governor signed. Chapter 38, 2017 Laws. Effective date 7/23/2017.</p>
<p>HB 1328</p>	<p>Would amend RCW 34.05.328 (Significant legislative rules, other selected rules) of the Administrative</p>	<p>An agency-specific proposal. The Section usually defers to the agency and its specific stakeholders to lobby the bill.</p>	<p>Jan 17 referred to State Gov Feb 10 public</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

9 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>Procedure Act with regard to the Department of Ecology’s rulemaking to specify the type of analysis the agency would need to prepare in support of new rules.</p>	<p>I noted no obvious technical drafting issues.</p> <p><i>Feb 3 to WSBA: please track this bill; no position at this time.</i></p>	<p>hearing DEAD per WSBA 4/24/17</p>
<p>HB 1352 SB 5230</p>	<p>Would require numerous reviews and reports concerning the impact of rule enforcement actions, especially on small businesses.</p> <p>From the Bill Digest:</p> <ul style="list-style-type: none"> • Requires the attorney general to review the administrative procedure act, as well as related administrative rules, similar statutes, and case law, to identify the current rights and protections afforded to small business owners selected for agency enforcement actions including inspections, audits, site visits, or record review. • Requires the department of agriculture, department of ecology, employment security department, department of labor and industries, department of revenue, and state fire marshal to: (1) Review provisions of their governing statutes, administrative rules, policy statements, guidance, and directives to identify the current rights and protections afforded to small business owners that are selected for inspection, audit, or other enforcement action by the agency; and (2) No 	<p>I do not see the Section taking a formal position on this bill. I did not note any obvious technical drafting issues.</p> <p><i>Feb 3 to WSBA: Please track; no position at this time.</i></p>	<p>HB: Feb 27 passes house. <i>In the Senate-</i> Apr 12 passed Senate May 8 Governor signed. Chapter 243, 2017 Laws. Effective date 7/23/2017.</p> <p>SB: Feb 15 passes Senate. <i>In the House-</i> Feb 16 ref’d to State Gov etc Mar 16 hearing & exec action Mar 24 Referred to Rules 2 Review. Apr 23</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>later than August 31, 2017, provide the attorney general with certain information.</p> <ul style="list-style-type: none"> Expires December 31, 2017 		<p>By resolution, returned to Senate Rules Committee for third reading.</p> <p>IN SENATE Placed on Rules White Sheet.</p> <p>2017 1ST SPECIAL SESSION Apr 24 By resolution, reintroduced and retained in present status.</p>
<p>HB 1417</p>	<p>Would amend RCW 42.30.110 in the Open Public Meetings Act to allow the use of executive sessions to consider “information regarding the infrastructure and security of computer and telecommunications networks, security and service recovery plans, security risk assessments and security test results to the extent that they identify specific system vulnerabilities, and other information that if made public may increase the risk to the confidentiality, integrity, or availability of agency security or to information technology infrastructure or assets.”</p>	<p>Raises a policy issue. I do not see the Section taking a position on it. I see no technical drafting issues.</p> <p>Would like WSBA to monitor so we can report to Section members on this bill if it passes. Jan 23 '17: so advised WSBA.</p>	<p>Feb 28 SHB passes House.</p> <p>In SENATE – Mar 2 ref'd to State Gov Mar 15 hearing Apr 10 passed Senate. Apr 27 Governor signed. Chapter 137, 2017 Laws. Effective date</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

11 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
			7/23/2017.
HB 1465	<p>Would amend RCW 42.56.430 in the Public Records Act to exempt from disclosure certain personal identifying information of persons involved in preventative measures regarding wolf interactions, or responding to reported wolf depredations.</p> <p>Would amend RCW 77.12.885 (in the Fish And Wildlife title) to refer to this exemption in the context of information otherwise to be posted on a website.</p> <p>As passed with Senate amendments: Personally identifiable information of persons reporting wolf depredations or assisting in the removal of predators are exempt from public disclosure under the PRA. This includes all persons who report depredation information to DFW, such as landowners, landowners' families, and landowners' employees. This PRA exemption does not include DFW employees and contractors. Expires the exemptions in 2022 and requires the Sunshine Committee to make recommendations to the Legislature by 2021 whether the exemptions should be extended.</p>	<p>I do not see the Section taking a formal position on this bill. I did not note any obvious technical drafting issues.</p> <p>Feb 3 to WSBA: Please track; no position at this time.</p>	<p>Jan 20 ref'd to State Gov Feb 17 passed out of committee Mar 7 1SHB Floor amendment(s) adopted. Passed House.</p> <p>In SENATE – Apr 7 Engrossed SHB passed Senate May 8 Gov'r signed. Chapter 246, 2017 Laws. Effective date 7/23/2017.</p>
HB 1516	<p>Would add a new chapter to RCW 43.105 (Consolidated technology services agency) that would –</p> <ul style="list-style-type: none"> Require the establishment of an “internet-based” searchable “central portal on a state 	<p>Obviously intended to reduce the number of public record requests to <u>local</u> agencies. I do not see the Section taking a position on this policy issue.</p>	<p>Jan 23 Ref'd to State Gov Feb 15 SHB passed out of</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

12 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>web site” for public records “of all <u>local</u> public agencies;” (emphasis added);</p> <ul style="list-style-type: none"> • Hire a “private cloud service provider to develop and manage the data storage system;” • Require “each <u>local</u> public agency of the state” to transmit all of its public records that are in a digital format to the data storage system.” (Emphasis added.) <p>Implementation deadlines are specified.</p> <p>Section 1. (4) of the bill states: “Any public record, or information within such record, that is exempt from public disclosure under chapter 42.56 RCW or other law, <u>may</u> be excluded or redacted to the extent permitted under such law.” [Emphasis added.]</p> <p>SHB: The requirements for establishing a state portal are removed and replaced with a study to determine the viability of such a project.</p>	<p>Do we see any significant issues with using a third-party to manage the site?</p> <p>I think the “excluded or redacted” verbiage should be mandatory – i.e., “shall” – rather than “may.”</p> <p>Jan 26 to WSBA: Does HB 1516 have legs? If so, I’d recommend that the Section Board consider taking a formal position on a single, very important word in the bill. [Then explained the “may” vs “shall” issue with Section 1 (4) of the bill.]</p> <p>SHB changes moot the issue described above.</p>	<p>committee Feb 17 Referred to Appropriations.</p> <p>DEAD per WSBA 4/24/17</p>
<p>HB 1587</p>	<p>Would add a new section to RCW chapter 1.08 STATUTE LAW COMMITTEE(CODE REVISER) requiring the code reviser to create a statewide rule-making information web site that would show all pending agency rule proposals and would include a link for making comments on a proposal.</p> <p>Would amend RCW 34.05.320 (Notice of proposed rule etc.) of the Administrative Procedure Act to require</p>	<p>Jan 24 to WSBA: The Admin Law Section does not have a position on HB 1587 at this time but would like WSBA to track it.</p>	<p>Jan 24 ref’d to State Gov DEAD per WSBA 4/24/17</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

13 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>agencies to – if the commenter provided contact information --</p> <ul style="list-style-type: none"> • Acknowledge receipt of comments made via the new website; and • “Provide the date, time, and place of the next scheduled public hearing on the proposed rule, if such a hearing is scheduled.” 		
<p>HB 1594</p>	<p>R and D sponsors.</p> <p>Would amend RCW 42.56.152 of the Public Records Act to require that public records officer training cover “particular issues related to the retention, production, and disclosure of electronic documents, including updating and improving technology information services.”</p> <p>Would amend RCW 42.56.520 of the Public Records Act to</p> <ul style="list-style-type: none"> • allow an agency to respond to a public records requests by stating that the request is unclear and asking for clarification; • if the requestor and agency cannot thereafter agree on the meaning of the request, allow the agency to offer mediation under 7.07 RCW; • allow a court to consider a requestor’s refusal to participate in mediation in “determining whether the agency has satisfied its burden of proof regarding its response to a records request in any related judicial review proceedings under RCW 42.56.550.” <p>Would amend RCW 42.56.570 of the Public Records Act concerning training of and consultations with agencies about model rules and best practices.</p> <p>Would add a new section chapter RCW 40.14</p>	<p>Do not see any obvious technical drafting problems. Do not see the Section taking a formal position on the policy issues raised by the bill.</p> <p>Jan 27 to WSBA: The Section has no formal position on this bill at this time but would like WSBA to track the bill.</p>	<p>Mar 3 SHB passed in House.</p> <p>In SENATE – Mar 7 ref’d to State Gov Mar 15 hearing Apr 10 passed Senate</p> <p>May 16 Governor signed ESHB. Chapter 303, 2017 Laws. Effective date 7/23/2017.</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

14 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>(PRESERVATION AND DESTRUCTION OF PUBLIC RECORDS) to set up a grant program to assist local agencies in records management and public records request administration.</p> <p>Would amend RCW 40.14.024 (Division of archives and records management—Local government archives) to control the use of funds collected for the new grant program.</p> <p>SHB:</p> <ul style="list-style-type: none"> • Requires the Attorney General to establish a consultation program to assist local governments with best practices for managing public records requests. • Requires the Division of Archives and Records Management (State Archives) to conduct a feasibility study for establishing a statewide internet portal for public records management. Authorizes a \$1 surcharge on county recorded documents for the State Archives local competitive grant program and local trainings on records retention practice. 		
<p>HB 1595</p>	<p>R and D sponsors “Relating to costs associated with responding to public records requests”</p> <p>Would amend RCW 42.56.070(7) of the Public Records Act to allow for recovery of costs related to electronically produced copies of records and deleting the current subsection (8), which concerns calculating the</p>	<p>Do not see any obvious technical drafting problems. Do not see the Section taking a formal position on the policy issues raised by the bill.</p> <p>Jan 27 to WSBA: The Section has no formal position on this bill at this time but would like WSBA to track the bill.</p>	<p>Mar 3 passed House</p> <p>In SENATE – Mar 7 ref'd to State Gov Mar 15 hearing Apr 7 passed</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

15 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>cost of paper records copies.</p> <p>Would add the following subsection to RCW 42.56.080 of the Public Records Act: “A public records request must be for an identifiable record. A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records under this chapter” <i>and</i> allowing agencies to reject certain “bot requests.”</p> <p>Would make several changes to RCW 42.56.120 of the Public Records Act concerning cost recovery fees for various types of record media.</p>		<p>Senate.</p> <p>May 16 Governor signed. Chapter 304, 2017 Laws. Effective date 7/23/2017.</p>
<p>HB 1630 see SB 5608</p>			
<p>HB 1657</p> <p>SB 5055</p>	<p>Sponsor: Sen Dansel (R), 7th Dist. (NE part of the state)</p> <p>Would amend the Administrative Procedure Act to</p> <ul style="list-style-type: none"> • Have RCW 34.05.655 provide that filing a petition for review with the joint administrative rules review committee [“JARRC”] could “stay” adoption of a proposed rule or enforcement etc. of an existing rule; • Significantly rewrite the JARRC process set forth in RCW 34.05.640 to replace a possible 	<p>Similar to 2015’s HB 1209 and SB 5364, which died.</p> <p>There is no required showing of grounds, likelihood of prevailing, etc. There are no exceptions for rules concerning significant public health or safety concerns. A stay would last as long as until 90 days after the end of a legislative session that was going on when the petition is filed.</p> <p>Giving the Senate alone the power to lift a stay raises constitutional issues.</p>	<p>HB: Jan 26 referred to State Gov DEAD per WSBA 4/24/17</p> <p>SB: Jan 11 referred to State Gov Jan 20</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

16 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>governor’s “suspension” of a rule with a continuation of the new “stay” until a judicial proceeding upholds the rule or “the stay . . . is lifted by resolution of the senate adopted by majority vote.”</p>	<p>Jan 16 '17 provided my initial comments to WSBA; advised I've forwarded to Section Chair et al. Jan 24 from WSBA: Sen. Dansel, R-7, resigned his Senate seat today to take a job in the Trump administration. As the prime sponsor of SBs 5055, 5056, and 5057 – which your Section expressed concern over – I don't see these bills passing this session, FYI. Jan 26 re HB 1657 told WSBA: We need to know if this House Bill has legs. If so, I will recommend that the Section Board consider a formal Oppose position.</p>	<p>Public hearing DEAD per WSBA 4/24/17</p>
<p>HB 1658 SB 5616</p>	<p>Would amend the Administrative Procedure Act, effective July 1, 2017, by adding the following new section:</p> <p>“After July 1, 2017, no rule, as defined in RCW 34.05.010, or policy of any state agency may be enforced unless and until the rule or policy has been adopted pursuant to this chapter, codified in the Washington Administrative Code, and ratified by act of the legislature.”</p> <p>SSB: exempts agencies that have successfully completed an excellence assessment³ from the requirement to have their rules ratified by act of the Legislature.</p>	<p>The same as 2015's HB 1203 and SB 5368, which died in committee. My comments on those bills: <i>The Board should consider opposing or at least commenting on this bill.</i></p> <ul style="list-style-type: none"> • On its face, the bill would apply to all state agencies – not just the ones expressly subject to the APA. • The all-agency legislative ratification requirement would <ul style="list-style-type: none"> ○ Add hugely to the legislature's workload, ○ Cause significant delay in agencies' regulation of the matter in their purview, • Create major uncertainty affecting the businesses and activities subject to the agencies' jurisdiction. <p>Jan 26 told WSBA We need to know if this House Bill has legs. If so, I will recommend that the Section Board consider a formal Oppose position, and repeated my 2015 comments.</p>	<p>HB: Jan 26 ref'd to State Gov. DEAD per WSBA 4/24/17</p> <p>SB: Jan 31 ref'd to State Gov Feb 17 SSB passed out of Committee; ref'd to Ways & Means.</p> <p>DEAD per WSBA 4/24/17</p>

³ This term is also used in [SB 5455](#) and [SB 5798](#). Perhaps it means this: <https://www.nist.gov/baldrige/what-performance-excellence>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

17 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
HB 1659	<p>Would amend the Administrative Procedure Act (RCW 34.05.570(1) Judicial review) to add:</p> <p>“(e) In interpreting laws or other writings, the court shall make its own determination without deference to the agency interpretation.”</p>	<p>Same as 2015’s HB 1207 and SB 5374, which died in committee.</p> <p>My comments on those bills:</p> <p>This would be a major change to administrative law. <i>The Board may want to consider commenting.</i> The bill raises philosophical issues that go to the heart of the administrative agency – courts relationship.</p> <p>Also, there is a practical ramification of the bill. At present, lawyers can largely rely on agency interpretations to guide their advice to clients. The bill’s change could introduce significant uncertainty in this regard.</p> <p>Jan 26 to WSBA: HB 1659: We need to know if this bill has legs. If so, I would recommend that the Board consider taking a formal position on the bill. The bill is the same as 2015’s HB 1207 and SB 5374, which died in committee. My comments on those bills: [repeated them].</p>	<p>Jan 26 referred to Judiciary</p> <p>DEAD per WSBA 4/24/17</p>
HB 1728	<p>Original bill would authorize limited law enforcement use of administrative subpoenas to obtain telecom, email, etc. records in investigating crimes involving the sexual exploitation of children.</p> <p>However, as enacted the bill establishes a “special inquiry judge process” for the issuance of such subpoenas.</p>	<p>While not specifically affecting the practice of administrative law, this bill may be of interest to Section members in relation to government entities’ ability to “subpoena” private business and customer records.</p> <p>Is the bill constitutional under current Washington case law concerning the privacy of telecom records? See</p>	<p>Mar 1 passes House</p> <p>In Senate – Mar 6 ref’d to Law & Justice. Mar 14 Public hearing Apr 5 passed</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

18 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
		<p>.State v. Faydo, Nos. 11956-4-III, 11957-2-III , COURT OF APPEALS OF WASHINGTON, Division Three, 68 Wn. App. 621; 846 P.2d 539; 1993 Wash. App. LEXIS 43, February 4, 1993, Decided , February 4, 1993, Filed , Review Denied at 121 Wash. 2d 1034 (1993).</p> <p>Jan 27 to WSBA: no position and this time; please track.</p>	<p>Senate.</p> <p>Apr 25 Gov signed. Ch. 114, 2017 Laws. Effective 7/23/2017.</p>
<p>HB 1829</p>	<p>Would amend RCW 42.56.420 of the Public Records Act to specify that the existing disclosure exemption applies to “Information regarding the <u>public and private</u> infrastructure and security of computer and telecommunications networks.”</p>	<p>A policy issue of a type on which the Section usually does not comment. I do not note any obvious technical drafting issues.</p> <p>Feb 3 to WSBA: Please track; no position at this time.</p>	<p>Mar 2 passes House</p> <p>In Senate – Mar 6 ref'd to Energy etc. Apr 11 passed Senate. Apr 27 Gov'r signed. Chapter 149, 2017 Laws. Effective date 7/23/2017.</p>
<p>HB 1948</p> <p>Similar to HB 1989</p>	<p>Would amend RCW 42.30.030 in the Open Public Meetings Act to require a subcommittee, task force, advisory group, or other work group, created by an action of a governing body, to: (1) Make a meeting open to the public if it relates to a decision to make a policy or fiscal</p>	<p>A policy issue of a type on which the Section usually does not comment. I do not note any obvious technical drafting issues.</p> <p>Feb 3 to WSBA: Please track; no position at this time.</p>	<p>Feb 3 referred to State Gov Feb 17 Exec session; no action DEAD per WSBA</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

19 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>recommendation to a governing body; and (2) Provide notice of the purpose of the meeting online at least twenty-four hours in advance of the start time of the meeting.</p>		4/24/17
<p>HB 1951 SB 5545</p>	<p>Would amend the Open Public Meetings Act and other RCW chapters to require “public employee collective bargaining sessions to be open meetings.”</p> <p>SSB:</p> <ul style="list-style-type: none"> • Provisions requiring public sector collective bargaining negotiations be conducted in open meetings are removed. • A requirement is added for public employers, every two weeks until an agreement is adopted, to submit current written proposals to the governing body of the public employer or, for state employees, the Joint Committee on Employment Relations. • The proposals must be made available to the public. • A public employer must also submit copies of its collective bargaining agreement to PERC. • A provision is added that requires public employers, other than the state of Washington, to prepare a fiscal impact analysis of any proposed final collective bargaining agreement. • The fiscal impact statement must be presented at the public meeting considering adoption of the final agreement. 	<p>Similar to 2014’s SB 6183, which died in the Rules Committee. Admin Law Section had no comment on that bill.</p> <p>Jan 27 to WSBA re SB: no position at this time; please monitor.</p>	<p>HB: Feb 3 ref’d to Labor & Workplace Standards</p> <p>DEAD per WSBA 4/24/17</p> <p>SB: Jan 27 referred to Commerce, Labor & Sports. Feb 15 SSB passed out of committee Feb 17 ref’d to Ways & Means. Feb 21 passed out of W&M Feb 23 Passed to Rules for 2nd reading</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

20 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<ul style="list-style-type: none"> • A provision is added providing that written proposals suggesting new terms to a bargaining agreement that are presented to, or received from, a union are not exempt from the Public Records Act. • The Joint Committee on Employment Relations is required to, during years collecting bargaining agreements are negotiated, meet twice a year to review the proposals submitted under the act and make recommendations to the Governor. 		Mar 21 Senate Rules "X" file. DEAD per WSBA 4/24/17
HB 1989 <i>Similar to HB 1948</i>	Would add a new section to the Open Public Meetings Act (RCW 42.30) to subject the following to the act: An advisory board, committee, or other entity established by a public agency to provide formal advice or recommendations to the agency.	A policy issue of a type on which the Section usually does not comment. I do not note any obvious technical drafting issues. Feb 7 to WSBA: Please track; no position at this time.	Feb 6 First reading, referred to State Government DEAD per WSBA 4/24/17
HB 2097 SB 5828	Would limit disclosure of individual's religious affiliation by – <ul style="list-style-type: none"> • Adding a new section to RCW 49.60 (Discrimination—Human rights commission.) to add a couple of “unfair practices” by employers; • Adding a new chapter to RCW 42 on the subject; • Adding a new section to the Public Records Act to(RCW 42.56.420) providing: “All records that relate to or contain personally identifying information about an individual's religious beliefs, practices, or affiliation are exempt from disclosure 	A policy issue of a type on which the Section usually does not comment. I do not note any obvious technical drafting issues. Feb 10 & 13 to WSBA: Please track; no position at this time.	Feb 28 passed House. In Senate – Mar 2 referred to Law & Justice DEAD per WSBA 4/24/17

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	under this chapter.”		SB: DEAD per WSBA 4/24/17
SB 5039	<p>Would add a new chapter to RCW Title 1 (General Provisions) adopting the uniform electronic legal material act.⁴</p> <p>“The Uniform Electronic Legal Material Act establishes an outcomes-based, technology-neutral framework for providing online legal material with the same level of trustworthiness traditionally provided by publication in a law book. The Act requires that official electronic legal material be: (1) authenticated, by providing a method to determine that it is unaltered; (2) preserved, either in electronic or print form; and (3) accessible, for use by the public on a permanent basis.”</p> <p>Would apply to (1) issues of the Washington State Register in an official electronic record that were first published on or after May 7, 2008 and (2) to all legal material in an electronic record that is designated as official under section 4 of this act and first published electronically on or after January 1, 2018.</p> <p>Would not apply to “any court or agency of the judicial branch.” [Not apply to WSBA?]</p>	<p>A policy issue bill.</p> <p>Except for a few Washington-specific references, description of covered records, and the exclusion of judicial bodies, the bill appears to be verbatim the uniform act.</p> <p>Having been created by the Uniform Law Committee and vetted by numerous organizations, I have not reviewed it closely looking for technical drafting issues.</p> <p>Jan 16 '17 to WSBA: The Admin Law Section would like SB 5039 tracked but has no formal position on the bill at this time.</p>	<p>Feb 28 passed Senate</p> <p>In House – Mar 2 ref'd to Judiciary Mar 14 hearing Mar 22 Scheduled for executive session Apr 10 passed House</p> <p>Apr 21 Gov signed. Ch. 106, 2017 Laws. Effective 1/1/2018.</p>

⁴ The uniform act has been adopted so far by about a dozen states, including Oregon, Idaho and California.

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

22 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
SB 5056	<p>Sponsor: Sen Dansel (R), 7th Dist. (NE part of the state)</p> <p>Would expand allowable new evidence in judicial review proceedings by amending RCW 34.05.562 of the Administrative Procedure Act as follows:</p> <p>(1)The court may receive evidence in addition to that contained in the agency record for judicial review, ((only if))<u>whenever</u> it relates to the validity of the agency action at the time it was taken ((and)), <u>is necessary to avoid injustice</u>, or is needed to decide disputed issues regarding . . .</p>	<p>Would change the current two-part requirement to a three-options approach.</p> <p>Same as 2015’s HB 1206 and SB 5373 , which died.</p> <p>Jan 16 '17 provided my initial comments to WSBA; advised I've forwarded to Section Chair et al.; i.e., I'd recommend formal opposition if the bill has legs.</p> <p>Jan 24 from WSBA: Sen. Dansel, R-7, resigned his Senate seat today to take a job in the Trump administration. As the prime sponsor of SBs 5055, 5056, and 5057 – which your Section expressed concern over – I don’t see these bills passing this session, FYI.</p>	<p>Jan 11 referred to State Government. Jan 20 Public hearing</p> <p>DEAD per WSBA 4/24/17</p>
SB 5057	<p>Sponsor: Sen Dansel (R), 7th Dist. (NE part of the state)</p> <p>Would amend RCW 34.05.413 in the Administrative Procedure Act⁵ to authorize any party to “remove an adjudicative proceeding to the office of administrative hearings upon notice provided within ten days following the commencement of the adjudicative proceeding . . .”</p>	<p>Fails to address practical issues, such as how OAH would accommodate such “removals.”</p> <p>Raises the policy issue of upsetting the present legislative arrangements establishing who will hear cases at what agencies.</p> <p>In some cases, it could raise many of the issues raised by SSB 6019 in the 2015-2016 sessions, which the Admin Law Section formally opposed.</p> <p>In the APA, OAH is mentioned in 34.05.425 (Presiding officers—Disqualification, substitution) and 34.05.434</p>	<p>Jan 11 1st reading, ref’d to State Government. Jan 20 Public hearing</p> <p>DEAD per WSBA 4/24/17</p>

⁵ <http://app.leg.wa.gov/RCW/default.aspx?cite=34>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
		<p>(Notice of hearing). In the OAH act (Chapter 34.12 RCW), assigning cases to OAH is addressed in several sections.</p> <p>Jan 16 '17 to WSBA: The Section would like SB 5057 tracked. It has no formal position on the bill at this time but is evaluating some concerns. [Listed concerns.] Jan 20 – Section Chair Manning sent a formal opposition statement to WSBA.</p> <p>Jan 24 from WSBA: Sen. Dandel, R-7, resigned his Senate seat today to take a job in the Trump administration. As the prime sponsor of SBs 5055, 5056, and 5057 – which your Section expressed concern over – I don't see these bills passing this session, FYI.</p>	
<p>SB 5058</p>	<p>Sponsor: Sen Dandel (R), 7th Dist. (NE part of the state)</p> <p>Would amend RCW 4.84.010 (Civil procedure, Costs, Costs allowed to prevailing party—Defined— Compensation of attorneys) to provide for (in court cases, including judicial review of agency actions) the payment of interim attorneys' fees to nongovernment parties who prove “beyond a reasonable doubt that a government party has acted contrary to law,” the amount to be “adequate to finance the nongovernment party’s claim against the government party”</p>	<p>Very similar to last session’s HB 2748, which died in committee. Our notes on that bill last year:</p> <p>Very similar to 2015’s HB 1205 and SB 5370, which died in the House committee without a hearing and in Senate Ways and Means, respectively.</p> <p>To WSBA 1/20/16: We would like this bill tracked but have no position at this time. However, I do have a strong technical drafting recommendation. The bill should include amending the Judicial Review part of the Administrative Procedure Act (RCW 34.05) to add a section that cross references this Civil Procedure title section. This is the same approach of current APA section 34.05.598, which cross references and incorporates RCW 4.84.185 - Prevailing party to receive expenses for opposing frivolous</p>	<p>Jan 11 1st reading, ref'd to Law & Justice. Jan 25 Public hearing</p> <p>DEAD per WSBA 4/24/17</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
		<p>action or defense. http://app.leg.wa.gov/RCW/default.aspx?cite=4.84.185 Such cross references are extremely helpful to attorneys and, thereby, their clients, as well as to <i>pro se</i> litigants.</p> <p>CC Section Chair (Gabe): Could have a significant impact on administrative law practice, but is the type of us-vs-them policy issue on which the Section typically has not taken a position.</p> <p>Jan 16 '17 to WSBA: The Section would like SB 5057 tracked. It has no formal position on the bill at this time but is evaluating some concerns. There are simple practical concerns about how OAH would accommodate such unexpected case assignments, and there are more serious concerns about this one-size-fits all bill running afoul of existing legal requirements and procedures, such as having agency heads hear certain cases. We wonder whether careful digging into the dozens of different agency statutes and processes would produce significant unintended consequences, as was the case with SSB 6019 in the 2015-2016 sessions (which the Admin Law Section formally opposed). Perhaps if we knew whether the sponsor has a concern with the existing hearing officers for a given agency we might be able to suggest a more targeted and certain approach to a solution. <i>Plus</i> the comments about the similar prior bills.</p>	
<p>SB 5211</p>	<p>Sponsor: Sen. Lynda Wilson (R) (17th Dist)</p> <p>Would amend the Administrative Procedure Act:</p> <ul style="list-style-type: none"> • A presiding officer for an internal state agency administrative hearing must issue final 	<p>Same as 2015-2016's SSB 6019, which the Section formally opposed.</p> <p>Jan 21 to WSBA: SB 5211 is the same as SSB 6019, which</p>	<p>Jan 17 ref'd to Law & Justice Feb 8 SSB passed out of committee</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

25 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>orders.</p> <ul style="list-style-type: none"> An administrative law judge at the Office of Administrative Hearings must issue final orders. Prohibited ex-parte contacts include “communication with an agency employee that requires as part of an employment evaluation that a presiding officer shall decide cases according to the agency head’s unwritten policies.” <p>SSB: sizable re-write.</p>	<p>the Section formally opposed in the 2015 session. That opposition stands. The prior memo is attached.</p> <p>Jan 21 – Per Alison’s request, sent her a bullet point version of the SSB 6019 comments.</p> <p>* From Alison Feb 28: SB 5211 was not voted out of the Senate Ways and Means Committee before the Feb. 24 fiscal committee cutoff. Therefore, it won’t be advancing this session.</p>	<p>Feb 9 ref’d to Ways & Means.</p> <p>* DEAD per WSBA 4/24/17</p>
<p>SB 5214</p>	<p>Sponsors: Wilson, Zeiger</p> <p>Would amend the Administrative Procedure Act with regard to the Joint Administrative Rules Review Committee (“JARRC”):</p> <ul style="list-style-type: none"> Amend RCW 34.05.630 (re reviewing existing rules etc.) to mandate JARRC review <ul style="list-style-type: none"> If 15 legislators request it, or If the rule has a \$10M+ economic impact, or If 5+ local govmnts representing 50k+ residents request it. Amend RCW 34.05.655 (petition for review contents, etc.) to establish a 30 day deadline for JARRC to decide to accept or reject a 	<ul style="list-style-type: none"> New RCW 34.05.630 mandates for reviews present practical and policy issues for the legislature. Do not see a Section stake. Same re new 30 day deadline in 34.05.655. Proposed new section would greatly expand JARRC’s tasks to for the first time include (a) review of specific agency permits issued and (b) review of local ordinances and materials referenced in them. This presents practical and policy issues for the legislature. Do not see a Section stake. <p>Jan 21 to WSBA: Please track, but no position at this time.</p>	<p>Mar 2 passed Senate.</p> <p>In House – Mar 6 ref’d to State Gov etc</p> <p>DEAD per WSBA 4/24/17</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

26 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>petition.</p> <ul style="list-style-type: none"> • Add a new section specific to review of - <ul style="list-style-type: none"> ○ “General permits impacting local governments filed in accordance with agency rules” and ○ “Guidance documents and advisory materials incorporated into local government ordinances.” ○ Include same mandated review provisions as re 34.05.630. 		
<p><u>SB 5350</u></p>	<p>Would amend the Administrative Procedure Act to establish a 2 yr deadline for issuing final decisions in adjudicative cases.</p> <p>Would add extensive verbiage to the APA concerning “judicial review” of an agency’s failure to meet the deadline.</p> <p>SSB: Detailed analysis TBDone</p> <ul style="list-style-type: none"> • Limits the application of the bill to actions filed after the effective date. • Allows a waiver of the 2 year limit where the agency has good cause to delay, such as for other related proceedings or investigations. • Allows the court to remand the matter, without consent of all parties, where the agency has good cause to delay, such as for other related proceedings or investigations. • Removes an exception to any stay of proceedings 	<p>Same as 2016’s SSB 6464. I would have recommended formal opposition to the judicial review changes if the bill had “had legs,” but it did not.</p> <p>Jan 21 2017 to WSBA: Reminded them of 2016’s SSB 6464. Asked if this new bill has legs; if so, the Section might oppose. Jan 26: Section Chair Manning sent formal Bd-approved oppose “in its current form” statement to WSBA.</p>	<p>Jan 20 referred to Law & Justice. Jan 25 public hearing Feb 1SSB passed out of committee Feb 2 Passed to Rules for 2nd reading. Mar 21 Senate Rules "X" file.</p> <p>DEAD per WSBA 4/24/17</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

27 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>where the petitioner requests the adjudicative proceeding not be stayed for issues not on appeal in a petition for judicial review before a superior court.</p> <ul style="list-style-type: none"> Limits evidence a superior court may receive on an issue or fact identified as contested in a petition if the agency has not already received evidence on that issue at an evidentiary hearing. 		
<p>SB 5455</p>	<p>AN ACT Relating to enhancing statewide cybersecurity performance through information assessment.</p> <p>SSB:</p> <ul style="list-style-type: none"> Requires Washington Technology Solutions (WaTech) to mutually develop procedures with the Legislature for providing cybersecurity information to members of the Legislature and to conduct an excellence assessment⁶ every two years. Requires the state Chief Information Officer (CIO) to set one- and five year performance projections, rather than goals, and update the Legislature on performance annually. Requires inclusion of one-year and five-year projections in the state strategic information technology (IT) plan. 	<p>No obvious direct impact on admin law practice, but of possible interest to the Section members in a newsletter item.</p> <p>Jan 26 to WSBA: no position but please monitor.</p>	<p>Jan 25 referred to State Gov. Feb 17SSB passed out of committee; ref'd to Ways & Means.</p> <p>DEAD per WSBA 4/24/17</p>
		<p>The Admin Law Section could consider recommending that</p>	<p>Jan 31referred</p>

⁶ "Excellence assessment" means an assessment of enterprise cybersecurity operational performance using a framework approved by the national institutes of standards and technology, United States department of commerce.

This term also used in [SB 5616](#) and [SB 5798](#) . Perhaps it means this: <https://www.nist.gov/baldrige/what-performance-excellence>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
<p>SB 5608 (Similar to HB 1630)</p>	<p>Would amend RCW 43.185C.180 (homeless housing and assistance; Washington homeless client management information system) to add subsection (2)(d), which would state: “Any unaccompanied youth thirteen years of age or older may give consent for the collection of his or her personally identifying information under this section. "Unaccompanied" has the same definition as in RCW 43.330.702.”</p>	<p>the legislature consider adding disclosure exemption language to the Public Records Act for the personal information collected under RCW 43.185C.</p> <p>Presumably the information collected under RCW 43.185C’s programs is a “public record” subject to disclosure under the Public Records Act (RCW 42.56). The PRA contains disclosure exemptions for many types of “personal” or “personally identifiable information,” but I did not find an exemption in the PRA for homeless persons’ personal information.</p> <p>The RCW Title/Chapter that is the subject of this bill does contain 43.185C.030 (Washington homeless census or count—Confidentiality—Online information and referral system—Organizational quality management system), which states: “All personal information collected in the census is confidential, and the department and each local government shall take all necessary steps to protect the identity and confidentiality of each person counted.” <i>And</i> “The department and each local government are prohibited from disclosing any personally identifying information about any homeless individual when there is reason to believe or evidence indicating that the homeless individual is an adult or minor victim of domestic violence, dating violence, sexual assault, or stalking or is the parent or guardian of a child victim of domestic violence, dating violence, sexual assault, or stalking; or revealing other confidential information regarding HIV/AIDS status, as found in RCW 70.02.220. The department and each local government shall not ask any homeless housing provider to disclose personally identifying information about</p>	<p>to Human Services, Mental Health & Housing</p> <p>DEAD per WSBA 4/24/17</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

29 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
		<p>any homeless individuals when the providers implementing those programs have reason to believe or evidence indicating that those clients are adult or minor victims of domestic violence, dating violence, sexual assault, or stalking or are the parents or guardians of child victims of domestic violence, dating violence, sexual assault, or stalking.”</p> <p>Feb 1 to WSBA: The Admin Law Section would like SB 5608 tracked but have no position at this time.</p> <p>Feb 1 to Section Legisl Committee: Thoughts re my PRA recommendation idea? Feb 2 per feedback from Polly and Section Chair Stephan, emailed Alison at WSBA with our recommendation and asked if a formal Section Bd vote and position statement is needed to pass that on to the legislature. Feb 6 Alison: “yes.”</p>	
SB 5687	<p>Would amend the Public Records Act by adding the following: “Except as provided in RCW 42.56.250, all training curriculum and materials for any certified professional guardianship course or program of a public agency must be made available for copying and disclosure, and are not exempt from public disclosure.”</p>	<p>The 8 subsections of RCW 42.56.250 set forth disclosure exemptions for a variety of employment and licensing information, including “Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.”</p> <p>Feb 2 2017 to WSBA: The Admin Law Section would like this bill tracked but has no position at this time.</p>	<p>Feb 2 referred to Health Care. Feb 9 public hearing DEAD per WSBA 4/24/17</p>
SB 5695	<p>Would add a new section to chapter 13.40 RCW (JUVENILE COURTS AND JUVENILE OFFENDERS; Juvenile justice act of 1977) to authorize counties to establish and operate juvenile special sex offender disposition alternative treatment courts.</p>	<p>Not a subject of usual interest to the Admin Law Section. There is a public records aspect with regard to sealing juvenile court records or not. Usually the Section recommends that public record disclosure exemptions be put in the Public Records Act where they are easily locatable by the public, as well as attorneys. But I think it is well enough known that</p>	<p>Feb 3 referred to Human Services, Mental Health & Housing Feb 15 passed</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

30 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
		<p>there are record sealing provisions in other RCW titles and chapters with regard to juveniles that it is not necessary to amend the PRA on this topic.</p> <p>Feb 3 to WSBA: not interested in this bill.</p>	<p>committee Mar 17 Senate Rules "X" file. DEAD/Inactive per WSBA 4/24/17</p>
<p>SB 5710</p>	<p>Would amend RCW 42.56.550 in the Public Records Act to create “good faith” factor – and \$5000 maximum -- in determining penalties assessed against government agencies or entities for violating the Act. Eight specific considerations are listed.</p>	<p>A policy issue of a type on which the Section usually does not comment. I do not note any obvious technical drafting issues.</p> <p>Feb 3 to WSBA: Please track; no position at this time.</p>	<p>Feb 3 referred to State Gov Feb 15 passed out of committee Feb 17 Passed to Rules for 2nd reading. DEAD per WSBA 4/24/17</p>
<p>SB 5761</p>	<p>Would amend RCW 42.56.430 in the Public Records Act to exempt from disclosure “Confidential fish or shellfish harvest information shared with the department of fish and wildlife by a tribe, including fisher name and signature, harvest weight, value, and tax information.”</p> <p>SSB:</p> <ul style="list-style-type: none"> • A legislative taskforce is created to review issues relating to fish and shellfish enforcement, 	<p>The bill uses the word “confidential” to describe the information being excluded from public disclosure, but it does not provide a definition of the term. A search of the PRA disclosed many uses of that word but no definitions. Therefore it would seem to be a useless effort to make a point about the lack of such a definition in this bill.</p> <p>Feb 8 to WSBA: please track; no position at this time.</p>	<p>Feb 8 referred to Natural Resources & Parks Mar 3 passed Senate In HOUSE Mar 7 ref'd to State Gov etc Mar 21 Executive action taken</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

31 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>recordkeeping, and public records issues.</p> <ul style="list-style-type: none"> • The legislative taskforce must include: the Governor or the Governor's designee; four legislative members; the Chief of DFW's Enforcement Program; members representing recreational fishers, commercial fishers, shellfish growers; and request representation from six tribal governments. • The taskforce's expenses must be jointly paid by the Senate and the House of Representatives. • The taskforce must summarize its work and report to the Legislature by October 1, 2017. 		<p>Apr 6 passed House Apr 19 Gov signed. Chapter 71, 2017 Laws. Effective date 7/23/2017.</p>
<p>SB 5784</p>	<p>Would amend the Public Records Act (RCW 42.56) by adding a new section that would exempt from disclosure certain records of certain volunteers: “All records, documents, data, materials, and other writings prepared, owned, used, or retained by volunteers who have not been appointed by the agency to an agency board, commission, internship, or supervisory role that has delegated agency authority, and that are not otherwise required to be retained by the agency, are exempt from disclosure under this chapter.”</p>	<p>A policy issue of a type on which the Section usually does not comment. I do not note any obvious technical drafting issues.</p> <p>Feb 10 to WSBA: Please track; no position at this time.</p>	<p>Feb 9 referred to State Government</p> <p>DEAD per WSBA 4/24/17</p>
<p>SB 5798</p>	<p>Original bill: Would amend the Administrative Procedure Act (RCW 34.05) by adding a new section providing –</p> <ul style="list-style-type: none"> • “No rule may be adopted except within the power delegated to the agency and as authorized by law. A rule is not deemed to be within the statutory authority 	<p>Original bill:</p> <ul style="list-style-type: none"> ➤ The requirement that a rule be “within the power delegated to the agency and as authorized by law” adds nothing to the law. That general statement is already the law as agency rulemaking power. For example, see this note to 34.05.010 Definitions: 	<p>Feb 28 SSB passed Senate</p> <p>In HOUSE Mar 2 ref'd to State Gov etc Mar 22</p>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
	<p>of an agency merely because the rule is not contrary to the specific provisions of a statute.”</p> <ul style="list-style-type: none"> • “Beginning July 1, 2017, any rule adopted or amended before 1 November 1st of any year expires on June 1st of the year following 1 adoption unless the legislature by bill acts to postpone the expiration” and “Any rule that is expired under subsection (3) of this section 1 may not be readopted by an agency unless expressly authorized by statute.” <p>SSB:</p> <ul style="list-style-type: none"> • Requires that any agency rule must be within the power delegated to the agency as authorized by law, and any rule that conflicts with a statute is void. • Provides that any agency rule or amendment adopted by November 1st will expire by June 1st of the following year unless the Legislature postpones the expiration or the agency adopting the rule has successfully completed an excellence assessment.⁷ 	<p>“Legislative affirmation—1981 c 324: “The legislature affirms that all rule-making authority of state agencies and institutions of higher education is a function delegated by the legislature, and as such, shall be exercised pursuant to the conditions and restrictions contained in this act.” [1981 c 324 § 1.]”</p> <ul style="list-style-type: none"> ➤ The proposed language “merely because a rule is not contrary to the specific provisions of statute” does not mean that the rule is “within the statutory authority” might be intended to create a new legal principle, e.g., by superseding case law that recognizes the power of agencies to enact rules that “fill in gaps” necessary to effect a statute’s objectives. ➤ Arguably it might set up a conflict (or set up an ambiguity) with section 34.05.322 of the APA, which provides – “Scope of rule-making authority. For rules implementing statutes enacted after July 23, 1995, an agency may not rely solely on the section of law stating a statute’s intent or purpose, or on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for its statutory authority to adopt the rule. An agency may use the statement of intent or purpose or the agency enabling provisions to interpret ambiguities in a statute’s other provisions.” ➤ Obviously, the issue of policy wisdom aside, as a practical 	<p>Scheduled for public hearing</p> <p>DEAD per WSBA 4/24/17</p>

⁷ This term is also used in [SB 5455](#) and [SB 5616](#). Perhaps it means this: <https://www.nist.gov/baldrige/what-performance-excellence>

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
		<p>matter the annual expiration of every agency rule unless it is adopted by the legislature would bring agency implementation of statutes to a standstill and would place an enormous burden on the legislature.</p> <ul style="list-style-type: none"> ○ Also note that there are no exceptions for rules directly related to protecting the health and safety of the populace. <p>Note that this second part of the bill is similar to HB 1005, HB 1240, HB 1658/SB 5616, and HB 1657/SB 5055.</p> <p>SSB: Adds the “excellence assessment” exception.</p> <p>Feb 10 to WSBA: Does this bill “have legs”? If so, I would recommend that the Section board consider taking a formal position on it – probably “oppose.”</p>	

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
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44 bills reviewed (not counting companion bills and bills obviously not of interest to the Section).⁸ 12 enacted.

END of SESSION REPORT on BILLS PASSED

During the 2017 legislative session, the Administrative Law Section’s Legislative Committee reviewed over 40 bills (not counting companion bills). For most of the bills the Committee advised the WSBA Legislative Affairs group that the Section had no position, for several bills it provided technical drafting comments (which were passed on to legislators and staffs), and in three cases the Section’s Board took a formal position (which WSBA passed on to legislators and staff).

The following bills reviewed by the Section were enacted.

Substitute Senate Bill 5207 amends section 42.56.250 (employment and licensing) of the Public Records Act to change “electronic mail” to “email” and to exempt from disclosure GPS data indicating the location of the residence of any public employee or volunteer. This is an expansion of a disclosure exemption enacted in 2015 concerning GPS data indicating the residence of a criminal justice agency employee.

Engrossed Substitute House Bill 1465 amends section 42.56.430 of the Public Records Act and RCW 77.12.885 in the Fish and Wildlife title to exempt from disclosure several types of information concerning persons involved in preventative measures regarding wolf interactions, or responding to reported wolf depredations. The exemptions would expire in 2022. The Sunshine Committee must make recommendations to the Legislature by 2021 as to whether the exemptions should be extended.

Engrossed Substitute House Bill 1594 makes several changes to the Public Records Act that are intended to improve the administration of the Act, including enhancement of training and the use of best practices, providing grants to local agencies for improving their records administration technology, and studying the feasibility of establishing a statewide Internet portal for public records management.

⁸ WSBA sent us a number of bills that were not pertinent to the Section’s areas of interest. After the first few I stopped including such bills in this chart. – R.E.P.

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

35 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
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Engrossed House Bill 1595 amends the Public Records Act with regard to charges allowed for the production and paper and electronic records. It also allows the rejection of “bot requests” and requires that requests be for “identifiable records.”

House Bill 1043 adds a new chapter to RCW 48.02 prohibiting the Insurance Commissioner from disclosing nonpublic personal health information except in furtherance of regulatory or legal action brought as part of the Commissioner’s official duties. The Section advised the legislature that the Public Records Act should also be amended to expressly refer to this new disclosure prohibition, but the legislature did not insert such a provision before passing the bill.

House Bill 1829 amends RCW 42.56.420 of the Public Records Act to specify that the existing disclosure exemption applies to “Information regarding the public and private infrastructure and security of computer and telecommunications networks.”

Engrossed Senate Bill 5761 amends section 42.56.430 of the Public Records Act to exempt from disclosure certain information regarding tribal fish and shellfish harvests and commercial shellfish harvests that has been shared with the Department of Fish and Wildlife.

Second Substitute House Bill 1120 amends two sections in the Regulatory Fairness Act (RCW 19.85) and one section in Title 43 RCW (Executive). It provides that the Regulatory Fairness Act does not apply to the adoption of a rule if an agency is able to demonstrate that the proposed rule does not affect small businesses. It requires a proposing agency to consider mitigation options if a proposed rule affects only small businesses; requires the Office of Regulatory Innovation and Assistance to act as the central entity to collaborate with and provide support to state agencies in meeting the requirements of the Regulatory Fairness Act; and requires the State Auditor to conduct a performance review of agency compliance with the regulatory fairness act. The bill states that it is null and void if specific appropriations for its implementation are not approved.

House Bill 1352 requires numerous reviews and reports concerning the impact of administrative rule enforcement actions, especially on small businesses.

Senate Bill 5039 adds a new chapter to RCW Title 1 (General Provisions) adopting the Uniform Electronic Legal Material Act. The new law applies to issues of the Washington State Register since May 7, 2008, and it will apply to certain other legal material published in electronic form on or after January 1, 2018. The new law does not apply to court documents.

LEGISLATIVE BILL REVIEW 2017
WSBA – ADMINISTRATIVE LAW SECTION – LEGISLATIVE COMMITTEE

36 of 36

BILL NUMBER	TOPIC	ANALYSIS; COMMENTS, FEEDBACK to WSBA	STATUS
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House Bill 1728 was initially of interest to the Section because it would have allowed prosecuting attorneys to issue “administrative subpoenas” to obtain subscriber information in investigations involving the sexual exploitation of children. However, as enacted the bill establishes a “special inquiry judge process” for the issuance of such subpoenas.

Substitute House Bill 1417 amends the Open Public Meetings Act to allow the use of executive sessions (which are not open to the public) to address certain computer and telecommunications system security issues.

All of these bills will become effective on July 23, 2017. The full text of the new laws is available at <http://app.leg.wa.gov/billinfo>.

The Section’s Board formally opposed Senate Bill 5057, citing numerous practical problems with the bill’s proposal to amend the Administrative Procedure Act to allow any party to “remove an adjudicative proceeding” from an agency’s hearing officer to an Office of Administrative Hearings officer. The bill died in committee.

The Section’s Board also formally opposed Senate Bill 5350 as drafted. The bill would have established a two-year deadline for issuing final decisions in adjudicative cases. The Board explained several practical problems with the bill and offered to work on revisions that could address the specific situation that prompted the bill. The bill sponsor did not respond to the Section’s offer. The bill died.

Senate Bill 5211 was the same as Substitute Senate Bill 6019 from the legislature’s 2015-2016 session, which the Section formally opposed due mainly to its proposed elimination of initial orders and its requirement that all orders be “final.” The Section’s Board advised WSBA that its prior opposition statement applies to Senate Bill 5211. The new bill passed out of committee but then died.

Washington State Bar Association
ADMINISTRATIVE LAW SECTION
Bylaws

As last amended and approved by the Washington State Bar Association Board of Governors on July 23, 2010.

Comment [A1]: Will need new date.

ARTICLE 1. ESTABLISHMENT OF SECTION AND IDENTIFICATION

1.1 ~~This organization is the “Administrative Law Section of the Washington State Bar Association” (the “Section”). The name of this section is the Administrative Law Section (the “Section”).~~

1.2 The Section is established under Article IX of the Bylaws of the Washington State Bar (the “Bar”).

Comment [A2]: We’d suggest deleting the article citation and just referring generically to the Bar’s Bylaws because other articles (e.g., Art. XI) also pertain to the establishment and governance of Sections and because the numbering of the Bar’s Bylaws may change over time.

ARTICLE 2. PURPOSE AND ORGANIZATION

- 2.1 The purpose of the Section is to seek participation of all interested members of the Bar to benefit Section members, their clients and the general public by:
- a. Exchanging ideas and sharing knowledge in administrative law, including the Washington Administrative Procedure Act, Public Records Act and Open Public Meetings Act, through continuing legal education, publications, meetings, website, and other means of communication;
 - b. Initiating and implementing common projects;
 - c. Improving and facilitating the administration of justice in administrative law through the review of pending legislation and regulations, the development of proposed statutes, and the promotion of uniformity in legislation and administration; and
 - d. Providing other services that may benefit Section members, the legal profession and the public.

2.2 These bBylaws are adopted subject to and are interpreted consistently with the Bylaws of the Bar.

2.3 The Pprincipal office of the Section is at the offices of the Bar.

2.4 The fiscal year of the Section is the same as that of the Bar.

ARTICLE 3. MEMBERSHIP

3.1 ~~Any of the following people: active member and any lawyer specially admitted to the Bar for educational purposes (APR 8(d)); as an, Judicial member, Emeritus Pro Bono member (APR 8(e)); as a Foreign, House Counsel (APR 8(f)), professor at any~~

~~Washington law school (whether licensed in Washington or not); as a Military Lawyer (APR 8(g)); or authorized to practice as House Counsel pursuant to RPC 5.5(d); or any lawyer who is a full time lawyer in a branch of the military who is stationed in Washington but not licensed in Washington, in good standing of the Bar as applicable,~~ may become a voting member of the Section upon payment of by paying annual Section dues. The executive committee determines the amount of Section dues, and the Bar Board of Governors approves it, ~~in the amount determined by the executive committee and approved by the Board of Governors of the Bar.~~

(a) ~~an active member of the Bar.~~

(b) ~~a judicial member of the Bar.~~

(c) ~~an emeritus pro bono member of the Bar under APR 8(e).~~

(d) ~~an in-house counsel member of the Bar under APR 8(f).~~

(e) ~~a professor at any Washington law school (whether licensed in Washington or not), or~~

(f) ~~a full-time military lawyer stationed in Washington, but licensed in another state, U.S. territory, or the District of Columbia.~~

Comment [A3]: Need to include retired judges, ALJs - reiterate in article V

Comment [A4]: Enumeration makes clearer and easier to read.

3.2 After payment of annual Section dues, any person who has an interest in administrative law may become a non-voting Section member (“subscriber”) ~~of the Section and non-voting of a~~ Section committee member. In accordance with the ~~b~~Bylaws of the ~~Washington State Bar Association,~~ law students may be enrolled as ~~non-voting members~~ subscribers of the Section. ~~Non-voting members~~ Subscribers may not hold a section office.

Comment [A5]: Format problem.

3.3 Members shall pay in advance annual Section dues ~~in the amount approved by the Board of Governors of the Bar.~~ Any person who does not pay the annual Section dues is no longer a member of the Section. Membership status is determined as of the date dues are paid. The section membership dues for law students shall be set at a standard amount annually determined by the Board of Governors.

Comment [A6]: Format problem.

ARTICLE 4. MEETINGS OF THE MEMBERSHIP

4.1 The annual meeting of the Section ~~may beis~~ at a time and location determined by the ~~Board of Trustees (Board) executive committee. Unless otherwise determined by the Board executive committee, the annual meeting of the Section is held in conjunction with the annual meeting of the Bar. The business transacted at the annual meeting includes the election of officers and three Trustees.~~

Comment [A7]: There is no annual meeting of the Bar so suggestion is to remove this sentence.

4.2 The voting members of the Section present at any section meeting constitute a quorum for the transaction of business.

4.3 Actions of the section are by majority vote of the voting members present, ~~or by action of the voting members of the executive committee consistent with these bylaws.~~

Comment [A8]: It seems that some reference to the Executive Committee’s ability to take action would be appropriate here.

4.4 ~~Special m~~Meetings of the Section may be called by the Chair or a majority of the ~~Board~~executive committee.

Comment [A9]: What qualifies as a special meeting and how is this different from a regular meeting? Special meetings are not required so the section could consider removing. See Bar Bylaws Art.VII.A.1.a and Art.VIIC.2 for special meeting provisions.

4.5 ~~In accordance with bar bylaws, n~~Notice of membership meetings shall be ~~published in the Section newsletter or~~ sent to all members of the Section. ~~No membership meeting shall be official without prior notice. at least ten days before the meeting. Notice shall also be posted on the Section website.~~ The notice shall state the business to be transacted at the meeting.

Comment [A10]: Consider more flexible language regarding notice requirements e.g. "No membership meeting shall be official without prior notice."

ARTICLE 5. THE ~~BOARD OF TRUSTEES~~EXECUTIVE COMMITTEE

5.1 The ~~Board of Trustees (Board)~~executive committee has the powers and duties necessary to administer the business of the Section, including acting for the Section to accomplish the purposes in Article 2.1. The ~~Board~~executive committee has the authority to approve the content and publishing of the Section newsletter, the adoption of the budget ~~in consultation with the Bar, and expenditures in accordance with the budget from Section funds.~~ The ~~Board~~executive committee may also perform duties assigned by the Board of Governors. The ~~Board~~executive committee may establish and discontinue committees and subcommittees of the Section.

5.2 The ~~Board~~executive committee members are:

- (a) The Chair;
- (b) The ~~Chair Elect~~Chair-elect;
- (c) The ~~Immediate~~ Past Chair;
- (d) The Secretary and ~~the~~ Treasurer or ~~the~~ Secretary/Treasurer; ~~and~~
- (e) ~~Nine Trustees~~At-Large members; ~~and -~~
- (f) Young Lawyer Liaison.

Comment [A11]: Is this number fixed, or does it depend on whether Secretary and Treasurer are held by one person or two?

5.3 The terms of all positions on the ~~Board~~executive committee begin ~~immediately following election on October 1, if elected or immediately on or~~ appointment ~~if appointed to fill a vacancy and continue until the election or appointment of a successor.~~

Comment [A12]: Consider adding the Young Lawyer Liaison as a member of the executive committee and designate whether the liaison has voting or non-voting rights as an EC member.

5.4 A majority of the voting members of the ~~Board~~executive committee present in person, by telephone, or by ~~videoconference~~ ~~written vote~~ constitutes a quorum. Action by the ~~Board~~executive committee is determined by a majority vote of the ~~Board~~executive committee members present ~~once a quorum is established.~~ Votes may be ~~requested and received in person or by telephone, fax, or~~ conducted by e-mail ~~in accordance with the Bar's Bylaws.~~

Comment [A13]: The Bar's Bylaws require that all action must be taken at an open public meeting (unless otherwise provided in the Bar's Bylaws). However, in recognition that members who attend a meeting may not always be able to vote during the meeting, the Bylaws permit email voting. See Art. VII(B)(6). Email votes must cast by persons who attended (in person or by telephone or videoconference) at least a portion of the public meeting and be on matters that were discussed during the meeting, and the vote, including the question voted on, the identity of each person voting, and the vote cast by each person must be recorded and published with the minutes of the meeting.

5.5 The ~~Board~~ executive committee shall ~~meet at least four times per year. Special meetings may be held as designated by the Chair or a majority of the Board~~executive committee. ~~A meeting is not essential to action by the Board, if notice is given of the proposed action and an opportunity for response is provided to all Board members.~~

Comment [A14]: Consider more flexible meeting number requirements.

Comment [A15]: See comment above re. Special meetings.

ARTICLE 6. OFFICERS

- 6.1 The officers of the Section are the Chair, the Immediate Past Chair, the ~~Chair-Elect~~Chair-elect, and the Secretary, and Treasurer, or Secretary/Treasurer.
- 6.2 Any ~~officer, trustee~~, committee member, or chair of any committee may be removed by a majority vote of the ~~Board~~executive committee or by ~~the Chair~~the Chair-elect. ~~The Chair may remove committee chairs or members.~~ Any member of the executive committee may be removed by a two-thirds majority vote of the executive committee. Grounds for removal of executive committee members include, but are not limited to, regular absence from executive committee meetings and events, failure to perform duties, unprofessional or discourteous conduct or whenever, in the executive committee's judgment, the executive committee member is not acting in the best interest of the Section membership.
- 6.3 The Chair presides at all meetings of the Section and the Board~~executive committee~~. The Chair shall present at the annual meeting of the ~~Section Bar~~ a report of the work of the Section for the past year. The Chair shall perform other duties customary to the office of Chair or delegated by the Board~~executive committee~~.
- 6.4 The ~~Chair-Elect~~Chair-elect shall ~~prepare the budget for the next fiscal year and~~ perform duties assigned by the Chair or the Board~~executive committee~~. Upon death, resignation, or the Chair's refusal to act, the ~~Chair-Elect~~Chair-elect shall perform the duties of the Chair for the remainder of the Chair's term. If the Chair becomes disabled or otherwise temporarily unable to serve, the ~~Chair-Elect~~Chair-elect serves as the Chair so long as the inability to serve continues.
- 6.5 ~~The Secretary or Secretary/Treasurer is the custodian of all books, papers, documents, financial records, and other property of the Section.~~ The Secretary or Secretary/Treasurer will take minutes at each meeting of the Section and executive committee, and provide approved minutes to the Bar for publication and record retention. ~~shall keep a true record of the proceedings of all meetings of the Section and the Board and shall receive and review information on the finances of the Section provided by the Bar.~~ The Secretary/Treasurer shall perform other duties assigned by the Chair or the Board~~executive committee~~.
- 6.6 The Treasurer or Secretary/Treasurer will work with the Bar to ensure that the Section complies with Bar fiscal policies and procedures, work with the Bar to prepare the Section's annual budget, and review the Section's monthly financial statements for accuracy and comparison to budget.

ARTICLE 7. ELECTIONS

- 7.1 The voting Membership annually elects a ~~Chair-Elect~~Chair-elect and a Secretary and Treasurer or Secretary/Treasurer, each to serve a one-year term. The voting membership annually elects three ~~Trustees~~At-Large members to serve on the

~~Board~~ executive committee, each to serve a ~~three-year~~ term. The Chair automatically becomes the ~~Immediate~~ Past Chair. The ~~voting m~~Membership may re-elect any member of the ~~Board~~ executive committee.

Comment [A16]: If the three year terms are staggered, add "staggered" before three-year term.

7.2 On expiration of the Chair's term, the ~~Chair-Elect~~ Chair-elect automatically succeeds to the office of the Chair.

7.3 The Chair shall appoint a ~~n~~Nominating ~~C~~Committee each year of not less than three members of the Section, ~~at least one of whom shall not be a current member of the executive committee. The Nominating Committee shall seek interested individuals to fill open positions on the Board, Nominating Committee each year of not less than three members of the Section.~~ The ~~n~~Nominating ~~c~~Committee shall seek interested individuals to fill open positions on the Board, with a balance of nature of practice or employment, geography, and other bases of diversity. ~~All applicants will apply through an electronic application process administered by the Bar. The n~~Nominating ~~C~~Committee shall make ~~and report~~ nominations ~~at the annual meeting of the Section for Chair-Elect~~ Chair-elect, Secretary and Treasurer or Secretary/Treasurer, three ~~Trustees-At-Large executive committee members~~ to succeed those with expiring terms, and ~~Trustees-At-Large executive committee members~~ for any existing vacancies. Section members may make nominations for the same offices from the floor ~~at the annual meeting of the Section. The executive committee will approve a list of nominees for each open position.~~

Comment [A17]: This avoids immediate application and answers Stephen's concern.

7.4 ~~The Bar will administer the elections by electronic means and certify the results, unless the Section develops its own equivalent electronic election process. In the event of a tie, the winner will be determined by each candidate drawing one two cards from a standard deck of cards. The candidate with ,with the highest value card in bridge will be the winner.ning. All elections are held at the annual meeting unless otherwise ordered by resolution of the Board.~~

Comment [A18]: We are assuming this is the Section's preferred "Alternate Nomination Process," as required by Art. XI(G)(1)(c) of the Bar's Bylaws.

Comment [A19]: This is okay if the annual meeting will still occur during the nomination and election cycle, which is now between March and May of each year, per Art. XI(G)(3) of the Bar's Bylaws.

Comment [A20]: Per the WSBA, they are allowing sections flexibility with the transition of elections. So although 7.3 doesn't comport with the election process we used this year (non-executive member of nominating committee, application through electronic process administered by bar), this new election process won't take effect until March - May of 2018. Plus, by the time these bylaws take effect t (7/17), we will be done with the 2017 election process.

Comment [A21]: Bridge ranks all cards absolutely A to 2 by value and Spades, Hearts, Diamonds, Clubs by suit. Also it defers dementia.

Comment [A22]: Do we need to specify that an ace is a high card? I'm not totally familiar with cards to know this, but I think they don't automatically trump an ace in some games.

Comment [A23]: The Section Executive Committee should select and implement a random tie-breaker of its choice.

7.5 Nominations and elections for open executive committee positions will be held between March and May each year.

7.5-6 If there is a vacancy on the ~~Board~~ executive committee between ~~annual meetings~~ elections, the ~~voting members of the Chair~~ executive committee, by majority ~~vote,~~ shall appoint a successor to serve for the remainder of the unexpired term ~~subject to Board approval. When a member is appointed to fill a vacancy in an unexpired term, the member will do so until the next annual election when an individual will be elected to serve the remainder of the vacated term.~~

ARTICLE 8. COMMITTEES

8.1 The ~~Board~~ executive committee shall determine the number, types and duties of Section ~~c~~Committees. The ~~c~~Committees may be either standing or ad hoc committees.

~~8.2 The standing committees include:~~
~~(a) The Legislative Committee;~~
~~(b) The CLE Committee;~~
~~(c) The Newsletter Committee; and~~
~~(d) The Publications Committee.~~

Comment [A24]: Not necessary to have standing committees specifically named in the bylaws. Consider removing to add more flexibility.

8.3 The Chair shall appoint chairs and members for each committee. The chairs of the standing committees are expected to attend and participate in Board-executive committee meetings but are not voting Board-executive committee members.

ARTICLE 9. PUBLICATIONS

9.1 A newsletter ~~may~~shall be published and furnished to members of the Section and to other persons or organizations as determined by the Board-executive committee. The newsletter shall be published at such intervals as the Board-executive committee deems appropriate. Content of the newsletter shall be balanced to reflect the viewpoint of the various members of the Section.

Comment [A25]: Consider removing this provision to allow more flexibility or changing the language from "shall" to "may".

9.2 The Section may publish other written materials and documents that further the objectives of the Section.

ARTICLE 10. AMENDMENTS

10.1 These ~~b~~Bylaws may be amended by either of the following means: (1) at any annual meeting of the Section by a majority vote of the voting members of the Section present and voting; or (2) by a majority vote of the voting executive committee members at any ~~regular or special~~ meeting of the Board-executive committee once a quorum is established. Amendments will become effective when approved by the Bar's Board of Governors.

Comment [A26]: We will need to check with Julianne on this. As we talked about, our nomination process this year wasn't precisely on point with the bar's new requirements, which don't take effect until next year. With the bar's approval of these amendments set to come in June, our bylaws seem to obligate us to this new process this year.

10.2 Prior notice of the proposed changes to the Bylaws shall be given to all members before the meeting.~~At least ten (10) days written notice of the proposed changes to the b~~Bylaws shall be given to all members before the meeting, and may be by mail, ~~newsletter or electronic means.~~

Comment [A27]: Consider removing or changing notice to be more flexible e.g. "Prior notice of the proposed changes to the Bylaws shall be given to all members before the meeting."

Amended September 1997.

Amended September 19, 2002.

Approved as amended by the WSBA-Bar Board of Governors on December 5, 2008, subsequent to

| approval by members of the [Administrative Law](#) Section in attendance at the Section's annual meeting held on November 13, 2008.

| Approved as amended by the [WSBA Bar](#) Board of Governors on July 23, 2010. In accordance with the [WSBA Bar](#) Bylaws, the approved amendments are specific to Article 3. Membership, stating that a law student may join the Section as a non-voting member.