

**FREEDOM OF INFORMATION COMMISSION
TESTIMONY ON SB 333
AN ACT CONCERNING COMPREHENSIVE ETHICS REFORMS**

The stated purpose of SB 333 – to implement certain ethics-based reforms including establishing a Legislative Ethics Committee and Legislative Code of Ethics – is a worthy one. There are, however, components of the bill that are troubling and problematical.

This bill, as currently drafted, would keep confidential, any request by a member of the legislature for an advisory opinion. The Freedom of Information (FOI) Commission acknowledges that there are instances when confidentiality is warranted. This, however, is not such a case. Indeed, it is beneficial for the public to know that a member is seeking an advisory opinion because it could alert the citizenry to a potential conflict. Why weaken the government transparency aspect of this legislation by categorically withholding from public scrutiny the fact that a member of the legislature has requested an advisory opinion? Those records should be available to the public and the public's right to know ought to be preserved if we are to have an open and accountable government, the underlying principle behind our FOI Act.

Moreover, records relating to requests for advisory opinions from the Office of State Ethics are public information. There has been no showing that members of the legislature should be treated differently than other individuals who request advisory opinions.

Also, with respect to complaints before the Office of State Ethics, records or other documents used to determine that a violation has occurred become subject to disclosure upon a finding of probable cause. The language in SB 333 is silent with respect to what happens to materials used by a judge trial referee once it is found that there is probable cause that a member has committed a violation of the Legislative Code of Conduct. The FOI Commission believes that the language should mirror the procedures used by the Office of State Ethics with respect to confidentiality and disclosure.

The FOI Commission supports the proposed establishment of a Legislative Ethics Committee and Legislative Code of Ethics. For the reasons stated above, however, the Commission urges rejection of that portion of SB 333 that would keep secret from the public the fact that a member has requested an advisory opinion and clarification with respect to the status of reasons once there is a finding of probable cause.

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