

Summary of TCOG recommendations

Aug. 14, 2018

1. Create a systematic Sunset Review by statute for all new exemptions.
2. Create criteria in the law for examining exemptions during the sunset review and a process that allows public input.
3. Improve the process and rules for new exemptions that:
 - Ensures that members of the public and stakeholders have a reasonable chance to know when lawmakers are considering adding an exemption, beginning at the committee or subcommittee level.
 - Allows members of the public and stakeholders affected by a proposed exemption a chance to be heard. Lawmakers should hear from more than the entity requesting the exemption.
 - Ensures that the specific records being made confidential is clear and the impact is reasonably understood.
 - Ensures that exemptions are drawn as narrowly as possible to shield the desired protected information, and not so broadly that the exemption can be easily abused to shield what should be public information.
 - Ensures that any cost of adding an exemption (such as by requiring redactions of otherwise public documents) is included in a fiscal note.
 - Considers routing any new exemptions through a standing or new committee or subcommittee that could consistently apply criteria and be familiar with the breadth of exemptions already in state law to avoid redundancy, conflicts and problematic vague language.
4. Either create a sunset review process (see above) for all existing statutory exemptions or review current statutory exemptions for highest priority issues with remaining issues to be dealt with through a specified sunset process. Create a process to receive information from the public and stakeholders about highest-priority issues, including written comments and public hearings.
5. Create a process to review exemptions that are not part of statute, such as the “investigative exemption” that can be misused to withhold what have long been routine public domain documents such as law enforcement incident and offense reports.
6. Consider how the cost of copies and unreasonable delays in fulfilling public records requests blocks access to information in the public interest and develop better enforcement mechanisms within the law.
7. Consider better and more regular use of Advisory Committee on Open Government to study issues as a way to regularly convene stakeholders to develop solutions and identify problems.