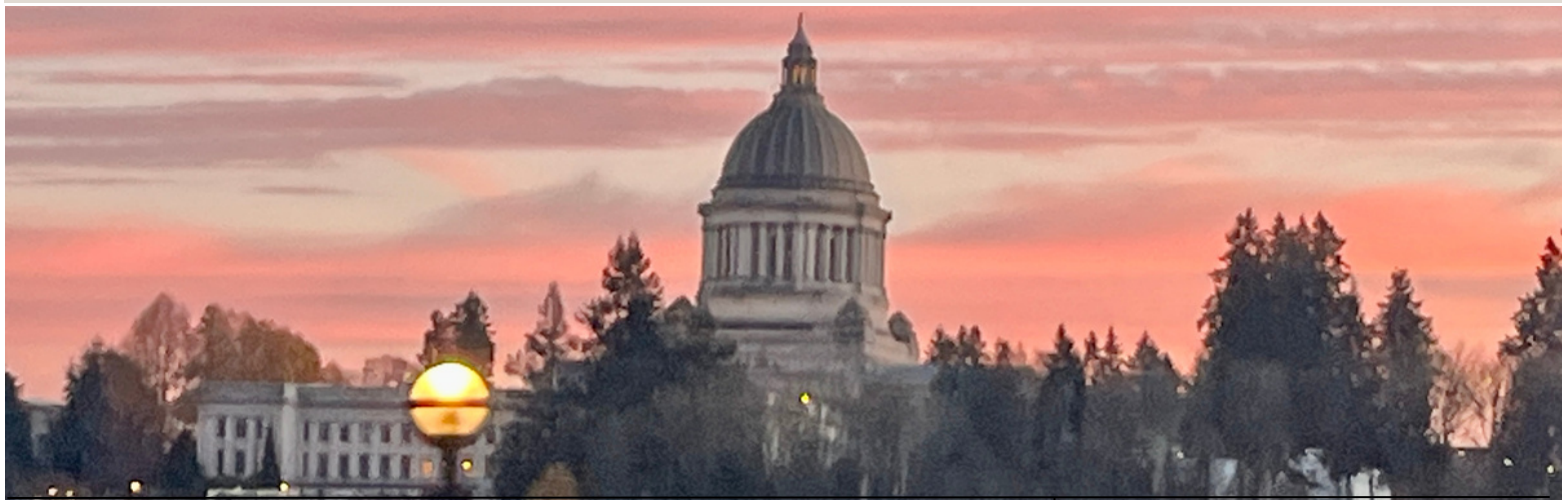


WASHINGTON COALITION FOR OPEN GOVERNMENT



## Fighting 'legislative privilege' while safeguarding the Public Records Act

By Robert McClure, WashCOG board member

One of WashCOG's most pressing duties this time of year is tracking perennial efforts by the state Legislature to relax our state's open-government laws. Our response is to marshal facts and data to argue the case for transparency.

For 2024, there again is a raft of bills seeking to restrict the ability of citizens to access unfiltered information about their government's activities, either through documents or attending government meetings. We are happy to report that approaching mid-session, none of these bills seems likely to proceed.

But 2024 is fundamentally different in this way: WashCOG sued the state Legislature over legislators' collective claim that in responding to requests under the voter-approved

Continued on page 3

### INSIDE

#### WashCOG RECEIVES GENEROUS DONATION

*Longtime Seattle residents Jim and Birte Falconer have made the single largest donation to WashCOG in our history.*

See page 2.

#### FORMER JOURNALIST JOINS WashCOG BOARD

*Former Seattle Times journalist Jim Simon has joined the board of WashCOG and is already working on editing the coming Special Report on the Status of Transparency.*

See page 2.



#### MESSAGE FROM THE EXECUTIVE DIRECTOR:

Hello Transparency Warriors! There is so much going on at WashCOG now that we are well into 2024.

On Page 2, you'll notice a story called "GIVING MATTERS." It tells how WashCOG received the largest single donation ever made to this organization and what we are doing to make the most of the generous contribution.

Many thanks to all the supporters and donors who answered our year-end call for contributions. We all know that giving does matter, and for the coalition, the generosity of supporters and some new large donors bolsters our efforts to keep our government open and accountable.

This will not be an easy year, as the state Legislature will consider several measures to weaken public records laws and turn toward secrecy instead of transparency. Our goal is to stop bad legislation, promote strengthening the Public Records Act, and form collaborative relationships with those wanting to protect the process of collecting, retaining, and releasing public information.

In the coming days, WashCOG will unveil a special report on the status of transparency

Continued on page 4

LARGE DONATIONS BEGIN WITH THE FALCONER GIFT

## GIVING MATTERS

### WashCOG Receives Major Contribution; Launches Two-Year Right2Know Project

The Washington Coalition for Open Government has received the largest single contribution in the coalition's 21-year history, thanks to the generosity and dedication of long-time Seattle residents Jim and Birte Falconer.

The \$150,000 contribution, made through the Seattle Foundation, will fund a two-year project, Right2Know, which will include a report on the status of open records in Washington. That report will be released soon.

"This generous contribution is a testament to the commitment of the Falconers to open and transparent government, and we are very proud they have chosen the coalition to bring the message of good government to the citizens of our state," said WashCOG Executive Director Juli Bunting.

She added this contribution was followed by three other very generous donations. Mike and Jami Christen donated \$20,000, which was then matched by Ed Clark of Clark Raymond Co. Mike and Diane Tice of the Tice Foundation contributed \$7,500 to the coalition for work in transparency. All of these generous gifts will allow the coalition to expand capacity and grow this movement, Bunting said.

That the people have a right to know was the idea in 1972, when a citizens' Coalition for Open Government in Washington State, a predecessor group, successfully worked for passage of Initiative 276. It was a major stepping stone to laws that require open meetings, access to public records, and public disclosure of campaign finances, lobbying, and financial affairs of elected officials.

Fifty years later, the people's right to access government information is eroding at the state and local levels. Often with good intentions, and sometimes with bad, governments tend toward closure and withholding information that should be public, coalition President Mike Fancher said.

***'Open government advocates  
are winning many battles  
but losing the war.'***

*--Mike Fancher, WashCOG president*

"We believe the situation for open government is as bad as it has been since 1972," Fancher said. "Open government advocates are winning many battles but losing the war. The public is losing access to government."

"This is a moment of opportunity to alert the public and inspire them to action," he said. "We believe the Right2Know White Paper will provide a foundation for legislative and legal action, possible structural change and potentially another citizen initiative."

Fancher added the project will include increased engagement in high schools, colleges, educational organizations, civic groups and the media – anywhere there are opportunities to spread the word about the importance of open government in a democracy.

The Falconers noted the urgency of the situation.

"We arrived in Seattle just before the passage of Initiative 276 by the citizens of Washington. Little did we know that we would have to be fighting this battle again 50 years later," the couple said in a statement. "We are committed to making Washington a model for the nation when it comes to transparency and accountability."

WashCOG is ready to meet the challenge.

"This incredible contribution will allow us to do that, and we are extremely grateful for this opportunity," Bunting said. "The fact that the Falconers have chosen to support WashCOG at this level is also a testament to the hard work of this organization for the last 20 years and confidence in our ability to facilitate change where necessary."



### Jim Simon Joins WashCOG Board

**By Payton Gift, WashCOG intern**

The WashCOG Board of Directors is pleased to have Jim Simon join its ranks.

As a self-described "semi-retired journalist," Jim continues to defend one of journalism's greatest tools: access to public records. Aside from his work with WashCOG, he also interrupted his retirement to serve as an adjunct journalism instructor at the University of Washington.

Hailing from Nebraska, Jim received his Bachelor's in English at Beloit College in Wisconsin. His courtship with journalism started initially through freelance writing. Then after exploring other fields, his journalistic career began to take off at age 28. On the path to journalism, he had a few other occupations, including teaching in Indonesia and assisting with the Pike Place Market Development Authority. He then studied at the University of California Berkeley and earned a master's in journalism.

His first staff job was for the Bellingham Herald. But it wasn't long before he took his work worldwide writing for United Press International in the Philippines.

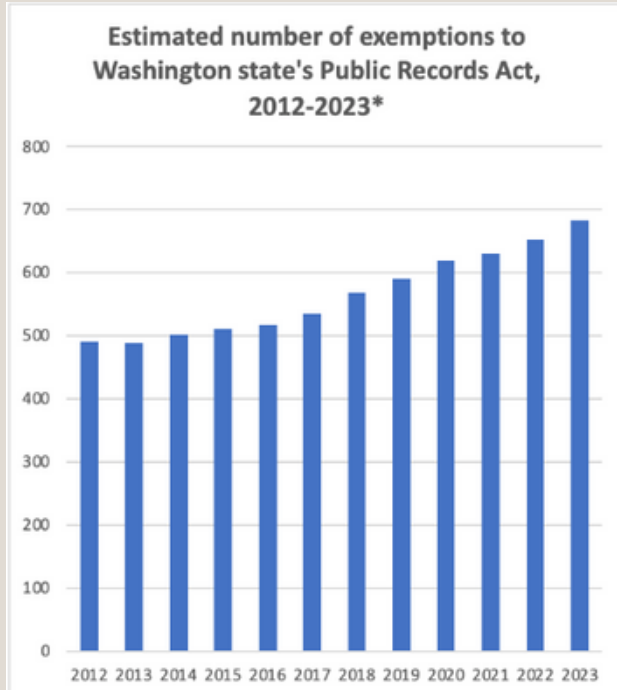
From there, he journeyed back to Washington, which earned his undying admiration with its ecological beauty. He worked for The Seattle Times for 32 years as reporter, editor and managing editor.

He went on to serve as managing editor at the Honolulu Civil Beat, a nonprofit news site primarily focused on local watchdog reporting. The Civil Beat aims to ensure open access to government records and call out entities that try to obstruct that right, he said.

**Continued on page 3**

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## NUMBER OF WASHINGTON STATE EXEMPTIONS ARE ON THE RISE



\*Individual statutes and subsections related to PRA exemptions in the Revised Code of Washington. Some statutes are duplicates.

Source: Office of the Code Reviser, annual reports to the state Sunshine Committee

## Public Records Exemptions Are Steadily Increasing

By George Erb  
WashCOG secretary

The number of exemptions to Washington state's Public Records Act (PRA) now exceeds 650, with state legislators carving more exceptions into the state's landmark transparency law every year.

Since 2012, the state Legislature has adopted an average of 17 new exemption-related statutes and subsections a year, according to annual compilations by the state Office of the Code Reviser. The PRA has been on the books since 1972, but 40% of its exemption-related provisions were added in the last 11 years.

At the current rate, individual PRA exemptions could exceed 700 within three years.

State legislators have repeatedly poked holes in the PRA with exceptions that make government information off limits to the public and the press. The steady advance of secrecy makes it harder for Washington state residents to know what their public officials are doing and hold them accountable.

The growing number of exemptions also makes the state's public records laws harder to navigate for requesters and government agencies alike.

## FIGHTING 'legislative privilege' (cont from p. 1)

Public Records Act, they possess some sort of "legislative privilege" to black out portions of documents they release — or withhold documents entirely.

This concept has its roots in the English monarchy of the 1600s and before. More recently, it's been conveniently appropriated by legislatures in other states and in the last two years by Washington's Legislature, as well. This comes despite what this state's voters said earlier by passing the forerunner of the Public Records Act by an overwhelming margin. And it is even though "legislative privilege" was never passed as a statute or articulated in the state constitution.

Please, contact your legislators to let them know you support the Public Records Act and urge them to take the WashCOG pledge to never invoke this so-called "privilege."

Our court challenge is expected to land in the Washington Supreme Court in the next year or two. But really, no matter the legal loopholes that might be involved, shouldn't representatives of the people be willing to unabashedly endorse sharing how they make legislation with the public?

Meanwhile, legislators have continued to entertain notions of how to further restrict the judicial rights of people by denying access to government documents under the Public Records Act.

**Here are some of the facts and data we used to respond to the notion that PRA compliance is somehow crippling local governments:**

- **Data from the Washington Joint Legislative Audit & Review Committee shows the average wait time for a Public Records Act request increased by more than 50% over the past six years.**
- **There is no flood of PRA requests. JLARC data show a 3% increase from 2017 to 2022. That's less than the ~ 5% rate of population increase over those years.**
- **There is no avalanche of PRA lawsuits. JLARC data show the number of these suits has been relatively flat since 2018. On average, an estimated 0.03% of records requests led to a lawsuit.**
- **Administering the PRA is a basic function of government, as decreed by an overwhelming majority of Washington voters. And it is not breaking the bank. JLARC data show spending on records requests accounted for 0.1% or less of total state and local agency outlays between 2018 and 2021.**

Let's all advocate to our legislators that facts and data should still carry the day in Olympia.

**++ Robert McClure is chair of WashCOG's Government Committee.**

## SIMON JOINS BOARD (cont. from p. 2)

Though Jim has written in many different locations, he has found one consistent thread through all of them — the importance of governmental transparency, which he believes is paramount to the survival and continuous cultivation of a true democracy.

This belief was reinforced as he witnessed the consequences of secretive governments firsthand. His passion for transparency led to his involvement with WashCOG, which he felt was a natural progression from his work in journalism. Jim was a strong advocate in WashCOG long before his board appointment. His work has been integral to the advancement of the coalition. At a time when having an informed public is more critical than ever, Jim said protecting the Public Records Act is of the highest importance.

He said he is honored to have been selected to sit on the WashCOG board of directors and to continue protecting one of the most integral tools journalism has. Though the Public Records Act has recently passed its 50th anniversary, the law's strength seems to be waning, Jim said. In order to uphold the public's right to clear information from the government, the law's importance must be met with equal compliance from those who are supposed to obey it.

"Laws like the Public Records Act lose their meaning when it is not met by compliance from our officials," Jim said. He pledged to work with WashCOG to combat the erosion of this essential law.



## WashCOG has a lobbyist in Olympia

OLYMPIA — The Washington Coalition for Open Government is represented at the state Capitol during the 2024 legislative session by Donna Christensen, a lobbyist with over 30 years of experience in government relations.



Christensen

Although WashCOG members and officers often reach out to their legislators about bills and policy, the board welcomed the opportunity to have a representative on site during the session.

This was possible largely because of the donation by Jim and Birte Falconer and is part of WashCOG's priority Right2Know Project.

Christensen has represented Northwest organizations in a variety of social services, including childcare, healthcare, education and arts and community services. She welcomed the opportunity to work with WashCOG.

"I believe our democracy is at a critical point," she said. "It needs government transparency for accountability. It needs open government for the people to know what choices are made -- and the why and how. It needs trust. And the only way to earn that trust is for government officials to be accountable and to provide information freely about the work they do on behalf of the people. "This will make our democracy stronger and encourage civil engagement."

### High School Contest Open Until March 5

WashCOG is expanding its annual high school essay contest to include a variety of forms of expression, such as posters, video and podcasts.

The new contest, renamed the Scott Johnson High School Open Government Contest, honors the memory of Scott Johnson, a former WashCOG board member and attorney with Stokes Lawrence, who died in 2012.

The winner will earn a \$1,000 cash prize.

"We see this as a way

Washington Coalition for Open Government presents:  
**THE 2024 SCOTT JOHNSON HIGH SCHOOL OPEN GOVERNMENT CONTEST**  
*Deadline extended to March 5*  
**\$1,000 cash prize**  
Theme: **The importance of open government in a democracy**  
**Open to all high school students in Washington**  
Learn more: [www.washingcog.org/awards](http://www.washingcog.org/awards)

to reach out to more students who may not be aspiring writers, but have talent using other mediums to express themselves," said Executive Director Juli Bunting. "Allowing students to use their talents in the visual mediums to enter our contest should encourage more of them to learn and understand the importance transparency plays in a functioning democracy."

The contest deadline is now March 5. Winners will be announced at the 2024 Sunshine Breakfast and Awards Program on March 15. Learn more at [washingcog.org/awards/essay-contest](http://washingcog.org/awards/essay-contest).

### MESSAGE FROM THE DIRECTOR (cont from p. 1)

in our state, and the bottom line is not good. Washington is moving away from being one of the most transparent states in the union. We do not want to see that happen.

You can be a part of this movement by following and acting on alerts we send your way seeking input on legislation.

You can also attend our annual fundraising event in March.

The 2024 Sunshine Breakfast and Awards Program will be held Friday, March 15, at T-Mobile Ballpark. Tickets are \$35 for a single seat or \$350 for a table for 10. The deadline to buy tickets is March 1.

If you would like a table, please email [info@washingcog.org](mailto:info@washingcog.org) with your guest list so we can send parking and schedule information to all attendees. See more details about ticket purchases on our website: [washingcog.org](http://washingcog.org). This is our main fundraising event of the year, and our suggested donation is \$150.

We are more resolved than ever to keep working for your right to know.

Thank you again for your support and confidence in the mission of the Washington Coalition for Open Government.

~ Juli Bunting

Washington Coalition for Open Government  
**2024 Sunshine Breakfast and Awards Program**  
Please join us for the Washington Coalition for Open Government  
**FRIDAY, MARCH 15**  
T-Mobile Ballpark  
1250 1st Avenue SO  
Seattle, WA  
DOORS OPEN 7:30AM | PROGRAM 8:15 AM  
\$150 donation suggested  
Free parking and ballpark tours