

**COLUMNISTS** | **Opinion** *This piece expresses the views of its author(s), separate from those of this publication.*

## Warming up to when the sunshine arrives



**David Nelson**  
Kitsap Sun

Published 12:04 p.m. PT April 30, 2023



**Only in Seattle does a public radio announcer use the phrase "If you're trying to escape the heat" on the morning it hits 70 for the first time in six months. So it felt distinctly Pacific Northwest when we made it there late this week, rolling down the windows, putting our shorts on, and, apparently, unpacking those complaints about how it's *too hot*.**

**Not me though, I was ready. Time to pour a glass of lemonade and sit outside and watch some baseba... I mean, some hockey playoffs. And speaking of sunshine, here's three that brightened my week.**



For all of the Legislature's resistance to transparency itself -- witness the [Washington Coalition of Open Government's lawsuit filed this week](#) over lawmakers' "privilege" from the PRA -- I credit our electeds for a bill that uses a lesson learned during the pandemic to bring a more uniform accountability to local school boards.

At Thursday's North Kitsap school board meeting several members of the public held phones up to record the proceedings. There's a group of parents keeping a close eye on the district, [as referenced in a story we wrote last week](#). Part of that stems from an exchange at a board meeting April 13. There's no direct evidence of the interaction that purportedly involved a threat by district leaders to call 911 on residents who wanted more time for public comments, despite the meeting being carried live on a video platform. Zoom, of course, became the way public meetings were conducted during the pandemic, and only in March did state law direct elected bodies to host in-person meetings in addition to offering Zoom for constituents who don't physically attend. State law concerning recordings, specially that video or audio are saved and archived, only applied to state agencies. So NKSD had no record to produce, other than written minutes that had yet to be approved by the board.

Well, that's going to change. [House Bill 1210, approved 96-1 in the House and 48-0 in the Senate](#), stipulates that **school board meetings -- other than executive session --**

**now must be recorded (audio), the recording must be preserved for one year, and made available upon public request. It takes effect June 30, 2024.**

**There would have been no question what was said April 13 if the district had simply recorded the Zoom. Much in the way body cameras for law enforcement can protect both parties -- holding the officer accountable and keeping the respondent honest during an interaction -- an audio record should clearly and accurately reflect what board members are saying, as well as what they are hearing from the public and how both behave.**

**As always, sunshine is the best disinfectant -- symbolically, when we're talking about transparency. Providing a better record of what was said by school officials during meetings -- or any elected body -- increases transparency and good government. I'm glad lawmakers agreed.**

**Another from Olympia brightening my mood was the good news for local news, through a measure I mentioned a few weeks ago. A proposal offered by Sen. Karen Kaiser included a \$2 million budget line that would pair student journalists from Washington State University with news outlets around the state. It's intended to give young journalists a longer period of professional mentorship and at professional wages -- and assists the local news outlets (and their readers) with another reporter following the issues. I think it could be one of the best ways for the state to help address the crisis in local journalism.**

**Finally, a huge thank you to the sign of support more than 50 of you offered through the recent Kitsap Great Give, when readers raised more than \$14,000 for the Kitsap Sun Journalism Fund. This money is held in a separate, non-profit fund and may only be used strictly for actions that are focused on local journalism, which we've translated into funding an internship program the past two years. We're pleased to have a student in the newsroom this spring, and now feel confident about bringing the next one.**

*David Nelson has been editor of the Kitsap Sun since 2009.  
Contact him at [david.nelson@kitsapsun.com](mailto:david.nelson@kitsapsun.com).*



# Transparency advocates sue WA over ‘legislative privilege’ exemption

April 25, 2023 at 10:57 am Updated April 25, 2023 at 11:02 am



A lawsuit filed Tuesday accuses the Washington Legislature of violating state law by failing to disclose public records.  
(Karen Ducey / The Seattle Times)

(Karen Ducey / The Seattle Times)

By [David Gutman](#) and [Claire Withycombe](#)

Seattle Times staff reporters

**OLYMPIA — Advocates for open government sued the state of Washington on Monday over state legislators’ attempts to shield records from public view using a justification advocates claim is not in state law.**

**Lawmakers have been denying and redacting public records requests, claiming “legislative privilege,” which they say allows them to withhold some records under a right granted to them by the state constitution.**

**The Washington Coalition on Open Government and Jamie Nixon, an open government advocate who worked on Washington’s 2021 redistricting commission, filed [a lawsuit Tuesday in Thurston County](#), accusing the Legislature of violating state law by failing to disclose public records.**

**The lawsuit seeks a court order declaring that “legislative privilege” is not an exemption that allows public records to be withheld.**

**“Transparency at all levels of government is critically important so that people can understand exactly how their money’s being spent, who is spending it, in what ways,” Nixon said. “It’s our money. It’s our government. And the idea that our chosen employees think that they don’t have to show their bosses their work limits voters’ ability to make informed decisions at the ballot box.”**

**It’s the latest salvo in a decades long push to get the Legislature to comply with the state Public Records Act. The Legislature, for years, claimed it was exempt from the 50-year-old voter approved law, allowing legislators to keep secret emails, calendars and other documents that other public agencies have long had to disclose.**

**The state Supreme Court in 2019 ruled the Legislature had to comply with the Public Records Act, but legislators have since used other means to avoid disclosing some documents.**

**The state of Washington, through its Legislature, “has claimed a nonexistent exemption” to public records law, “without providing an adequate description to justify withholding the record or redacting its contents,” the new lawsuit charges.**

**“There is no such legislative privilege,” the Coalition on Open Government wrote, in announcing the lawsuit. “Hiding public records that are not properly exempt violates the state Public Records Act.”**

**In early January, McClatchy revealed that some lawmakers were citing “legislative privilege” to withhold certain records, arguing they were entitled to keep them hidden from public view under the state constitution.**

**The Legislature has cited Article II, Section 17 of the Washington Constitution, which reads, in its entirety: “No member of the Legislature shall be liable in any civil action or criminal prosecution whatever, for words spoken in debate.”**

**Such a justification for withholding public records is “arbitrary and capricious,” the lawsuit says, with no limitation over how far such an exemption could reach.**

**State lawmakers had long claimed they were exempt from public disclosure laws. A coalition of news outlets sued to get access to legislative records, such as emails, in 2017. Two years later, the Washington Supreme Court ruled legislators and their offices [were subject to the state public records law](#).**

**While the lawsuit names only the state of Washington as a respondent, it repeatedly accuses House Speaker Laurie Jinkins of withholding public records and working to “exercise her legislative powers in private.”**

**It alleges that Jinkins, D-Tacoma, has “used her position of authority” to get others to “control and restrict the public’s right to know.” Jinkins, the lawsuit says, benefits personally by withholding public records that might invite criticism.**

**The lawsuit says that Jinkins told reporters she did not think she had ever used the “legislative privilege” exemption, even as, seven days earlier, Nixon received records with Jinkins’ name on them with 20 to 30 legislative privilege redactions.**

**Jen Waldref, a Jinkins spokesperson, said Jinkins does not comment on pending litigation but “welcomes the guidance of the courts.”**