

Committee Name:

**Senate Committee – Privacy, Electronic Commerce and Financial Institutions
(SC-PECFI)**

Appointments

01hr_SC-PECFI_Appoint_pt00

Clearinghouse Rules

01hr_SC-PECFI_CRule_01-

Committee Hearings

01hr_SC-PECFI_CH_pt00

Committee Reports

01hr_SC-PECFI_CR_pt00

Executive Sessions

01hr_SC-PECFI_ES_pt00

Hearing Records

01hr_ab0000

01hr_sb0442

Misc.

01hr_SC-PECFI_Misc_pt01

Record of Committee Proceedings

01hr_SC-PECFI_RCP_pt00

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-21-02
BILL NO. 442
OR
SUBJECT _____

TOM Schuft
(NAME)
113-115 W. Main, Watertown
(Street Address or Route Number)
Watertown 53094
(City and Zip Code)
Watertown Daily Times
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.
Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/21
BILL NO. SB 442
OR
SUBJECT _____

Dean Bowles.
(NAME)
1403 Joyce Rd.
(Street Address or Route Number)
Monona WI 53716
(City and Zip Code)
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-21-02
BILL NO. SB 442
OR
SUBJECT Privacy of Records

Ron Kraehn
(NAME)
2 E. Miffelin #600
(Street Address or Route Number)
MADISON WI 53703
(City and Zip Code)
WI Assoc of Sch. Dist. Administrators
ASJN-gvl School Adminis
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-21

BILL NO. SB 442

OR

SUBJECT _____

Tom Beattie
(NAME)

4797 Hayes Rd
(Street Address or Route Number)

Madison, WI 53704
(City and Zip Code)

AWSA
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/21/02

BILL NO. SB 442

OR

SUBJECT _____

David Bloom
(NAME)

2120 Fish Hatchery Rd
(Street Address or Route Number)

Madison WI 53213
(City and Zip Code)

Wisconsin State Fire Chiefs Assoc.
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-23-02

BILL NO. SB 442

OR

SUBJECT _____

Pam Henning
(NAME)

801 W. Badger Rd.
(Street Address or Route Number)

Madison
(City and Zip Code)

Dept. of Employee Trust Funds
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor: as amended
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: February 21, 2002

BILL NO. SB 442

OR

SUBJECT _____

John D. Forester
(NAME)

4797 Hayes Rd.
(Street Address or Route Number)

MADISON, WI 53704
(City and Zip Code)
Wis. Assn. of School District Administrators
Assn. of Wis. School Administrators
(Representing) (over)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY.**

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P.O. Box 7882
Madison, WI 53707-7882

Wis. Assn. of School Business Officials

Wis. Council for Administrators of Special Services

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-21-02
BILL NO. SB 442
OR
SUBJECT _____

Sandra George
(NAME)
3802 Arved PA Rd
(Street Address or Route Number)
Madison 53705
(City and Zip Code)
Wisconsin Newspaper Assn
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-21-02
BILL NO. SB 442
OR
SUBJECT _____

Melissa Cherney
(NAME)
PO Box 8003 Madison
(Street Address or Route Number)
WEAC, WPPA
(City and Zip Code)
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2.21.02

BILL NO. 442
OR
SUBJECT _____

Brian Knox
(NAME)
421 Milwaukee Ave East
(Street Address or Route Number)
Fort Atkinson - 53538
(City and Zip Code)
Daily Jefferson County Unison
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information only; Neither for nor against:

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State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2-21-02

BILL NO. _____
OR SB442
SUBJECT _____

Senator McPhee
(NAME)

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

**Senate Privacy, Electronic Commerce and Financial Institutions
Committee**

Paper ballot, please return by 5pm Tuesday February 26th.

Senate Bill 442 relating to access to public records.

Introduction and adoption of Senate Amendment 1 to SB 442

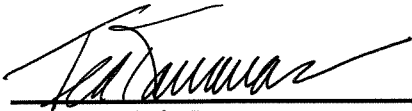
_____yes no

Recommended passage of SB 442 as amended

_____yes no

Senate Bill 16 relating to sales tax on the sale of lists

_____yes no



Senator Ted Kanavas

02-26-02

**Senate Privacy, Electronic Commerce and Financial Institutions
Committee**

Paper ballot, please return by 5pm Tuesday February 26th.

Senate Bill 442 relating to access to public records.

Introduction and adoption of Senate Amendment 1 to SB 442

yes no

Recommended passage of SB 442 as amended

yes no

Senate Bill 16 relating to sales tax on the sale of lists

yes no

Senator Scott Fitzgerald



**Senate Privacy, Electronic Commerce and Financial Institutions
Committee**

Paper ballot, please return by 5pm Tuesday February 26th.

Senate Bill 442 relating to access to public records.

Introduction and adoption of Senate Amendment 1 to SB 442

yes no

Recommended passage of SB 442 as amended

yes no

Senate Bill 16 relating to sales tax on the sale of lists

yes no



Senator Robert Jauch

**Senate Privacy, Electronic Commerce and Financial Institutions
Committee**

Paper ballot, please return by 5pm Tuesday February 26th.

Senate Bill 442 relating to access to public records.

Introduction and adoption of Senate Amendment 1 to SB 442

yes no

Recommended passage of SB 442 as amended

yes no

Senate Bill 16 relating to sales tax on the sale of lists

yes no



Senator Kimberly Plache

**Senate Privacy, Electronic Commerce and Financial Institutions
Committee**

Paper ballot, please return by 5pm Tuesday February 26th.

Senate Bill 442 relating to access to public records.

Introduction and adoption of Senate Amendment 1 to SB 442

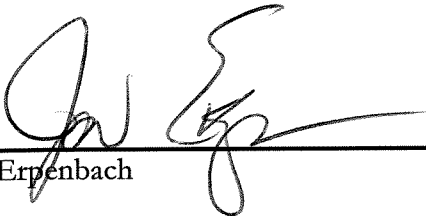
yes no

Recommended passage of SB 442 as amended

yes no

Senate Bill 16 relating to sales tax on the sale of lists

yes no



Senator Jon Erpenbach



Wisconsin State Fire Chiefs Association, Inc.

Together We Can Make A Difference

- Education
- Prevention
- Safety
- Suppression
- EMS

DATE: February 21, 2002

TO: Privacy Electronic Commerce & Financial Institutions Committee

FROM: Wisconsin State Fire Chiefs Association

RE: Opposition to SB 442

The Wisconsin State Fire Chiefs are opposed to Senate Bill 442. The Wisconsin State Fire Chiefs Association feels the statutes relating to access to public records are adequate as written and enforced at the present time. This legislation would provide more protection for some public employees while relaxing the statutes protecting other public employees. The current statutes are adequate and treat access to public records for all public employees fairly.

The Wisconsin State Fire Chiefs Association urges you to oppose Senate Bill 442. Thank you for your consideration on this important legislation and if you have any questions please contact David Bloom, Legislative Liaison Wisconsin State Fire Chiefs Association at 608-210-7218.

P.O Box 44743, Madison, WI 53744-4743
Phone: 1-800-375-5886 Fax: 608-274-8262

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS
801 West Badger Road
Madison, WI 53702**

CORRESPONDENCE MEMORANDUM

DATE: February 21, 2002

TO: Members, Senate Committee on Privacy, Electronic Commerce and
Financial Institutions

FROM: Pam Henning, Director *PHH*
Legislation and Planning

SUBJECT: 2001 Senate Bill 442

The Department of Employee Trust Funds (DETF) would like to register in support of Senate Bill 442 as amended by the Committee. Senate Bill 442 as amended would remove any references or cross-references of s. 19.35 (1) and s. 19.36 (10) into Chapter 40, which administers the Wisconsin Retirement System (WRS) and various other benefit programs for state and local government employees.

The amendment to Senate Bill 442 removes the inadvertent possibility that DETF would have to disclose information about our participants that is currently kept confidential. Under current law, personal information in DETF records is confidential as provided by s. 40.07 (1) (intro.). It is therefore not subject to disclosure under the present public records law. Also as provided under the current provisions of s. 40.07 (3), DETF is prohibited from furnishing any person or organization a list of participants, annuitants or beneficiaries. Without the amendment, it would appear DETF would be compelled according to s. 19.36 (10) to disclose those lists if such disclosure was allowed pursuant to a collective bargaining agreement under ch. 111.

Also as interpreted prior to the amendment, the bill could have required DETF to keep additional records on potentially hundreds of thousands of individuals concerning whether they consent to having certain information disclosed (i.e., home address and telephone numbers). Senate Bill 442 as amended will alleviate the potential for substantial administrative costs to the Department as well as continue to provide the confidentiality protections to the thousands of members under the WRS and other benefit programs administered by DETF.

We strongly support Senate Bill 442 as amended to remove any reference to Chapter 40. Thank you for your time and consideration.

WISCONSIN EDUCATION ASSOCIATION COUNCIL

Affiliated with the National Education Association

*Every kid
deserves a
Great School!*

TESTIMONY IN SUPPORT OF SENATE BILL 442

My name is Melissa Cherney, and I am here to testify on behalf of the Wisconsin Education Association Council in support of Senate Bill 442. I would like to thank Senator Erpenbach and the members of the Committee for this opportunity. I am also authorized to speak on behalf of the Wisconsin Professional Police Association in favor of this bill.

This bill is the result of more than a year of discussion among groups interested in these issues. These groups may have fundamental disagreement on these issues, but have come together to support this bill.

WEAC believes that the Public Records Law should facilitate government being both effective and responsive. This bill creates an appropriate balance that furthers the public interest in open government, the ability of governmental bodies to function efficiently and effectively, and the protection of employee privacy interests.

The bill creates specific exceptions to the public records law for certain personnel records. These types of records are generally exempt from public records laws in most states. In Wisconsin, court cases have generally held that these types of records should not be disclosed. This bill would clarify that area of the law and reduce confusion and litigation.

With respect to the *Woznicki* issue, we believe the *Woznicki* decision was correctly decided by the Wisconsin Supreme Court. In that case, the court recognized that an

Stan Johnson, President

Michael A. Butera, Executive Director

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individual's privacy interests could be affected by the release of documents held by a governmental entity. In order to protect these interests, the Court held that a record custodian must give an individual notice if it intends to release records implicating the individual's privacy interests. The record custodian must also allow the individual enough time to bring an action seeking a court ruling on whether or not the records should be disclosed.

The *Woznicki* case did not change the substantive law as to whether or not records should be released to the public. However, it created procedural rights for individuals affected by a government's decision. Some media groups have attacked the *Woznicki* decision as causing delay in the release of records. Moreover, they claim that some record custodians are confused about the scope of the Court's decision and have granted *Woznicki* rights for information that had previously been routinely released.

This bill clarifies those situations in which an individual is entitled to the procedural protections articulated in the *Woznicki* case. It further creates an expedited statutory procedure for the determination of those rights. Thus, individual rights are protected, but records that should be subject to disclosure will be more promptly released.

We thank Senator Erpenbach and the Committee for its consideration and urge support of Senate Bill 442.



**Testimony Before the Senate Committee on Privacy, Electronic
Commerce and Financial Institutions on SB 442**

By

**John Forester, Director of Government Relations
School Administrators Alliance**

February 21, 2002

An Alliance of:

Association of
Wisconsin School
Administrators

Wisconsin Association
of School District
Administrators

Wisconsin Association
of School Business
Officials

Wisconsin Council for
Administrators of
Special Services

Senate Bill 442 would provide new procedures that public employers would be required to follow in processing public record requests for personnel records of certain public employees (including school administrators). The bill would supercede the procedural protections set forth by the Wisconsin Supreme Court in *Woznicki v. Erickson*, 202 Wis. 2d 178 (1996). These procedures were adopted by the Court in *Woznicki*, and since followed by the lower courts, in order to protect the privacy and reputational interests of public employees when public records requests are made for records pertaining to the employee.

Some of the procedural protections adopted in *Woznicki* are: the employer must provide notice to the employee of a request for records pertaining to the employee; the employee must be given a reasonable time period to determine whether he/she will commence a judicial challenge to the release of the records requested; the employee will normally be provided with a copy of the records requested; and, if requested, a reviewing court must determine whether permitting access to the records would result in harm to the privacy or reputational interests of the employee that would outweigh the public interest in allowing access to the records.

The School Administrators Alliance (SAA) opposes SB 442. For local government officials like school superintendents and principals, all of the *Woznicki* protections would be limited or eliminated by SB 442. The bill, if enacted, would:

- Allow the release of personnel documents without even notifying the record subject.
- Deprive certain public employees of their right to judicial review as it relates to requests for their personnel records.
- Create two classes of public employees whose records would be treated differently.

Testimony by John Forester
Page 2
February 21, 2002

By exposing public officials' records in this way, the bill would exacerbate the current shortage of talented people entering school administration. The current disincentives to entering the field include salary compression between teaching and administrative positions, long hours and ever-increasing responsibilities. This bill creates yet another disincentive for talented people to enter school administration. And the research is clear on this point: you just don't have good schools without good principals.

SB 442 would create great potential for mischief. For example, if a teacher or parent disagrees with an administrator's decision-making, they could file grievances or write letters critical of the administrator, then seek and publicize the administrator's records.

Other Concerns: By creating different types of records and record subjects, SB 442 will replace a fair, workable system under Woznicki with one that is overly complex and may lead to expensive litigation.

SB 442 could also discourage administrators from making politically risky, though appropriate, decisions on behalf of students, parents or staff.

If administrators' performance evaluations were easily obtained, as we believe they would be under SB 442, rigorous and forthright evaluations could expose school districts to potential lawsuit.

Under SB 442, it is unclear how certain records would be handled if they contain clear reference to the actions or performance of third parties, namely teachers and/or students.

If you have any questions regarding the SAA's position, please contact me at 608-242-1370.