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HOUSE BILL 2465

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By Representatives Anderson, Veloria, L. Thomas, Reams, Conway, Pruitt, Campbell, King, Brough, Fuhrman, Wood, Dyer, J. Kohl and Quall

Read first time 01/14/94. Referred to Committee on State Government.

1 AN ACT Relating to the costs of copying public records; and  
2 amending RCW 42.17.260 and 42.17.300.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 42.17.260 and 1992 c 139 s 3 are each amended to read  
5 as follows:

6 (1) Each agency, in accordance with published rules, shall make  
7 available for public inspection and copying all public records, unless  
8 the record falls within the specific exemptions of subsection (6) of  
9 this section, RCW 42.17.310, 42.17.315, or other statute which exempts  
10 or prohibits disclosure of specific information or records. To the  
11 extent required to prevent an unreasonable invasion of personal privacy  
12 interests protected by RCW 42.17.310 and 42.17.315, an agency shall  
13 delete identifying details in a manner consistent with RCW 42.17.310  
14 and 42.17.315 when it makes available or publishes any public record;  
15 however, in each case, the justification for the deletion shall be  
16 explained fully in writing.

17 (2) For informational purposes, each agency shall publish and  
18 maintain a current list containing every law, other than those listed  
19 in this chapter, that the agency believes exempts or prohibits

1 disclosure of specific information or records of the agency. An  
2 agency's failure to list an exemption shall not affect the efficacy of  
3 any exemption.

4 (3) Each local agency shall maintain and make available for public  
5 inspection and copying a current index providing identifying  
6 information as to the following records issued, adopted, or promulgated  
7 after January 1, 1973:

8 (a) Final opinions, including concurring and dissenting opinions,  
9 as well as orders, made in the adjudication of cases;

10 (b) Those statements of policy and interpretations of policy,  
11 statute, and the Constitution which have been adopted by the agency;

12 (c) Administrative staff manuals and instructions to staff that  
13 affect a member of the public;

14 (d) Planning policies and goals, and interim and final planning  
15 decisions;

16 (e) Factual staff reports and studies, factual consultant's reports  
17 and studies, scientific reports and studies, and any other factual  
18 information derived from tests, studies, reports, or surveys, whether  
19 conducted by public employees or others; and

20 (f) Correspondence, and materials referred to therein, by and with  
21 the agency relating to any regulatory, supervisory, or enforcement  
22 responsibilities of the agency, whereby the agency determines, or  
23 opines upon, or is asked to determine or opine upon, the rights of the  
24 state, the public, a subdivision of state government, or of any private  
25 party.

26 (4) A local agency need not maintain such an index, if to do so  
27 would be unduly burdensome, but it shall in that event:

28 (a) Issue and publish a formal order specifying the reasons why and  
29 the extent to which compliance would unduly burden or interfere with  
30 agency operations; and

31 (b) Make available for public inspection and copying all indexes  
32 maintained for agency use.

33 (5) Each state agency shall, by rule, establish and implement a  
34 system of indexing for the identification and location of the following  
35 records:

36 (a) All records issued before July 1, 1990, for which the agency  
37 has maintained an index;

38 (b) Final orders entered after June 30, 1990, that are issued in  
39 adjudicative proceedings as defined in RCW 34.05.010(1) and that

1 contain an analysis or decision of substantial importance to the agency  
2 in carrying out its duties;

3 (c) Declaratory orders entered after June 30, 1990, that are issued  
4 pursuant to RCW 34.05.240 and that contain an analysis or decision of  
5 substantial importance to the agency in carrying out its duties;

6 (d) Interpretive statements as defined in RCW 34.05.010(8) that  
7 were entered after June 30, 1990; and

8 (e) Policy statements as defined in RCW 34.05.010(14) that were  
9 entered after June 30, 1990.

10 Rules establishing systems of indexing shall include, but not be  
11 limited to, requirements for the form and content of the index, its  
12 location and availability to the public, and the schedule for revising  
13 or updating the index. State agencies that have maintained indexes for  
14 records issued before July 1, 1990, shall continue to make such indexes  
15 available for public inspection and copying. Information in such  
16 indexes may be incorporated into indexes prepared pursuant to this  
17 subsection. State agencies may satisfy the requirements of this  
18 subsection by making available to the public indexes prepared by other  
19 parties but actually used by the agency in its operations. State  
20 agencies shall make indexes available for public inspection and  
21 copying. State agencies may charge a fee to cover the actual costs of  
22 providing individual mailed copies of indexes.

23 (6) A public record may be relied on, used, or cited as precedent  
24 by an agency against a party other than an agency and it may be invoked  
25 by the agency for any other purpose only if«

26 (a) It has been indexed in an index available to the public; or

27 (b) Parties affected have timely notice (actual or constructive) of  
28 the terms thereof.

29 (7) Each agency shall establish, maintain, and make available for  
30 public inspection and copying a statement of the actual per page costs  
31 and other costs, if any, that it charges for providing copies of public  
32 records and a statement of the factors and manner used to determine the  
33 actual per page costs and other costs, if any.

34 (a) In determining the actual per page costs for providing copies  
35 of public records, an agency may include all costs directly incident to  
36 copying such public records including, but not limited to, the actual  
37 cost of the paper and the per page cost for use of agency copying  
38 equipment. In determining other actual costs for providing copies of  
39 public records, an agency may include all costs directly incident to

1 shipping such public records, including, but not limited to, the cost  
2 of postage or delivery charges and the cost of any container or  
3 envelope used.

4 (b) In determining the actual per page costs for providing copies  
5 of public records, an agency may not include staff salaries, benefits,  
6 or other general administrative or overhead charges not directly  
7 related to the actual cost of copying the public records.

8 (8) An agency need not calculate the actual per page cost or other  
9 costs it charges for providing copies of public records if to do so  
10 would be unduly burdensome, but in that event: The agency may not  
11 charge in excess of ten cents per page for copies of public records or  
12 for the use by any person of agency equipment to copy public records  
13 and the actual postage or delivery charge to mail the public records to  
14 the requestor.

15 (9) This chapter shall not be construed as giving authority to any  
16 agency to give, sell or provide access to lists of individuals  
17 requested for commercial purposes, and agencies shall not do so unless  
18 specifically authorized or directed by law: PROVIDED, HOWEVER, That  
19 lists of applicants for professional licenses and of professional  
20 licensees shall be made available to those professional associations or  
21 educational organizations recognized by their professional licensing or  
22 examination board, upon payment of a reasonable charge therefor:  
23 PROVIDED FURTHER, That such recognition may be refused only for a good  
24 cause pursuant to a hearing under the provisions of chapter 34.05 RCW,  
25 the Administrative Procedure Act.

26 **Sec. 2.** RCW 42.17.300 and 1973 c 1 s 30 are each amended to read  
27 as follows:

28 No fee shall be charged for the inspection of public records. No  
29 fee shall be charged for locating public documents and making them  
30 available for copying. Agencies may impose a reasonable charge for  
31 providing copies of public records and for the use by any person of  
32 agency equipment to copy public records, which charges shall not exceed  
33 the amount necessary to reimburse the agency for its actual costs  
34 directly incident to such copying in accordance with the actual per  
35 page costs or other costs established and published by the agency. In  
36 no event may an agency charge a per page cost greater than the actual  
37 per page cost as established and published by the agency. To the  
38 extent the agency has not determined the actual per page cost for

1 copies of public records, the agency may not charge in excess of ten  
2 cents per page.

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