
HOUSE BILL 2516

State of Washington

59th Legislature

2006 Regular Session

By Representatives Nixon and Rodne

Read first time 01/10/2006. Referred to Committee on State Government Operations & Accountability.

1 AN ACT Relating to public records; amending RCW 42.56.120,
2 42.17.253, and 42.56.040; reenacting and amending RCW 42.56.550; adding
3 a new section to chapter 42.56 RCW; recodifying RCW 42.17.253; and
4 providing an effective date.

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

6 **Sec. 1.** RCW 42.56.120 and 2005 c 483 s 2 are each amended to read
7 as follows:

8 No fee shall be charged for the inspection of public records. No
9 fee shall be charged for locating public documents and making them
10 available for copying. A reasonable charge may be imposed for
11 providing copies of public records and for the use by any person of
12 agency equipment or equipment of the office of the secretary of the
13 senate or the office of the chief clerk of the house of representatives
14 to copy public records, which charges shall not exceed the amount
15 necessary to reimburse the agency, the office of the secretary of the
16 senate, or the office of the chief clerk of the house of
17 representatives for its actual costs directly incident to such copying.
18 Agency charges for photocopies shall be imposed in accordance with the
19 actual per page cost or other costs established and published by the

1 agency. In no event may an agency charge a per page cost greater than
2 the actual per page cost as established and published by the agency.
3 To the extent the agency has not determined the actual per page cost
4 for photocopies of public records, the agency may not charge in excess
5 of fifteen cents per page. Agency documentation of its actual costs
6 for copies, including photocopies, shall be subject to audit for
7 accuracy by the office of the state auditor. An agency may require a
8 deposit in an amount not to exceed ten percent of the estimated cost of
9 providing copies for a request. If an agency makes a request available
10 on a partial or installment basis, the agency may charge for each part
11 of the request as it is provided. If an installment of a records
12 request is not claimed or reviewed, the agency is not obligated to
13 fulfill the balance of the request.

14 **Sec. 2.** RCW 42.17.253 and 2005 c 483 s 3 are each amended to read
15 as follows:

16 (1) Each state and local agency shall appoint, maintain, and
17 publicly identify a public records officer whose responsibility is to
18 serve as a point of contact for members of the public in requesting
19 disclosure of public records and to oversee the agency's compliance
20 with the public records disclosure requirements of this chapter. A
21 state or local agency's public records officer may appoint an employee
22 or official of another agency as its public records officer.

23 (2) For state agencies, the name and contact information of the
24 agency's public records officer to whom members of the public may
25 direct requests for disclosure of public records and who will oversee
26 the agency's compliance with the public records disclosure requirements
27 of this chapter shall be published in the state register at the time of
28 designation and annually every year thereafter.

29 (3) For local agencies, the name and contact information of the
30 agency's public records officer to whom members of the public may
31 direct requests for disclosure of public records and who will oversee
32 the agency's compliance within the public records disclosure
33 requirements of this chapter shall be made in a way reasonably
34 calculated to provide notice to the public, including posting at the
35 local agency's place of business, posting on its internet site, or
36 including in its publications.

1 **Sec. 3.** RCW 42.56.040 and 1973 c 1 s 25 are each amended to read
2 as follows:

3 (1) Each state agency shall separately state and currently publish
4 in the Washington Administrative Code and each local agency shall
5 prominently display and make available for inspection and copying at
6 the central office of such local agency, for guidance of the public:

7 (a) Descriptions of its central and field organization and the
8 established places at which, the employees from whom, and the methods
9 whereby, the public may obtain information, make submittals or
10 requests, or obtain copies of agency decisions;

11 (b) Statements of the general course and method by which its
12 operations are channeled and determined, including the nature and
13 requirements of all formal and informal procedures available;

14 (c) Rules of procedure;

15 (d) Substantive rules of general applicability adopted as
16 authorized by law, and statements of general policy or interpretations
17 of general applicability formulated and adopted by the agency; ~~((and))~~

18 (e) Each amendment or revision to, or repeal of any of the
19 ~~((foregoing))~~ documents in this subsection (1); and

20 (f) The name and contact information of the agency's appointed
21 individual responsible for overseeing the disclosure or inspection of
22 public records.

23 (2) Except to the extent that he or she has actual and timely
24 notice of the terms thereof, a person may not in any manner be required
25 to resort to, or be adversely affected by, a matter required to be
26 published or displayed and not so published or displayed.

27 (3)(a) By February 1, 2007, the attorney general shall adopt by
28 rule a model rule for state and local agencies addressing the following
29 subjects:

30 (i) Providing assistance to requesters;

31 (ii) Indexing public records;

32 (iii) Fulfilling large requests in a timely manner;

33 (iv) Fulfilling requests for electronic records; and

34 (v) Any other issues pertaining to public disclosure as determined
35 by the attorney general.

36 (b) The attorney general, in his or her discretion, may from time
37 to time revise the model rule.

1 **Sec. 4.** RCW 42.56.550 and 2005 c 483 s 5 and 2005 c 274 s 288 are
2 each reenacted and amended to read as follows:

3 (1) Upon the motion of any person having been denied an opportunity
4 to inspect or copy a public record by an agency, the superior court in
5 the county in which a record is maintained may require the responsible
6 agency to show cause why it has refused to allow inspection or copying
7 of a specific public record or class of records. The burden of proof
8 shall be on the agency to establish that refusal to permit public
9 inspection and copying is in accordance with a statute that exempts or
10 prohibits disclosure in whole or in part of specific information or
11 records.

12 (2) Upon the motion of any person who believes that an agency has
13 not made a reasonable estimate of the time that the agency requires to
14 respond to a public record request, the superior court in the county in
15 which a record is maintained may require the responsible agency to show
16 that the estimate it provided is reasonable. The burden of proof shall
17 be on the agency to show that the estimate it provided is reasonable.

18 (3) Judicial review of all agency actions taken or challenged under
19 RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall take
20 into account the policy of this chapter that free and open examination
21 of public records is in the public interest, even though such
22 examination may cause inconvenience or embarrassment to public
23 officials or others. Courts may examine any record in camera in any
24 proceeding brought under this section. The court may conduct a hearing
25 based solely on affidavits.

26 (4) Any person who prevails against an agency in any action in the
27 courts seeking the right to inspect or copy any public record or the
28 right to receive a response to a public record request within a
29 reasonable amount of time shall be awarded all costs, including
30 reasonable attorneys' fees, incurred in connection with such legal
31 action. In addition, it shall be within the discretion of the court to
32 award such person an amount not less than (~~five~~) fifty dollars and
33 not to exceed (~~one~~) five hundred dollars for each day that he or she
34 was denied the right to inspect or copy said public record.

35 (5) For actions under this section against counties, the venue
36 provisions of RCW 36.01.050 apply.

37 (6) Actions under this section must be filed within one year of the

1 agency's claim of exemption or the last production of a record on a
2 partial or installment basis.

3 NEW SECTION. **Sec. 5.** RCW 42.17.253 is recodified as a new section
4 in chapter 42.56 RCW.

5 NEW SECTION. **Sec. 6.** This act takes effect July 1, 2006.

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