
SENATE BILL 5735

State of Washington

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By Senators Brown, Finkbeiner, Keiser, Esser, Honeyford, Mulliken, Franklin, Prentice, McAuliffe, Stevens, Poulsen, Parlette, Deccio, Pflug, Rockefeller, Hewitt, Johnson, Oke, Shin, Rasmussen and Fairley; by request of Attorney General

Read first time 02/03/2005. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to public disclosure; amending RCW 42.17.270,
2 42.17.250, and 42.17.340; reenacting and amending RCW 42.17.310 and
3 42.17.300; and adding a new section to chapter 42.17 RCW.

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

5 **Sec. 1.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
6 each reenacted and amended to read as follows:

7 (1) The following are exempt from public inspection and copying:

8 (a) Personal information in any files maintained for students in
9 public schools, patients or clients of public institutions or public
10 health agencies, or welfare recipients.

11 (b) Personal information in files maintained for employees,
12 appointees, or elected officials of any public agency to the extent
13 that disclosure would violate their right to privacy.

14 (c) Information required of any taxpayer in connection with the
15 assessment or collection of any tax if the disclosure of the
16 information to other persons would (i) be prohibited to such persons by
17 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
18 taxpayer's right to privacy or result in unfair competitive
19 disadvantage to the taxpayer.

1 (d) Specific intelligence information and specific investigative
2 records compiled by investigative, law enforcement, and penology
3 agencies, and state agencies vested with the responsibility to
4 discipline members of any profession, the nondisclosure of which is
5 essential to effective law enforcement or for the protection of any
6 person's right to privacy.

7 (e) Information revealing the identity of persons who are witnesses
8 to or victims of crime or who file complaints with investigative, law
9 enforcement, or penology agencies, other than the public disclosure
10 commission, if disclosure would endanger any person's life, physical
11 safety, or property. If at the time a complaint is filed the
12 complainant, victim or witness indicates a desire for disclosure or
13 nondisclosure, such desire shall govern. However, all complaints filed
14 with the public disclosure commission about any elected official or
15 candidate for public office must be made in writing and signed by the
16 complainant under oath.

17 (f) Test questions, scoring keys, and other examination data used
18 to administer a license, employment, or academic examination.

19 (g) Except as provided by chapter 8.26 RCW, the contents of real
20 estate appraisals, made for or by any agency relative to the
21 acquisition or sale of property, until the project or prospective sale
22 is abandoned or until such time as all of the property has been
23 acquired or the property to which the sale appraisal relates is sold,
24 but in no event shall disclosure be denied for more than three years
25 after the appraisal.

26 (h) Valuable formulae, designs, drawings, computer source code or
27 object code, and research data obtained by any agency within five years
28 of the request for disclosure when disclosure would produce private
29 gain and public loss.

30 (i) Preliminary drafts, notes, recommendations, and intra-agency
31 memorandums in which opinions are expressed or policies formulated or
32 recommended except that a specific record shall not be exempt when
33 publicly cited by an agency in connection with any agency action.

34 (j)(i) Records which are relevant to a controversy to which an
35 agency is a party but which records would not be available to another
36 party under the rules of pretrial discovery for causes pending in the
37 superior courts.

1 (ii)(A) Records reflecting communications transmitted in confidence
2 between a public official or employee of a public agency acting in the
3 performance of his or her duties and an attorney serving in the
4 capacity of legal advisor for the purpose of rendering or obtaining
5 legal advice, and records prepared by the attorney in furtherance of
6 the rendition of legal advice.

7 (B) Records are not exempt from disclosure under this subsection
8 merely because they reflect communications in meetings where legal
9 counsel was present or because a record or copy of a record was
10 provided to legal counsel, if the elements of (j)(ii)(A) of this
11 subsection are not met.

12 This subsection (1)(j)(ii) governs exemption of records from the
13 provisions of this chapter based on the attorney-client privilege as
14 applied to public agencies and public officials in their official
15 capacities, rather than the provisions of RCW 5.60.060(2).

16 (k) Records, maps, or other information identifying the location of
17 archaeological sites in order to avoid the looting or depredation of
18 such sites.

19 (l) Any library record, the primary purpose of which is to maintain
20 control of library materials, or to gain access to information, which
21 discloses or could be used to disclose the identity of a library user.

22 (m) Financial information supplied by or on behalf of a person,
23 firm, or corporation for the purpose of qualifying to submit a bid or
24 proposal for (i) a ferry system construction or repair contract as
25 required by RCW 47.60.680 through 47.60.750 or (ii) highway
26 construction or improvement as required by RCW 47.28.070.

27 (n) Railroad company contracts filed prior to July 28, 1991, with
28 the utilities and transportation commission under RCW 81.34.070, except
29 that the summaries of the contracts are open to public inspection and
30 copying as otherwise provided by this chapter.

31 (o) Financial and commercial information and records supplied by
32 private persons pertaining to export services provided pursuant to
33 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
34 export projects pursuant to RCW 43.23.035.

35 (p) Financial disclosures filed by private vocational schools under
36 chapters 28B.85 and 28C.10 RCW.

37 (q) Records filed with the utilities and transportation commission

1 or attorney general under RCW 80.04.095 that a court has determined are
2 confidential under RCW 80.04.095.

3 (r) Financial and commercial information and records supplied by
4 businesses or individuals during application for loans or program
5 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
6 or during application for economic development loans or program
7 services provided by any local agency.

8 (s) Membership lists or lists of members or owners of interests of
9 units in timeshare projects, subdivisions, camping resorts,
10 condominiums, land developments, or common-interest communities
11 affiliated with such projects, regulated by the department of
12 licensing, in the files or possession of the department.

13 (t) All applications for public employment, including the names of
14 applicants, resumes, and other related materials submitted with respect
15 to an applicant.

16 (u) The residential addresses or residential telephone numbers of
17 employees or volunteers of a public agency which are held by any public
18 agency in personnel records, public employment related records, or
19 volunteer rosters, or are included in any mailing list of employees or
20 volunteers of any public agency.

21 (v) The residential addresses and residential telephone numbers of
22 the customers of a public utility contained in the records or lists
23 held by the public utility of which they are customers, except that
24 this information may be released to the division of child support or
25 the agency or firm providing child support enforcement for another
26 state under Title IV-D of the federal social security act, for the
27 establishment, enforcement, or modification of a support order.

28 (w)(i) The federal social security number of individuals governed
29 under chapter 18.130 RCW maintained in the files of the department of
30 health, except this exemption does not apply to requests made directly
31 to the department from federal, state, and local agencies of
32 government, and national and state licensing, credentialing,
33 investigatory, disciplinary, and examination organizations; (ii) the
34 current residential address and current residential telephone number of
35 a health care provider governed under chapter 18.130 RCW maintained in
36 the files of the department, if the provider requests that this
37 information be withheld from public inspection and copying, and
38 provides to the department an accurate alternate or business address

1 and business telephone number. On or after January 1, 1995, the
2 current residential address and residential telephone number of a
3 health care provider governed under RCW 18.130.040 maintained in the
4 files of the department shall automatically be withheld from public
5 inspection and copying unless the provider specifically requests the
6 information be released, and except as provided for under RCW
7 42.17.260(9).

8 (x) Information obtained by the board of pharmacy as provided in
9 RCW 69.45.090.

10 (y) Information obtained by the board of pharmacy or the department
11 of health and its representatives as provided in RCW 69.41.044,
12 69.41.280, and 18.64.420.

13 (z) Financial information, business plans, examination reports, and
14 any information produced or obtained in evaluating or examining a
15 business and industrial development corporation organized or seeking
16 certification under chapter 31.24 RCW.

17 (aa) Financial and commercial information supplied to the state
18 investment board by any person when the information relates to the
19 investment of public trust or retirement funds and when disclosure
20 would result in loss to such funds or in private loss to the providers
21 of this information.

22 (bb) Financial and valuable trade information under RCW 51.36.120.

23 (cc) Client records maintained by an agency that is a domestic
24 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
25 crisis center as defined in RCW 70.125.030.

26 (dd) Information that identifies a person who, while an agency
27 employee: (i) Seeks advice, under an informal process established by
28 the employing agency, in order to ascertain his or her rights in
29 connection with a possible unfair practice under chapter 49.60 RCW
30 against the person; and (ii) requests his or her identity or any
31 identifying information not be disclosed.

32 (ee) Investigative records compiled by an employing agency
33 conducting a current investigation of a possible unfair practice under
34 chapter 49.60 RCW or of a possible violation of other federal, state,
35 or local laws prohibiting discrimination in employment.

36 (ff) Business related information protected from public inspection
37 and copying under RCW 15.86.110.

1 (gg) Financial, commercial, operations, and technical and research
2 information and data submitted to or obtained by the clean Washington
3 center in applications for, or delivery of, program services under
4 chapter 70.95H RCW.

5 (hh) Information and documents created specifically for, and
6 collected and maintained by a quality improvement committee pursuant to
7 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
8 4.24.250, regardless of which agency is in possession of the
9 information and documents.

10 (ii) Personal information in files maintained in a data base
11 created under RCW 43.07.360.

12 (jj) Financial and commercial information requested by the public
13 stadium authority from any person or organization that leases or uses
14 the stadium and exhibition center as defined in RCW 36.102.010.

15 (kk) Names of individuals residing in emergency or transitional
16 housing that are furnished to the department of revenue or a county
17 assessor in order to substantiate a claim for property tax exemption
18 under RCW 84.36.043.

19 (ll) The names, residential addresses, residential telephone
20 numbers, and other individually identifiable records held by an agency
21 in relation to a vanpool, carpool, or other ride-sharing program or
22 service. However, these records may be disclosed to other persons who
23 apply for ride-matching services and who need that information in order
24 to identify potential riders or drivers with whom to share rides.

25 (mm) The personally identifying information of current or former
26 participants or applicants in a paratransit or other transit service
27 operated for the benefit of persons with disabilities or elderly
28 persons.

29 (nn) The personally identifying information of persons who acquire
30 and use transit passes and other fare payment media including, but not
31 limited to, stored value smart cards and magnetic strip cards, except
32 that an agency may disclose this information to a person, employer,
33 educational institution, or other entity that is responsible, in whole
34 or in part, for payment of the cost of acquiring or using a transit
35 pass or other fare payment media, or to the news media when reporting
36 on public transportation or public safety. This information may also
37 be disclosed at the agency's discretion to governmental agencies or
38 groups concerned with public transportation or public safety.

1 (oo) Proprietary financial and commercial information that the
2 submitting entity, with review by the department of health,
3 specifically identifies at the time it is submitted and that is
4 provided to or obtained by the department of health in connection with
5 an application for, or the supervision of, an antitrust exemption
6 sought by the submitting entity under RCW 43.72.310. If a request for
7 such information is received, the submitting entity must be notified of
8 the request. Within ten business days of receipt of the notice, the
9 submitting entity shall provide a written statement of the continuing
10 need for confidentiality, which shall be provided to the requester.
11 Upon receipt of such notice, the department of health shall continue to
12 treat information designated under this section as exempt from
13 disclosure. If the requester initiates an action to compel disclosure
14 under this chapter, the submitting entity must be joined as a party to
15 demonstrate the continuing need for confidentiality.

16 (pp) Records maintained by the board of industrial insurance
17 appeals that are related to appeals of crime victims' compensation
18 claims filed with the board under RCW 7.68.110.

19 (qq) Financial and commercial information supplied by or on behalf
20 of a person, firm, corporation, or entity under chapter 28B.95 RCW
21 relating to the purchase or sale of tuition units and contracts for the
22 purchase of multiple tuition units.

23 (rr) Any records of investigative reports prepared by any state,
24 county, municipal, or other law enforcement agency pertaining to sex
25 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
26 defined in RCW 71.09.020, which have been transferred to the Washington
27 association of sheriffs and police chiefs for permanent electronic
28 retention and retrieval pursuant to RCW 40.14.070(2)(b).

29 (ss) Credit card numbers, debit card numbers, electronic check
30 numbers, card expiration dates, or bank or other financial account
31 numbers, except when disclosure is expressly required by or governed by
32 other law.

33 (tt) Financial information, including but not limited to account
34 numbers and values, and other identification numbers supplied by or on
35 behalf of a person, firm, corporation, limited liability company,
36 partnership, or other entity related to an application for a liquor
37 license, gambling license, or lottery retail license.

1 (uu) Records maintained by the employment security department and
2 subject to chapter 50.13 RCW if provided to another individual or
3 organization for operational, research, or evaluation purposes.

4 (vv) Individually identifiable information received by the work
5 force training and education coordinating board for research or
6 evaluation purposes.

7 (ww) Those portions of records assembled, prepared, or maintained
8 to prevent, mitigate, or respond to criminal terrorist acts, which are
9 acts that significantly disrupt the conduct of government or of the
10 general civilian population of the state or the United States and that
11 manifest an extreme indifference to human life, the public disclosure
12 of which would have a substantial likelihood of threatening public
13 safety, consisting of:

14 (i) Specific and unique vulnerability assessments or specific and
15 unique response or deployment plans, including compiled underlying data
16 collected in preparation of or essential to the assessments, or to the
17 response or deployment plans; and

18 (ii) Records not subject to public disclosure under federal law
19 that are shared by federal or international agencies, and information
20 prepared from national security briefings provided to state or local
21 government officials related to domestic preparedness for acts of
22 terrorism.

23 (xx) Commercial fishing catch data from logbooks required to be
24 provided to the department of fish and wildlife under RCW 77.12.047,
25 when the data identifies specific catch location, timing, or
26 methodology and the release of which would result in unfair competitive
27 disadvantage to the commercial fisher providing the catch data.
28 However, this information may be released to government agencies
29 concerned with the management of fish and wildlife resources.

30 (yy) Sensitive wildlife data obtained by the department of fish and
31 wildlife. However, sensitive wildlife data may be released to
32 government agencies concerned with the management of fish and wildlife
33 resources. Sensitive wildlife data includes:

34 (i) The nesting sites or specific locations of endangered species
35 designated under RCW 77.12.020, or threatened or sensitive species
36 classified by rule of the department of fish and wildlife;

37 (ii) Radio frequencies used in, or locational data generated by,
38 telemetry studies; or

1 (iii) Other location data that could compromise the viability of a
2 specific fish or wildlife population, and where at least one of the
3 following criteria are met:

4 (A) The species has a known commercial or black market value;

5 (B) There is a history of malicious take of that species; or

6 (C) There is a known demand to visit, take, or disturb, and the
7 species behavior or ecology renders it especially vulnerable or the
8 species has an extremely limited distribution and concentration.

9 (zz) The personally identifying information of persons who acquire
10 recreational licenses under RCW 77.32.010 or commercial licenses under
11 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
12 department, and type of license, endorsement, or tag. However, the
13 department of fish and wildlife may disclose personally identifying
14 information to:

15 (i) Government agencies concerned with the management of fish and
16 wildlife resources;

17 (ii) The department of social and health services, child support
18 division, and to the department of licensing in order to implement RCW
19 77.32.014 and 46.20.291; and

20 (iii) Law enforcement agencies for the purpose of firearm
21 possession enforcement under RCW 9.41.040.

22 (aaa)(i) Discharge papers of a veteran of the armed forces of the
23 United States filed at the office of the county auditor before July 1,
24 2002, that have not been commingled with other recorded documents.
25 These records will be available only to the veteran, the veteran's next
26 of kin, a deceased veteran's properly appointed personal representative
27 or executor, a person holding that veteran's general power of attorney,
28 or to anyone else designated in writing by that veteran to receive the
29 records.

30 (ii) Discharge papers of a veteran of the armed forces of the
31 United States filed at the office of the county auditor before July 1,
32 2002, that have been commingled with other records, if the veteran has
33 recorded a "request for exemption from public disclosure of discharge
34 papers" with the county auditor. If such a request has been recorded,
35 these records may be released only to the veteran filing the papers,
36 the veteran's next of kin, a deceased veteran's properly appointed
37 personal representative or executor, a person holding the veteran's

1 general power of attorney, or anyone else designated in writing by the
2 veteran to receive the records.

3 (iii) Discharge papers of a veteran filed at the office of the
4 county auditor after June 30, 2002, are not public records, but will be
5 available only to the veteran, the veteran's next of kin, a deceased
6 veteran's properly appointed personal representative or executor, a
7 person holding the veteran's general power of attorney, or anyone else
8 designated in writing by the veteran to receive the records.

9 (iv) For the purposes of this subsection (1)(aaa), next of kin of
10 deceased veterans have the same rights to full access to the record.
11 Next of kin are the veteran's widow or widower who has not remarried,
12 son, daughter, father, mother, brother, and sister.

13 (bbb) Those portions of records containing specific and unique
14 vulnerability assessments or specific and unique emergency and escape
15 response plans at a city, county, or state adult or juvenile
16 correctional facility, the public disclosure of which would have a
17 substantial likelihood of threatening the security of a city, county,
18 or state adult or juvenile correctional facility or any individual's
19 safety.

20 (ccc) Information compiled by school districts or schools in the
21 development of their comprehensive safe school plans pursuant to RCW
22 28A.320.125, to the extent that they identify specific vulnerabilities
23 of school districts and each individual school.

24 (ddd) Information regarding the infrastructure and security of
25 computer and telecommunications networks, consisting of security
26 passwords, security access codes and programs, access codes for secure
27 software applications, security and service recovery plans, security
28 risk assessments, and security test results to the extent that they
29 identify specific system vulnerabilities.

30 (eee) Information obtained and exempted or withheld from public
31 inspection by the health care authority under RCW 41.05.026, whether
32 retained by the authority, transferred to another state purchased
33 health care program by the authority, or transferred by the authority
34 to a technical review committee created to facilitate the development,
35 acquisition, or implementation of state purchased health care under
36 chapter 41.05 RCW.

37 (fff) Proprietary data, trade secrets, or other information that
38 relates to: (i) A vendor's unique methods of conducting business; (ii)

1 data unique to the product or services of the vendor; or (iii)
2 determining prices or rates to be charged for services, submitted by
3 any vendor to the department of social and health services for purposes
4 of the development, acquisition, or implementation of state purchased
5 health care as defined in RCW 41.05.011.

6 (2) Except for information described in subsection (1)(c)(i) of
7 this section and confidential income data exempted from public
8 inspection pursuant to RCW 84.40.020, the exemptions of this section
9 are inapplicable to the extent that information, the disclosure of
10 which would violate personal privacy or vital governmental interests,
11 can be deleted from the specific records sought. No exemption may be
12 construed to permit the nondisclosure of statistical information not
13 descriptive of any readily identifiable person or persons.

14 (3) Inspection or copying of any specific records exempt under the
15 provisions of this section may be permitted if the superior court in
16 the county in which the record is maintained finds, after a hearing
17 with notice thereof to every person in interest and the agency, that
18 the exemption of such records is clearly unnecessary to protect any
19 individual's right of privacy or any vital governmental function.

20 (4) Agency responses refusing, in whole or in part, inspection of
21 any public record shall include a statement of the specific exemption
22 authorizing the withholding of the record (or part) and a brief
23 explanation of how the exemption applies to the record withheld.

24 **Sec. 2.** RCW 42.17.270 and 1987 c 403 s 4 are each amended to read
25 as follows:

26 Public records shall be available for inspection and copying, and
27 agencies shall, upon request for identifiable public records, make them
28 promptly available to any person including, if applicable, on a rolling
29 basis as records that are part of a larger set of requested records
30 become available and ready for inspection or disclosure. Agencies
31 shall not deny a request for identifiable public records on the basis
32 that the request is overbroad. Agencies shall not distinguish among
33 persons requesting records, and such persons shall not be required to
34 provide information as to the purpose for the request except to
35 establish whether inspection and copying would violate RCW
36 42.17.260(~~(+5)~~) (9) or other statute which exempts or prohibits
37 disclosure of specific information or records to certain persons.

1 Agency facilities shall be made available to any person for the copying
2 of public records except when and to the extent that this would
3 unreasonably disrupt the operations of the agency. Agencies shall
4 honor requests received by mail for identifiable public records unless
5 exempted by provisions of this chapter.

6 **Sec. 3.** RCW 42.17.300 and 1995 c 397 s 14 and 1995 c 341 s 2 are
7 each reenacted and amended to read 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
20 agency. In no event may an agency charge a per page cost greater than
21 the actual per page cost as established and published by the agency.
22 To the extent the agency has not determined the actual per page cost
23 for photocopies of public records, the agency may not charge in excess
24 of fifteen cents per page. Agency documentation of its actual costs
25 for copies, including photocopies, shall be subject to audit for
26 accuracy by the office of the state auditor.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.17 RCW
28 to read as follows:

29 Each state and local agency shall separately appoint and maintain
30 and publicly identify an individual whose responsibility is to serve as
31 a point of contact for members of the public in requesting disclosure
32 of public records and to oversee the agency's compliance with the
33 public records disclosure requirements of this chapter.

34 **Sec. 5.** RCW 42.17.250 and 1973 c 1 s 25 are each amended to read
35 as follows:

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

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

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

12 (c) Rules of procedure;

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

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

18 (f) The identity of the agency's appointed individual to whom
19 members of the public may be directed to submit requests for disclosure
20 or inspection of public records and who is responsible for overseeing
21 the disclosure or inspection of such records.

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

26 (3)(a) The attorney general, by February 1, 2006, shall adopt by
27 rule a model rule for state and local agencies, as defined in RCW
28 42.17.020, addressing the following subjects:

29 (i) Providing fullest assistance to requestors;

30 (ii) Indexing of public records;

31 (iii) Fulfilling large requests in the most timely manner;

32 (iv) Fulfilling requests for electronic records; and

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

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

1 **Sec. 6.** RCW 42.17.340 and 1992 c 139 s 8 are each amended to read
2 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 42.17.250 through 42.17.320 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 attorney 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 rolling basis.

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