
State Government & Tribal Affairs
Committee

HB 1033

Brief Description: Clarifying the statute of limitations for any court action brought under RCW 42.56.550.

Sponsors: Representatives Eddy, Springer, Armstrong, Walsh, Takko, Parker, Appleton, Blake, Smith, Bailey, McCune, Nealey, Short, Fagan and Moeller; by request of Attorney General.

Brief Summary of Bill

- Revises and clarifies statute of limitations provisions pertaining to court actions stemming from an agency's violation of the Public Records Act.

Hearing Date: 1/20/11

Staff: Thamas Osborn (786-7129).

Background:

The Public Records Act (PRA) requires all state and local government agencies to make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally and the exceptions narrowly in order to effectuate a general policy favoring disclosure.

Responding to PRA Requests.

An agency must respond to requests for public records promptly. Within five business days of a request, an agency must:

- provide the record; or
- acknowledge receipt of the request and provide a reasonable estimate of the time that is required to respond to the request; or
- deny the request.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The agency may take additional time to clarify the intent of the request, to locate the requested information, to notify third persons or agencies affected by the request, or to determine whether the requested information is protected by an exemption

Judicial Remedies.

A person who is denied a public record or who believes an agency's time estimate is unreasonable may appeal the agency decision in the superior court of the county in which the record is maintained. In such court actions, the agency has the burden to prove, by a preponderance of the evidence, that the agency action was valid. If the person prevails in the action, he or she must be awarded all costs of maintaining the action, including reasonable attorney fees. In addition, it is within the courts discretion to award such person an amount of not less than five dollars and not more than one hundred dollars for each day he or she was denied the opportunity to inspect or copy the requested records.

Statute of Limitations for Seeking Judicial Remedies.

Court actions against an agency for noncompliance with the records production requirements of the PRA are subject to a one year statute of limitations, after which no appeal may be filed. This one year limitation period begins to run either on:

- the date of an agency's claim of exemption; or
- the date of the last production of a record being provided by an agency on a partial or installment basis.

Summary of Bill:

The statute of limitations provisions pertaining to court actions against an agency for noncompliance with PRA requirements are expanded to include a third date that triggers the beginning of the one year limitation period. This third trigger date is the date of an agency's response indicating that none of the requested records have been located. An additional provision clarifies that in the event that more than one of the trigger dates might be applicable, then the most recent date will mark the beginning of the limitation period.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.