
HOUSE BILL 2652

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Pollet and Miloscia

Read first time 01/20/12. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to the destruction of documents subject to the
2 public records act; and amending RCW 42.56.550.

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

4 **Sec. 1.** RCW 42.56.550 and 2011 c 273 s 1 are each amended to read
5 as follows:

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

15 (2) Upon the motion of any person who believes that an agency has
16 not made a reasonable estimate of the time that the agency requires to
17 respond to a public record request, the superior court in the county in
18 which a record is maintained may require the responsible agency to show

1 that the estimate it provided is reasonable. The burden of proof shall
2 be on the agency to show that the estimate it provided is reasonable.

3 (3) Upon the motion of any person having been denied an opportunity
4 to inspect or copy a public record by an agency as a result of the
5 record having been destroyed without authority established under either
6 the provisions of chapter 40.14 RCW or other legal authority, the
7 superior court in the county in which the record should have been
8 maintained may require the responsible agency to show cause why the
9 record was destroyed absent legal authority to do so. The burden of
10 proof shall be on the agency to establish that the public record was
11 destroyed in accordance with statutory authority permitting such
12 destruction.

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

21 ~~((+4))~~ (5) Any person who prevails against an agency in any action
22 in the courts seeking the right to inspect or copy any public record or
23 the right to receive a response to a public record request within a
24 reasonable amount of time shall be awarded all costs, including
25 reasonable attorney fees, incurred in connection with such legal
26 action. In addition, it shall be within the discretion of the court to
27 award such person an amount not to exceed one hundred dollars for each
28 day that he or she was denied the right to inspect or copy said public
29 record.

30 ~~((+5))~~ (6) For actions under this section against counties, the
31 venue provisions of RCW 36.01.050 apply.

32 ~~((+6))~~ (7) Actions under this section must be filed within one
33 year of the agency's claim of exemption or the last production of a
34 record on a partial or installment basis.

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