
SENATE BILL 5022

State of Washington

62nd Legislature

2011 Regular Session

By Senators Kilmer, Regala, Pflug, and Rockefeller; by request of Attorney General

Read first time 01/10/11. Referred to Committee on Judiciary.

1 AN ACT Relating to clarifying the statute of limitations for any
2 court action brought under RCW 42.56.550; reenacting and amending RCW
3 42.56.550; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** This act clarifies the legislature's intent
6 that the statute of limitations for any action brought under RCW
7 42.56.550 is one year from the date that an agency claims an exemption,
8 provides the records responsive to a request, or indicates that there
9 are no responsive records, whichever occurs last. Consequently, if an
10 agency produces records on a partial or installment basis, the statute
11 of limitations will not begin to run until the last record is provided
12 on that basis or an exemption is claimed, whichever is later.
13 Likewise, if the agency provides a single response either by claiming
14 an exemption, producing records, or indicating no responsive records
15 have been located, an action must be filed within one year of the date
16 of that response.

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

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

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

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

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

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

35 (6) Actions under this section must be filed within one year of the
36 agency's claim of exemption (~~(or the)~~) last production of a record

1 (~~on a partial or installment basis~~), or response indicating no
2 responsive records have been located, whichever occurs last.

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