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**HOUSE BILL 2576**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives McBride, Nealey, Ryu, Tarleton, Springer, S. Hunt, Johnson, Zeiger, Rossetti, Clibborn, Peterson, Haler, Hargrove, Jinkins, Gregerson, Senn, and Hickel

AN ACT Relating to public records act requests to local agencies; amending RCW 42.56.520, 42.56.100, 42.56.120, and 42.56.550; reenacting and amending RCW 42.56.240 and 42.56.080; adding new sections to chapter 42.56 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature finds that the right of citizens to observe the actions of local agencies and to have timely access to public records are essential to democracy and allow for meaningful participation in the democratic process. The legislature reaffirms the importance of transparent and open government while recognizing that local agencies face unique challenges in responding to requests for public records and must balance their responsibilities under the public records act, chapter 42.56 RCW, with the effective operation of the agency.

**PART I**

**POLICIES FOR RESPONDING TO REQUESTS**

NEW SECTION. **Sec.**  A new section is added to chapter 42.56 RCW to read as follows:

(1)(a) In order to prevent excessive interference with other essential functions of the local agency, a local agency may adopt a policy limiting the number of hours it devotes on a monthly basis to responding to public records requests. This policy may only be adopted if the local agency makes the following documents publicly available, as defined in subsection (5) of this section:

(i) Budgets for the ongoing and three previous fiscal years and, when available, any proposed budget for the upcoming fiscal year; and

(ii) Agendas and minutes for all public meetings of the local agency's governing body for the three previous fiscal years.

(b) A policy adopted by a local agency under this section:

(i) May include rules for establishing priorities as to the order in which public records requests will be fulfilled. Prioritizations may be based on the size of the request and the number of requests the requestor has made in the preceding twelve months;

(ii) Must provide that unfilled requests or installments roll over into the following month and will continue to be fulfilled in installments based on available time under the policy; and

(iii) Must be reviewed and amended, as deemed necessary, by the governing body of the local agency not less than once every other year.

(c) In developing a policy and establishing resources available to respond to requests on a monthly basis, local agencies are encouraged to consider the average time spent responding to requests over the prior two-year period.

(d) Local agencies choosing to adopt a policy authorized by this subsection (1) must do so in the form of adopted legislation subject to public hearing.

(e) If a court holds that records have been withheld by an agency from disclosure or production for an unreasonable period of time as a result of the agency devoting an inadequate amount of time to responding to requests under a policy authorized by this section, the agency must revise the policy.

(2) Tasks subject to a limit authorized by this section may include the time it takes to search for responsive records and review and redact responsive records. Tasks subject to a limit authorized by this section may not include time spent in litigation or time spent by an attorney providing legal advice regarding records.

(3)(a) When a local agency that has adopted a policy authorized by this section anticipates that fulfilling a request will take more than sixty calendar days, the local agency must inform the requestor in writing of the factors that will determine a response time estimate, including providing a list of all other pending requests.

(b) Local agencies' response time estimates are subject to review by the public records commission established in section 201 of this act and to court challenges pursuant to RCW 42.56.550.

(4) For any legislation, rule, or policy adopted by a local agency under this section that limits the number of hours the local agency devotes to responding to public records requests:

(a) The number of hours allotted by the local agency for responding to requests each month must be reasonable in light of the local agency's resources and other essential functions; and

(b) The local agency must establish a minimum amount of time each month, not fewer than ten hours, it will devote to responding to requests that is also reasonable in light of the local agency's resources and other essential functions.

(5) For purposes of this section, documents are "publicly available" if:

(a) For local agencies with a web site and employing ten or more full-time equivalent employees, documents are accessible through a central web site; or

(b) For local agencies without a web site or employing fewer than ten full-time equivalent employees, documents are produced for inspection within five business days of being requested or are accessible through the local agency's web site.

**Sec.**  RCW 42.56.520 and 2010 c 69 s 2 are each amended to read as follows:

(1) Responses to requests for public records shall be made promptly by agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives.

(2) Within five business days of receiving a public record request, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives must respond by ((~~either (1)~~)):

(a) Providing the record;

((~~(2)~~)) (b) Providing an internet address and link on the agency's web site to the specific records requested, except that if the requester notifies the agency that he or she cannot access the records through the internet, then the agency must provide copies of the record or allow the requester to view copies using an agency computer;

((~~(3)~~)) (c) Acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and providing a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request; or

((~~(4)~~)) (d) Denying the public record request.

(3) Additional time required to respond to a request may be based upon:

(a) The need to clarify the intent of the request((~~,~~));

(b) The need to locate and assemble the information requested((~~,~~));

(c) The need to notify third persons or agencies affected by the request((~~,~~));

(d) A policy adopted by a local agency in accordance with section 101 of this act; or

(e) The need to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(4) In acknowledging receipt of a public record request that is unclear, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives need not respond to it.

(5) Denials of requests must be accompanied by a written statement of the specific reasons ((~~therefor~~)) for the denial. Agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action or final action by the office of the secretary of the senate or the office of the chief clerk of the house of representatives for the purposes of judicial review.

**PART II**

**PUBLIC RECORDS COMMISSION**

NEW SECTION. **Sec.**  A new section is added to chapter 42.56 RCW to read as follows:

(1) A public records commission is created to administer the provisions of this chapter, and comprises five members as provided in this subsection.

(a) The governor, with the advice and consent of the senate, shall appoint five citizens to the public records commission:

(i) One member representing the news media;

(ii) One member representing local government interests;

(iii) One member representing public interest organizations advising or advocating on behalf of citizens who make public records requests under this chapter;

(iv) In consultation with the attorney general, one member representing the state office of the attorney general; and

(v) In consultation with the state auditor, one member representing the office of the state auditor.

(b) Members appointed to the public records commission must be knowledgeable of the public records act, chapter 42.56 RCW, and policy and legal issues related to public records in the state.

(c) The governor must designate one member to serve as chair of the public records commission.

(d) Members of the public records commission may be reappointed to the commission.

(2) Members of the public records commission shall be appointed to staggered terms: One of the initial members shall be appointed to a term of two years; two of the initial members shall each be appointed to a term of three years; and two of the initial members shall each be appointed to a term of four years. When the term of an initial member expires, members subsequently appointed to that position shall be appointed to terms of four years.

(3) The governor may remove, upon notice and hearing, any member of the public records commission for neglect of duty or misfeasance or malfeasance in office, as defined in RCW 29A.56.110. Members may not be removed by the governor for any other cause.

(4) If a vacancy in a position on the public records commission occurs, the governor shall appoint a person meeting the same qualifications as the member vacating the position to serve the remainder of the expired term.

(5) Three members of the public records commission shall, at all times, constitute a quorum of the commission. A vacancy on the public records commission does not impair the right of the remaining members to exercise all powers of the commission.

(6) Members of the public records commission are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission.

(7) The office of the state auditor shall provide administrative and clerical assistance to the public records commission. The public records commission may appoint officers and employees as necessary for the proper performance of the commission's duties under this chapter.

(8) The dedicated open records account is created in the custody of the state treasurer. Twenty percent of any amount awarded at the discretion of the court to persons who prevail against agencies under RCW 42.56.550 must be deposited into the dedicated open records account. Expenditures from the account may be used only for the administration, operation, and support of the public records commission. Only the state auditor, or the state auditor's designee, may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(9) Annually by July 1st, the public records commission must submit a written report to the legislature and the governor setting forth: All cases the commission heard during the fiscal year; the decision rendered in each case; the names, salaries, and duties of all employees and officers of the commission; and an accounting of all moneys received and disbursed by the office of the state auditor on behalf of the commission. Reports to the legislature and the governor must be submitted in compliance with RCW 43.01.036.

NEW SECTION. **Sec.**  A new section is added to chapter 42.56 RCW to read as follows:

(1) Each member of the public records commission must be compensated in accordance with RCW 43.03.250. Each member of the public records commission must be reimbursed for travel expenses incurred in the discharge of the member's official duties as provided in RCW 43.03.050 and 43.03.060.

(2) Payment of expenses of the public records commission, including travel expenses incurred by employees or officers of the commission, must be made in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec.**  A new section is added to chapter 42.56 RCW to read as follows:

(1) The public records commission shall have jurisdiction over disputes arising under this chapter between local agencies and persons making public records requests to assist the parties in resolving those disputes, determine any violation of this chapter, and assess penalties for violations of this chapter.

(2)(a) When a dispute arises under this chapter between a local agency and a requestor, the local agency and the requestor may submit a request to the public records commission for resolution of the dispute through speedy voluntary arbitration or voluntary mediation. If either the local agency or the requestor does not agree to resolve the dispute by voluntary arbitration or voluntary mediation, the local agency or the requestor may submit a request to the public records commission for an adjudicative proceeding, conducted in accordance with chapter 34.05 RCW.

(b) The public records commission, within its discretion, may accept or decline any requests submitted under (a) of this subsection and accept only those requests that the commission determines most appropriate for resolution under this section. Adjudication or resolution of a dispute under this section does not limit the ability of any party to seek other remedies available under this chapter.

(3) The public records commission may establish a reasonable filing fee in an amount not exceeding fifty dollars for parties who submit requests to the commission under this section. All funds collected from the filing fee must be deposited into the dedicated open records account created in section 201 of this act.

(4)(a) The public records commission shall establish a roster of qualified arbitrators to conduct voluntary arbitrations of requests submitted to the commission under subsection (2) of this section. Parties to a dispute may stipulate to using a specific arbitrator from the roster established by the commission or, if the parties cannot agree, the commission may appoint an arbitrator. Voluntary arbitrations shall be conducted in accordance with rules adopted by the public records commission.

(b) The public records commission shall establish a roster of neutral mediators to resolve requests submitted to the commission for voluntary mediation under subsection (2) of this section. Parties to a dispute may stipulate to using a specific mediator from the roster established by the commission or, if the parties cannot agree, the commission may appoint a mediator. Voluntary mediations shall be conducted in accordance with rules adopted by the public records commission.

(c) The commission shall establish rules for voluntary arbitrations and mediations. Arbitrators and mediators on the roster established by the commission must be knowledgeable regarding the public records act, court holdings interpreting and applying the public records act, and the procedures of agencies pursuant to the public records act. The commission may provide assurances that agreements reached through mediation or decisions of an arbitrator are carried out.

(d) The commission must establish a fee schedule for mediators and arbitrators on the roster, which may be paid per hour or per case, or another appropriate mechanism, as determined by the commission. Fees for services performed by mediators and arbitrators on the roster must be paid by the commission from funds in the dedicated open records account created in section 201 of this act.

(5) Adjudicative proceedings conducted by the public records commission are governed by chapter 34.05 RCW. In addition, the commission is authorized to hold hearings, make findings of fact, decide the law, assess penalties for actual violations of this chapter, subpoena witnesses, compel the attendance of witnesses, administer oaths, hear the testimony of any person under oath, and require the production for examination of books or papers relating to a matter under investigation or in question before the commission. The public records commission may adopt rules regarding the issuance of subpoenas by individual members of the commission, and service of complaints, decisions, orders, recommendations, and other papers of the commission, a member or agent of the commission, or an agency.

(6) The public records commission shall strive to resolve disputes submitted to the commission in the most timely and cost-efficient manner for all parties.

NEW SECTION. **Sec.**  A new section is added to chapter 42.56 RCW to read as follows:

The principal office and place of business of the public records commission shall be in the city of Olympia, but the commission may meet and exercise any or all of its powers at any other place in the state.

NEW SECTION. **Sec.**  A new section is added to chapter 42.56 RCW to read as follows:

The public records commission must adopt rules to implement sections 201 through 204 of this act. The public records commission may from time to time make, amend, and rescind, in accordance with the administrative procedure act, chapter 34.05 RCW, rules necessary to carry out the provisions of this chapter.

**Sec.**  RCW 42.56.240 and 2015 c 224 s 3 and 2015 c 91 s 1 are each reenacted and amended to read as follows:

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

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

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

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

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

(5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator;

(6) Information contained in a local or regionally maintained gang database as well as the statewide gang database referenced in RCW 43.43.762;

(7) Data from the electronic sales tracking system established in RCW 69.43.165;

(8) Information submitted to the statewide unified sex offender notification and registration program under RCW 36.28A.040(6) by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and email address;

(9) Personally identifying information collected by law enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs. Nothing in this subsection shall be interpreted so as to prohibit the legal owner of a residence or business from accessing information regarding his or her residence or business;

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822;

(11) The identity of a state employee or officer who has in good faith filed a complaint with an ethics board, as provided in RCW 42.52.410, or who has in good faith reported improper governmental action, as defined in RCW 42.40.020, to the auditor or other public official, as defined in RCW 42.40.020;

(12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates; and

(13) The global positioning system data that would indicate the location of the residence of an employee or worker of a criminal justice agency as defined in RCW 10.97.030.

**PART III**

**COST RECOVERY MECHANISM FOR PUBLIC RECORDS SOUGHT FOR COMMERCIAL**

**PURPOSES**

NEW SECTION. **Sec.**  The legislature finds that public agencies must remain capable of adequately informing the public of their activities through timely disclosure of public records. However, public agencies are increasingly burdened by broad record requests from commercial entities, including data miners, whose purpose is to sell or resell the public records for a private profit. Public agencies expend taxpayer dollars to locate, assemble, redact, review, and provide the requested public records. Under existing law, except for copying and mailing costs, public agencies may not recover the true costs of providing this service. As a result, the taxpayers of this state effectively subsidize commercial requestors. Accordingly, it is the intent of the legislature to protect the public interest and prevent diversion of scarce agency resources by authorizing public agencies to recover their costs through charging a reasonable fee when records are requested for the purpose of sale or resale. It is the intent of the legislature to authorize agencies to establish such fees, without in any manner limiting public inspection of records or delaying public access to records.

**Sec.**  RCW 42.56.080 and 2005 c 483 s 1 and 2005 c 274 s 285 are each reenacted and amended to read as follows:

(1) Public records ((~~shall~~)) must be available for inspection and copying, and agencies ((~~shall~~)) must, upon request for identifiable public records, make them promptly available to any person ((~~including, if applicable,~~)). Public records may be made available on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure.

(2) Agencies ((~~shall~~)) must not deny a request for identifiable public records solely on the basis that the request is overbroad.

(3) Agencies ((~~shall~~)) must not distinguish among persons requesting records, and such persons ((~~shall not be~~)) are not required to provide information as to the purpose for the request except to establish whether:

(a) Inspection and copying would violate RCW 42.56.070(9) or other statute which exempts or prohibits disclosure of specific information or records to certain persons; or

(b) The request is subject to the fee authorized under RCW 42.56.120(3).

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

**Sec.**  RCW 42.56.100 and 1995 c 397 s 13 are each amended to read as follows:

(1) Agencies shall adopt and enforce reasonable rules and regulations, and the office of the secretary of the senate and the office of the chief clerk of the house of representatives shall adopt reasonable procedures allowing for the time, resource, and personnel constraints associated with legislative sessions, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives. Such rules and regulations ((~~shall~~)) must provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section ((~~shall~~)) relieves agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives from honoring requests received by mail for copies of identifiable public records.

(2) If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives shall retain possession of the record, and may not destroy or erase the record until the request is resolved.

(3) Local agencies may, upon notice and public comment, adopt by ordinance or rule reasonable regulations that establish a priority for promptly fulfilling noncommercial purpose requests before commercial purpose requests.

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

(1) Except as provided in this section, no fee ((~~shall~~)) may be charged ((~~for the inspection of public records. No fee shall be charged~~)) for locating, disclosing the existence of, producing, or inspecting public documents ((~~and~~)) or for making them available for copying.

(2) A reasonable charge may be imposed for providing copies of public records and for the use by any person of agency equipment or equipment of the office of the secretary of the senate or the office of the chief clerk of the house of representatives to copy public records, which charges ((~~shall~~)) may not exceed the amount necessary to reimburse the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives for its actual costs directly incident to such copying. Agency charges for photocopies ((~~shall~~)) must be imposed in accordance with the actual per page cost or other costs established and published by the agency. In no event may an agency charge a per page cost greater than the actual per page cost as established and published by the agency. To the extent the agency has not determined the actual per page cost for photocopies of public records, the agency may not charge in excess of fifteen cents per page. ((~~An agency may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request. If an agency makes a request available on a partial or installment basis, the agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request.~~))

(3) A local agency may charge a fee to recover its actual costs in responding to a request made for a commercial purpose. Before charging this fee, a local agency must develop and adopt, with notice and public hearing, a fee schedule. The agency must publish the fee schedule along with a summary of the methodology or rationale by which the fees were established. The fee may be a flat fee, a fee per record, or other type of fee, but may not exceed a reasonable estimate of the actual cost to provide the records and must be based upon the least costly method available to the local agency. Actual costs may include, but are not limited to, the cost of locating, producing, inspecting, redacting, and copying the records for the requestor.

(4) A local agency may require a requestor to sign a declaration, pursuant to RCW 9A.72.085, under penalty of perjury attesting whether or not the purpose of the request is for a commercial purpose. A person or entity intentionally misrepresenting the purpose of a request that is made for a commercial purpose is liable for a civil penalty at least equivalent to what the agency would have charged for the records. Penalties under this section are in addition to any other civil or criminal penalties and remedies available under any other law of this state.

(5) A local agency may enter into an agreement with a requestor to fulfill regular periodic records requests. Such an agreement may include a provision for an alternative fee arrangement from the fee authorized in subsection (3) of this section.

(6) If a fee is allowed under this section, an agency may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request that is able to be fulfilled in one transaction. If an agency makes a request available on a partial or installment basis, the agency may charge ten percent as a deposit for each installment of the request and require payment for the remaining balance of the installment when it is provided. If an installment of a records request is not claimed, reviewed, or paid for, the agency is not obligated to fulfill the remainder of the request nor can it collect payment for the remainder of the request that is unfulfilled.

(7) For purposes of this section:

(a) A "commercial purpose" means the use of a public record, or part of a record, requested by or on behalf of a for-profit business, enterprise, or entity:

(i) For the purpose of sale or resale of the record for profit;

(ii) For obtaining or compiling information derived from the record for the purpose of sale or resale for profit, or facilitating a profit, or increasing business opportunities from the use of such information; or

(iii) For obtaining records when the requestor does not already have in place a preexisting agreement with the local agency.

(b) A "commercial purpose" does not mean the use of a public record or part of a record for publication by any print, electronic, or other transmitted news media outlet used to broadly disseminate information regarding matters of public interest or for use in any judicial or quasi-judicial proceeding.

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

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

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

(3) Upon the motion of any person who believes that an agency has required payment of a cost recovery fee that is not consistent with the fee schedule authorized in RCW 42.56.120(3), or has applied a fee for a request that is exempt under RCW 42.56.120(3), the superior court in the county in which a record is maintained may require the responsible agency to show by a preponderance of the evidence that the request was primarily for a commercial purpose and that no exemption is applicable, or that the fee schedule adopted by the local agency was correctly applied.

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

((~~(4)~~)) (5) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time ((~~shall~~)) must be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it ((~~shall be~~)) is within the discretion of the court to award such person an amount not to exceed one hundred dollars for each day that he or she was denied the right to inspect or copy said public record. Twenty percent of any amount awarded to a person at the discretion of the court under this subsection must be deposited into the dedicated open records account created in section 201 of this act.

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

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

**PART IV**

**LOCAL GOVERNMENT ARCHIVES ACCOUNT**

NEW SECTION. **Sec.**  Under RCW 36.22.175, 40.14.024, and 40.14.027 purposes for which funds in the local government archives account are supposed to be used include local government services, such as: Records management training for local government agencies; providing records scheduling, security microfilm inspection, and storage; archival preservation; cataloging; indexing for local government records and digital data; and access to local government records and data through the regional branch archives of the division of archives and records management.

It is the intent of the legislature that expenditures from the local government archives account be used for these purposes. It is also the intent of the legislature that the local government archives account be fully funded through appropriations in the 2017-2019 omnibus appropriations act.

**--- END ---**