
HOUSE BILL 2290

State of Washington

64th Legislature

2016 Regular Session

By Representatives MacEwen, Caldier, Zeiger, Haler, Muri, Buys, Magendanz, Van De Wege, and Griffey

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1 AN ACT Relating to limiting out-of-state requests for public
2 records; amending RCW 42.56.010, 42.56.520, and 42.56.550; reenacting
3 and amending RCW 42.56.080; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that public agencies
6 are increasingly burdened by broad public records requests from
7 individuals and organizations located outside of Washington state.
8 These activities by out-of-state requestors create a growing fiscal
9 strain on public agencies that must respond to these requests. The
10 legislature also finds that the news media plays an important role in
11 informing and educating the public. Therefore, it is the intent of
12 the legislature to authorize agencies to limit responses to public
13 records requests to requestors who reside in Washington, represent a
14 Washington business, or represent the news media.

15 **Sec. 2.** RCW 42.56.010 and 2010 c 204 s 1005 are each amended to
16 read as follows:

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

19 (1) "Agency" includes all state agencies and all local agencies.
20 "State agency" includes every state office, department, division,

1 bureau, board, commission, or other state agency. "Local agency"
2 includes every county, city, town, municipal corporation, quasi-
3 municipal corporation, or special purpose district, or any office,
4 department, division, bureau, board, commission, or agency thereof,
5 or other local public agency.

6 (2) "News media" means an entity that is in the regular business
7 of news gathering and disseminating news or information to the public
8 with circulation in or broadcasting into Washington state and
9 includes:

10 (a) Newspapers;

11 (b) Magazines or other periodicals;

12 (c) Book publishers;

13 (d) News agencies;

14 (e) Wire services;

15 (f) Radio or television stations or networks;

16 (g) Cable or satellite stations or networks;

17 (h) Online news web sites; and

18 (i) Audio or audiovisual production companies.

19 (3) "Person in interest" means the person who is the subject of a
20 record or any representative designated by that person, except that
21 if that person is under a legal disability, "person in interest"
22 means and includes the parent or duly appointed legal representative.

23 ~~((+3))~~ (4) "Public record" includes any writing containing
24 information relating to the conduct of government or the performance
25 of any governmental or proprietary function prepared, owned, used, or
26 retained by any state or local agency regardless of physical form or
27 characteristics. For the office of the secretary of the senate and
28 the office of the chief clerk of the house of representatives, public
29 records means legislative records as defined in RCW 40.14.100 and
30 also means the following: All budget and financial records; personnel
31 leave, travel, and payroll records; records of legislative sessions;
32 reports submitted to the legislature; and any other record designated
33 a public record by any official action of the senate or the house of
34 representatives.

35 ~~((+4))~~ (5) "Writing" means handwriting, typewriting, printing,
36 photostating, photographing, and every other means of recording any
37 form of communication or representation including, but not limited
38 to, letters, words, pictures, sounds, or symbols, or combination
39 thereof, and all papers, maps, magnetic or paper tapes, photographic
40 films and prints, motion picture, film and video recordings, magnetic

1 or punched cards, discs, drums, diskettes, sound recordings, and
2 other documents including existing data compilations from which
3 information may be obtained or translated.

4 **Sec. 3.** RCW 42.56.080 and 2005 c 483 s 1 and 2005 c 274 s 285
5 are each reenacted and amended to read as follows:

6 (1) Public records shall be available for inspection and copying,
7 and agencies shall, upon request for identifiable public records,
8 make them promptly available to ~~((any person including,))~~ residents
9 of the state, representatives of businesses licensed and physically
10 located in the state, and representatives of the news media. If
11 applicable, agencies shall provide records on a partial or
12 installment basis as records that are part of a larger set of
13 requested records are assembled or made ready for inspection or
14 disclosure. Agencies shall not deny a request for identifiable public
15 records solely on the basis that the request is overbroad. ~~((Agencies~~
16 ~~shall not distinguish among persons requesting records, and such))~~

17 (2) Persons requesting records shall not be required to provide
18 information as to the purpose for the request except to establish
19 whether inspection and copying would violate RCW 42.56.070(9) or
20 other statute which exempts or prohibits disclosure of specific
21 information or records to certain persons, and to establish:

22 (a) The residential address of the requestor;

23 (b) The name and location of the business represented by the
24 requestor; or

25 (c) The name and circulation area or broadcast area of the news
26 media represented by the requestor.

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

32 **Sec. 4.** RCW 42.56.520 and 2010 c 69 s 2 are each amended to read
33 as follows:

34 Responses to requests for public records shall be made promptly
35 by agencies, the office of the secretary of the senate, and the
36 office of the chief clerk of the house of representatives. Within
37 five business days of receiving a public record request, an agency,
38 the office of the secretary of the senate, or the office of the chief

1 clerk of the house of representatives must respond by either (1)
2 providing the record; (2) providing an internet address and link on
3 the agency's web site to the specific records requested, except that
4 if the requester notifies the agency that he or she cannot access the
5 records through the internet, then the agency must provide copies of
6 the record or allow the requester to view copies using an agency
7 computer; (3) acknowledging that the agency, the office of the
8 secretary of the senate, or the office of the chief clerk of the
9 house of representatives has received the request and providing a
10 reasonable estimate of the time the agency, the office of the
11 secretary of the senate, or the office of the chief clerk of the
12 house of representatives will require to respond to the request; or
13 (4) denying the public record request. Additional time required to
14 respond to a request may be based upon the need to clarify the intent
15 of the request((τ)); the place of residence of the requestor, the
16 name and location of the business represented by the requestor, or
17 the name and circulation area or broadcast area of the news media
18 represented by the requestor; to locate and assemble the information
19 requested((τ)); to notify third persons or agencies affected by the
20 request((τ)); or to determine whether any of the information
21 requested is exempt and that a denial should be made as to all or
22 part of the request. In acknowledging receipt of a public record
23 request that is unclear, an agency, the office of the secretary of
24 the senate, or the office of the chief clerk of the house of
25 representatives may ask the requestor to clarify what information the
26 requestor is seeking. If the requestor fails to ((~~clarify the~~
27 ~~request~~)) provide clarifying information requested by the agency, the
28 agency, the office of the secretary of the senate, or the office of
29 the chief clerk of the house of representatives need not respond to
30 it. Denials of requests must be accompanied by a written statement of
31 the specific reasons therefor. Agencies, the office of the secretary
32 of the senate, and the office of the chief clerk of the house of
33 representatives shall establish mechanisms for the most prompt
34 possible review of decisions denying inspection, and such review
35 shall be deemed completed at the end of the second business day
36 following the denial of inspection and shall constitute final agency
37 action or final action by the office of the secretary of the senate
38 or the office of the chief clerk of the house of representatives for
39 the purposes of judicial review.

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

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

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

27 (4) Any person who is a resident of the state, represents a
28 business licensed and physically located in the state, or represents
29 news media and is acting in his or her official capacity for the
30 purpose of the public records request, who prevails against an agency
31 in any action in the courts seeking the right to inspect or copy any
32 public record or the right to receive a response to a public record
33 request within a reasonable amount of time shall be awarded all
34 costs, including reasonable attorney fees, incurred in connection
35 with such legal action. In addition, it shall be within the
36 discretion of the court to award such person an amount not to exceed
37 one hundred dollars for each day that he or she was denied the right
38 to inspect or copy said public record.

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

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

4 NEW SECTION. **Sec. 6.** This act does not affect any existing
5 right acquired or liability or obligation incurred under the sections
6 amended or repealed or under any rule or order adopted under those
7 sections, nor does it affect any proceeding instituted under those
8 sections.

9 NEW SECTION. **Sec. 7.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

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