

**SHB 1594 - H AMD 220**

By Representative Koster

ADOPTED AS AMENDED 03/03/2017

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 42.56.152 and 2014 c 66 s 4 are each amended to  
4 read as follows:

5 (1) Public records officers designated under RCW 42.56.580 and  
6 records officers designated under RCW 40.14.040 must complete a  
7 training course regarding the provisions of this chapter, and also  
8 chapter 40.14 RCW for records retention.

9 (2) Public records officers must:

10 (a) Complete training no later than ninety days after assuming  
11 responsibilities as a public records officer or records manager; and

12 (b) Complete refresher training at intervals of no more than four  
13 years as long as they maintain the designation.

14 (3) Training must be consistent with the attorney general's model  
15 rules for compliance with the public records act.

16 (4) Training may be completed remotely with technology including  
17 but not limited to internet-based training.

18 (5) Training must address particular issues related to the  
19 retention, production, and disclosure of electronic documents,  
20 including updating and improving technology information services.

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

23 (1) Responses to requests for public records shall be made  
24 promptly by agencies, the office of the secretary of the senate, and  
25 the office of the chief clerk of the house of representatives. Within  
26 five business days of receiving a public record request, an agency,  
27 the office of the secretary of the senate, or the office of the chief  
28 clerk of the house of representatives must respond ((by either)) in  
29 one of the ways provided in this subsection (1):

30 (a) Providing the record;

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

7       (~~(3)~~) (c) 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;

13       (d) Acknowledging that the agency, the office of the secretary of  
14 the senate, or the office of the chief clerk of the house of  
15 representatives has received the request and asking the requestor to  
16 provide clarification for a request that is unclear, and providing,  
17 to the greatest extent possible, a reasonable estimate of the time  
18 the agency, the office of the secretary of the senate, or the office  
19 of the chief clerk of the house of representatives will require to  
20 respond to the request if it is not clarified; or

21       (~~(4)~~) (e) Denying the public record request.

22       (2) Additional time required to respond to a request may be based  
23 upon the need to clarify the intent of the request, to locate and  
24 assemble the information requested, to notify third persons or  
25 agencies affected by the request, or to determine whether any of the  
26 information requested is exempt and that a denial should be made as  
27 to all or part of the request.

28       (3)(a) In acknowledging receipt of a public record request that  
29 is unclear, an agency, the office of the secretary of the senate, or  
30 the office of the chief clerk of the house of representatives may ask  
31 the requestor to clarify what information the requestor is seeking.

32       (b) If the requestor fails to respond to an agency request to  
33 clarify the request, and the entire request is unclear, the agency,  
34 the office of the secretary of the senate, or the office of the chief  
35 clerk of the house of representatives need not respond to it.  
36 Otherwise, the agency must respond, pursuant to this section, to  
37 those portions of the request that are clear.

38       (4) Denials of requests must be accompanied by a written  
39 statement of the specific reasons therefor. Agencies, the office of  
40 the secretary of the senate, and the office of the chief clerk of the

1 house of representatives shall establish mechanisms for the most  
2 prompt possible review of decisions denying inspection, and such  
3 review shall be deemed completed at the end of the second business  
4 day following the denial of inspection and shall constitute final  
5 agency action or final action by the office of the secretary of the  
6 senate or the office of the chief clerk of the house of  
7 representatives for the purposes of judicial review.

8 **Sec. 3.** RCW 42.56.570 and 2007 c 197 s 8 are each amended to  
9 read as follows:

10 (1) The attorney general's office shall publish, and update when  
11 appropriate, a pamphlet, written in plain language, explaining this  
12 chapter.

13 (2) The attorney general, by February 1, 2006, shall adopt by  
14 rule (~~an~~) advisory model rules for state and local agencies, as  
15 defined in RCW 42.56.010, addressing the following subjects:

- 16 (a) Providing fullest assistance to requestors;  
17 (b) Fulfilling large requests in the most efficient manner;  
18 (c) Fulfilling requests for electronic records; and  
19 (d) Any other issues pertaining to public disclosure as  
20 determined by the attorney general.

21 (3) The attorney general, in his or her discretion, may from time  
22 to time revise the model rule.

23 (4) Local agencies should consult the advisory model rules when  
24 establishing local ordinances for compliance with the requirements  
25 and responsibilities of this chapter.

26 (5) Until June 30, 2020, the attorney general must establish a  
27 consultation program to provide information for developing best  
28 practices for local agencies requesting assistance in compliance with  
29 this chapter including, but not limited to: Responding to records  
30 requests, seeking additional public and private resources for  
31 developing and updating technology information services, and  
32 mitigating liability and costs of compliance. The attorney general  
33 may develop the program in conjunction with the advisory model rule  
34 and may collaborate with the chief information officer, the state  
35 archivist, and other relevant agencies and organizations in  
36 developing and managing the program. The program in this subsection  
37 ceases to exist June 30, 2020.

1 (6) Until June 30, 2020, the state archivist must offer and  
2 provide consultation and training services for local agencies on  
3 improving record retention practices.

4 **Sec. 4.** RCW 40.14.024 and 2008 c 328 s 6005 are each amended to  
5 read as follows:

6 The local government archives account is created in the state  
7 treasury. All receipts collected by the county auditors under RCW  
8 40.14.027 and 36.22.175 for local government services, such as  
9 providing records (~~scheduling~~) schedule compliance, security  
10 microfilm inspection and storage, archival preservation, cataloging,  
11 and indexing for local government records and digital data and access  
12 to those records and data through the regional branch archives of the  
13 division of archives and records management, must be deposited into  
14 the account, and expenditures from the account may be used only for  
15 these purposes. (~~During the 2007-2009 biennium, the legislature may~~  
16 ~~transfer from the local government archives account to the Washington~~  
17 ~~state heritage center account such amounts as reflect the excess fund~~  
18 ~~balance in the account.)) Any amounts deposited in the account in  
19 accordance with RCW 36.22.175(4) may only be expended for the  
20 purposes authorized under that provision as follows: No more than  
21 fifty percent of funding may be used for the attorney general's  
22 consultation program and the state archivist's training services, and  
23 the remainder is to be used for the competitive grant program.~~

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 40.14  
25 RCW to read as follows:

26 (1) The division of archives and records management in the office  
27 of the secretary of state must establish and administer a competitive  
28 grant program for local agencies to improve technology information  
29 systems for public record retention, management, and disclosure, and  
30 any related training. The division of archives and records management  
31 may use up to six percent of amounts appropriated for the program for  
32 administration of the grant program.

33 (2) Any local agency may apply to the grant program. The division  
34 of archives and records management in the office of the secretary of  
35 state must award grants annually. The division of archives and  
36 records management must consult with the chief information officer to  
37 develop the criteria for grant recipient selection with a preference  
38 given to small local governmental agencies based on the applicant

1 agency's need and ability to improve its information technology  
2 systems for public record retention, management, and disclosure. The  
3 division of archives and records management may award grants for  
4 specific hardware, software, equipment, technology services  
5 management and training needs, indexing for local records and digital  
6 data, and other resources for improving information technology  
7 systems. To the extent possible, information technology systems,  
8 processes, training, and other resources for improving information  
9 technology systems for records retention and distribution may be  
10 replicated and shared with other governmental entities. Grants are  
11 provided for one-time investments and are not an ongoing source of  
12 revenue for operation or management costs. A grantee may not supplant  
13 local funding with grant funding provided by the office of the  
14 secretary of state.

15 **Sec. 6.** RCW 36.22.175 and 2011 1st sp.s. c 50 s 931 are each  
16 amended to read as follows:

17 (1)(a) In addition to any other charge authorized by law, the  
18 county auditor shall charge a surcharge of one dollar per instrument  
19 for each document recorded. Revenue generated through this surcharge  
20 shall be transmitted monthly to the state treasurer for deposit in  
21 the local government archives account under RCW 40.14.024. These  
22 funds shall be used solely for providing records (~~scheduling~~)  
23 schedule compliance, security microfilm inspection and storage,  
24 archival preservation, cataloging, and indexing for local government  
25 records and digital data and access to those records and data through  
26 the regional branch archives of the division of archives and records  
27 management.

28 (b) The division of archives and records management within the  
29 office of the secretary of state shall provide records management  
30 training for local governments and shall establish a competitive  
31 grant program to solicit and prioritize project proposals from local  
32 governments for potential funding to be paid for by funds from the  
33 auditor surcharge and tax warrant surcharge revenues. Application for  
34 specific projects may be made by local government agencies only. The  
35 state archivist in consultation with the advisory committee  
36 established under RCW 40.14.027 shall adopt rules governing project  
37 eligibility, evaluation, awarding of grants, and other criteria  
38 including requirements for records management training for grant  
39 recipients.

1 (2) The advisory committee established under RCW 40.14.027 shall  
2 review grant proposals and establish a prioritized list of projects  
3 to be considered for funding by January 1st of each even-numbered  
4 year, beginning in 2002. The evaluation of proposals and development  
5 of the prioritized list must be developed through open public  
6 meetings. Funding for projects shall be granted according to the  
7 ranking of each application on the prioritized list and projects will  
8 be funded only to the extent that funds are available. A grant award  
9 may have an effective date other than the date the project is placed  
10 on the prioritized list.

11 (3)(a) In addition to any other surcharge authorized by law, the  
12 county auditor shall charge a surcharge of one dollar per instrument  
13 for every document recorded after January 1, 2002. Revenue generated  
14 through this surcharge shall be transmitted to the state treasurer  
15 monthly for deposit in the local government archives account under  
16 RCW 40.14.024 to be used exclusively for: (i) The construction and  
17 improvement of a specialized regional facility located in eastern  
18 Washington designed to serve the archives, records management, and  
19 digital data management needs of local government; and (ii) payment  
20 of the certificate of participation issued for the Washington state  
21 heritage center to the extent there is an excess fund balance in the  
22 account and fees generated under RCW 36.18.010 and 43.07.128 are  
23 insufficient to meet debt service payments on the certificate of  
24 participation.

25 (b) To the extent the facilities are used for the storage and  
26 retrieval of state agency records and digital data, that portion of  
27 the construction of such facilities used for state government records  
28 and data shall be supported by other charges and fees paid by state  
29 agencies and shall not be supported by the surcharge authorized in  
30 this subsection, except that to the extent there is an excess fund  
31 balance in the account and fees generated under RCW 36.18.010 and  
32 43.07.128 are insufficient to meet debt service payments for the  
33 Washington state heritage center, the local government archives  
34 account under RCW 40.14.024 may be used for the Washington state  
35 heritage center.

36 (c) At such time that all debt service from construction of the  
37 specialized regional archive facility located in eastern Washington  
38 has been paid, fifty percent of the surcharge authorized by this  
39 subsection shall be reverted to the centennial document preservation  
40 and modernization account as prescribed in RCW 36.22.170 and fifty

1 percent of the surcharge authorized by this section shall be reverted  
2 to the state treasurer for deposit in the public records efficiency,  
3 preservation, and access account to serve the archives, records  
4 management, and digital data management needs of local government,  
5 except that the state treasurer shall not revert funds to the  
6 centennial document preservation and modernization account and to the  
7 public records efficiency, preservation, and access account if fees  
8 generated under RCW 36.18.010 and 43.07.128 are insufficient to meet  
9 debt service payments on the Washington state heritage center.

10 (4) In addition to any other surcharge authorized by law, the  
11 county auditor shall charge a surcharge of one dollar per instrument  
12 for every document recorded. Revenue generated through this surcharge  
13 shall be transmitted to the state treasurer monthly for deposit in  
14 the local government archives account under RCW 40.14.024 to be used  
15 exclusively for the competitive grant program in section 5 of this  
16 act, and for the attorney general's consultation program and state  
17 archivist's training services authorized in RCW 42.56.570.

18 NEW SECTION. Sec. 7. (1) The division of archives and records  
19 management in the office of the secretary of state must conduct a  
20 study to assess the feasibility of implementing a statewide open  
21 records portal through which a user can request and receive a  
22 response through a single internet web site relating to public  
23 records information.

24 (2) The division of archives and records management must hire a  
25 consultant to conduct the study.

26 (3) At a minimum, the report must include:

27 (a) The feasibility of Washington creating a central site from  
28 which a user can submit a records request and receive a timely  
29 response to such request;

30 (b) An examination of the experience in other states, including  
31 but not limited to the state of Utah, that have implemented an  
32 electronic open records portal;

33 (c) Whether the open records portals in other states serve as  
34 central repositories and archives for the purpose of all public  
35 records on behalf of local and state agencies;

36 (d) Whether other states' open records portals track and provide  
37 a timeline where each request is being responded to in the process;

38 (e) The cost of creating the open records portal in other states  
39 and the amount of funds local and state agencies or any other

1 entities contributed to the start-up and ongoing costs to operate the  
2 open records portal;

3 (f) The length of time it took for other states to develop an  
4 open records portal from its initial start-up to its current full  
5 operation;

6 (g) The length of time it would take for Washington to develop  
7 and implement an open records portal from start-up to full operation  
8 that is similar to the portals located in other states;

9 (h) The length of time it would take for Washington to develop  
10 and implement an open records portal from start-up to full operation  
11 that would include: (i) The portal collecting, archiving, and holding  
12 all public records from local and state governmental agencies in  
13 Washington; (ii) the portal being capable of allowing users to submit  
14 a public records request through a central site; and (iii) the  
15 records portal operating as a central site for answering and  
16 providing requested public records to a user;

17 (i) The estimated cost to develop and implement an open records  
18 portal that is: (i) Similar to the open records portals located in  
19 other states referenced and reviewed in (g) of this subsection; and  
20 (ii) a full open records portal pursuant to (h) of this subsection.  
21 In both instances, the costs must include costs associated with local  
22 and state governmental agencies in Washington participating in the  
23 portal and any needed supporting infrastructure, staffing, and  
24 training requirements;

25 (j) How much is charged and how fees are collected from a user  
26 requesting a public record through other states' open records  
27 portals;

28 (k) The feasibility of whether an open records portal created in  
29 Washington would be able to track all public records requests, when  
30 such requests for public records are made through the open records  
31 portal, and provide a timeline where each request is being responded  
32 to in the process;

33 (l) The feasibility of whether an open records portal created in  
34 Washington would be able to directly respond to answering a user's  
35 public records request and, if not, the feasibility of the portal  
36 tracking when a local or state agency responds to such a request and  
37 providing a timeline where each request is being responded to in the  
38 process;

39 (m) The feasibility of creating an open records portal in  
40 Washington that notifies a requestor that the request has been



1 received and either immediately provides the requestor with a copy of  
2 the requested record, notifies the requestor that the record is not  
3 available, or notifies the requestor that because of the  
4 extraordinary request the record will be available on a date certain;  
5 and

6 (n) The allocation of liability between the agency operating an  
7 open records portal and any agency that provides records through the  
8 portal or accepts requests for public records through the portal in  
9 the event of litigation regarding denial of access to records or  
10 unreasonable estimate of time to produce records in response to a  
11 request.

12 (4) A report must be completed with findings and recommendations  
13 on the experience of the electronic open records portal created in  
14 other states and the feasibility of creating a central statewide open  
15 records portal in Washington. The report must be submitted to the  
16 governor, the appropriate committees of the legislature, and members  
17 of the stakeholder group in section 8 of this act, by September 1,  
18 2018.

19 (5) This section expires December 31, 2018.

20 NEW SECTION. **Sec. 8.** (1) The division of archives and records  
21 management in the office of the secretary of state must convene a  
22 stakeholder group by September 1, 2017, to develop the initial scope  
23 and direction of the study in section 7 of this act.

24 (2) The stakeholder group must include seven members as provided  
25 in this subsection.

26 (a) The president of the senate shall appoint one member from  
27 each of the two largest caucuses of the senate.

28 (b) The speaker of the house of representatives shall appoint one  
29 member from each of the two largest caucuses of the house of  
30 representatives.

31 (c) The president of the senate and the speaker of the house of  
32 representatives, in consultation with the division of archives and  
33 records management, jointly shall appoint the remaining three  
34 members. The remaining three members must be representatives of the  
35 community who have experience in the retention and disclosure of  
36 public records.

37 (3) This section expires September 30, 2018.

1        NEW SECTION.    **Sec. 9.**    (1) The joint legislative audit and review  
2 committee must conduct a review of the attorney general's  
3 consultation program and the state archivist's training services  
4 created under section 3, chapter . . . , Laws of 2017 (section 3 of  
5 this act), and the local government competitive grant program created  
6 under section 5 of this act. The review must include:

7        (a)(i) Information on the number of local governments served, the  
8 types of consultation and training provided, and the implementation  
9 of any practices adopted from the attorney general's consultation  
10 program and the state archivist's training services; and

11        (ii) The effectiveness of the consultation program and the  
12 training services in providing assistance for local governments; and

13        (b)(i) Information on the number of local governments that  
14 applied for and participated in the competitive grant program under  
15 section 5 of this act, the amount of funding awarded through the  
16 grant program, and how such funding was used; and

17        (ii) The effectiveness of the grant program in improving local  
18 government technology information systems for public records  
19 retention, management, disclosure, and training.

20        (2) By December 1, 2019, the joint legislative audit and review  
21 committee must report to the legislature on its findings from the  
22 review, including recommendations on whether the competitive grant  
23 program, the attorney general's consultation program, and the state  
24 archivist's training services should continue or be allowed to  
25 expire.

26        NEW SECTION.    **Sec. 10.**    Sections 5 and 6 of this act expire June  
27 30, 2020.

28        NEW SECTION.    **Sec. 11.**    The sum of twenty-five thousand dollars,  
29 or as much thereof as may be necessary, is appropriated for the  
30 fiscal biennium ending June 30, 2019, from the general fund to the  
31 secretary of state solely for purposes of section 7 of this act."

32        Correct the title.

EFFECT:    Expires the Attorney General's local government  
consultation program and state archivist's training services in 2020.

Expires the state archives local government competitive grant  
program and additional \$1 recording fee for that program in 2020.

Allows funding from the additional \$1 recording fee to be used  
for the state archivist's training services.

Requires a JLARC study and report by the end of 2019 on the effectiveness of the grant program, the AG consultation program, and the state archivist's services, with recommendations whether those programs and services should continue.

Requires that no more than one-half of the revenue from the additional document recording fee may be used collectively for the AG consultation program and the state archivist's training program.

--- END ---