

ESHB 1667 - S COMM AMD
By Committee on Ways & Means

ADOPTED 04/25/2019

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

3 "Sec. 1. RCW 40.14.026 and 2017 c 303 s 6 are each amended to
4 read as follows:

5 (1) The division of archives and records management in the office
6 of the secretary of state must establish and administer a competitive
7 grant program for local agencies to improve technology information
8 systems for public record retention, management, and disclosure, and
9 any related training. The division of archives and records management
10 may use up to six percent of amounts appropriated for the program for
11 administration of the grant program. (~~The program in this subsection~~
12 ~~ceases to exist June 30, 2020.~~)

13 (2) Any local agency may apply to the grant program. The division
14 of archives and records management in the office of the secretary of
15 state must award grants annually. The division of archives and
16 records management must consult with the chief information officer to
17 develop the criteria for grant recipient selection with a preference
18 given to small local governmental agencies based on the applicant
19 agency's need and ability to improve its information technology
20 systems for public record retention, management, and disclosure. The
21 division of archives and records management may award grants for
22 specific hardware, software, equipment, technology services
23 management and training needs, indexing for local records and digital
24 data, and other resources for improving information technology
25 systems. To the extent possible, information technology systems,
26 processes, training, and other resources for improving information
27 technology systems for records retention and distribution may be
28 replicated and shared with other governmental entities. Grants are
29 provided for one-time investments and are not an ongoing source of
30 revenue for operation or management costs. A grantee may not supplant
31 local funding with grant funding provided by the office of the

1 secretary of state. (~~The program in this subsection ceases to exist~~
2 ~~June 30, 2020.~~)

3 (3) The joint legislative audit and review committee must conduct
4 a review of the attorney general's consultation program and the state
5 archivist's training services created under section 4, chapter 303,
6 Laws of 2017, and the local government competitive grant program
7 created under this section. The review must include:

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

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

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

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

21 (4) Each agency shall maintain a log of public records requests
22 submitted to and processed by the agency, which shall include but not
23 be limited to the following information for each request: The
24 identity of the requestor if provided by the requestor, the date the
25 request was received, the text of the original request, a description
26 of the records produced in response to the request, a description of
27 the records redacted or withheld and the reasons therefor, and the
28 date of the final disposition of the request. The log must be
29 retained by the agency in accordance with the relevant record
30 retention schedule established under this chapter, and shall be a
31 public record subject to disclosure under chapter 42.56 RCW.

32 (5) To improve best practices for dissemination of public
33 records, each agency with actual staff and legal costs associated
34 with fulfilling public records requests of at least one hundred
35 thousand dollars during the prior fiscal year must, and each agency
36 with such estimated costs of less than one hundred thousand dollars
37 during the prior fiscal year may, report to the joint legislative
38 audit and review committee by July 1st of each subsequent year the
39 following metrics, measured over the preceding year:

1 (a) ~~((An identification of leading practices and processes for~~
2 ~~records management and retention, including technological upgrades,~~
3 ~~and what percentage of those leading practices and processes were~~
4 ~~implemented by the agency;~~

5 ~~(b) The average length of time taken to acknowledge receipt of a~~
6 ~~public records request;~~

7 ~~(c) The proportion of requests where the agency provided the~~
8 ~~requested records within five days of receipt of the request compared~~
9 ~~to the proportion of requests where the agency provided an estimate~~
10 ~~of an anticipated response time beyond five days of receipt of the~~
11 ~~request;~~

12 ~~(d) A comparison of the agency's average initial estimate~~
13 ~~provided for full disclosure of responsive records with the actual~~
14 ~~time when all responsive records were fully disclosed, including~~
15 ~~whether the agency sent subsequent estimates of an anticipated~~
16 ~~response time;~~

17 ~~(e))~~ The number of requests where the agency provided the
18 requested records within five days of receiving the request.

19 (b) The number of requests where the agency provided a time
20 estimate for providing responsive records beyond five days after
21 receiving the request.

22 (c) The average and median number of days from receipt of request
23 to the date the request is closed.

24 (d) The number of requests where the agency formally sought
25 additional clarification from the requestor;

26 ~~((f))~~ (e) The number of requests denied in full or in part and
27 the most common reasons for denying requests;

28 ~~((g))~~ (f) The number of requests abandoned by requestors;

29 ~~((h))~~ (g) To the extent the information is known by the agency,
30 requests by type of requestor, including individuals, law firms,
31 organizations, insurers, governments, incarcerated persons, the
32 media, anonymous requestors, current or former employees, and others;

33 ~~((i))~~ (h) Which portion of requests were fulfilled
34 electronically compared to requests fulfilled by physical records;

35 ~~((j))~~ (i) The number of requests where the agency ~~((was~~
36 required to scan)) scanned physical records electronically to fulfill
37 disclosure;

38 ~~((k))~~ (j) The total estimated agency staff time spent on each
39 individual request;

1 ~~((l))~~ (k) The estimated costs incurred by the agency in
2 fulfilling records requests, including costs for staff compensation
3 and legal review, and a measure of the average cost per request;

4 ~~((m))~~ (l) The number of claims filed alleging a violation of
5 chapter 42.56 RCW or other public records statutes in the past year
6 involving the agency, categorized by type and exemption at issue, if
7 applicable;

8 ~~((n))~~ (m) The costs incurred by the agency litigating claims
9 alleging a violation of chapter 42.56 RCW or other public records
10 statutes in the past year, including any penalties imposed on the
11 agency;

12 ~~((o))~~ (n) The costs incurred by the agency with managing and
13 retaining records, including staff compensation and purchases of
14 equipment, hardware, software, and services to manage and retain
15 public records ~~((or otherwise assist in the fulfillment of public
16 records requests))~~; and

17 ~~((p))~~ (o) Expenses recovered by the agency from requestors for
18 fulfilling public records requests, including any customized service
19 charges ~~((; and~~

20 ~~((q) Measures of requestor satisfaction with agency responses,
21 communication, and processes relating to the fulfillment of public
22 records requests))~~.

23 (6) The joint legislative audit and review committee must consult
24 with state and local agencies to develop a reporting method and
25 clearly define standardized metrics in accordance with this section.

26 (7) By December 1, 2019, the joint legislative audit and review
27 committee must report to the legislature on its findings from the
28 review, including recommendations on whether the competitive grant
29 program, the attorney general's consultation program, and the state
30 archivist's training services should continue or be allowed to
31 expire.

32 **Sec. 2.** RCW 42.56.570 and 2017 c 303 s 4 are each amended to
33 read as follows:

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

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

- 1 (a) Providing fullest assistance to requestors;
2 (b) Fulfilling large requests in the most efficient manner;
3 (c) Fulfilling requests for electronic records; and
4 (d) Any other issues pertaining to public disclosure as
5 determined by the attorney general.

6 (3) The attorney general, in his or her discretion, may from time
7 to time revise the model (~~(rule[s])~~) rules.

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

11 (5) (~~(Until June 30, 2020,)~~) The attorney general must establish
12 a consultation program to provide information for developing best
13 practices for local agencies requesting assistance in compliance with
14 this chapter including, but not limited to: Responding to records
15 requests, seeking additional public and private resources for
16 developing and updating technology information services, and
17 mitigating liability and costs of compliance. The attorney general
18 may develop the program in conjunction with the advisory model rule
19 and may collaborate with the chief information officer, the state
20 archivist, and other relevant agencies and organizations in
21 developing and managing the program. (~~(The program in this subsection~~
22 ~~ceases to exist June 30, 2020.)~~)

23 (6) (~~(Until June 30, 2020,)~~) The state archivist must offer and
24 provide consultation and training services for local agencies on
25 improving record retention practices.

26 **Sec. 3.** RCW 36.22.175 and 2011 1st sp.s. c 50 s 931 are each
27 amended to read as follows:

28 (1)(a) In addition to any other charge authorized by law, the
29 county auditor shall charge a surcharge of one dollar per instrument
30 for each document recorded. Revenue generated through this surcharge
31 shall be transmitted monthly to the state treasurer for deposit in
32 the local government archives account under RCW 40.14.024. These
33 funds shall be used solely for providing records scheduling, security
34 microfilm inspection and storage, archival preservation, cataloging,
35 and indexing for local government records and digital data and access
36 to those records and data through the regional branch archives of the
37 division of archives and records management.

38 (b) The division of archives and records management within the
39 office of the secretary of state shall provide records management

1 training for local governments and shall establish a competitive
2 grant program to solicit and prioritize project proposals from local
3 governments for potential funding to be paid for by funds from the
4 auditor surcharge and tax warrant surcharge revenues. Application for
5 specific projects may be made by local government agencies only. The
6 state archivist in consultation with the advisory committee
7 established under RCW 40.14.027 shall adopt rules governing project
8 eligibility, evaluation, awarding of grants, and other criteria
9 including requirements for records management training for grant
10 recipients.

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

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

35 (b) To the extent the facilities are used for the storage and
36 retrieval of state agency records and digital data, that portion of
37 the construction of such facilities used for state government records
38 and data shall be supported by other charges and fees paid by state
39 agencies and shall not be supported by the surcharge authorized in
40 this subsection, except that to the extent there is an excess fund

1 balance in the account and fees generated under RCW 36.18.010 and
2 43.07.128 are insufficient to meet debt service payments for the
3 Washington state heritage center, the local government archives
4 account under RCW 40.14.024 may be used for the Washington state
5 heritage center.

6 (c) At such time that all debt service from construction of the
7 specialized regional archive facility located in eastern Washington
8 has been paid, fifty percent of the surcharge authorized by this
9 subsection shall be reverted to the centennial document preservation
10 and modernization account as prescribed in RCW 36.22.170 and fifty
11 percent of the surcharge authorized by this section shall be reverted
12 to the state treasurer for deposit in the public records efficiency,
13 preservation, and access account to serve the archives, records
14 management, and digital data management needs of local government,
15 except that the state treasurer shall not revert funds to the
16 centennial document preservation and modernization account and to the
17 public records efficiency, preservation, and access account if fees
18 generated under RCW 36.18.010 and 43.07.128 are insufficient to meet
19 debt service payments on the Washington state heritage center.

20 (4) In addition to any other surcharge authorized by law, the
21 county auditor shall charge a surcharge of one dollar per instrument
22 for every document recorded. Revenue generated through this surcharge
23 shall be transmitted to the state treasurer monthly for deposit in
24 the local government archives account under RCW 40.14.024 to be used
25 exclusively for the competitive grant program in RCW 40.14.026, and
26 for the attorney general's consultation program and state archivist's
27 training services authorized in RCW 42.56.570.

28 NEW SECTION. Sec. 4. Section 3 of this act takes effect June
29 30, 2020."

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30 On page 1, line 1 of the title, after "administration;" strike
31 the remainder of the title and insert "amending RCW 40.14.026,
32 42.56.570, and 36.22.175; and providing an effective date."

EFFECT: Removes an extraneous cross-reference.

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