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SENATE BILL 6529

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State of Washington

61st Legislature

2010 Regular Session

By Senator Roach

Read first time 01/15/10. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to increasing access to public records; amending  
2 RCW 42.56.530; reenacting and amending RCW 42.56.550; adding a new  
3 section to chapter 42.56 RCW; 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 with regard to  
6 public access to public records, the more the transparency, the greater  
7 the accountability. Therefore, the legislature declares that all  
8 public records should be readily accessible to the public.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.56 RCW  
10 to read as follows:

11 (1) Each agency shall make available to the public, at no cost to  
12 the public, all public records of that agency through computer  
13 terminals located at a readily accessible designated area located in  
14 the agency. If an agency does not have the capacity to provide a space  
15 or computer terminal for public use, an agency may coordinate with  
16 another agency to provide public access to public documents through  
17 another agency's computer terminal.

1 (2) If public records are explicitly exempt from public disclosure  
2 by statute, the agency shall redact the exempt information and  
3 otherwise provide the document in proper context, showing redactions.

4 **Sec. 3.** RCW 42.56.530 and 1992 c 139 s 10 are each amended to read  
5 as follows:

6 Whenever ((a—state)) an agency concludes that a public record is  
7 exempt from disclosure and denies a person opportunity to inspect or  
8 copy a public record for that reason, the agency shall inform the  
9 person that he or she may request the attorney general to review the  
10 matter. The attorney general shall provide the person with his or her  
11 written opinion on whether the record is exempt.

12 Nothing in this section shall be deemed to establish an attorney-  
13 client relationship between the attorney general and a person making a  
14 request under this section.

15 **Sec. 4.** RCW 42.56.550 and 2005 c 483 s 5 and 2005 c 274 s 288 are  
16 each reenacted and amended to read as follows:

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

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

32 (3) Judicial review of all agency actions taken or challenged under  
33 RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall take  
34 into account the policy of this chapter that free and open examination  
35 of public records is in the public interest, even though such  
36 examination may cause inconvenience or embarrassment to public

1 officials or others. Courts may examine any record in camera in any  
2 proceeding brought under this section. The court may conduct a hearing  
3 based solely on affidavits.

4 (4) Any person who prevails against an agency in any action in the  
5 courts seeking the right to inspect or copy any public record or the  
6 right to receive a response to a public record request within a  
7 reasonable amount of time shall be awarded all costs, including  
8 reasonable attorney fees, incurred in connection with such legal  
9 action. In addition, (~~it shall be within the discretion of~~) the  
10 court (~~to~~) shall award such person an amount not less than five  
11 dollars and not to exceed one hundred dollars for each day that he or  
12 she was denied the right to inspect or copy said public record.

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

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

18 NEW SECTION. **Sec. 5.** Sections 1 and 2 of this act may be known  
19 and cited as the light of day act.

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