

SHB 1899 - S COMM AMD

By Committee on Government Operations, Tribal Relations & Elections

ADOPTED 04/06/2011

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

3 "Sec. 1. RCW 42.56.550 and 2005 c 483 s 5 and 2005 c 274 s 288 are  
4 each reenacted and amended to read as follows:

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

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

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

28 (4) Any person who prevails against an agency in any action in the  
29 courts seeking the right to inspect or copy any public record or the  
30 right to receive a response to a public record request within a

1 reasonable amount of time shall be awarded all costs, including  
2 reasonable attorney fees, incurred in connection with such legal  
3 action. In addition, it shall be within the discretion of the court  
4 whether to make any monetary award to such person ((an)) or to make a  
5 monetary award in any amount ((not less than five dollars and not to  
6 exceed)) up to one hundred dollars for each day that he or she was  
7 denied the right to inspect or copy said public record.

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

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

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13 On page 1, line 1 of the title, after "violations;" strike the  
14 remainder of the title and insert "reenacting and amending RCW  
15 42.56.550; and prescribing penalties."

EFFECT: Clarifies that the judge's discretion extends to the  
making of no award at all.

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