
HOUSE BILL 1675

State of Washington

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By Representatives Reykdal, Hunt, Kenney, McCoy, Frockt, and Ormsby

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1 AN ACT Relating to requiring agencies to disclose the estimated
2 costs of compliance with a request for public records; and amending RCW
3 42.56.070.

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

5 **Sec. 1.** RCW 42.56.070 and 2005 c 274 s 284 are each amended to
6 read as follows:

7 (1) Each agency, in accordance with published rules, shall make
8 available for public inspection and copying all public records, unless
9 the record falls within the specific exemptions of subsection (~~((6))~~)
10 (10) of this section, this chapter, or other statute which exempts or
11 prohibits disclosure of specific information or records. To the extent
12 required to prevent an unreasonable invasion of personal privacy
13 interests protected by this chapter, an agency shall delete identifying
14 details in a manner consistent with this chapter when it makes
15 available or publishes any public record; however, in each case, the
16 justification for the deletion shall be explained fully in writing.

17 (2) For informational purposes, each agency shall publish and
18 maintain a current list containing every law, other than those listed
19 in this chapter, that the agency believes exempts or prohibits

1 disclosure of specific information or records of the agency. An
2 agency's failure to list an exemption shall not affect the efficacy of
3 any exemption.

4 (3) Each local agency shall maintain and make available for public
5 inspection and copying a current index providing identifying
6 information as to the following records issued, adopted, or promulgated
7 after January 1, 1973:

8 (a) Final opinions, including concurring and dissenting opinions,
9 as well as orders, made in the adjudication of cases;

10 (b) Those statements of policy and interpretations of policy,
11 statute, and the Constitution which have been adopted by the agency;

12 (c) Administrative staff manuals and instructions to staff that
13 affect a member of the public;

14 (d) Planning policies and goals, and interim and final planning
15 decisions;

16 (e) Factual staff reports and studies, factual consultant's reports
17 and studies, scientific reports and studies, and any other factual
18 information derived from tests, studies, reports, or surveys, whether
19 conducted by public employees or others; and

20 (f) Correspondence, and materials referred to therein, by and with
21 the agency relating to any regulatory, supervisory, or enforcement
22 responsibilities of the agency, whereby the agency determines, or
23 opines upon, or is asked to determine or opine upon, the rights of the
24 state, the public, a subdivision of state government, or of any private
25 party.

26 (4) A local agency need not maintain such an index, if to do so
27 would be unduly burdensome, but it shall in that event:

28 (a) Issue and publish a formal order specifying the reasons why and
29 the extent to which compliance would unduly burden or interfere with
30 agency operations; and

31 (b) Make available for public inspection and copying all indexes
32 maintained for agency use.

33 (5) Each state agency shall, by rule, establish and implement a
34 system of indexing for the identification and location of the following
35 records:

36 (a) All records issued before July 1, 1990, for which the agency
37 has maintained an index;

1 (b) Final orders entered after June 30, 1990, that are issued in
2 adjudicative proceedings as defined in RCW 34.05.010 and that contain
3 an analysis or decision of substantial importance to the agency in
4 carrying out its duties;

5 (c) Declaratory orders entered after June 30, 1990, that are issued
6 pursuant to RCW 34.05.240 and that contain an analysis or decision of
7 substantial importance to the agency in carrying out its duties;

8 (d) Interpretive statements as defined in RCW 34.05.010 that were
9 entered after June 30, 1990; and

10 (e) Policy statements as defined in RCW 34.05.010 that were entered
11 after June 30, 1990.

12 Rules establishing systems of indexing shall include, but not be
13 limited to, requirements for the form and content of the index, its
14 location and availability to the public, and the schedule for revising
15 or updating the index. State agencies that have maintained indexes for
16 records issued before July 1, 1990, shall continue to make such indexes
17 available for public inspection and copying. Information in such
18 indexes may be incorporated into indexes prepared pursuant to this
19 subsection. State agencies may satisfy the requirements of this
20 subsection by making available to the public indexes prepared by other
21 parties but actually used by the agency in its operations. State
22 agencies shall make indexes available for public inspection and
23 copying. State agencies may charge a fee to cover the actual costs of
24 providing individual mailed copies of indexes.

25 (6) A public record may be relied on, used, or cited as precedent
26 by an agency against a party other than an agency and it may be invoked
27 by the agency for any other purpose only if:

28 (a) It has been indexed in an index available to the public; or

29 (b) Parties affected have timely notice (actual or constructive) of
30 the terms thereof.

31 (7) Each agency shall establish, maintain, and make available for
32 public inspection and copying a statement of the actual per page cost
33 or other costs, if any, that it charges for providing photocopies of
34 public records and a statement of the factors and manner used to
35 determine the actual per page cost or other costs, if any.

36 (a) In determining the actual per page cost for providing
37 photocopies of public records, an agency may include all costs directly
38 incident to copying such public records including the actual cost of

1 the paper and the per page cost for use of agency copying equipment.
2 In determining other actual costs for providing photocopies of public
3 records, an agency may include all costs directly incident to shipping
4 such public records, including the cost of postage or delivery charges
5 and the cost of any container or envelope used.

6 (b) In determining the actual per page cost or other costs for
7 providing copies of public records, an agency may not include staff
8 salaries, benefits, or other general administrative or overhead
9 charges, unless those costs are directly related to the actual cost of
10 copying the public records. Staff time to copy and mail the requested
11 public records may be included in an agency's costs.

12 (8) An agency need not calculate the actual per page cost or other
13 costs it charges for providing photocopies of public records if to do
14 so would be unduly burdensome, but in that event: The agency may not
15 charge in excess of fifteen cents per page for photocopies of public
16 records or for the use of agency equipment to photocopy public records
17 and the actual postage or delivery charge and the cost of any container
18 or envelope used to mail the public records to the requestor.

19 (9)(a) For informational purposes, at the time of completing a
20 public records request under this chapter, an agency must provide the
21 person requesting the records with a written statement of the estimated
22 direct costs incurred by the agency in complying with the request. The
23 estimated direct costs may include personnel costs, the per page cost
24 of providing photocopies, shipping or mailing costs, and any other
25 costs directly related to providing the records. However, the estimate
26 of direct costs required under this subsection is for informational
27 purposes only and does not constitute a statement of the costs that may
28 be charged to the person requesting the records. Any costs that may be
29 charged to the person requesting the records must be determined in
30 accordance with the pertinent provisions of this chapter.

31 (b) The written estimate of the direct costs of records production
32 required under (a) of this subsection must include the following
33 statement by the agency: "The estimated cost of completing your public
34 records request is \$ This disclosure of agency costs is
35 required under RCW 42.56.070(9)."

36 (c) An agency must maintain a written or electronic record of all
37 records request cost estimates produced under (a) of this subsection.
38 Based upon the data in the records maintained pursuant to this

1 subsection, at the end of each fiscal year the agency must calculate
2 the estimated total yearly costs of responding to requests for public
3 records as required under this subsection (9). All records and total
4 yearly cost estimates required under this section must be made
5 available to the public.

6 (10) This chapter shall not be construed as giving authority to any
7 agency, the office of the secretary of the senate, or the office of the
8 chief clerk of the house of representatives to give, sell or provide
9 access to lists of individuals requested for commercial purposes, and
10 agencies, the office of the secretary of the senate, and the office of
11 the chief clerk of the house of representatives shall not do so unless
12 specifically authorized or directed by law: PROVIDED, HOWEVER, That
13 lists of applicants for professional licenses and of professional
14 licensees shall be made available to those professional associations or
15 educational organizations recognized by their professional licensing or
16 examination board, upon payment of a reasonable charge therefor:
17 PROVIDED FURTHER, That such recognition may be refused only for a good
18 cause pursuant to a hearing under the provisions of chapter 34.05 RCW,
19 the administrative procedure act.

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