

**WAC 44-14-01003 Construction and application of act.** The act declares: "The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created." RCW 42.56.030. The initiative creating the act further provides: "... mindful of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society." RCW 42.17A.001(11). The act further provides: "Courts shall take into account the policy of (the act) that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others." RCW 42.56.550(3).

Because the purpose of the act is to allow people to be informed about governmental decisions (and therefore help keep government accountable) while at the same time being "mindful of the right of individuals to privacy," it should not be used to obtain records containing purely personal information that has absolutely no bearing on the conduct of government.<sup>1</sup>

The act emphasizes that it must be liberally construed to effect its purpose, which is the disclosure of nonexempt public records. RCW 42.56.030. The act places the burden on the agency of proving a record is not subject to disclosure, or that its estimate of time to provide a response or its estimated copy charges are "reasonable." RCW 42.56.550 (1) and (2). The act also encourages disclosure by awarding a prevailing requestor reasonable attorneys' fees, costs, and a possible daily penalty. RCW 42.56.550.<sup>2</sup>

An additional incentive for disclosure is RCW 42.56.060, which provides: "No public agency, public official, public employee, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record if the public agency, public official, public employee, or custodian acted in good faith in attempting to comply" with the act.

Note: <sup>1</sup>See *King County v. Sheehan*, 114 Wn. App. 325, 338, 57 P.3d 307 (2002) (referring to the legislative intent provisions of the act as "the thrice-repeated legislative mandate that exemptions under the Public Records Act are to be narrowly construed.") The courts have repeatedly held that the purpose of the act is a strongly worded mandate to provide access to public agency records concerning the workings of government, in order for the people to hold the government accountable. *Prog. Animal Welfare Soc'y v. Univ. of Wash.*, 125 Wn.2d 243, 251, 884 P.2d 592 (1994); *Amren v. City of Kalama*, 131 Wn.2d 25, 31, 929 P.2d 389 (1997). The legislature addressed concerns about uses of the act by prison inmates and persons residing in a civil commitment facility for sexually violent predators for purposes other than government accountability. RCW 42.56.565 (criteria for obtaining injunctions with respect to inmate requests, including requests made for the purposes of harassment); see also RCW 71.09.120(3) (persons residing in a civil commitment facility for sexually violent predators). The courts have also spoken with disfavor concerning use of the act for purposes other than government accountability. See, e.g., *Kozol v. Dept. of Corr.*, 191 Wn. App. 1034, 366 P.3d 933 (2015) (inmate "concocted a scheme in prison to make money off the Public Records Act"); *Mitchell v. Wash. State Inst. Of Pub. Policy*, 153 Wn. App. 803, 830 P.3d 280 (2009) ("Using the PRA as a vehicle of personal profit through false, inaccurate, or inflated costs is contrary to the PRA's stated purpose to keep the governed informed about their government and costs based on false, inaccurate, or inflated claims do not serve that purpose and are not reasonable.")

<sup>2</sup>See also, 182 Wn.2d 87, 343 P.3d 335 (2014) (attorneys' fees awarded for denied right to receive a response).

[Statutory Authority: RCW 42.56.570. WSR 18-06-051, § 44-14-01003, filed 3/2/18, effective 4/2/18. Statutory Authority: 2005 c 483 § 4, RCW 42.17.348. WSR 06-04-079, § 44-14-01003, filed 1/31/06, effective 3/3/06.]