
HOUSE BILL 1691

State of Washington 64th Legislature 2015 Regular Session

By Representatives Van De Wege, S. Hunt, and Tharinger

Read first time 01/26/15. Referred to Committee on State Government.

1 AN ACT Relating to remedies for actions under the public records
2 act; amending RCW 42.56.550; and prescribing penalties.

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

4 **Sec. 1.** RCW 42.56.550 and 2011 c 273 s 1 are each amended to
5 read as follows:

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

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

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

9 (4) Any person who prevails against an agency in any action in
10 the courts seeking the right to inspect or copy any public record or
11 the right to receive a response to a public record request within a
12 reasonable amount of time (~~shall~~) may be awarded all costs,
13 including reasonable attorney fees, incurred in connection with such
14 legal action. In addition, it shall be within the discretion of the
15 court to (~~award such person~~) impose a fine on the responsible
16 agency in an amount not to exceed one hundred dollars for each day
17 that (~~he or she~~) the prevailing person was denied the right to
18 inspect or copy said public record. The fine must be deposited in the
19 archives and records management account established in RCW 40.14.025
20 to enhance the preservation and availability of the state's public
21 records. However, the court may award a portion of the fine to the
22 prevailing person in an amount that reimburses the person for any
23 demonstrated financial loss caused by the failure of the agency to
24 timely release the public record or respond to the request.

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

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

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