
SENATE BILL 5250

State of Washington

61st Legislature

2009 Regular Session

By Senator Fairley

Read first time 01/19/09. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to increasing the maximum per page copying charge
2 under the public records act; and amending RCW 42.56.070 and 42.56.120.

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

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

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

16 (2) For informational purposes, each agency shall publish and
17 maintain a current list containing every law, other than those listed
18 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)) twenty-five cents per page for
16 photocopies of public records or for the use of agency equipment to
17 photocopy public records and the actual postage or delivery charge and
18 the cost of any container or envelope used to mail the public records
19 to the requestor.

20 (9) This chapter shall not be construed as giving authority to any
21 agency, the office of the secretary of the senate, or the office of the
22 chief clerk of the house of representatives to give, sell or provide
23 access to lists of individuals requested for commercial purposes, and
24 agencies, the office of the secretary of the senate, and the office of
25 the chief clerk of the house of representatives shall not do so unless
26 specifically authorized or directed by law: PROVIDED, HOWEVER, That
27 lists of applicants for professional licenses and of professional
28 licensees shall be made available to those professional associations or
29 educational organizations recognized by their professional licensing or
30 examination board, upon payment of a reasonable charge therefor:
31 PROVIDED FURTHER, That such recognition may be refused only for a good
32 cause pursuant to a hearing under the provisions of chapter 34.05 RCW,
33 the Administrative Procedure Act.

34 **Sec. 2.** RCW 42.56.120 and 2005 c 483 s 2 are each amended to read
35 as follows:

36 No fee shall be charged for the inspection of public records. No
37 fee shall be charged for locating public documents and making them

1 available for copying. A reasonable charge may be imposed for
2 providing copies of public records and for the use by any person of
3 agency equipment or equipment of the office of the secretary of the
4 senate or the office of the chief clerk of the house of representatives
5 to copy public records, which charges shall not exceed the amount
6 necessary to reimburse the agency, the office of the secretary of the
7 senate, or the office of the chief clerk of the house of
8 representatives for its actual costs directly incident to such copying.
9 Agency charges for photocopies shall be imposed in accordance with the
10 actual per page cost or other costs established and published by the
11 agency. In no event may an agency charge a per page cost greater than
12 the actual per page cost as established and published by the agency.
13 To the extent the agency has not determined the actual per page cost
14 for photocopies of public records, the agency may not charge in excess
15 of ((fifteen)) twenty-five cents per page. An agency may require a
16 deposit in an amount not to exceed ten percent of the estimated cost of
17 providing copies for a request. If an agency makes a request available
18 on a partial or installment basis, the agency may charge for each part
19 of the request as it is provided. If an installment of a records
20 request is not claimed or reviewed, the agency is not obligated to
21 fulfill the balance of the request.

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