
SENATE BILL 6014

State of Washington

64th Legislature

2015 Regular Session

By Senators Honeyford, Cleveland, Hatfield, and Chase

Read first time 02/17/15. Referred to Committee on Government Operations & Security.

1 AN ACT Relating to remedies for actions under the public records
2 act; and amending RCW 42.56.550 and 40.14.025.

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)(a)(i) Any person who prevails against an agency in any action
10 in the courts seeking the right to inspect or copy any public record
11 or the right to receive a response to a public record request within
12 a reasonable amount of time shall be awarded all costs, including
13 reasonable attorneys' fees, incurred in connection with such legal
14 action. In addition, it shall be within the discretion of the court
15 to ~~((award such person))~~ impose a fine on the responsible agency in
16 an amount not to exceed one hundred dollars for each day that ~~((he or~~
17 ~~she))~~ the prevailing person was denied the right to inspect or copy
18 said public record. The fine shall be deposited in the public records
19 efficiency, preservation, and access account created in RCW 40.14.025
20 to enhance the preservation and availability of the state's public
21 records.

22 (ii) However, the court must award a portion of the fine, not to
23 exceed twenty-five percent of the fine, to the prevailing person in
24 an amount that reimburses the person for any demonstrated financial
25 loss caused by the failure of the agency to timely release the public
26 record or respond to the request.

27 (b)(i) Any total dollar amount of any settlement agreement must
28 include all costs, including reasonable attorneys' fees, incurred by
29 the prevailing person in connection with such legal action. In
30 addition, the portion of the settlement awarded to the prevailing
31 person is limited to no more than twenty-five percent of the
32 settlement, in an amount that reimburses the person for any
33 demonstrated financial loss caused by the failure of the agency to
34 timely release the public record or respond to the request exclusive
35 of costs and attorneys' fees.

36 (ii) The balance of the settlement shall be deposited in the
37 public records efficiency, preservation, and access account created
38 in RCW 40.14.025 to enhance the preservation and availability of the
39 state's public records.

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

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

6 **Sec. 2.** RCW 40.14.025 and 2011 1st sp.s. c 50 s 932 are each
7 amended to read as follows:

8 (1) The secretary of state and the director of financial
9 management shall jointly establish a procedure and formula for
10 allocating the costs of services provided by the division of archives
11 and records management to state agencies. The total amount allotted
12 for services to state agencies shall not exceed the appropriation to
13 the ((~~archives and records management~~)) public records efficiency,
14 preservation, and access account during any allotment period.

15 (2) There is created the public records efficiency, preservation,
16 and access account in the state treasury which shall consist of all
17 finances directed to the account by a court and all settlement amounts
18 directed to the account by a court under RCW 42.56.550 and all fees
19 and charges collected under this section. The account shall be
20 appropriated exclusively for the payment of costs and expenses
21 incurred in the operation of the division of archives and records
22 management as specified by law.

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