

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5597

54th Legislature
1995 Regular Session

Passed by the Senate April 21, 1995
YEAS 34 NAYS 13

President of the Senate

Passed by the House April 7, 1995
YEAS 89 NAYS 5

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5597** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5597

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators C. Anderson, Roach, Smith, Schow, McCaslin, Pelz, Hargrove, Long and Johnson)

Read first time 02/28/95.

1 AN ACT Relating to the costs of copying public records; amending
2 RCW 42.17.260 and 42.17.300; and adding a new section to chapter 42.17
3 RCW.

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

5 **Sec. 1.** RCW 42.17.260 and 1992 c 139 s 3 are each amended to read
6 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) of
10 this section, RCW 42.17.310, 42.17.315, or other statute which exempts
11 or prohibits disclosure of specific information or records. To the
12 extent required to prevent an unreasonable invasion of personal privacy
13 interests protected by RCW 42.17.310 and 42.17.315, an agency shall
14 delete identifying details in a manner consistent with RCW 42.17.310
15 and 42.17.315 when it makes available or publishes any public record;
16 however, in each case, the justification for the deletion shall be
17 explained fully in writing.

18 (2) For informational purposes, each agency shall publish and
19 maintain a current list containing every law, other than those listed

1 in this chapter, that the agency believes exempts or prohibits
2 disclosure of specific information or records of the agency. An
3 agency's failure to list an exemption shall not affect the efficacy of
4 any exemption.

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

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

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

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

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

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

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

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

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

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

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

37 (a) All records issued before July 1, 1990, for which the agency
38 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(1) and that
3 contain an analysis or decision of substantial importance to the agency
4 in 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(8) that
9 were entered after June 30, 1990; and

10 (e) Policy statements as defined in RCW 34.05.010(14) that were
11 entered 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
39 the paper and the per page cost for use of agency copying equipment.

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

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

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

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

29 **Sec. 2.** RCW 42.17.300 and 1973 c 1 s 30 are each amended to read
30 as follows:

31 No fee shall be charged for the inspection of public records. No
32 fee shall be charged for locating public documents and making them
33 available for copying. Agencies may impose a reasonable charge for
34 providing copies of public records and for the use by any person of
35 agency equipment to copy public records, which charges shall not exceed
36 the amount necessary to reimburse the agency for its actual costs
37 directly incident to such copying. Agency charges for photocopies
38 shall be imposed in accordance with the actual per page cost or other

1 costs established and published by the agency. In no event may an
2 agency charge a per page cost greater than the actual per page cost as
3 established and published by the agency. To the extent the agency has
4 not determined the actual per page cost for photocopies of public
5 records, the agency may not charge in excess of fifteen cents per page.

6 NEW SECTION. Sec. 3. A new section is added to chapter 42.17 RCW
7 under the subchapter heading "public records" to read as follows:

8 The provisions of RCW 42.17.260 (7) and (8) and 42.17.300 that
9 establish or allow agencies to establish the costs charged for
10 photocopies of public records do not supersede other statutory
11 provisions, other than in this chapter, authorizing or governing fees
12 for copying public records.

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