
SENATE BILL 5678

State of Washington 64th Legislature 2015 Regular Session

By Senators Pearson, Roach, Schoesler, and Hobbs

Read first time 01/28/15. Referred to Committee on Government Operations & Security.

1 AN ACT Relating to requesting public records for the purpose of
2 obtaining exempted information relating to employment and licensing;
3 and amending RCW 42.56.070.

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

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

7 (1) Each agency, in accordance with published rules, shall make
8 available for public inspection and copying all public records,
9 unless the record falls within the specific exemptions of subsection
10 (~~((6))~~) (9) of this section, this chapter, or other statute which
11 exempts or prohibits disclosure of specific information or records.
12 To the extent required to prevent an unreasonable invasion of
13 personal privacy interests protected by this chapter, an agency shall
14 delete identifying details in a manner consistent with this chapter
15 when it makes available or publishes any public record; however, in
16 each case, the justification for the deletion shall be explained
17 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
20 in this chapter, that the agency believes exempts or prohibits
21 disclosure of specific information or records of the agency. An

1 agency's failure to list an exemption shall not affect the efficacy
2 of any exemption.

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

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

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

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

13 (d) Planning policies and goals, and interim and final planning
14 decisions;

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

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

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

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

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

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

35 (a) All records issued before July 1, 1990, for which the agency
36 has maintained an index;

37 (b) Final orders entered after June 30, 1990, that are issued in
38 adjudicative proceedings as defined in RCW 34.05.010 and that contain
39 an analysis or decision of substantial importance to the agency in
40 carrying out its duties;

1 (c) Declaratory orders entered after June 30, 1990, that are
2 issued pursuant to RCW 34.05.240 and that contain an analysis or
3 decision of substantial importance to the agency in carrying out its
4 duties;

5 (d) Interpretive statements as defined in RCW 34.05.010 that were
6 entered after June 30, 1990; and

7 (e) Policy statements as defined in RCW 34.05.010 that were
8 entered after June 30, 1990.

9 Rules establishing systems of indexing shall include, but not be
10 limited to, requirements for the form and content of the index, its
11 location and availability to the public, and the schedule for
12 revising or updating the index. State agencies that have maintained
13 indexes for records issued before July 1, 1990, shall continue to
14 make such indexes available for public inspection and copying.
15 Information in such indexes may be incorporated into indexes prepared
16 pursuant to this subsection. State agencies may satisfy the
17 requirements of this subsection by making available to the public
18 indexes prepared by other parties but actually used by the agency in
19 its operations. State agencies shall make indexes available for
20 public inspection and copying. State agencies may charge a fee to
21 cover the actual costs of providing individual mailed copies of
22 indexes.

23 (6) A public record may be relied on, used, or cited as precedent
24 by an agency against a party other than an agency and it may be
25 invoked by the agency for any other purpose only if:

26 (a) It has been indexed in an index available to the public; or

27 (b) Parties affected have timely notice (actual or constructive)
28 of the terms thereof.

29 (7) Each agency shall establish, maintain, and make available for
30 public inspection and copying a statement of the actual per page cost
31 or other costs, if any, that it charges for providing photocopies of
32 public records and a statement of the factors and manner used to
33 determine the actual per page cost or other costs, if any.

34 (a) In determining the actual per page cost for providing
35 photocopies of public records, an agency may include all costs
36 directly incident to copying such public records including the actual
37 cost of the paper and the per page cost for use of agency copying
38 equipment. In determining other actual costs for providing
39 photocopies of public records, an agency may include all costs
40 directly incident to shipping such public records, including the cost

1 of postage or delivery charges and the cost of any container or
2 envelope used.

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

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

17 (9) This chapter shall not be construed as giving authority to
18 any agency, the office of the secretary of the senate, or the office
19 of the chief clerk of the house of representatives to give, sell, or
20 provide access to lists of individuals requested for commercial
21 purposes, and agencies, the office of the secretary of the senate,
22 and the office of the chief clerk of the house of representatives
23 shall not do so unless specifically authorized or directed by law(~~+~~
24 ~~PROVIDED, HOWEVER, That~~)). No party obtaining the identity of
25 employees or volunteers from any agency may use that information for
26 the purpose of obtaining information exempted under RCW 42.56.250,
27 and in any suit brought regarding such use an aggrieved party shall
28 recover five hundred dollars for each item of exempt information
29 obtained, plus costs and reasonable attorneys' fees. Lists of
30 applicants for professional licenses and of professional licensees
31 shall be made available to those professional associations or
32 educational organizations recognized by their professional licensing
33 or examination board, upon payment of a reasonable charge therefor(~~+~~
34 ~~PROVIDED FURTHER, That~~)), however such recognition may be refused
35 only for a good cause pursuant to a hearing under the provisions of
36 chapter 34.05 RCW, the administrative procedure act.

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