

2SHB 1758 - S COMM AMD

By Committee on Government Operations & Elections

ADOPTED 04/11/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 42.17.270 and 1987 c 403 s 4 are each amended to read
4 as follows:

5 Public records shall be available for inspection and copying, and
6 agencies shall, upon request for identifiable public records, make them
7 promptly available to any person including, if applicable, on a partial
8 or installment basis as records that are part of a larger set of
9 requested records are assembled or made ready for inspection or
10 disclosure. Agencies shall not deny a request for identifiable public
11 records solely on the basis that the request is overbroad. Agencies
12 shall not distinguish among persons requesting records, and such
13 persons shall not be required to provide information as to the purpose
14 for the request except to establish whether inspection and copying
15 would violate RCW 42.17.260(~~(+5)~~) (9) or other statute which exempts
16 or prohibits disclosure of specific information or records to certain
17 persons. Agency facilities shall be made available to any person for
18 the copying of public records except when and to the extent that this
19 would unreasonably disrupt the operations of the agency. Agencies
20 shall honor requests received by mail for identifiable public records
21 unless exempted by provisions of this chapter.

22 **Sec. 2.** RCW 42.17.300 and 1995 c 397 s 14 and 1995 c 341 s 2 are
23 each reenacted and amended to read as follows:

24 No fee shall be charged for the inspection of public records. No
25 fee shall be charged for locating public documents and making them
26 available for copying. A reasonable charge may be imposed for
27 providing copies of public records and for the use by any person of
28 agency equipment or equipment of the office of the secretary of the
29 senate or the office of the chief clerk of the house of representatives

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

18 NEW SECTION. Sec. 3. A new section is added to chapter 42.17 RCW
19 to read as follows:

20 (1) Each state and local agency shall appoint and publicly identify
21 a public records officer whose responsibility is to serve as a point of
22 contact for members of the public in requesting disclosure of public
23 records and to oversee the agency's compliance with the public records
24 disclosure requirements of this chapter. A state or local agency's
25 public records officer may appoint an employee or official of another
26 agency as its public records officer.

27 (2) For state agencies, the name and contact information of the
28 agency's public records officer to whom members of the public may
29 direct requests for disclosure of public records and who will oversee
30 the agency's compliance with the public records disclosure requirements
31 of this chapter shall be published in the state register at the time of
32 designation and annually every year thereafter.

33 (3) For local agencies, the name and contact information of the
34 agency's public records officer to whom members of the public may
35 direct requests for disclosure of public records and who will oversee
36 the agency's compliance within the public records disclosure
37 requirements of this chapter shall be made in a way reasonably

1 calculated to provide notice to the public, including posting at the
2 local agency's place of business, posting on its internet site, or
3 including in its publications.

4 **Sec. 4.** RCW 42.17.348 and 1992 c 139 s 9 are each amended to read
5 as follows:

6 (1) The attorney general's office shall publish, and update when
7 appropriate, a pamphlet, written in plain language, explaining the
8 provisions of the public records subdivision of this chapter.

9 (2) The attorney general, by February 1, 2006, shall adopt by rule
10 an advisory model rule for state and local agencies, as defined in RCW
11 42.17.020, addressing the following subjects:

- 12 (a) Providing fullest assistance to requestors;
- 13 (b) Fulfilling large requests in the most efficient manner;
- 14 (c) Fulfilling requests for electronic records; and
- 15 (d) Any other issues pertaining to public disclosure as determined
16 by the attorney general.

17 (3) The attorney general, in his or her discretion, may from time
18 to time revise the model rule.

19 **Sec. 5.** RCW 42.17.340 and 1992 c 139 s 8 are each amended to read
20 as follows:

21 (1) Upon the motion of any person having been denied an opportunity
22 to inspect or copy a public record by an agency, the superior court in
23 the county in which a record is maintained may require the responsible
24 agency to show cause why it has refused to allow inspection or copying
25 of a specific public record or class of records. The burden of proof
26 shall be on the agency to establish that refusal to permit public
27 inspection and copying is in accordance with a statute that exempts or
28 prohibits disclosure in whole or in part of specific information or
29 records.

30 (2) Upon the motion of any person who believes that an agency has
31 not made a reasonable estimate of the time that the agency requires to
32 respond to a public record request, the superior court in the county in
33 which a record is maintained may require the responsible agency to show
34 that the estimate it provided is reasonable. The burden of proof shall
35 be on the agency to show that the estimate it provided is reasonable.

1 (3) Judicial review of all agency actions taken or challenged under
2 RCW 42.17.250 through 42.17.320 shall be de novo. Courts shall take
3 into account the policy of this chapter that free and open examination
4 of public records is in the public interest, even though such
5 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 hearing
8 based solely on affidavits.

9 (4) Any person who prevails against an agency in any action in the
10 courts seeking the right to inspect or copy any public record or the
11 right to receive a response to a public record request within a
12 reasonable amount of time shall be awarded all costs, including
13 reasonable attorney fees, incurred in connection with such legal
14 action. In addition, it shall be within the discretion of the court to
15 award such person an amount not less than five dollars and not to
16 exceed one hundred dollars for each day that he or she was denied the
17 right to inspect or copy said public record.

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

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

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23 On page 1, line 1 of the title, after "disclosure;" strike the
24 remainder of the title and insert "amending RCW 42.17.270, 42.17.348,
25 and 42.17.340; reenacting and amending RCW 42.17.300; and adding a new
26 section to chapter 42.17 RCW."

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