

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6556

Chapter 171, Laws of 1996

54th Legislature
1996 Regular Session

PUBLIC ELECTRONIC ACCESS TO GOVERNMENT RECORDS AND INFORMATION

EFFECTIVE DATE: 3/28/96 - Except section 8 which becomes effective on 6/30/97.

Passed by the Senate March 2, 1996
YEAS 46 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House February 29, 1996
YEAS 89 NAYS 3

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved March 28, 1996

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 6556** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

March 28, 1996 - 9:46 a.m.

MIKE LOWRY

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6556

AS AMENDED BY THE HOUSE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senator Sutherland)

Read first time 02/06/96.

1 AN ACT Relating to public electronic access to government records
2 and information; amending RCW 27.04.045, 43.105.041, 43.105.041,
3 43.105.160, 43.105.170, and 43.105.180; adding new sections to chapter
4 43.105 RCW; creating new sections; providing an effective date;
5 providing an expiration date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** Based upon the recommendations of the public
8 information access policy task force, the legislature finds that
9 government records and information are a vital resource to both
10 government operations and to the public that government serves. Broad
11 public access to state and local government records and information has
12 potential for expanding citizen access to that information and for
13 improving government services. Electronic methods for locating and
14 transferring information can improve linkages between and among
15 citizens, organizations, businesses, and governments. Information must
16 be managed with great care to meet the objectives of citizens and their
17 governments.

18 It is the intent of the legislature to encourage state and local
19 governments to develop, store, and manage their public records and

1 information in electronic formats to meet their missions and
2 objectives. Further, it is the intent of the legislature for state and
3 local governments to set priorities for making public records widely
4 available electronically to the public.

5 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context requires
6 otherwise, the definitions in this section apply throughout this
7 chapter.

8 (1) "Local government" means every county, city, town, and every
9 other municipal or quasi-municipal corporation.

10 (2) "Public record" means as defined in RCW 42.17.020 and chapter
11 40.14 RCW, and includes legislative records and court records that are
12 available for public inspection.

13 (3) "State agency" includes every state office, department,
14 division, bureau, board, and commission of the state, and each state
15 elected official who is a member of the executive department.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 2.68 RCW
17 to read as follows:

18 The supreme court, the court of appeals and all superior and
19 district courts, through the judicial information system committee,
20 shall:

21 (1) Continue to plan for and implement processes for making
22 judicial information available electronically;

23 (2) Promote and facilitate electronic access to the public of
24 judicial information and services;

25 (3) Establish technical standards for such services;

26 (4) Consider electronic public access needs when planning new
27 information systems or major upgrades of information systems;

28 (5) Develop processes to determine which judicial information the
29 public most wants and needs;

30 (6) Increase capabilities to receive information electronically
31 from the public and transmit forms, applications and other
32 communications and transactions electronically;

33 (7) Use technologies that allow continuous access twenty-four hours
34 a day, seven days per week, involve little or no cost to access, and
35 are capable of being used by persons without extensive technology
36 ability; and

1 (8) Consider and incorporate wherever possible ease of access to
2 electronic technologies by persons with disabilities.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 44.68 RCW
4 to read as follows:

5 The legislature and legislative agencies through the joint
6 legislative systems committee, shall:

7 (1) Continue to plan for and implement processes for making
8 legislative information available electronically;

9 (2) Promote and facilitate electronic access to the public of
10 legislative information and services;

11 (3) Establish technical standards for such services;

12 (4) Consider electronic public access needs when planning new
13 information systems or major upgrades of information systems;

14 (5) Develop processes to determine which legislative information
15 the public most wants and needs;

16 (6) Increase capabilities to receive information electronically
17 from the public and transmit forms, applications and other
18 communications and transactions electronically;

19 (7) Use technologies that allow continuous access twenty-four hours
20 a day, seven days per week, involve little or no cost to access, and
21 are capable of being used by persons without extensive technology
22 ability; and

23 (8) Consider and incorporate wherever possible ease of access to
24 electronic technologies by persons with disabilities.

25 NEW SECTION. **Sec. 5.** PLANNING FOR INCREASED PUBLIC ELECTRONIC
26 ACCESS. Within existing resources, state agencies shall plan for and
27 implement processes for making information available electronically.
28 Public demand and agencies' missions and goals shall drive the
29 selection and priorities for government information to be made
30 available electronically. When planning for increased public
31 electronic access, agencies should determine what information the
32 public wants and needs most. Widespread public electronic access does
33 not mean that all government information is able to be made available
34 electronically.

35 (1) In planning for and implementing electronic access, state
36 agencies shall:

1 (a) Where appropriate, plan for electronic public access and two-
2 way electronic interaction when acquiring, redesigning, or rebuilding
3 information systems;

4 (b) Focus on providing electronic access to current information,
5 leaving archival material to be made available digitally as resources
6 allow or as a need arises;

7 (c) Coordinate technology planning across agency boundaries in
8 order to facilitate electronic access to vital public information;

9 (d) Develop processes to determine which information the public
10 most wants and needs;

11 (e) Develop and employ methods to readily withhold or mask
12 nondisclosable data.

13 (2) In planning or implementing electronic access and two-way
14 electronic interaction and delivery technologies, state agencies and
15 local governments are encouraged to:

16 (a) Increase their capabilities to receive information
17 electronically from the public and to transmit forms, applications, and
18 other communications and transactions electronically;

19 (b) Use technologies allowing public access throughout the state
20 that allow continuous access twenty-four hours a day, seven days per
21 week, involve little or no cost to access, and are capable of being
22 used by persons without extensive technological ability; and

23 (c) Consider and incorporate wherever possible ease of access to
24 electronic technologies by persons with disabilities. In planning and
25 implementing new public electronic access projects, agencies should
26 consult with people who have disabilities, with disability access
27 experts, and the general public.

28 (3) The final report of the public information access policy task
29 force, "Encouraging Widespread Public Electronic Access to Public
30 Records and Information Held by State and Local Governments," shall
31 serve as a major resource for state agencies and local governments in
32 planning and providing increased access to electronic public records
33 and information.

34 **Sec. 6.** RCW 27.04.045 and 1989 c 96 s 7 are each amended to read
35 as follows:

36 The state library commission shall be responsible for the following
37 functions:

1 (1) Maintaining a library at the state capitol grounds to
2 effectively provide library and information services to members of the
3 legislature, state officials, and state employees in connection with
4 their official duties;

5 (2) Acquiring and making available information, publications, and
6 source materials that pertain to the history of the state;

7 (3) Serving as the depository for newspapers published in the state
8 of Washington thus providing a central location for a valuable
9 historical record for scholarly, personal, and commercial reference and
10 circulation;

11 (4) Promoting and facilitating electronic access to public
12 information and services;

13 (5) Establishing content-related standards for common formats and
14 agency indexes for state agency produced information. In developing
15 these standards, the commission is encouraged to include the state
16 archives, the department of information services, and public and
17 academic libraries;

18 (6) Collecting and distributing copies of state publications by
19 ensuring that:

20 (a) The state library collects and makes available as part of its
21 collection copies of any state publication, as defined in RCW
22 40.06.010, prepared by any state agency whenever fifteen or more copies
23 are prepared for distribution. The state library commission, on
24 recommendation of the state librarian, may provide by rule for deposit
25 with the state library of up to three copies of such publication; and

26 (b) The state library maintains a division to serve as state
27 publications distribution center, as provided in chapter 40.06 RCW;

28 ~~((+5))~~ (7) Providing advisory services to state agencies regarding
29 their information needs;

30 ~~((+6))~~ (8) Providing for library and information service to
31 residents and staff of state-supported residential institutions;

32 ~~((+7))~~ (9) Providing for library and information services to
33 persons throughout the state who are blind and/or physically
34 handicapped;

35 ~~((+8))~~ (10) Assisting individuals and groups such as libraries,
36 library boards, governing bodies, and citizens throughout the state
37 toward the establishment and development of library services;

1 (~~(9)~~) (11) Making studies and surveys of library needs in order
2 to provide, expand, enlarge, and otherwise improve access to library
3 facilities and services throughout the state;

4 (~~(10)~~) (12) Serving as a primary interlibrary loan, information,
5 reference, and referral center for all libraries in the state;

6 (~~(11)~~) (13) Assisting in the provision of direct library and
7 information services to individuals;

8 (~~(12)~~) (14) Overseeing of the Washington library network in
9 accordance with chapters 27.26 and 43.105 RCW. This subsection shall
10 expire on June 30, 1997.

11 **Sec. 7.** RCW 43.105.041 and 1995 2nd sp.s. c 14 s 512 are each
12 amended to read as follows:

13 (1) The board shall have the following powers and duties related to
14 information services:

15 (~~(1)~~) (a) To develop standards governing the acquisition and
16 disposition of equipment, proprietary software and purchased services,
17 and confidentiality of computerized data;

18 (~~(2)~~) (b) To purchase, lease, rent, or otherwise acquire, dispose
19 of, and maintain equipment, proprietary software, and purchased
20 services, or to delegate to other agencies and institutions of state
21 government, under appropriate standards, the authority to purchase,
22 lease, rent, or otherwise acquire, dispose of, and maintain equipment,
23 proprietary software, and purchased services: PROVIDED, That, agencies
24 and institutions of state government, except as provided in RCW
25 43.105.017(5) and section 507, chapter 14, Laws of 1995 2nd sp. sess.,
26 are expressly prohibited from acquiring or disposing of equipment,
27 proprietary software, and purchased services without such delegation of
28 authority. The acquisition and disposition of equipment, proprietary
29 software, and purchased services is exempt from RCW 43.19.1919 and, as
30 provided in RCW 43.19.1901, from the provisions of RCW 43.19.190
31 through 43.19.200. This subsection (1)(b) does not apply to the
32 legislative branch;

33 (~~(3)~~) (c) To develop state-wide or interagency technical
34 policies, standards, and procedures;

35 (~~(4)~~) (d) To assure the cost-effective development and
36 incremental implementation of a state-wide video telecommunications
37 system to serve: Public schools; educational service districts;
38 vocational-technical institutes; community colleges; colleges and

1 universities; state and local government; and the general public
2 through public affairs programming;

3 ~~((5))~~ (e) To provide direction concerning strategic planning
4 goals and objectives for the state. The board shall seek input from
5 the legislature and the judiciary;

6 ~~((6))~~ (f) To develop and implement a process for the resolution
7 of appeals by:

8 ~~((a))~~ (i) Vendors concerning the conduct of an acquisition
9 process by an agency or the department; or

10 ~~((b))~~ (ii) A customer agency concerning the provision of services
11 by the department or by other state agency providers;

12 ~~((7))~~ (g) To establish policies for the periodic review by the
13 department of agency performance which may include but are not limited
14 to analysis of:

15 ~~((a))~~ (i) Planning, management, control, and use of information
16 services;

17 ~~((b))~~ (ii) Training and education; and

18 ~~((e))~~ (iii) Project management;

19 ~~((8))~~ (h) To set its meeting schedules and convene at scheduled
20 times, or meet at the request of a majority of its members, the chair,
21 or the director; and

22 ~~((9))~~ (i) To review and approve that portion of the department's
23 budget requests that provides for support to the board.

24 (2) State-wide technical standards to promote and facilitate
25 electronic information sharing and access are an essential component of
26 acceptable and reliable public access service and complement content-
27 related standards designed to meet those goals. The board shall:

28 (a) Establish technical standards to facilitate electronic access
29 to government information and interoperability of information systems.
30 Local governments are strongly encouraged to follow the standards
31 established by the board; and

32 (b) Require agencies to consider electronic public access needs
33 when planning new information systems or major upgrades of systems.

34 In developing these standards, the board is encouraged to include
35 the state library, state archives, and appropriate representatives of
36 state and local government.

37 **Sec. 8.** RCW 43.105.041 and 1990 c 208 s 6 are each amended to read
38 as follows:

1 (1) The board shall have the following powers and duties related to
2 information services:

3 ~~((1))~~ (a) To develop standards governing the acquisition and
4 disposition of equipment, proprietary software and purchased services,
5 and confidentiality of computerized data;

6 ~~((2))~~ (b) To purchase, lease, rent, or otherwise acquire, dispose
7 of, and maintain equipment, proprietary software, and purchased
8 services, or to delegate to other agencies and institutions of state
9 government, under appropriate standards, the authority to purchase,
10 lease, rent, or otherwise acquire, dispose of, and maintain equipment,
11 proprietary software, and purchased services: PROVIDED, That, agencies
12 and institutions of state government are expressly prohibited from
13 acquiring or disposing of equipment, proprietary software, and
14 purchased services without such delegation of authority. The
15 acquisition and disposition of equipment, proprietary software, and
16 purchased services is exempt from RCW 43.19.1919 and, as provided in
17 RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200.
18 This subsection (1)(b) does not apply to the legislative branch;

19 ~~((3))~~ (c) To develop state-wide or interagency technical
20 policies, standards, and procedures;

21 ~~((4))~~ (d) To assure the cost-effective development and
22 incremental implementation of a state-wide video telecommunications
23 system to serve: Public schools; educational service districts;
24 vocational-technical institutes; community colleges; colleges and
25 universities; state and local government; and the general public
26 through public affairs programming;

27 ~~((5))~~ (e) To provide direction concerning strategic planning
28 goals and objectives for the state. The board shall seek input from
29 the legislature and the judiciary;

30 ~~((6))~~ (f) To develop and implement a process for the resolution
31 of appeals by:

32 ~~((a))~~ (i) Vendors concerning the conduct of an acquisition
33 process by an agency or the department; or

34 ~~((b))~~ (ii) A customer agency concerning the provision of services
35 by the department or by other state agency providers;

36 ~~((7))~~ (g) To establish policies for the periodic review by the
37 department of agency performance which may include but are not limited
38 to analysis of:

1 (~~(a)~~) (i) Planning, management, control, and use of information
2 services;

3 (~~(b)~~) (ii) Training and education; and

4 (~~(c)~~) (iii) Project management;

5 (~~(8)~~) (h) To set its meeting schedules and convene at scheduled
6 times, or meet at the request of a majority of its members, the chair,
7 or the director; and

8 (~~(9)~~) (i) To review and approve that portion of the department's
9 budget requests that provides for support to the board.

10 (2) State-wide technical standards to promote and facilitate
11 electronic information sharing and access are an essential component of
12 acceptable and reliable public access service and complement content-
13 related standards designed to meet those goals. The board shall:

14 (a) Establish technical standards to facilitate electronic access
15 to government information and interoperability of information systems.
16 Local governments are strongly encouraged to follow the standards
17 established by the board; and

18 (b) Require agencies to consider electronic public access needs
19 when planning new information systems or major upgrades of systems.

20 In developing these standards, the board is encouraged to include
21 the state library, state archives, and appropriate representatives of
22 state and local government.

23 **Sec. 9.** RCW 43.105.160 and 1992 c 20 s 1 are each amended to read
24 as follows:

25 (1) The department shall prepare a state strategic information
26 technology plan which shall establish a state-wide mission, goals, and
27 objectives for the use of information technology, including goals for
28 electronic access to government records, information, and services.
29 The plan shall be developed in accordance with the standards and
30 policies established by the board and shall be submitted to the board
31 for review, modification as necessary, and approval. The department
32 shall seek the advice of the board in the development of this plan.

33 The plan approved under this section shall be updated as necessary
34 and submitted to the governor and the chairs and ranking minority
35 members of the appropriations committees of the senate and the house of
36 representatives.

37 (2) The department shall prepare a biennial state performance
38 report on information technology based on agency performance reports

1 required under RCW 43.105.170 and other information deemed appropriate
2 by the department. The report shall include, but not be limited to:

3 (a) An evaluation of performance relating to information
4 technology;

5 (b) An assessment of progress made toward implementing the state
6 strategic information technology plan, including progress toward
7 electronic access to public information and enabling citizens to have
8 two-way access to public records, information, and services;

9 (c) An analysis of the success or failure, feasibility, progress,
10 costs, and timeliness of implementation of major information technology
11 projects under RCW 43.105.190;

12 (d) Identification of benefits, cost avoidance, and cost savings
13 generated by major information technology projects developed under RCW
14 43.105.190; and

15 (e) An inventory of state information services, equipment, and
16 proprietary software.

17 Copies of the report shall be distributed biennially to the
18 governor and the chairs and ranking minority members of the
19 appropriations committees of the senate and the house of
20 representatives.

21 **Sec. 10.** RCW 43.105.170 and 1992 c 20 s 2 are each amended to read
22 as follows:

23 (1) Each agency shall develop an agency strategic information
24 technology plan which establishes agency goals and objectives regarding
25 the development and use of information technology. Plans shall
26 include, but not be limited to, the following:

27 (a) A statement of the agency's mission, goals, and objectives for
28 information technology, including goals and objectives for achieving
29 electronic access to agency records, information, and services;

30 (b) An explanation of how the agency's mission, goals, and
31 objectives for information technology support and conform to the state
32 strategic information technology plan developed under RCW 43.105.160;

33 (c) An implementation strategy to provide electronic access to
34 public records and information. This implementation strategy must be
35 assembled to include:

36 (i) Compliance with Title 40 RCW;

37 (ii) Adequate public notice and opportunity for comment;

1 (iii) Consideration of a variety of electronic technologies,
2 including those that help transcend geographic locations, standard
3 business hours, economic conditions of users, and disabilities;

4 (iv) Methods to educate both state employees and the public in the
5 effective use of access technologies;

6 (d) Projects and resources required to meet the objectives of the
7 plan; and

8 ~~((d))~~ (e) Where feasible, estimated schedules and funding
9 required to implement identified projects.

10 (2) Plans developed under subsection (1) of this section shall be
11 submitted to the department for review and forwarded along with the
12 department's recommendations to the board for review and approval. The
13 board may reject, require modification to, or approve plans as deemed
14 appropriate by the board. Plans submitted under this subsection shall
15 be updated and submitted for review and approval as necessary.

16 (3) Each agency shall prepare and submit to the department a
17 biennial performance report. The report shall include:

18 (a) An evaluation of the agency's performance relating to
19 information technology;

20 (b) An assessment of progress made toward implementing the agency
21 strategic information technology plan; ~~((and))~~

22 (c) Progress toward electronic access to public information and
23 enabling citizens to have two-way interaction for obtaining information
24 and services from agencies; and

25 (d) An inventory of agency information services, equipment, and
26 proprietary software.

27 (4) The department, with the approval of the board, shall establish
28 standards, elements, form, and format for plans and reports developed
29 under this section.

30 (5) Agency activities to increase electronic access to public
31 records and information, as required by this section, must be
32 implemented within available resources and existing agency planning
33 processes.

34 (6) The board may exempt any agency from any or all of the
35 requirements of this section.

36 **Sec. 11.** RCW 43.105.180 and 1992 c 20 s 3 are each amended to read
37 as follows:

1 Upon request of the office of financial management, the department
2 shall evaluate agency budget requests for major information technology
3 projects identified under RCW 43.105.190. The department shall submit
4 recommendations for funding all or part of such requests to the office
5 of financial management.

6 The department, with the advice and approval of the office of
7 financial management, shall establish criteria for the evaluation of
8 agency budget requests under this section. Criteria shall include, but
9 not be limited to: Feasibility of the proposed projects, consistency
10 with state and agency strategic information technology plans,
11 consistency with agency goals and objectives, appropriate provision for
12 public electronic access to information and services, costs, and
13 benefits.

14 NEW SECTION. Sec. 12. COSTS AND FEES. Funding to meet the costs
15 of providing access, including the building of the necessary
16 information systems, the digitizing of information, developing the
17 ability to mask nondisclosable information, and maintenance and upgrade
18 of information access systems should come primarily from state and
19 local appropriations, federal dollars, grants, private funds,
20 cooperative ventures among governments, nonexclusive licensing, and
21 public/private partnerships. Agencies should not offer customized
22 electronic access services as the primary way of responding to requests
23 or as a primary source of revenue. Fees for staff time to respond to
24 requests, and other direct costs may be included in costs of providing
25 customized access.

26 Agencies and local governments are encouraged to pool resources and
27 to form cooperative ventures to provide electronic access to government
28 records and information. State agencies are encouraged to seek federal
29 and private grants for projects that provide increased efficiency and
30 improve government delivery of information and services.

31 NEW SECTION. Sec. 13. GOVERNMENT INFORMATION LOCATOR SERVICE
32 PILOT PROJECT. The state library, with the assistance of the
33 department of information services and the state archives, shall
34 establish a pilot project to design and test an electronic information
35 locator system, allowing members of the public to locate and access
36 electronic public records. In designing the system, the following
37 factors shall be considered: (1) Ease of operation by citizens; (2)

1 access through multiple technologies, such as direct dial and toll-free
2 numbers, kiosks, and the Internet; (3) compatibility with private on-
3 line services; and (4) capability of expanding the electronic public
4 records included in the system. The pilot project may restrict the
5 type and quality of electronic public records that are included in the
6 system to test the feasibility of making electronic public records and
7 information widely available to the public.

8 NEW SECTION. **Sec. 14.** EDUCATION IN THE USE OF TECHNOLOGY. State
9 agencies and local governments are encouraged to provide education for
10 their employees in the use and implementation of electronic
11 technologies. State agencies are encouraged to make maximum use of the
12 provisions of RCW 28B.15.558, and training offered by the state
13 department of personnel, to maximize employee education in the
14 creation, design, maintenance, and use of electronic information
15 systems and improved customer service delivery.

16 NEW SECTION. **Sec. 15.** ACCURACY, INTEGRITY, AND PRIVACY OF RECORDS
17 AND INFORMATION. State agencies and local governments that collect and
18 enter information concerning individuals into electronic records and
19 information systems that will be widely accessible by the public under
20 RCW 42.17.020 shall ensure the accuracy of this information to the
21 extent possible. To the extent possible, information must be collected
22 directly from, and with the consent of, the individual who is the
23 subject of the data. Agencies shall establish procedures for
24 correcting inaccurate information, including establishing mechanisms
25 for individuals to review information about themselves and recommend
26 changes in information they believe to be inaccurate. The inclusion of
27 personal information in electronic public records that is widely
28 available to the public should include information on the date when the
29 data base was created or most recently updated. If personally
30 identifiable information is included in electronic public records that
31 are made widely available to the public, agencies must follow retention
32 and archival schedules in accordance with chapter 40.14 RCW, retaining
33 personally identifiable information only as long as needed to carry out
34 the purpose for which it was collected.

35 NEW SECTION. **Sec. 16.** Section captions used in this act do not
36 constitute any part of the law.

1 NEW SECTION. **Sec. 17.** If specific funding for the purposes of
2 section 13 of this act is not provided by June 30, 1996, in the
3 supplemental appropriations act, section 13 of this act is null and
4 void.

5 NEW SECTION. **Sec. 18.** Sections 1, 2, 5, 12, and 13 of this act
6 are added to chapter 43.105 RCW.

7 NEW SECTION. **Sec. 19.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and takes effect
10 immediately, except for section 8 of this act, which takes effect June
11 30, 1997.

12 NEW SECTION. **Sec. 20.** Section 7 of this act expires June 30,
13 1997.

Passed the Senate March 2, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.