
SUBSTITUTE SENATE BILL 5735

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Brown, Finkbeiner, Keiser, Esser, Honeyford, Mulliken, Franklin, Prentice, McAuliffe, Stevens, Poulsen, Parlette, Deccio, Pflug, Rockefeller, Hewitt, Johnson, Oke, Shin, Rasmussen and Fairley; by request of Attorney General)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to public disclosure; amending RCW 42.17.270,
2 42.17.348, and 42.17.340; reenacting and amending RCW 42.17.310 and
3 42.17.300; adding a new section to chapter 42.17 RCW; and prescribing
4 penalties.

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

6 **Sec. 1.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
7 each reenacted and amended to read as follows:

8 (1) The following are exempt from public inspection and copying:

9 (a) Personal information in any files maintained for students in
10 public schools, patients or clients of public institutions or public
11 health agencies, or welfare recipients.

12 (b) Personal information in files maintained for employees,
13 appointees, or elected officials of any public agency to the extent
14 that disclosure would violate their right to privacy.

15 (c) Information required of any taxpayer in connection with the
16 assessment or collection of any tax if the disclosure of the
17 information to other persons would (i) be prohibited to such persons by
18 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the

1 taxpayer's right to privacy or result in unfair competitive
2 disadvantage to the taxpayer.

3 (d) Specific intelligence information and specific investigative
4 records compiled by investigative, law enforcement, and penology
5 agencies, and state agencies vested with the responsibility to
6 discipline members of any profession, the nondisclosure of which is
7 essential to effective law enforcement or for the protection of any
8 person's right to privacy.

9 (e) Information revealing the identity of persons who are witnesses
10 to or victims of crime or who file complaints with investigative, law
11 enforcement, or penology agencies, other than the public disclosure
12 commission, if disclosure would endanger any person's life, physical
13 safety, or property. If at the time a complaint is filed the
14 complainant, victim or witness indicates a desire for disclosure or
15 nondisclosure, such desire shall govern. However, all complaints filed
16 with the public disclosure commission about any elected official or
17 candidate for public office must be made in writing and signed by the
18 complainant under oath.

19 (f) Test questions, scoring keys, and other examination data used
20 to administer a license, employment, or academic examination.

21 (g) Except as provided by chapter 8.26 RCW, the contents of real
22 estate appraisals, made for or by any agency relative to the
23 acquisition or sale of property, until the project or prospective sale
24 is abandoned or until such time as all of the property has been
25 acquired or the property to which the sale appraisal relates is sold,
26 but in no event shall disclosure be denied for more than three years
27 after the appraisal.

28 (h) Valuable formulae, designs, drawings, computer source code or
29 object code, and research data obtained by any agency within five years
30 of the request for disclosure when disclosure would produce private
31 gain and public loss.

32 (i) Preliminary drafts, notes, recommendations, and intra-agency
33 memorandums in which opinions are expressed or policies formulated or
34 recommended except that a specific record shall not be exempt when
35 publicly cited by an agency in connection with any agency action.

36 (j) Records which are relevant to a controversy to which an agency
37 is a party but which records would not be available to another party

1 under the rules of pretrial discovery for causes pending in the
2 superior courts.

3 (k) Records, maps, or other information identifying the location of
4 archaeological sites in order to avoid the looting or depredation of
5 such sites.

6 (l) Any library record, the primary purpose of which is to maintain
7 control of library materials, or to gain access to information, which
8 discloses or could be used to disclose the identity of a library user.

9 (m) Financial information supplied by or on behalf of a person,
10 firm, or corporation for the purpose of qualifying to submit a bid or
11 proposal for (i) a ferry system construction or repair contract as
12 required by RCW 47.60.680 through 47.60.750 or (ii) highway
13 construction or improvement as required by RCW 47.28.070.

14 (n) Railroad company contracts filed prior to July 28, 1991, with
15 the utilities and transportation commission under RCW 81.34.070, except
16 that the summaries of the contracts are open to public inspection and
17 copying as otherwise provided by this chapter.

18 (o) Financial and commercial information and records supplied by
19 private persons pertaining to export services provided pursuant to
20 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
21 export projects pursuant to RCW 43.23.035.

22 (p) Financial disclosures filed by private vocational schools under
23 chapters 28B.85 and 28C.10 RCW.

24 (q) Records filed with the utilities and transportation commission
25 or attorney general under RCW 80.04.095 that a court has determined are
26 confidential under RCW 80.04.095.

27 (r) Financial and commercial information and records supplied by
28 businesses or individuals during application for loans or program
29 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
30 or during application for economic development loans or program
31 services provided by any local agency.

32 (s) Membership lists or lists of members or owners of interests of
33 units in timeshare projects, subdivisions, camping resorts,
34 condominiums, land developments, or common-interest communities
35 affiliated with such projects, regulated by the department of
36 licensing, in the files or possession of the department.

37 (t) All applications for public employment, including the names of

1 applicants, resumes, and other related materials submitted with respect
2 to an applicant.

3 (u) The residential addresses or residential telephone numbers of
4 employees or volunteers of a public agency which are held by any public
5 agency in personnel records, public employment related records, or
6 volunteer rosters, or are included in any mailing list of employees or
7 volunteers of any public agency.

8 (v) The residential addresses and residential telephone numbers of
9 the customers of a public utility contained in the records or lists
10 held by the public utility of which they are customers, except that
11 this information may be released to the division of child support or
12 the agency or firm providing child support enforcement for another
13 state under Title IV-D of the federal social security act, for the
14 establishment, enforcement, or modification of a support order.

15 (w)(i) The federal social security number of individuals governed
16 under chapter 18.130 RCW maintained in the files of the department of
17 health, except this exemption does not apply to requests made directly
18 to the department from federal, state, and local agencies of
19 government, and national and state licensing, credentialing,
20 investigatory, disciplinary, and examination organizations; (ii) the
21 current residential address and current residential telephone number of
22 a health care provider governed under chapter 18.130 RCW maintained in
23 the files of the department, if the provider requests that this
24 information be withheld from public inspection and copying, and
25 provides to the department an accurate alternate or business address
26 and business telephone number. On or after January 1, 1995, the
27 current residential address and residential telephone number of a
28 health care provider governed under RCW 18.130.040 maintained in the
29 files of the department shall automatically be withheld from public
30 inspection and copying unless the provider specifically requests the
31 information be released, and except as provided for under RCW
32 42.17.260(9).

33 (x) Information obtained by the board of pharmacy as provided in
34 RCW 69.45.090.

35 (y) Information obtained by the board of pharmacy or the department
36 of health and its representatives as provided in RCW 69.41.044,
37 69.41.280, and 18.64.420.

1 (z) Financial information, business plans, examination reports, and
2 any information produced or obtained in evaluating or examining a
3 business and industrial development corporation organized or seeking
4 certification under chapter 31.24 RCW.

5 (aa) Financial and commercial information supplied to the state
6 investment board by any person when the information relates to the
7 investment of public trust or retirement funds and when disclosure
8 would result in loss to such funds or in private loss to the providers
9 of this information.

10 (bb) Financial and valuable trade information under RCW 51.36.120.

11 (cc) Client records maintained by an agency that is a domestic
12 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
13 crisis center as defined in RCW 70.125.030.

14 (dd) Information that identifies a person who, while an agency
15 employee: (i) Seeks advice, under an informal process established by
16 the employing agency, in order to ascertain his or her rights in
17 connection with a possible unfair practice under chapter 49.60 RCW
18 against the person; and (ii) requests his or her identity or any
19 identifying information not be disclosed.

20 (ee) Investigative records compiled by an employing agency
21 conducting a current investigation of a possible unfair practice under
22 chapter 49.60 RCW or of a possible violation of other federal, state,
23 or local laws prohibiting discrimination in employment.

24 (ff) Business related information protected from public inspection
25 and copying under RCW 15.86.110.

26 (gg) Financial, commercial, operations, and technical and research
27 information and data submitted to or obtained by the clean Washington
28 center in applications for, or delivery of, program services under
29 chapter 70.95H RCW.

30 (hh) Information and documents created specifically for, and
31 collected and maintained by a quality improvement committee pursuant to
32 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
33 4.24.250, regardless of which agency is in possession of the
34 information and documents.

35 (ii) Personal information in files maintained in a data base
36 created under RCW 43.07.360.

37 (jj) Financial and commercial information requested by the public

1 stadium authority from any person or organization that leases or uses
2 the stadium and exhibition center as defined in RCW 36.102.010.

3 (kk) Names of individuals residing in emergency or transitional
4 housing that are furnished to the department of revenue or a county
5 assessor in order to substantiate a claim for property tax exemption
6 under RCW 84.36.043.

7 (ll) The names, residential addresses, residential telephone
8 numbers, and other individually identifiable records held by an agency
9 in relation to a vanpool, carpool, or other ride-sharing program or
10 service. However, these records may be disclosed to other persons who
11 apply for ride-matching services and who need that information in order
12 to identify potential riders or drivers with whom to share rides.

13 (mm) The personally identifying information of current or former
14 participants or applicants in a paratransit or other transit service
15 operated for the benefit of persons with disabilities or elderly
16 persons.

17 (nn) The personally identifying information of persons who acquire
18 and use transit passes and other fare payment media including, but not
19 limited to, stored value smart cards and magnetic strip cards, except
20 that an agency may disclose this information to a person, employer,
21 educational institution, or other entity that is responsible, in whole
22 or in part, for payment of the cost of acquiring or using a transit
23 pass or other fare payment media, or to the news media when reporting
24 on public transportation or public safety. This information may also
25 be disclosed at the agency's discretion to governmental agencies or
26 groups concerned with public transportation or public safety.

27 (oo) Proprietary financial and commercial information that the
28 submitting entity, with review by the department of health,
29 specifically identifies at the time it is submitted and that is
30 provided to or obtained by the department of health in connection with
31 an application for, or the supervision of, an antitrust exemption
32 sought by the submitting entity under RCW 43.72.310. If a request for
33 such information is received, the submitting entity must be notified of
34 the request. Within ten business days of receipt of the notice, the
35 submitting entity shall provide a written statement of the continuing
36 need for confidentiality, which shall be provided to the requester.
37 Upon receipt of such notice, the department of health shall continue to
38 treat information designated under this section as exempt from

1 disclosure. If the requester initiates an action to compel disclosure
2 under this chapter, the submitting entity must be joined as a party to
3 demonstrate the continuing need for confidentiality.

4 (pp) Records maintained by the board of industrial insurance
5 appeals that are related to appeals of crime victims' compensation
6 claims filed with the board under RCW 7.68.110.

7 (qq) Financial and commercial information supplied by or on behalf
8 of a person, firm, corporation, or entity under chapter 28B.95 RCW
9 relating to the purchase or sale of tuition units and contracts for the
10 purchase of multiple tuition units.

11 (rr) Any records of investigative reports prepared by any state,
12 county, municipal, or other law enforcement agency pertaining to sex
13 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
14 defined in RCW 71.09.020, which have been transferred to the Washington
15 association of sheriffs and police chiefs for permanent electronic
16 retention and retrieval pursuant to RCW 40.14.070(2)(b).

17 (ss) Credit card numbers, debit card numbers, electronic check
18 numbers, card expiration dates, or bank or other financial account
19 numbers, except when disclosure is expressly required by or governed by
20 other law.

21 (tt) Financial information, including but not limited to account
22 numbers and values, and other identification numbers supplied by or on
23 behalf of a person, firm, corporation, limited liability company,
24 partnership, or other entity related to an application for a liquor
25 license, gambling license, or lottery retail license.

26 (uu) Records maintained by the employment security department and
27 subject to chapter 50.13 RCW if provided to another individual or
28 organization for operational, research, or evaluation purposes.

29 (vv) Individually identifiable information received by the work
30 force training and education coordinating board for research or
31 evaluation purposes.

32 (ww) Those portions of records assembled, prepared, or maintained
33 to prevent, mitigate, or respond to criminal terrorist acts, which are
34 acts that significantly disrupt the conduct of government or of the
35 general civilian population of the state or the United States and that
36 manifest an extreme indifference to human life, the public disclosure
37 of which would have a substantial likelihood of threatening public
38 safety, consisting of:

1 (i) Specific and unique vulnerability assessments or specific and
2 unique response or deployment plans, including compiled underlying data
3 collected in preparation of or essential to the assessments, or to the
4 response or deployment plans; and

5 (ii) Records not subject to public disclosure under federal law
6 that are shared by federal or international agencies, and information
7 prepared from national security briefings provided to state or local
8 government officials related to domestic preparedness for acts of
9 terrorism.

10 (xx) Commercial fishing catch data from logbooks required to be
11 provided to the department of fish and wildlife under RCW 77.12.047,
12 when the data identifies specific catch location, timing, or
13 methodology and the release of which would result in unfair competitive
14 disadvantage to the commercial fisher providing the catch data.
15 However, this information may be released to government agencies
16 concerned with the management of fish and wildlife resources.

17 (yy) Sensitive wildlife data obtained by the department of fish and
18 wildlife. However, sensitive wildlife data may be released to
19 government agencies concerned with the management of fish and wildlife
20 resources. Sensitive wildlife data includes:

21 (i) The nesting sites or specific locations of endangered species
22 designated under RCW 77.12.020, or threatened or sensitive species
23 classified by rule of the department of fish and wildlife;

24 (ii) Radio frequencies used in, or locational data generated by,
25 telemetry studies; or

26 (iii) Other location data that could compromise the viability of a
27 specific fish or wildlife population, and where at least one of the
28 following criteria are met:

29 (A) The species has a known commercial or black market value;

30 (B) There is a history of malicious take of that species; or

31 (C) There is a known demand to visit, take, or disturb, and the
32 species behavior or ecology renders it especially vulnerable or the
33 species has an extremely limited distribution and concentration.

34 (zz) The personally identifying information of persons who acquire
35 recreational licenses under RCW 77.32.010 or commercial licenses under
36 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
37 department, and type of license, endorsement, or tag. However, the

1 department of fish and wildlife may disclose personally identifying
2 information to:

3 (i) Government agencies concerned with the management of fish and
4 wildlife resources;

5 (ii) The department of social and health services, child support
6 division, and to the department of licensing in order to implement RCW
7 77.32.014 and 46.20.291; and

8 (iii) Law enforcement agencies for the purpose of firearm
9 possession enforcement under RCW 9.41.040.

10 (aaa)(i) Discharge papers of a veteran of the armed forces of the
11 United States filed at the office of the county auditor before July 1,
12 2002, that have not been commingled with other recorded documents.
13 These records will be available only to the veteran, the veteran's next
14 of kin, a deceased veteran's properly appointed personal representative
15 or executor, a person holding that veteran's general power of attorney,
16 or to anyone else designated in writing by that veteran to receive the
17 records.

18 (ii) Discharge papers of a veteran of the armed forces of the
19 United States filed at the office of the county auditor before July 1,
20 2002, that have been commingled with other records, if the veteran has
21 recorded a "request for exemption from public disclosure of discharge
22 papers" with the county auditor. If such a request has been recorded,
23 these records may be released only to the veteran filing the papers,
24 the veteran's next of kin, a deceased veteran's properly appointed
25 personal representative or executor, a person holding the veteran's
26 general power of attorney, or anyone else designated in writing by the
27 veteran to receive the records.

28 (iii) Discharge papers of a veteran filed at the office of the
29 county auditor after June 30, 2002, are not public records, but will be
30 available only to the veteran, the veteran's next of kin, a deceased
31 veteran's properly appointed personal representative or executor, a
32 person holding the veteran's general power of attorney, or anyone else
33 designated in writing by the veteran to receive the records.

34 (iv) For the purposes of this subsection (1)(aaa), next of kin of
35 deceased veterans have the same rights to full access to the record.
36 Next of kin are the veteran's widow or widower who has not remarried,
37 son, daughter, father, mother, brother, and sister.

1 (bbb) Those portions of records containing specific and unique
2 vulnerability assessments or specific and unique emergency and escape
3 response plans at a city, county, or state adult or juvenile
4 correctional facility, the public disclosure of which would have a
5 substantial likelihood of threatening the security of a city, county,
6 or state adult or juvenile correctional facility or any individual's
7 safety.

8 (ccc) Information compiled by school districts or schools in the
9 development of their comprehensive safe school plans pursuant to RCW
10 28A.320.125, to the extent that they identify specific vulnerabilities
11 of school districts and each individual school.

12 (ddd) Information regarding the infrastructure and security of
13 computer and telecommunications networks, consisting of security
14 passwords, security access codes and programs, access codes for secure
15 software applications, security and service recovery plans, security
16 risk assessments, and security test results to the extent that they
17 identify specific system vulnerabilities.

18 (eee) Information obtained and exempted or withheld from public
19 inspection by the health care authority under RCW 41.05.026, whether
20 retained by the authority, transferred to another state purchased
21 health care program by the authority, or transferred by the authority
22 to a technical review committee created to facilitate the development,
23 acquisition, or implementation of state purchased health care under
24 chapter 41.05 RCW.

25 (fff) Proprietary data, trade secrets, or other information that
26 relates to: (i) A vendor's unique methods of conducting business; (ii)
27 data unique to the product or services of the vendor; or (iii)
28 determining prices or rates to be charged for services, submitted by
29 any vendor to the department of social and health services for purposes
30 of the development, acquisition, or implementation of state purchased
31 health care as defined in RCW 41.05.011.

32 (ggg)(i) Records reflecting communications transmitted in
33 confidence between a public official or employee of a public agency
34 acting in the performance of his or her duties and an attorney serving
35 in the capacity of legal advisor for the purpose of rendering or
36 obtaining legal advice, and records prepared by the attorney in
37 furtherance of the rendition of legal advice.

1 (ii) Records are not exempt from disclosure under this subsection
2 merely because they reflect communications in meetings where legal
3 counsel was present or because a record or copy of a record was
4 provided to legal counsel, if the elements of (ggg)(i) of this
5 subsection are not met.

6 This subsection (1)(ggg) governs exemption of records from the
7 provisions of this chapter based on the attorney-client privilege as
8 applied to public agencies and public officials in their official
9 capacities, consistent with the provisions of RCW 5.60.060(2).

10 (2) Except for information described in subsection (1)(c)(i) of
11 this section and confidential income data exempted from public
12 inspection pursuant to RCW 84.40.020, the exemptions of this section
13 are inapplicable to the extent that information, the disclosure of
14 which would violate personal privacy or vital governmental interests,
15 can be deleted from the specific records sought. No exemption may be
16 construed to permit the nondisclosure of statistical information not
17 descriptive of any readily identifiable person or persons.

18 (3) Inspection or copying of any specific records exempt under the
19 provisions of this section may be permitted if the superior court in
20 the county in which the record is maintained finds, after a hearing
21 with notice thereof to every person in interest and the agency, that
22 the exemption of such records is clearly unnecessary to protect any
23 individual's right of privacy or any vital governmental function.

24 (4) Agency responses refusing, in whole or in part, inspection of
25 any public record shall include a statement of the specific exemption
26 authorizing the withholding of the record (or part) and a brief
27 explanation of how the exemption applies to the record withheld.

28 **Sec. 2.** RCW 42.17.270 and 1987 c 403 s 4 are each amended to read
29 as follows:

30 Public records shall be available for inspection and copying, and
31 agencies shall, upon request for identifiable public records, make them
32 promptly available to any person including, if applicable, on a partial
33 or installment basis as records that are part of a larger set of
34 requested records are assembled or made ready for inspection or
35 disclosure. Agencies shall not deny a request for identifiable public
36 records solely on the basis that the request is overbroad. Agencies
37 shall not distinguish among persons requesting records, and such

1 persons shall not be required to provide information as to the purpose
2 for the request except to establish whether inspection and copying
3 would violate RCW 42.17.260(~~(+5)~~) (9) or other statute which exempts
4 or prohibits disclosure of specific information or records to certain
5 persons. Agency facilities shall be made available to any person for
6 the copying of public records except when and to the extent that this
7 would unreasonably disrupt the operations of the agency. Agencies
8 shall honor requests received by mail for identifiable public records
9 unless exempted by provisions of this chapter.

10 **Sec. 3.** RCW 42.17.300 and 1995 c 397 s 14 and 1995 c 341 s 2 are
11 each reenacted and amended to read as follows:

12 (1) No fee shall be charged for the inspection of public records.
13 No fee shall be charged for locating public documents and making them
14 available for copying. A reasonable charge may be imposed for
15 providing copies of public records and for the use by any person of
16 agency equipment or equipment of the office of the secretary of the
17 senate or the office of the chief clerk of the house of representatives
18 to copy public records, which charges shall not exceed the amount
19 necessary to reimburse the agency, the office of the secretary of the
20 senate, or the office of the chief clerk of the house of
21 representatives for its actual costs directly incident to such copying.

22 (2) Agency charges for photocopies shall be imposed in accordance
23 with the actual per page cost or other costs established and published
24 by the agency. In no event may an agency charge a per page cost
25 greater than the actual per page cost as established and published by
26 the agency. To the extent the agency has not determined the actual per
27 page cost for photocopies of public records, the agency may not charge
28 in excess of fifteen cents per page. Agency documentation of its
29 actual costs for copies, including photocopies, shall be subject to
30 audit for accuracy by the office of the state auditor.

31 (3) An agency may require a deposit in an amount not to exceed ten
32 percent of the estimated cost of providing copies for a request. If an
33 agency makes a request available on a partial or installment basis, the
34 agency may charge for each part of the request as it is provided. If
35 an installment of a records request is not picked up, the agency is not
36 obligated to fulfill the balance of the request.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.17 RCW
2 to read as follows:

3 (1) Each state and local agency shall appoint and publicly identify
4 a public records officer whose responsibility is to serve as a point of
5 contact for members of the public in requesting disclosure of public
6 records and to oversee the agency's compliance with the public records
7 disclosure requirements of this chapter. A state or local agency's
8 public records officer may appoint an employee or official of another
9 agency as its public records officer.

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

16 (3) For local agencies, the name and contact information of the
17 agency's public records officer to whom members of the public may
18 direct requests for disclosure of public records and who will oversee
19 the agency's compliance within the public records disclosure
20 requirements of this chapter shall be made in a way reasonably
21 calculated to provide notice to the public, including posting at the
22 local agency's place of business, posting on its internet site, or
23 including in its publications.

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

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

29 (2) The attorney general, by February 1, 2006, shall adopt by rule
30 an advisory model rule for state and local agencies, as defined in RCW
31 42.17.020, addressing the following subjects:

- 32 (a) Providing fullest assistance to requestors;
33 (b) Fulfilling large requests in the most efficient manner;
34 (c) Fulfilling requests for electronic records; and
35 (d) Any other issues pertaining to public disclosure as determined
36 by the attorney general.

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

3 **Sec. 6.** RCW 42.17.340 and 1992 c 139 s 8 are each amended to read
4 as follows:

5 (1) Upon the motion of any person having been denied an opportunity
6 to inspect or copy a public record by an agency, the superior court in
7 the county in which a record is maintained may require the responsible
8 agency to show cause why it has refused to allow inspection or copying
9 of a specific public record or class of records. The burden of proof
10 shall be on the agency to establish that refusal to permit public
11 inspection and copying is in accordance with a statute that exempts or
12 prohibits disclosure in whole or in part of specific information or
13 records.

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

20 (3) Judicial review of all agency actions taken or challenged under
21 RCW 42.17.250 through 42.17.320 shall be de novo. Courts shall take
22 into account the policy of this chapter that free and open examination
23 of public records is in the public interest, even though such
24 examination may cause inconvenience or embarrassment to public
25 officials or others. Courts may examine any record in camera in any
26 proceeding brought under this section. The court may conduct a hearing
27 based solely on affidavits.

28 (4) Any person who prevails against an agency in any action in the
29 courts seeking the right to inspect or copy any public record or the
30 right to receive a response to a public record request within a
31 reasonable amount of time shall be awarded all costs, including
32 reasonable attorney fees, incurred in connection with such legal
33 action. In addition, it shall be within the discretion of the court to
34 award such person an amount not less than five dollars and not to
35 exceed (~~one~~) five hundred dollars for each day that he or she was
36 denied the right to inspect or copy said public record.

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 the
4 agency's claim of exemption or the last production of a record on an
5 installment basis.

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