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**HOUSE BILL 2307**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representatives Schmick and Jacobsen

Read first time 01/11/24. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to limiting vexatious claims by modifying  
2 administrative and judicial review processes for public records  
3 requests and responses; and amending RCW 42.56.520 and 42.56.550.

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

5 **Sec. 1.** RCW 42.56.520 and 2017 c 303 s 3 are each amended to  
6 read as follows:

7 (1) Responses to requests for public records shall be made  
8 promptly by agencies, the office of the secretary of the senate, and  
9 the office of the chief clerk of the house of representatives. Within  
10 five business days of receiving a public record request, an agency,  
11 the office of the secretary of the senate, or the office of the chief  
12 clerk of the house of representatives must respond in one of the ways  
13 provided in this subsection (1):

14 (a) Providing the record;

15 (b) Providing an internet address and link on the agency's  
16 website to the specific records requested, except that if the  
17 requester notifies the agency that he or she cannot access the  
18 records through the internet, then the agency must provide copies of  
19 the record or allow the requester to view copies using an agency  
20 computer;

1 (c) Acknowledging that the agency, the office of the secretary of  
2 the senate, or the office of the chief clerk of the house of  
3 representatives has received the request and providing a reasonable  
4 estimate of the time the agency, the office of the secretary of the  
5 senate, or the office of the chief clerk of the house of  
6 representatives will require to respond to the request;

7 (d) Acknowledging that the agency, the office of the secretary of  
8 the senate, or the office of the chief clerk of the house of  
9 representatives has received the request and asking the requestor to  
10 provide clarification for a request that is unclear, and providing,  
11 to the greatest extent possible, a reasonable estimate of the time  
12 the agency, the office of the secretary of the senate, or the office  
13 of the chief clerk of the house of representatives will require to  
14 respond to the request if it is not clarified; or

15 (e) Denying the public record request.

16 (2) Additional time required to respond to a request may be based  
17 upon the need to clarify the intent of the request, to locate and  
18 assemble the information requested, to notify third persons or  
19 agencies affected by the request, or to determine whether any of the  
20 information requested is exempt and that a denial should be made as  
21 to all or part of the request.

22 (3) (a) In acknowledging receipt of a public record request that  
23 is unclear, an agency, the office of the secretary of the senate, or  
24 the office of the chief clerk of the house of representatives may ask  
25 the requestor to clarify what information the requestor is seeking.

26 (b) If the requestor fails to respond to an agency request to  
27 clarify the request, and the entire request is unclear, the agency,  
28 the office of the secretary of the senate, or the office of the chief  
29 clerk of the house of representatives need not respond to it.  
30 Otherwise, the agency must respond, pursuant to this section, to  
31 those portions of the request that are clear.

32 (4) Denials of requests must be accompanied by a written  
33 statement of the specific reasons therefor. Agencies, the office of  
34 the secretary of the senate, and the office of the chief clerk of the  
35 house of representatives shall establish mechanisms for ~~((the most))~~  
36 a prompt ~~((possible))~~ review of decisions denying inspection, and  
37 such review shall be deemed completed at the end of the ~~((second))~~  
38 10th business day following the denial of inspection ~~((and))~~. Such  
39 review shall constitute final agency action or final action by the  
40 office of the secretary of the senate or the office of the chief

1 clerk of the house of representatives for the purposes of judicial  
2 review, unless the requester petitions the agency, the office of the  
3 secretary of the senate, or the office of the chief clerk of the  
4 house of representatives for an administrative review in accordance  
5 with subsection (5) of this section, in which case the entity's  
6 determination after the administrative review under subsection (5) of  
7 this section constitutes final agency action or final action by the  
8 office of the secretary of the senate or the office of the chief  
9 clerk of the house of representatives for the purposes of judicial  
10 review.

11 (5) Agencies, the office of the secretary of the senate, and the  
12 office of the chief clerk of the house of representatives shall  
13 establish an administrative review process for requesters to appeal  
14 the denial of a request or to make a claim that the response to a  
15 request is incomplete. The administrative review process must allow a  
16 requester to petition the agency, the office of the secretary of the  
17 senate, or the office of the chief clerk of the house of  
18 representatives, whichever is applicable, for a review of the  
19 agency's response to a public records request within 30 days of the  
20 denial or closure of the request. If, through the administrative  
21 review process, the agency finds that the records were improperly  
22 withheld, the agency must provide the responsive records in  
23 accordance with this title.

24 **Sec. 2.** RCW 42.56.550 and 2017 c 304 s 5 are each amended to  
25 read as follows:

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

35 (2) Upon the motion of any person who believes that an agency has  
36 not made a reasonable estimate of the time that the agency requires  
37 to respond to a public record request or a reasonable estimate of the  
38 charges to produce copies of public records, the superior court in  
39 the county in which a record is maintained may require the

1 responsible agency to show that the estimate it provided is  
2 reasonable. The burden of proof shall be on the agency to show that  
3 the estimate it provided is reasonable.

4 (3) Judicial review of all agency actions taken or challenged  
5 under RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall  
6 take into account the policy of this chapter that free and open  
7 examination of public records is in the public interest, even though  
8 such examination may cause inconvenience or embarrassment to public  
9 officials or others. Courts may examine any record in camera in any  
10 proceeding brought under this section. The court may conduct a  
11 hearing based solely on affidavits. A party seeking judicial review  
12 must have exhausted all administrative remedies provided under RCW  
13 42.56.520.

14 (4) Any person who prevails against an agency in any action in  
15 the courts seeking the right to inspect or copy any public record or  
16 the right to receive a response to a public record request within a  
17 reasonable amount of time (~~shall~~) may be awarded all reasonable  
18 costs, including reasonable attorney fees, incurred in connection  
19 with such legal action. In addition, it shall be within the  
20 discretion of the court to award such person an amount not to exceed  
21 one hundred dollars for each day that he or she was denied the right  
22 to inspect or copy said public record. If the court finds the agency  
23 was in substantial compliance with this title and acted reasonably  
24 and in good faith, then the court shall consider those factors in  
25 determining any award.

26 (5) If the court finds that the party requested to inspect or  
27 copy a public record or participated in the civil action for an  
28 improper purpose, the court may consider that when deciding if they  
29 will award any costs or attorney fees to the party.

30 (6) For actions under this section against counties, the venue  
31 provisions of RCW 36.01.050 apply.

32 (~~(6)~~) (7) Actions under this section must be filed within one  
33 year of the agency's claim of exemption or the last production of a  
34 record on a partial or installment basis.

35 (8) For the purposes of this section, a request made for any  
36 "improper purpose" means the request to inspect or copy a public  
37 record or to bring a civil action pursuant to this section is made  
38 primarily: To harass; to cause an unreasonable or frivolous increase  
39 in the cost of government operations or delay in government action;  
40 in pursuit of an award of statutory fees, costs, or other monetary

1 award; to cause a violation of this chapter; or for any other  
2 frivolous purpose.

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