
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-4130.1/12

ATTY/TYPIST: SCG:eab

BRIEF DESCRIPTION: Clarifying restrictions on the use of the public records act for the purpose of obtaining records for commercial or profit-making purposes.

1 AN ACT Relating to clarifying restrictions on the use of the public
2 records act for the purpose of obtaining records for commercial or
3 profit-making purposes; amending RCW 42.56.120; and creating a new
4 section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the public
7 records act is intended to allow the citizens of Washington full access
8 to the records of the governmental agencies that serve them. The
9 fundamental purpose of such access is to ensure that the activities and
10 processes of state government are conducted in an open and transparent
11 manner and that citizens can obtain the information necessary for
12 meaningful participation in the democratic process. However, the
13 legislature has also recognized that in order to safeguard against
14 records requests that are unduly burdensome, or where the records are
15 sought for commercial or other purposes unrelated to the goals of the
16 act, reasonable restrictions may be placed on the number and types of
17 records that may be obtained.

18 The legislature also finds that there are an increasing number of
19 records requests whose sole purpose is to seek information for

1 commercial or other profit-making purposes and that do not serve to
2 promote the goals of transparency and openness in the operation of our
3 state and local governments. Specifically, the legislature finds that
4 some commercial entities and individuals have been misusing the act by
5 making extensive and burdensome records requests in order to obtain
6 data that is used solely for competitive advantage or for later resale.
7 Such "data mining" is wholly unrelated to the purposes of the public
8 records act and, in fact, serves to undermine the act by overburdening
9 affected public agencies and thus impede the ability of such agencies
10 to respond to legitimate requests for public records.

11 The intent of this act is to strengthen and clarify existing
12 restrictions on the use of public records requests for commercial and
13 profit-making purposes, so as to reduce the misuse of the public
14 records act and ensure that the act can continue to be focused on the
15 goal of promoting governmental transparency and openness.

16 **Sec. 2.** RCW 42.56.120 and 2005 c 483 s 2 are each amended to read
17 as follows:

18 (1) No fee shall be charged for the inspection of public records.
19 Except as provided in subsection (2) of this section, no fee shall be
20 charged for locating public documents and making them available for
21 copying. A reasonable charge may be imposed for providing copies of
22 public records and for the use by any person of agency equipment or
23 equipment of the office of the secretary of the senate or the office of
24 the chief clerk of the house of representatives to copy public records,
25 which charges shall not exceed the amount necessary to reimburse the
26 agency, the office of the secretary of the senate, or the office of the
27 chief clerk of the house of representatives for its actual costs
28 directly incident to such copying. Agency charges for photocopies
29 shall be imposed in accordance with the actual per page cost or other
30 costs established and published by the agency. In no event may an
31 agency charge a per page cost greater than the actual per page cost as
32 established and published by the agency. To the extent the agency has
33 not determined the actual per page cost for photocopies of public
34 records, the agency may not charge in excess of fifteen cents per page.
35 An agency may require a deposit in an amount not to exceed ten percent
36 of the estimated cost of providing copies for a request. If an agency
37 makes a request available on a partial or installment basis, the agency

1 may charge for each part of the request as it is provided. If an
2 installment of a records request is not claimed or reviewed, the agency
3 is not obligated to fulfill the balance of the request.

4 (2) For commercial requests, in addition to the charges allowed in
5 subsection (1) of this section, an agency may also charge reasonable
6 costs incurred in searching for records, reviewing those records to
7 determine whether the records are responsive and whether any exemption
8 applies, and to make redactions, if necessary. Search and review costs
9 must be based on the average hourly salary of staff responsible for
10 searching for and reviewing records, but shall not include any costs
11 incurred by or for legal counsel. An agency must list the hourly costs
12 in its public records act policy and provide an estimate of the cost to
13 the commercial requester before incurring the search costs.

14 (3) For the purposes of this section, "commercial request" means
15 any public records request pertaining to records or information
16 requested for the purpose of resale or for financial gain. The
17 following are not considered commercial requests:

18 (a) Requests by the media as defined in RCW 5.68.010(5);

19 (b) Requests by nonprofit academic institutions;

20 (c) Requests made to investigate alleged government misuse of tax
21 dollars; or

22 (d) Requests made by a person or a person's representative seeking
23 to defend against potential fines, claims, or charges made by the
24 responding agency.

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