



# Knowing the Territory

Basic Legal Guidelines for Washington City,  
County and Special Purpose District Officials



# Open Public Meetings Act

The days of backroom decisions made in smoke-filled rooms are over. Today, the public demands that the decisions reached by their officials occur in meetings open to the public, thus providing an opportunity for those decisions to be scrutinized and for the officials who have made them to be held accountable for their actions.

## Basics

Before 1971, this state had an “open meetings” law which was then codified as [chapter 42.32 RCW](#). It was ineffective, however, because it required only the “final” action of the council, board, or other body to be taken in public (such as the final vote on an ordinance, resolution, motion, or contract). The Open Public Meetings Act of 1971 (now [chapter 42.30 RCW](#)) made significant changes. Most importantly, it requires that *all* meetings of state and municipal governing bodies be open and public, with the exception of courts and the legislature.

Furthermore, a “meeting” generally includes any situation in which a majority (a quorum) of the council, board of commissioners, or other “governing body” (including certain kinds of committees) meets and discusses the business of that body. Social gatherings are expressly excepted, unless the body’s business is discussed at the gatherings. What follows is an outline of the 1971 Act, [chapter 42.30 RCW](#). For a more detailed treatment of the Open Public Meetings Act, see the MRSC publication, *The Open Public Meetings Act – How it Applies to Washington Cities, Towns, and Counties*, Report No. 60 (May 2014).<sup>16</sup>

## Open Public Meetings Act Purpose

The declared purpose of the Act is to make all meetings of the governing bodies of public agencies, even informal sessions, open and accessible to the public, with only minor specific exceptions.

1. The legislature intends that public agencies’ actions and deliberations be conducted openly. [RCW 42.30.010](#).

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<sup>16</sup>See also AGO 1971 No. 33, in which the state attorney general answered numerous questions posed by legislators immediately after the Act was passed.

2. Meetings must be open and public; all persons must be allowed to attend unless otherwise provided by law. [RCW 42.30.030](#).
3. Ordinances, resolutions, rules, regulations, orders, and directives must be adopted at public meetings; otherwise they are invalid. [RCW 42.30.060](#).<sup>17</sup>
4. A vote by secret ballot at any meeting that is required to be open is also declared null and void. [RCW 42.30.060\(2\)](#).

The act must be liberally construed to accomplish its purpose. [RCW 42.30.910](#).

## Applications

The Act applies to all meetings of, among others:

1. All multi-member governing bodies of state and local agencies, and their subagencies. [RCW 42.30.020](#).



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- a. “Subagency” means a board, commission, or similar entity created by or pursuant to state or local legislation, including planning commissions and others. [RCW 42.30.020\(1\)\(c\)](#).<sup>18</sup>
- b. “Governing body” includes a committee of a council or other governing body “when the committee acts on behalf of the governing body, conducts hearings,

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<sup>17</sup>*Slaughter v. Fire District No. 20*, 50 Wn. App. 733, 738, 750 P.2d 656 (1988), rev. denied, 113 Wn.2d 1014 (1989). The court of appeals, in a later case, also held invalid a labor agreement that had been negotiated at meetings that violated the Act. *Mason County v. PERC*, 54 Wn. App. 36, 40-41, 771 P.2d 1185 (1989). In apparent reaction to that case, however, section 1, chapter 98, Laws of 1990 (RCW 42.30.140(4)) broadened the Act’s exemptions to include all collective bargaining sessions and related meetings and discussions with employee organizations.

<sup>18</sup>The term “subagency” does not include a purely advisory body unless it is legally required that its recommendations be considered by the parent body. AGO 1971 No. 33.

or takes testimony or public comment.” [RCW 42.30.020](#).<sup>19</sup>

- c. Certain policy groups representing participants who have contracted for the output of an operating agency’s (WPPSS’) generating plant. [RCW 42.30.020\(1\)\(d\)](#).

The Act does not apply to:

1. Courts or the state legislature. [RCW 42.30.020\(1\)\(a\)](#).
2. Proceedings expressly excluded by [RCW 42.30.140](#), namely:
  - a. Certain licensing and disciplinary proceedings.
  - b. Certain quasi-judicial proceedings that affect only individual rights; e.g., a civil service hearing affecting only the rights of an individual employee, and not the general public.
  - c. Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; also, that portion of a meeting held during labor or professional negotiations, or grievance or mediation proceedings, to formulate strategy or to consider proposals submitted.
  - d. Generally, matters governed by the State Administrative Procedure Act ([chapter 34.05 RCW](#)).
3. Social gatherings, if no “action” (as defined in [RCW 42.30.020\(3\)](#)) is taken. [RCW 42.30.070](#). Note, however, the ensuing explanation of the term “action.”

## Key Definitions

“**Meeting**” means meetings at which “**action**” is taken. [RCW 42.30.020\(4\)](#).

“**Action**” means all transacting of a governing body’s business, including receipt of public testimony, deliberations, discussions, considerations,

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<sup>19</sup>A committee “acts on behalf of the governing body” only when it exercises delegated authority, such as fact finding. AGO 1986 No. 16.

reviews, and evaluations, as well as “final” action. [RCW 42.30.010](#); [42.30.020\(3\)](#).

## Two Kinds of Meetings

### *Regular Meetings*<sup>20</sup>

1. Definition: A recurring meeting held according to a schedule fixed by statute, ordinance, or other appropriate rule.
2. If the designated time falls on a holiday, the regular meeting is held on the next business day.
3. There is no statutory limitation as to the kind of business that may be transacted at a “regular” (as distinguished from “special”) meeting.

The Open Public Meetings Act itself does not require any special notice of a regular meeting. However, later statutory enactments require municipal governing bodies to establish a procedure for notifying the public of all meeting agendas. [RCW 35.27.300](#); [35.23.221](#); [35.22.288](#); [35A.12.160](#).<sup>21</sup>

### *Special Meetings*<sup>22</sup>

1. Definition: Any meeting other than “regular.”
2. May be called by the presiding officer or a majority of the members.
3. Must be announced by written notice to all members of the governing body; also to members of the news media who have filed written requests for such notice. The notice of a special meeting:
  - a. Must specify the time and place of the meeting and the business to be transacted.<sup>23</sup>

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<sup>20</sup>[RCW 42.30.060-075](#).

<sup>21</sup>Failure to provide public notice of the preliminary agenda of a city council or board of county commissioners meeting and even of an item which is to be considered at the meeting may, in certain circumstances, invalidate action taken at that meeting. *Port of Edmonds v. Fur Breeders*, 63 Wn. App. 159, 166-67, 816 P.2d 1268 (1991). The notice given must fairly apprise the public of the action to be taken at the meeting.

<sup>22</sup>[RCW 42.30.080](#).

<sup>23</sup>Other business may be discussed but final action may be taken only on matters specified in the notice of the special meeting.

- b. Must be delivered personally, by mail, by fax, or by e-mail 24 hours in advance.
- c. Must be posted on agency's website, if any, so long as agency has at least ten full time employees and has a designated employee or contractor responsible for updating the website.
- d. May be waived by a member.
- e. Is not necessary in specified emergencies. See also [RCW 42.30.070](#).

## Meeting Place

1. As far as the Open Public Meetings Act is concerned, a meeting may be held at any place within or outside the territorial jurisdiction of the body unless otherwise provided in the law under which the agency was formed. [RCW 42.30.070](#).<sup>24</sup> However, the meeting place should not be selected so as to effectively exclude members of the public. [RCW 42.30.030](#).
2. The place of a special meeting must be designated in the notice. [RCW 42.30.080](#).
3. In certain emergencies requiring expedited action, the meeting or meetings may be held in such place as is designated by the presiding officer and notice requirements are suspended. [RCW 42.30.070](#) and [42.30.080](#).
4. An unintended meeting may occur by telephone or e-mail if a quorum of the body discusses a topic of business through an active

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<sup>24</sup>Note that the restrictions on holding city and town council meetings within the corporate limits were removed by the state legislature in 1994. However, all final actions on resolutions and ordinances must take place within the corporate limits of the city.

A board of county commissioners or county council must hold its regular meetings at the county seat. [RCW 36.32.080](#). Also, based upon 2015 legislation (chapter 179, Laws of 2015) regular meetings may be held elsewhere in the county, no more than once a quarter, if doing so will increase citizen engagement in government. However, it may hold special meetings at some other location in the county “if the agenda item or items are of unique interest or concern to the citizens of the portion of the county in which the special meeting is to be held.” [RCW 36.32.090](#).

exchange of information and opinions by telephone or e-mail.<sup>25</sup>

5. Notice must be posted on the agency's website unless the agency does not have a website, has fewer than 10 full-time equivalent employees; or does not employ personnel whose job it is to maintain or update the website.

## Meeting Conduct

1. All persons must be permitted to attend (RCW 42.30.030) except unruly persons as provided in RCW 42.30.050.
2. Attendance may not be conditioned upon registration or similar requirements. RCW 42.30.040. (The Act does not prohibit a requirement that persons identify themselves prior to testifying at hearings.)
3. In cases of disorderly conduct:
  - a. Disorderly persons may be expelled.
  - b. If expulsion is insufficient to restore order, the meeting place may be cleared and/or relocated.
  - c. Non-offending members of the news media may not be excluded.
  - d. If the meeting is relocated, final action may be taken only on agenda items. RCW 42.30.050.
4. Adjournments/Continuances (RCW 42.30.090-.100):
  - a. Any meeting (including hearings) may be adjourned or continued to a specified time and place.
  - b. Less than a quorum may adjourn.
  - c. The clerk or secretary may adjourn a meeting to a stated time and place, if no members are present, thereafter giving the same written notice as required for a special meeting.
  - d. A copy of the order or notice must be posted immediately on or near the door

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<sup>25</sup>See *Battle Ground School District v. Wood*, 107 Wn. App. 550, 27 P.3d 1208 (2001).

where the meeting was being (or would have been) held.

- e. An adjourned regular meeting continues to be a regular meeting for all purposes.

## Executive Sessions

1. Definition (as commonly understood): That portion of a meeting from which the public may be excluded.
2. Permissible When:<sup>26</sup>
  - a. To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;
  - b. To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property must be taken in a meeting open to the public;
  - c. To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;
  - d. To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or meeting open to the public must be conducted upon such complaint or charge;
  - e. To evaluate the qualifications of an applicant for public employment or to review

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<sup>26</sup>The listing of matters for which a local governing body may meet in executive session includes here only those that such a body would address. There are others identified in the statute (e.g., financial and commercial information supplied by private persons to an export trading company) not identified here.

the performance of a public employee.<sup>27</sup> However, “[except when certain exempted labor negotiations are involved], discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public . . .” Furthermore, the final action of hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, must also be taken in an open public meeting;

- f. To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;
- g. To discuss with legal counsel representing the agency matters relating to: agency enforcement actions; or litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency. RCW 42.30.110(1).

Potential litigation is defined as being matters protected under the attorney-client privilege and as either: specifically threatened; reasonably believed and may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or as litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency. The mere presence of an attorney at a session does not

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<sup>27</sup>A 1985 amendment (chapter 366, Laws of 1985), together with some contemporaneous circumstances (See AGO 1985 No. 4), raised a question as to whether or not this section continued to allow executive sessions to review applications for appointive public offices that are not also employee positions, or the performance of such appointees, as distinguished from “public employment” or “employees”. However, attorneys for many public agencies, including members of the attorney general’s staff, take the position that the Act continues to allow executive sessions for those purposes. (Memorandum to MRSC’s general counsel from Senior Assistant Attorney General Richard M. Montecucco, dated March 15, 1990.)

in itself allow the meeting to be held as an executive session.<sup>28</sup>

- 3. Conduct of Executive Sessions:
  - a. An executive (closed) session must be part of a regular or special meeting. RCW 42.30.110.<sup>29</sup>
  - b. Before convening an executive session, the presiding officer must publicly announce the purpose for excluding the public and the time when the executive session will conclude. The executive session may be extended by announcement of the presiding officer. RCW 42.30.120(2).
  - c. Final adoption of an “ordinance, resolution, rule, regulation, order or directive” must be done in the “open” meeting. RCW 42.30.120.
- 4. Improper Disclosure of Information Learned in Executive Session:
  - a. It is the clear intent of the provisions relating to executive sessions that information learned in executive session be treated as confidential. However, there is no specific sanction or penalty in the Open Public Meetings Act for disclosure of information learned in executive session.
  - b. A more general provision is provided in RCW 42.23.070 prohibiting disclosure of confidential information learned by reason of the official position of a city officer. This general provision would seem to apply to information that is considered confidential and is obtained in executive sessions.

## Minutes

- 1. Minutes of regular and special meetings must be promptly recorded and open to public inspection. (The statute does not specify any particular kind of “recording.”) RCW 42.32.030.

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<sup>28</sup>RCW 42.30.110(1)(i).

<sup>29</sup>There is no prohibition against holding a special meeting solely to consider one or more subjects in executive session, but the subject matter must be identified at least in general terms in the meeting notice; e.g., “to consider a building site,” or “to consider applicants for employment.” RCW 42.30.080.

2. No minutes are required to be recorded for executive sessions. If minutes are kept for an executive session, be aware that there is no categorical exemption for executive session minutes under the Public Records Act. (The Public Records Act is discussed in the next chapter.)
3. Mandamus or injunctive action may be brought to stop or prevent violations. RCW 42.30.130.
4. Any person may sue to recover the penalty or to stop or prevent violations. RCW 42.30.120-.130.

## Violations

1. Ordinances, rules, resolutions, regulations, orders, or directives adopted or secret ballots taken, in violation of the Act, are invalid. RCW 42.30.060. Agreements negotiated or adopted in closed meetings held in violation of the act also may be invalid. Mason County v. PERC, 54 Wn. App. 36, 40-41, 771 P.2d 1185 (1989). (But see footnote 19, *supra*, regarding collective bargaining and related matters.)
2. A member of a governing body who knowingly participates in violating the Act is subject to a \$100 civil penalty. RCW 42.30.120.
5. A person prevailing against an agency is entitled to be awarded all costs including reasonable attorneys' fees. However, if the court finds that the action was frivolous and advanced without reasonable cause, it may award to the agency reasonable expenses and attorney fees. RCW 42.30.120(2).
6. A knowing or intentional violation of the Act may provide a legal basis for recall of an elected member of a governing body, although recall is not a penalty under the Act.<sup>30</sup>

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<sup>30</sup>See *In re Recall of Ward*, 175 Wn.2d 429 (2012); *In re Beasley*, 128 Wn.2d 419 (1996); *In re Roberts*, 115 Wn.2d 556 (1990); *Estey v. Dempsey*, 104 Wn.2d 597 (1985); *Teaford v. Howard*, 104 Wn.2d 580 (1985); *In re Recall Charges Against Davis*, 164 Wn.2d 361 (2008).



# Public Records

The public, through legislation originally adopted by Initiative 276 in 1972, requires that records prepared, owned, used or retained by their government officials and employees be made available for inspection and copying. The rules that have been developed by the courts and through legislative amendments to help gain the required openness are sometimes complex; they balance the public's need to know with the protection for certain records that an agency can keep confidential for valid reasons specified in state law. Failure to provide records as required by law can be expensive, both monetarily and in the loss of public trust.

## Basics

In addition to a subchapter on public records disclosure which was modeled after the federal “Freedom of Information Act,” Initiative 276 also dealt with the subjects of campaign financing, legislative lobbying (including lobbying by municipal and other governmental agencies), and personal financial disclosure by public officials and candidates. The regulations on campaign finance, legislative lobbying and personal finance disclosure are covered in [chapter 42.17A RCW](#). The Public Disclosure Commission has extensive information available to candidates and public officials on campaign finance, legislative lobbying and personal financial disclosure; this publication will not duplicate that information.

The following discussion is intended to supply a basic working knowledge of the “freedom of information” provisions in the Public Records Act (PRA), codified at [chapter 42.56.RCW](#).<sup>31</sup> For a more detailed treatment of the public records disclosure law, see the MRSC publication, *Public Records Act for Washington Cities, Counties and Special Purpose Districts*.

## Purpose

The PRA is “a strongly worded mandate for broad disclosure of public records.” *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 127, 580 P.2d 246 (1978).

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<sup>31</sup>Although not discussed here, local officials should have some familiarity with the Criminal Records Privacy Act, [chapter 10.97 RCW](#). This Act provides for the dissemination (or withholding) of criminal history record information.





Charges for photocopying must be imposed in accordance with the actual per page cost or other costs established and published by the agency. If the agency has not determined actual per page costs, the agency may not charge in excess of fifteen cents per page. RCW 42.56.120.

If the requesting person makes a request for a large amount of records, the agency may respond on a partial or installment basis, providing the records as they are assembled or made ready for inspection or disclosure. RCW 42.56.080.

If a person requests copies of records, an agency may require the person make a deposit for the cost of the copies, in an amount not to exceed ten percent of the estimated cost. If an agency makes a request available on a partial or installment basis, the agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request. RCW 42.56.120.

Also, agencies may not charge for staff time in locating records or mere inspections of records. RCW 42.56.100; RCW 42.56.120; see also AGO 1991 No. 6.

## Records That May Be Withheld

1. RCW 42.56.070(9) forbids public agencies from providing lists of individuals “requested for commercial purposes” unless specifically authorized or directed by law. For example, in a 1975 letter opinion, the attorney general concluded that a request by a business promotional organization for a list of individuals’ names to enable that organization to distribute advertising materials had to be denied. AGLO 1975 No. 38.

However, lists of professional licensees and applicants are available to recognized professional associations or educational organizations.

2. There is no general “right of privacy” exemption; rather, a few specific exemptions incorporate privacy as one of the elements of the exemptions. Furthermore, a right of privacy is violated only if disclosure (1) would be highly offensive to a reasonable person and (2) is not of legitimate concern to the public.

RCW 42.56.050. Mere inconvenience or embarrassment is not sufficient in itself to constitute a violation of privacy. Police Guild v. Liquor Control Board, 112 Wn.2d 30, 38, 769 P.2d 283 (1989).

3. RCW 42.56.210-.480 grant qualified exemptions from public inspection for certain specific types of records. Some of the more important exemptions from the standpoint of a municipality include the following:
  - a. Personal information in files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.
  - b. Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.<sup>33</sup>
  - c. Certain taxpayer information.
  - d. Intelligence and investigative records compiled by investigative, law enforcement and penology agencies.
  - e. Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies (other than the Public Disclosure Commission) if disclosure would be a danger to a person’s life, safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, that desire shall govern.
  - f. Test questions, scoring keys, and other examination data used to administer

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<sup>33</sup>Whether information is “personal” depends mainly on whether or not the information pertains to the public’s business versus the individual’s business. AGO 1973 No. 4. In Tacoma Public Library v. Woessner, 90 Wn. App. 205, 951 P.2d 357, rev. denied, 136 Wn.2d 1030 (1998), the court of appeals explained that the determination on whether this exemption applies focuses on whether the requested file contains personal information that is normally maintained for the benefit of employees, disclosure of which would “violate their right to privacy.” For example, records showing salaries, fringe benefits, and numbers of hours worked by named employees are not exempt, but private information such as employee non-public job evaluations, charitable contributions, private addresses, and phone numbers can be withheld to protect privacy. 90 Wn. App. at 218-223.

a license, employment, or academic examination.

- g. Certain real estate appraisals and documents prepared for the purpose of considering the selection of site or related to the acquisition, sale or lease of property.
- h. Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.
- i. Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record is not exempt when publicly cited by an agency in connection with any agency action. (Referred to as the “deliberative process” exemption.)
- j. Records that are relevant to a controversy to which the agency is a party but which would not be available to another party under pre-trial court discovery rules.
- k. Records of archeological sites.
- l. Certain library information.
- m. Financial information required in connection with prequalifying bidders on certain state contracts.
- n. All applications for public employment including names, resumes, and other related information.
- o. Residential addresses and residential telephone numbers, electronic mail addresses, social security numbers, emergency contact information of employees or volunteers of a public agency held in personnel records and other employment related records or volunteer rosters, or are included in any mailing list of employees or volunteers.
- p. Residential addresses and telephone numbers of utility customers.
- q. Credit and debit card numbers, electronic check numbers, and card expiration dates.

These exemptions are qualified, however. If a record contains both exempt and non-exempt

information, the agency cannot withhold the entire record. Instead, the agency may redact only that portion of the record that falls within a specific exemption and must release the remainder. *Mechling v. Monroe*, 152 Wn. App 830, 853, 222 P.3d 808 (2009). Furthermore, when the reason for the exemption ceases, the records may lose their exemptions. For example, records which fall under the deliberative process exemption lose their exempt status once the policies or recommendations set forth in the records have been implemented. *West v. Port of Olympia*, 146 Wn. App 108, 192 P.3d 926 (2008). Also, real estate appraisals are no longer exempt when the acquisition or sale is abandoned or the property has been acquired or sold. [RCW 42.56.260](#).

- 4. A law enforcement authority is prohibited from requesting disclosure of records belonging to a municipal utility unless the authority provides a written statement that it suspects the utility customer has committed a crime and the authority has a reasonable belief that the records could determine the truth of the suspicion. [RCW 42.56.335](#).
- 5. Information on concealed pistol licenses is exempt from disclosure except that such information may be released to law enforcement or corrections agencies.
- 6. Medical Records – Public inspection and copying of health care information of patients is covered by [chapter 70.02 RCW](#). That chapter generally provides that a health care provider, a person who assists as a health care provider in the delivery of health care, or an agent or employee of a health care provider may not disclose information about a patient to any other person without the patient’s written authorization. [RCW 70.02.020](#). There are some exceptions to this rule, and, although not discussed here, these provisions may become applicable to cities and counties in some situations. See [RCW 70.02.050](#).

## Responding to Records Requests

Agencies are required to make their records available “promptly” on request. They must, within five business days of the request, either (1) provide the record, (2) provide a link to the specific page on

the agency's website where the records are located (unless the requestor notifies the agency that he or she cannot access records through the internet), (3) acknowledge the request and give an estimate of when the response will be made,<sup>34</sup> or (4) deny the request. They must give written reasons for denials of access or copies. There must be procedures for reviewing decisions denying requests. If a request is denied, the review of the denial is considered complete at the end of the second business day following the denial. RCW 42.56.520.

Agencies should adopt procedures to protect their records and prevent interference with agency functions. An agency may seek a court order to protect a particular record. RCW 42.56.540.

## Violations

A person whose request for inspection or copying is wrongly denied can sue on his or her own behalf. The lawsuit must be filed within one year of the agency's claim of exemption or last production of a record. The court may order the record(s) be produced. The successful citizen is then entitled to be reimbursed for all costs of the suit, including a reasonable attorney's fee, and will be awarded an amount which does not exceed \$100 per day for each day the request was denied.<sup>35</sup> The burden of proof is generally on the agency to justify its decision on the basis of a specific statutory exemption allowing for non-disclosure.<sup>36</sup>

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<sup>34</sup>Reasons justifying additional time to respond include time needed to clarify the intent of the request, to locate and assemble information requested, to notify third persons and agencies affected by the request, or to determine whether any of the information is exempt. [RCW 42.56.550](#). A person who believes the estimate of time required to respond is unreasonable may petition the superior court to have the agency justify the response time as reasonable. The burden of proof to show reasonableness is on the agency. [RCW 42.56.550\(2\)](#).

<sup>35</sup>See *Yousoufian v. Office of the King County Executive*, 168 Wn.2d 444 (2010).

<sup>36</sup>[RCW 42.56.550](#).