

SB 5571/HB 1597: Limiting frivolous claims by modifying administrative and judicial review processes for public records request responses.

The bill does not impact ability to request records, while helping reduce the number of frivolous lawsuits.

- The bill would give agencies ten days (instead of two) to complete an internal review of denials of requests.
- If a records requester is not satisfied with the agency’s response (because their request was denied or they believe they received incomplete records), the requester would be able to petition the agency for a review within 30 days of the denial or closure of that request.
- This bill would require cities to establish an administrative review process to handle these appeals. Agencies would have to complete the review within 20 business days of receiving the petition. If this process uncovers records that were improperly withheld, the agency would need to provide the requester with those records.
- Requesters would have to exhaust all administrative remedies available before seeking judicial review. Courts would be required to look at whether cities acted reasonably and in good faith when determining an award and would have the option to direct all or a portion of the award to be deposited into the local government archives account, which funds public records consultation, training, and providing local governments with resources to support records management and retention.
- If the court finds that the requester participated in civil action for an improper purpose, the court may not assess and award costs or attorney fees to the party. Improper purpose is defined as the intent to “harass, to cause an unreasonable or a frivolous increase in the cost of government operations or delay in government action; in pursuit of an award of statutory fees, costs, or other monetary award; to cause a violation of this chapter; or for any other frivolous purpose”.

Impact of public record requests on all 215 agencies reporting to JLARC:

	2020	2021
Total requests received (Jan. 1 – Dec. 31)	357,781	383,200
Costs of fulfilling records requests	\$87,351,025	\$99,941,236
Costs incurred for managing and retaining records	\$194,510,553	\$192,469,297

Source: 2022 JLRAC Public Records Report – only agencies with more than \$100,000 in public records costs are required to report.

In the public records report issued by the Joint Legislative Audit & Review Committee (JLARC), which includes data from 215 agencies across Washington (30% of the statewide total), many reported anecdotally that they have received a higher volume of requests, requesters are now requesting higher volumes of information, and requests are more complicated in nature. As an example, **in the past four years a single individual has filed over 100 lawsuits** against agencies across Washington, costing taxpayers millions of dollars in settlements, legal costs, penalties, and other payments.

The public agencies reported **133 court claims filed in 2021 alleging a violation of the PRA**, which has increased every year since 2018. These 215 agencies spent **\$7,214,129 on litigation costs associated with public records requests in 2021**.