



**WHATCOM COUNTY  
EXECUTIVE ORDER 2017-04**

**Amendment to the 2017 Unified Fee Schedule**

WHEREAS, the 2017 Unified Fee Schedule was adopted by County Council through Ordinance No. 2016-049; and

WHEREAS, Governor Inslee signed ESHB 1594 and EHB 1595 on May 16, 2017 putting into place a number of changes to the Public Records Act and records retention laws. The changes went into effect on July 23, 2017; and

WHEREAS, the proposed rate changes are consistent with the desire of Whatcom County to recover a portion of the costs associated with reproducing materials in response to the Public Records Act; and

WHEREAS, the County Executive is authorized by County Ordinance No. 2007-070 to make modifications to the Unified Fee Schedule by Executive Order.

NOW, THEREFORE, BY VIRTUE OF THE POWER VESTED IN ME BY THE HOME RULE CHARTER FOR WHATCOM COUNTY, I HEREBY ORDER, EFFECTIVE THE DATE OF SIGNATURE, THAT THE 2017 UNIFIED FEE SCHEDULE SHALL BE AMENDED TO INCLUDE THE FOLLOWING FEES TO BE LISTED UNDER THE HEADING OF ALL DEPARTMENTS:

<b>UFS #</b>	<b>Description</b>	<b>Rate</b>	<b>Rate Basis</b>	<b>2017 Proposed Change</b>
New	Scanning fee for records scanned in response to request for Public Records	\$.10	Per page	New fee resulting from ESHB 1594 and EHB 1595

DATED THIS 23<sup>rd</sup> DAY OF OCTOBER, 2017.

  
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Jack Louws, County Executive

Governor Inslee signed ESHB 1594 and EHB 1595 on May 16, putting into place a number of changes to the Public Records Act and records retention laws. The changes went into effect on July 23, 2017.

## **New Charges Authorized**

### Charges for Electronic Records

Agencies are now expressly authorized to charge for copying and producing electronic records. An agency can charge actual costs incurred for providing electronic copies, including costs related to production, file transfer, storage, and transmission.

- A. If agency policy establishes that calculating actual costs would be unduly burdensome, then the following default charges may be charged:
  - 10 cents/page for records scanned into electronic format
  - 5 cents for every four electronic files or attachments uploaded to an email, cloud storage service, or other electronic delivery system
  - 10 cents/gigabyte for transmitting records electronically
- B. If a requestor asks an agency to provide an estimate of charges before copies are made, the agency must provide such an estimate. The requestor must then be given the opportunity to revise their request to reduce the charges.
- C. A third option is charging a flat fee of \$2 for providing any records (not just electronic) so long as the agency reasonably estimates that the costs for producing the records are clearly equal to or more than \$2.

### Charges for Customized Access

Another modification is an allowed charge related to requests requiring the use of information technology expertise to prepare data compilations or provide customized electronic access services that are not otherwise used by the agency. Agencies need to describe this charge to the requestor prior to assessment and can require a deposit of up to 10% of the estimated customized service charge costs.

## **New Tracking Mandate for Public Records**

One change is the new tracking mandate. Not part of the original bill, the legislature added performance measures to ESHB 1594, requiring that all agencies log:

- Identity of requestor (if provided)
- Date and text of request
- Description of records produced in response to request
- Description of records redacted or withheld and the reasons for redaction/withholding
- Date of final disposition of the request.

Agencies with \$100,000 or more in annual staff and legal costs associated with fulfilling public records requests during the prior fiscal years must take this tracking several steps further (additional tracking is

- State Archives competitive grant program to improve information technology systems for public record retention, management, and disclosure, and related training

These assistance programs are funded through June 2020.

## **Changes to Records Procedures**

### Modified Definition of a Public Record

Another change is the modification of the public records definition to exclude records not required to be retained by the agency that are held by volunteers who:

- Do not serve in an administrative capacity;
- Have not been appointed by the agency to an agency board, commission, or internship; and
- Do not have a supervisory role or delegated agency authority.

### Request for "All Records" and Bot Requests May be Denied

An agency can deny a request for all or substantially all records of an agency not relating to a particular topic. An agency can also deny automatically generated requests received from the same requestor within a 24-hour period, if the requests cause excessive interference with the other essential functions of the agency.

### New 5-Day Response Option

Agencies can request clarification of a request, and must couple that with an estimated response time. If the requestor fails to respond to the clarification request and the entire request is unclear, an agency need not further respond to the request. If portions of the request are clear, however, the agency must respond to those portions.