

JLARC Unveils Public Records Reporting System

Legal Alert
May 15, 2018

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The public records reporting system is now open — Are you ready?

In 2017, the state legislature adopted [ESHB 1594](#), which made significant amendments to public records laws. One of those changes is a new reporting requirement in [RCW 40.14.026\(5\)](#). It requires each agency with actual staff and legal costs associated with fulfilling public records request of at \$100,000 during the prior fiscal year to report to the [Joint Legislative Audit and Review Committee](#) (JLARC) on 18 different public records metrics.

JLARC has put together a [public records reporting page](#) with a lot of helpful information designed to help agencies comply with this new reporting requirement, including agency guidance, FAQs, and cost estimation worksheets. In addition, the JLARC [public records reporting system](#) is now open, and [instructions](#) for using the system have been provided.

This blog post will cover some of the questions MRSC has received about JLARC public records reporting requirements.

Are we an “agency” for the purpose of ESHB 1594?

The Public Records Act (PRA) definition of agency applies, so if your agency is subject to the PRA, then ESHB 1594 applies to you. But, as detailed below, the law treats agencies who spend more than \$100,000/year in staff and legal costs associated with fulfilling record requests differently than those who spend less.

What is the deadline for reporting for the initial 2017 reporting period?

The deadline is July 1, 2018. However, that day is a Sunday, so you might want to calendar it for Friday, June 29, 2018.

What is the 2017 reporting period?

ESHB 1594 took effect on July 23, 2017, so the 2017 reporting period is July 23, 2017 to December 31, 2017. After that, the reporting periods will be for the entire preceding calendar year.

I am sure my agency did not meet the \$100,000 threshold. Are we in the clear?

No, your agency must still respond. Even if an agency did not meet the spending threshold, it must still log onto the JLARC public records reporting system and attest to that fact. Agencies will not submit their calculations in this regard. Also, an agency may choose to voluntarily report even if it does not meet the \$100,000 threshold.

Are there tools to help estimate the costs of fulfilling public records costs?

Yes, tools are available. JLARC has provided a \$100,000 Tool to help you determine if your agency is required to report and a Public Records Cost Estimation Worksheet for agencies that do report. These tools are provided as a convenience — agencies are not required to use them.

What if we didn't closely track the metrics for the initial reporting period?

Here is what JLARC says about that in its Agency Guidance (p. 3):

Because JLARC guidance was not published until mid-November, JLARC recognizes that many agencies did not collect data in a manner consistent with these guidelines. With that said, agencies should make a good faith effort to provide the best quality data available.

I don't understand one of the metrics — who can I turn to for help?

Check out the resources available on the [JLARC public records reporting page](#), especially the Metric FAQs and the Agency Guidance. If you still need help, you can email JLARC at JLARCPublicRecStudy@leg.wa.gov.

Will JLARC audit the accuracy of information submitted?

No, each agency is responsible for the accuracy of the data it submits.

What will JLARC do with this information?

JLARC will collect the data reported and will provide a method for the public and the state legislature to view it. JLARC already performs a similar function with respect to municipal use of [lodging tax revenues](#), and it may be that a similar approach will be used for public records.

What are the penalties for failure to report?

Failing to report would constitute a violation of RCW 40.14.026(5), but the statute does not create specific penalties. Failure to report would also be apparent to the public once JLARC publishes the data it receives from agencies.

How long will these reporting requirements last?

ESHB 1594 does not contain a “sunset” date for reporting, so this should be viewed as an ongoing annual requirement.

If you have any questions, contact a member of our [Public Records & Open Government](#) team.