

Ask MRSC

AWC Annual Conference 2023

Thursday, June 22, 2023

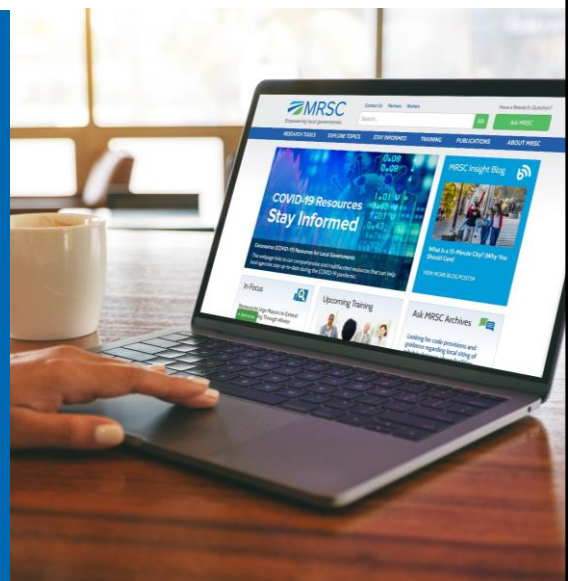


1

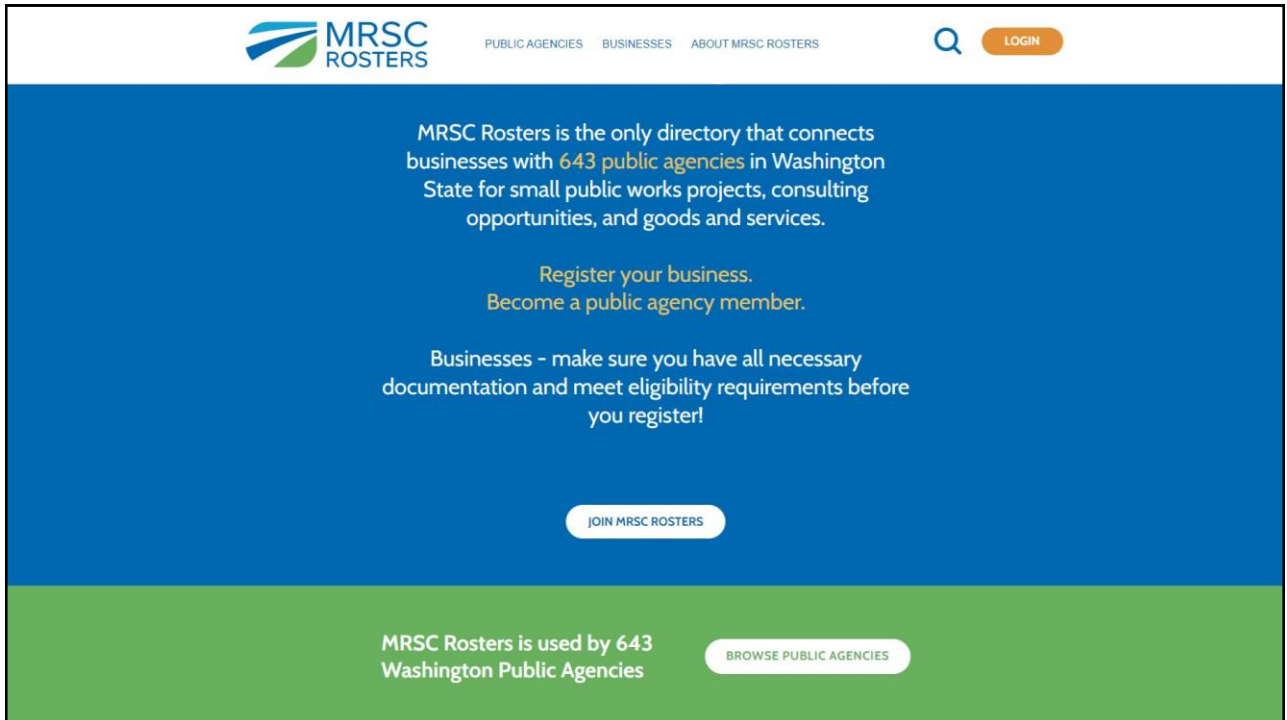
About MRSC

**Research and Consulting Services
for Washington Local Governments
and State Agencies**


- Free consultation (Ask MRSC)
- Guidance on hundreds of topics
- Webinars and workshops
- E-newsletters
- Sample documents
- Research tools



2



3



Who's the Boss?

- Council liaison to advisory committees
 - Who appoints?
 - What's the role?
 - What are the risks?
 - How are you managing these?

4

Budgets



Budgeting in Washington State

Cities, counties, and certain special purpose districts in Washington State are required to adopt budgets on an annual or, in some cases, biennial (two-year) basis. These budgets not only provide legal authority to expend funds for various purposes, but they also reflect the legislative body's priorities and the organization's goals.

For all cities and counties, and most special purpose districts, the fiscal year runs from January 1 to December 31, unlike the State of Washington's fiscal period which runs from July 1 to June 30. Budget season typically kicks into high gear in the summer, culminating with the adoption of next year's budget no later than December 31. (School districts and educational service districts have a fiscal year from September 1 to August 31.)

In addition, MRSC recommends that local governments review and update their financial policies as part of the pre-budget process to make sure the policies are still relevant and meet the jurisdictions' objectives.

MRSC provides many resources, listed below, to help guide local governments through the budget process. Some of these resources are relatively static and change little from year to year, while others are updated more frequently, culminating with the release of a new *Budget Suggestions* publication every year at the end of July.

2023 Budget Calendar for Cities and Towns

Pre-Budget Items (Spring/Summer)	Council retreat; Adopt/update financial policies; Public hearings for capital facility plan updates; Public forums or community outreach (ex: community priorities); Mayor/manager communicates budget objectives to staff
Sept. 12	Budget request to all department heads
Sept. 12-25	Department heads prepare estimates of revenues and expenditures; Clerk prepares estimates for debt service and all other estimates
Sept. 25	Implicit price deflator calculated (only applies to cities of 10,000+ population)
Sept. 26	Budget estimates from department heads filed with clerk
Oct. 3	Clerk provides estimates filed by department heads to mayor/manager showing complete financial program
Oct. 3	Mayor/manager provides council with estimates of revenues from all sources, including estimates prepared by clerk, for consideration of setting property tax levy
Mid-October to mid-November (suggested)	Public hearing on revenue sources including possible increases in property tax
Nov. 2	Mayor/manager prepares preliminary budget and budget message; files with clerk and council

5

Budget Hearings

Q

How many budget hearings must cities have?

- a) 1
- b) 2
- c) 3

6

Place Holder for Answer Slide



No Spoilers!

7

Budget Hearings

Q

Are cities required to have hearings to amend their budget?

- a) Yes
- b) No
- c) It depends

8

Place Holder for Answer Slide



No Spoilers!

9

What is a Public Record?

Must be any writing containing information:

Related to the
conduct of
government

The performance of
any governmental or
proprietary function

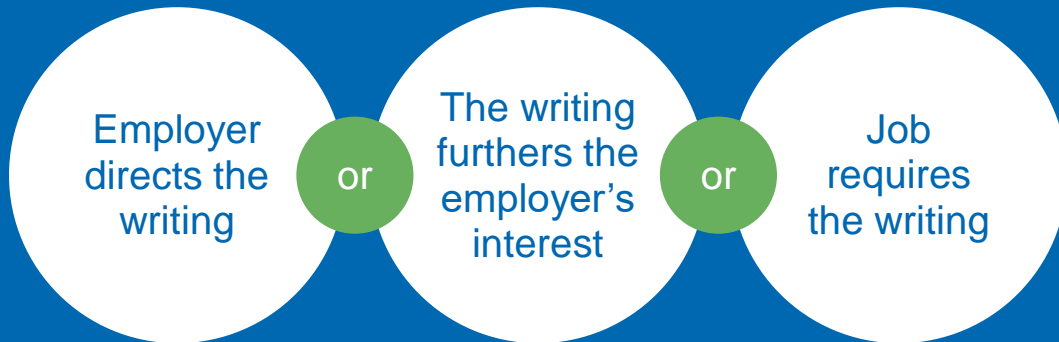
Prepared, owned,
used, or retained
by the agency

RCW 42.56.010

10

Scope of Employment?

If record resides on a personal device or account, apply “scope of employment” test:



11

Scope of Employment?



Texting about work-related matters from personal cell phone

Nissen v. Pierce Co.



Texting spouse about working late

Nissen v. Pierce Co.

12

Scope of Employment?



Emailing on a personal account, even if account was originally created for private or campaign use

West v. Vermillion



Posting general agency information on personal Facebook account
Caution: Comments/Engaging

West v. Puyallup

13

An Exemption's application is narrow and specific to the record.

WFSE Council 28 v. State,
22 Wn. App.2d 392, 511 P.3d 119 (2022)

Public employees who are survivors, or whose immediate family members are survivors, of domestic violence, sexual assault, stalking, or harassment, have a substantive due process right to personal security and bodily integrity. This constitutional right precludes the State from disclosing their name, physical work location, and work contact information when doing so presents a substantial likelihood that the employee's physical safety or the safety of that employee's family member would be in danger. RCW 42.56.540 requires an individualized assessment for injunctive relief. The case was remanded for further proceeding on whether requester qualifies as media under RCW 42.56.250(8).

14

Penalties are at the discretion of the trial court, overturned if there is an abuse of discretion.

Kitsap County v. Campese

The proper focus for setting penalties is on the agency's conduct or motivation, not the requestor's motivation.

Hood v. Columbia County

The inadequate search not only failed to discover responsive records, but it constituted an aggravating factor the trial court did not consider when calculating the per diem penalty.

Cantu v. Yakima School District

Trial court did not abuse its discretion when it denied Requester's motion for a PRA penalty, attorney fees, and costs as being premature because case was not concluded.

Kitsap County v. Campese

15

TIPS & TAKEAWAYS

- Don't count on the appellate courts to save you from a penalty award.
- If there is an error, demonstrate that it is due to an oversight, not a systemic problem.
- Penalty awards can vary based on agency action (or inaction).

16

An Exemption's application is narrow and specific to the record.

WFSE Council 28 v. State,
22 Wn. App.2d 392, 511 P.3d 119 (2022)

Public employees who are survivors, or whose immediate family members are survivors, of domestic violence, sexual assault, stalking, or harassment, have a substantive due process right to personal security and bodily integrity. This constitutional right precludes the State from disclosing their name, physical work location, and work contact information when doing so presents a substantial likelihood that the employee's physical safety or the safety of that employee's family member would be in danger.

17

TIPS & TAKEAWAYS

- The PRA must give way to constitutional mandates.
- There are three sources of PRA exemptions: (1) the PRA itself; (2) "other statutes" that create an exemption; and (3) the Washington constitution.

18

Public Records - Miscellaneous



Retention – Check automatic deletion settings in electronic records systems

Training, Training, Training! Everyone needs some.

19

Budget Amendment vs. Adjustment

**Budget
adjustment**



Reallocation of budget within
a department or fund

**Budget
amendment**



A change in amount
appropriated for a fund

20

Budget – Revenue Estimator

2022 State Shared Revenue Estimator

This tool helps cities, towns, and counties in Washington State estimate the per capita shared revenues they can expect to receive from the state government, including liquor, criminal justice, gas tax, and multimodal distributions.

It is part of MRSC's series on [Budgeting in Washington State](#).

We update this page every year in late July. The estimates shown below are to help cities and counties develop their shared revenue estimates for the 2022 budget (adopted in calendar year 2021).

New 2021 OFM population estimates: On November 30, 2021, the Office of Financial Management (OFM) revised the 2021 population estimates (initially released in June 2021) to reflect the delayed 2020 Census data. Some cities and counties will see significant changes, which among other things will affect state shared revenue distributions beginning January 1, 2022.

We have updated the shared revenue estimates below to reflect the new population estimates; also see the [OFM website](#).

Overview

On this Page [hide] ▲

Important Notes - Read First

Estimate Your Shared Revenue Distributions

2022 State Shared Revenue Estimator

Select Jurisdiction

(select city or county) ▼

2021 Population:

0

2022 Per Capita Estimates for

Liquor Profits	\$0.00
Liquor Excise	\$0.00
Criminal Justice - Population Based	\$0.00
Criminal Justice - Special Programs	\$0.00
Gas Tax	\$0.00
Increased Gas Tax	\$0.00
Multi-Modal Distribution	\$0.00
Total	\$0.00

Estimated Distributions (per capita revenues only)

Liquor Profits	\$0
Liquor Excise Tax	\$0
Criminal Justice - Population	\$0
Criminal Justice - Special Programs	\$0
Gas Tax (MVFT)	\$0
Increased MVFT	\$0
Multi-Modal Distribution	\$0

Total



21

Budget Amendments

Q

In January, the city discovers it went over budget in the general fund the previous year. Can it amend the previous year's budget?

- a) Yes
- b) No
- c) It depends

22

Place Holder for Answer Slide



No Spoilers!

23

Election Season!



- Use of public facilities for campaign purposes



24

ELECTION SEASON

Q

Does having the mayor and staff appear on a city-owned radio station during campaign season violate any laws?

25

Place Holder for Answer Slide



No Spoilers!

26

ELECTION SEASON

Q

Can candidate take a picture sitting at the dais if the picture is taken before the meeting?

27

Place Holder for Answer Slide



No Spoilers!

28

ELECTION SEASON!

Q

Can council members attend a candidate's
“meet & greet?”

29

Place Holder for Answer Slide



No Spoilers!

30

REET

Q

May a city use real estate excise tax revenues to pay debt service on a councilmanic bond?

31

Place Holder for Answer Slide



No Spoilers!

32

Council Meeting Management



HERDING CATS

It never works, so fuhgeddaboutit.

ICANHASCHREEDBURGES.COM

33

COUNCIL MEETING MANAGEMENT

Q

Council members are receiving texts from the public during the meeting, and are asking those questions to council, mayor, and staff (and responding) during the meeting.

Yea or Nay?

34

Place Holder for Answer Slide



No Spoilers!

35

COUNCIL MEETING MANAGEMENT



PARLIAMENTARY PROCEDURE – TIPS AND TRICKS

“Call the question”

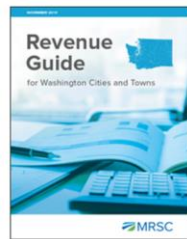
“Friendly Amendment”

Whose meeting is it, anyway?

Dominating the meeting.

36

Revenue Guide



Revenue Guide for Washington Cities and Towns

Detailed and up-to-date information on most of the revenue sources available to cities and towns, including property taxes, sales taxes, B&O taxes, lodging taxes, REET, and much more. *Revised March 2022.*

View/download this publication in Adobe Acrobat (PDF)

37

Finance – Tax & Population Data



April 1 Population Estimates for All Cities/Towns, 2012-2021

Source: Washington State Office of Financial Management April 1 Official Population Estimates

Updated April 27, 2022 to reflect the revised 2021 OFM estimates following the delayed release of the 2020 Census data. Next update (2022 population estimates) anticipated in July 2022.

Note: This data reflects the OFM April 1 "postcensal" estimates. Following every decennial U.S. Census, OFM revises the data for the past 10 years and creates "intercensal" population estimates to create a more consistent data set. To view the most recent intercensal estimates, see: [Historical Estimates of April 1 Population and Housing for the State, Counties, and Cities](#)

		April 1 Population Estimates										2020 Census		2021
City/Town	County	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2020	2021	2021
Aberdeen	Grays Harbor	16,890	16,860	16,850	16,780	16,780	16,740	16,760	16,880	17,013	17,050	17,013	17,050	
Airway Heights	Spokane	7,780	7,935	7,970	8,385	8,425	8,460	9,085	9,545	10,757	10,760	10,757	10,760	
Albion	Whitman	545	550	555	555	545	540	550	550	550	545	550	545	
Algona	King	3,070	3,075	3,090	3,105	3,175	3,180	3,180	3,190	3,290	3,290	3,290	3,290	
Almira	Lincoln	285	285	280	280	275	275	275	275	318	315	318	315	
Anacortes	Skagit	15,960	16,080	16,190	16,310	16,580	16,780	16,990	17,610	17,637	17,750	17,637	17,750	
Arlington	Snohomish	17,970	18,270	18,360	18,490	18,620	18,690	19,300	19,740	19,868	20,690	19,868	20,690	
Asotin	Asotin	1,255	1,265	1,265	1,260	1,270	1,275	1,275	1,280	1,204	1,215	1,204	1,215	
Auburn	King/Pierce	71,240	73,235	74,630	75,545	77,060	78,960	80,615	81,720	87,256	88,080	87,256	88,080	
Bainbridge Island	Kitsap	23,090	23,190	23,360	23,390	23,760	23,950	24,320	24,520	24,825	24,930	24,825	24,930	
Battle Ground	Clark	17,920	18,130	18,680	19,250	19,640	20,370	20,890	21,520	20,743	21,160	20,743	21,160	
Beaux Arts Village	King	300	290	295	300	300	300	300	300	317	315	317	315	
Bellevue	King	124,600	132,100	134,400	135,000	139,400	140,700	142,400	145,300	151,854	152,600	151,854	152,600	
Bellingham	Whatcom	81,360	82,310	82,810	83,580	84,850	86,720	88,500	90,110	91,482	89,860	91,482	89,860	
Benton City	Benton	3,295	3,240	3,255	3,285	3,325	3,360	3,405	3,520	3,479	3,500	3,479	3,500	
Bingen	Klickitat	730	725	730	735	735	735	735	750	778	780	778	780	
Black Diamond	King	4,170	4,170	4,180	4,200	4,305	4,335	4,360	4,525	4,697	5,320	4,697	5,320	
Blaine	Whatcom	4,760	4,785	4,865	4,905	4,930	5,075	5,315	5,425	5,884	6,020	5,884	6,020	
Bonney Lake	Pierce	17,730	18,010	18,520	19,490	20,000	20,500	20,940	21,060	22,487	23,510	22,487	23,510	
Bothell	King/Snohomish	34,000	34,460	41,630	42,640	43,980	44,370	45,260	46,750	48,161	48,330	48,161	48,330	
Bremerton	Kitsap	39,650	37,850	38,180	39,410	40,500	40,630	41,500	42,080	43,505	43,970	43,505	43,970	
Brewster	Okanogan	2,355	2,370	2,380	2,395	2,395	2,400	2,405	2,405	1,983	1,995	1,983	1,995	

38

Sales Tax Rates

MRSC							
City/Town Sales Tax Rates & Components							
CITY/TOWN	COUNTY	TOTAL SALES TAX RATE	RCW 82.14.030(1)	RCW 82.14.030(2)	RCW 82.14.450	RCW 82.14.0455	RCW 82.14.045
			First Half	Second Half	Public Safety - City	TBD	Transit - City ¹
Aberdeen	Grays Harbor	9.08%	0.5%	0.5%	see footnote 4	0.18%	
Airway Heights	Spokane	9.1%	0.5%	0.5%		0.2%	
Albion	Whitman	7.9%	0.5%	0.5%			
Algona	King	10.1%	0.5%	0.5%			
Almira	Lincoln	8.0%	0.5%	0.5%	see footnote 4		
Anacortes	Skagit	8.8%	0.5%	0.5%	see footnote 4	0.2%	
Arlington	Snohomish	9.3%	0.5%	0.5%		0.2%	
Asotin	Asotin	8.0%	0.5%	0.3%			
Auburn (King RTA)	King	10.1%	0.5%	0.5%			
Auburn (King non-RTA)	King	8.7%	0.5%	0.5%			
Auburn (Pierce)	Pierce	10.0%	0.5%	0.5%			
Bainbridge Island	Kitsap	9.2%	0.5%	0.5%			
Battle Ground	Clark	8.4%	0.5%	0.5%			
Beaux Arts Village	King	10.1%	0.5%	0.5%			
Bellevue (non-RTA)	King	8.7%	0.5%	0.5%			
Bellevue (RTA)	King	10.1%	0.5%	0.5%			
Bellingham	Whatcom	8.8%	0.5%	0.5%		0.2%	
Benton	Benton	8.6%	0.5%	0.5%	see footnote 4		
Bingen	Klickitat	7.5%	0.5%	0.5%			
Black Diamond	King	8.7%	0.5%	0.5%			
Blaine	Whatcom	8.8%	0.5%	0.5%		0.2%	
Bonney Lake (RTA)	Pierce	9.4%	0.5%	0.5%			
Bonney Lake (non-RTA)	Pierce	8.0%	0.5%	0.5%			
Bothell (King)	King	10.1%	0.5%	0.5%			
Bothell (Snohomish)	Snohomish	10.5%	0.5%	0.5%			
Bremerton	Kitsap	9.2%	0.5%	0.5%			
Brewster	Okanogan	8.4%	0.5%	0.5%			

39

Local Ballot Measure Database

Step 1

Filter or Keyword Search

☒ Filter by Ballot Categories
 ☐ Search by Keyword

Step 2

Filter by Ballot Categories

☐ Most Recent Election
 ☐ Last 2 Years
 ☒ Last 5 Years
 ☐ All (from 2011)

Government Type:
 Select All

Subject:
 Select All

Funding Type/Statutory Authority:
 Select All

County:
 Select All

Search

40

Local Ballot Measure Database

Search Results

Government Type: City
Funding Type/Statutory Authority: EMS Levy (RCW 84.52.069)
Election: Last 5 Years

Aberdeen

Forming a new regional fire authority with Hoquiam. *[Measure failed to receive required 60% supermajority.]*

February 2022 - Failed (53.34% / 46.66%)

Aberdeen

Forming a new regional fire authority with Hoquiam funded by permanent EMS levy, fire benefit charge, and other revenue sources. *[Measure failed to receive required 60% supermajority in Aberdeen and Hoquiam combined.]*

November 2021 - Failed (60.67% / 39.33%)

Asotin

Permanent EMS levy (\$0.50).

February 2019 - Passed (72.26% / 27.74%)

Asotin

Permanent EMS levy (\$0.50) for EMS and ambulance service.

August 2018 - Failed (58.46% / 41.54%)

Bremerton

EMS levy renewal (6 years, \$0.50)

November 2019 - Passed (67.93% / 32.07%)

Results Summary

Total Results: 27

Measures Passed: 19

Measures Failed: 8

Advisory Measures: 0

Export search results dataset

Export to Excel

41

Annual Financial Report

Q

What responsibilities does a city council have for the city's annual financial report?

42

Place Holder for Answer Slide



No Spoilers!

43

“Home Rule” – City Powers



What is “Home Rule?”

Broad authority for cities to act unless some other law specifically prohibits it.

What’s “Dillon’s Rule?”

44

“Home Rule” –Authority



State Constitution -- Article XI, § 11 (1889)

“Any county, city, town, or township may make and enforce within its limits all such local **police, sanitary, and other regulations** as are not in conflict with general laws.”

45

“Home Rule” –Authority



Statutes

RCW 35.22.570 – First Class (Charter) Cities

RCW 35A.11.020 – Optional Municipal Code Cities

What about Second Class cities and Towns?

46

“Home Rule” – The Courts



UNCERTAINTY REIGNS

47

What's the rule?



OK:

Police Powers

Public Health and Safety

NOT OK:

After adopting Title 35A in 1967

- Eight cases emphasize strong home rule powers in charter and code cities
- Nine cases use language that applies Dillon's Rule

48

NOT HELPING



Recent cases more consistently recognize home rule

- Code City's minimum wage ordinance applied to Port businesses
- Code City's excise tax applies to publicly-owned utilities
- First Class City may impose excise tax on sale of firearms and ammunition
- First Class City may impose an income tax (as long as it is uniformly levied)

49

So, we're good?



Well, there's the pesky question of preemption

Field

Express -- clearly stated

Implied -- not specifically stated, but intent is clear

Conflict

Cannot allow what is forbidden or forbid what is allowed.

50

Preemption



- Soda Tax (2018 initiative)
- ADU Parking (2020 statute prevents cities from requiring certain on-site parking)
- Telecommunications (2018 federal law regarding small cell facilities)
- Rent Control (1981)
- Sharing Economy (Transportation in WA, short-term rental in others)

51

So, what do we do?



Legal Analysis – has a court said yes or no? If so, what's different?

Risk Analysis – Talk to your risk pool/Insurer. *When* this gets challenged, who's going to pay to defend the lawsuit and pay any damages and costs?

52

Final Questions?



53

Upcoming Trainings



REGISTRATION IS NOW OPEN FOR:

Climate Action Funding Opportunities and Other Resources for Local Government

Tuesday, June 27, 1 PM– 2:30 PM | ONLINE

ABCs of Cooperative Purchasing (Piggybacking)

Tuesday, July 25 | 10 AM - 11 AM | Online

The OPMA – Latest Issues and Case Law Updates 2023

Wednesday, July 12 | 10 AM - 11 AM | Online

Learn more at mrsc.org/training

54

Thank You!

Ask MRSC

Have a question we did not answer today?

Submit your questions online at mrsc.org

Call us at 800-933-6772 (toll free) or 206-625-1300

