
HOUSE BILL 1544

State of Washington 58th Legislature 2003 Regular Session

By Representatives Hudgins, Sullivan, Morris, Romero, Simpson,
Ruderman, Upthegrove and Rockefeller

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Telecommunications & Energy.

1 AN ACT Relating to an energy resource portfolio standard;
2 reenacting and amending RCW 42.17.310; and adding a new chapter to
3 Title 80 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) The western energy crisis of 2000-2001 demonstrated the
7 vulnerability of an energy system heavily reliant on hydropower
8 resources and impacted by volatile gas prices;

9 (2) Washington electric ratepayers will benefit from resource
10 planning and acquisition that hedges against future fuel price risk by
11 ensuring that utilities rely on a diverse portfolio of resources to
12 generate electricity;

13 (3) Renewable and efficiency resources provide local economic
14 development opportunities and local jobs in Washington;

15 (4) Washington is blessed with an abundance of local renewable
16 energy resources;

17 (5) Washington has a long tradition of energy policies that support
18 energy efficiency and renewable energy development. These policies
19 have stimulated economic development, reduced operating costs for

1 businesses, made industries more competitive, made homes more
2 comfortable and efficient, reduced the energy burden of low-income
3 households, and protected the environment;

4 (6) Encouraging irrigators to increase the efficiency of their
5 pumping operations will yield substantial benefits by reducing peak
6 demands of both electricity and water supplies, improving farm
7 economics, and maximizing use of water resources;

8 (7) The Washington state electricity system study, commissioned by
9 the fifty-fifth legislature through chapter 300, Laws of 1998,
10 confirmed that changes in the electric industry have had the unintended
11 consequence of shortening utility planning horizons and reducing
12 incentives for electric utilities to invest in energy conservation and
13 new renewable energy resources;

14 (8) The study also found that there are significant energy
15 conservation resources that cost the same or less than the least costly
16 new electric generation options, and that while some nonhydroelectric
17 renewable resources may not be cost-effective in the short term, they
18 provide significant energy system and environmental benefits to warrant
19 development;

20 (9) The study also found that investment in low-income energy
21 services is declining and unstable, although the percent of
22 Washington's population below the poverty level has increased and low-
23 income households pay a significantly higher percent of their incomes
24 for energy than nonlow-income households; and

25 (10) Fuel diversity, economic, and environmental benefits from
26 renewable energy and efficiency resources accrue to the public at
27 large, and therefore all consumers and retail suppliers have an equal
28 obligation to support a minimum amount of these resources in the
29 state's electric resource portfolio.

30 NEW SECTION. **Sec. 2.** The definitions in this section apply
31 throughout this chapter unless the context clearly requires otherwise.

32 (1) "Auditor" means the office of the state auditor.

33 (2) "Commission" means the Washington state utilities and
34 transportation commission.

35 (3) "Conservation" means any reduction in electric power
36 consumption as a result of increases in the efficiency of energy use,
37 production, or distribution.

1 (4) "Consumer-owned utility" includes a municipal electric utility
2 formed under Title 35 RCW, a public utility district formed under Title
3 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
4 cooperative formed under chapter 23.86 RCW, a mutual corporation or
5 association formed under chapter 24.06 RCW, a port district formed
6 under Title 53 RCW, or a water-sewer district formed under Title 57
7 RCW, that is engaged in the business of distributing electricity to one
8 or more retail electric customers in the state.

9 (5) "Cost-effective" has the same meaning as in RCW 80.52.030.

10 (6) "Department" means the department of community, trade, and
11 economic development.

12 (7) "Direct service customer" means any end-user of electricity
13 that obtains electricity directly from the transmission grid and not
14 through a distribution utility, including those customers defined in
15 section 3(8) of the Pacific Northwest electric power planning and
16 conservation act, P.L. 96-501.

17 (8) "Distributed generation" means an electricity generation system
18 that has a generating capacity of not more than twenty-five kilowatts,
19 that uses as its fuel a renewable resource, and that is available on-
20 site and not from a commercial source.

21 (9) "Electric utility" means a consumer-owned or investor-owned
22 utility.

23 (10) "Eligible net-metered generation" means an electricity
24 generation system that meets the criteria of a net metering system as
25 defined in RCW 80.60.010 and uses as its fuel an eligible renewable
26 resource.

27 (11) "Eligible renewable resources" means:

28 (a) Electricity generation facilities powered by a renewable
29 resource other than water that commenced operation between April 1,
30 1999, and April 1, 2002, and that are used to serve Washington retail
31 electricity customers;

32 (b) Additions made to electricity generation facilities powered by
33 a renewable resource other than water, that commenced operation between
34 April 1, 1999, and April 1, 2002, where electricity generated from the
35 renewable resource is used to serve Washington retail electricity
36 customers;

37 (c) Electricity generation facilities powered by a renewable

1 resource other than water that are contracted between April 1, 1999,
2 and April 1, 2002, for delivery to Washington retail electricity
3 customers;

4 (d) Electricity generation facilities powered by a renewable
5 resource other than water that commence operation after April 1, 2002,
6 and any subsequent additions to those facilities, that are located in
7 the Pacific Northwest;

8 (e) Additional power generation achieved, above original design
9 specifications, at hydroelectric facilities operating on April 1, 1999,
10 that are located in the Pacific Northwest, where that additional
11 generation results from upgrades or improvements made after April 1,
12 1999, and does not result in any new water diversions; or

13 (f) Additions to hydroelectric generating capacity operating on
14 April 1, 1999, in irrigation pipes and canals that are located in the
15 Pacific Northwest.

16 (12) "Governing body" means the board of directors, city council,
17 commissioners, or board of any consumer-owned utility.

18 (13) "Investor-owned utility" means a corporation owned by
19 investors that meets the definition in RCW 80.04.010 and is engaged in
20 distributing electricity to more than one retail electric customer in
21 the state.

22 (14) "Low income" means a household meeting the income eligibility
23 guidelines determined by the department.

24 (15) "Low-income energy efficiency services" include energy-related
25 repairs, weatherization, health and safety measures, installation of
26 energy-efficient appliances and fixtures for low-income residences, and
27 investment in new construction of low-income households that exceed the
28 state energy code, as well as energy education, for the purpose of
29 enhancing energy efficiency.

30 (16) "Market customer" means a nonresidential electricity customer
31 in Washington that, after April 4, 2001, does not purchase its
32 electricity as a retail customer of an electric utility.

33 (17) "Pacific Northwest" has the same meaning as defined in section
34 3 of the Pacific Northwest electric power planning and conservation
35 act, P.L. 96-501 (16 U.S.C. Sec. 389a; 94 Stat. 2698).

36 (18) "Renewable energy credit" means a tradable certificate of
37 proof of one kilowatt-hour of electricity generated from an eligible
38 renewable resource.

1 (19) "Renewable resources" means electricity generation facilities
2 fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal
3 energy; (e) landfill gas; (f) biomass energy based on animal waste or
4 solid organic fuels from wood, forest, or field residues, or dedicated
5 energy crops that do not include wood pieces that have been treated
6 with chemical preservatives such as creosote, pentachlorophenol, or
7 copper-chrome-arsenic; (g) wave or tidal power; or (h) gas from sewage
8 treatment facilities.

9 (20) "Retail load" means the amount of kilowatt-hours of
10 electricity delivered by an electric utility to its Washington retail
11 customers.

12 (21) "Small utility" means a small utility as defined in RCW
13 19.29A.010.

14 NEW SECTION. **Sec. 3.** (1) The following energy efficiency standard
15 is established:

16 (a) Beginning January 1, 2005, and each year thereafter through
17 December 31, 2009, each electric utility shall on average annually
18 acquire electricity savings directly attributable to conservation
19 programs serving its Washington retail customers sufficient to meet an
20 amount equal to seventy-five one-hundredths of one percent of the
21 utility's 2004 retail load. By December 31, 2009, the electricity
22 savings acquired from the conservation programs implemented during the
23 preceding five-year period must meet at least three and seventy-five
24 one-hundredths of one percent of the utility's 2004 retail load.

25 (b) Beginning January 1, 2010, and each year thereafter through
26 December 31, 2012, each electric utility shall on average annually
27 acquire electricity savings directly attributable to conservation
28 programs serving its Washington retail customers sufficient to meet an
29 amount equal to eighty-five one-hundredths of one percent of the
30 utility's 2009 retail load. By December 31, 2012, the electricity
31 savings acquired from the conservation programs implemented during the
32 preceding three-year period will meet at least two and fifty-five one-
33 hundredths of one percent of the utility's 2009 retail load.

34 (c) Each electric utility shall continue to comply with the
35 standard established in subsection (1)(b) of this section for each
36 subsequent three-year period. The amount of conservation the utility

1 needs to acquire to meet the standard will be based on that utility's
2 retail load for the calendar year immediately preceding each three-year
3 period.

4 (2) Nothing in this chapter limits electric utilities from
5 exceeding the energy efficiency standard.

6 (3) An electric utility shall meet at least five percent of its
7 annual energy efficiency standard requirement with low-income energy
8 efficiency services, unless it can demonstrate to the commission in the
9 case of an investor-owned utility or the auditor in the case of a
10 consumer-owned utility that sufficient opportunities at cost do not
11 exist within its service territory for conserving energy in low-income
12 households.

13 (4) In meeting the energy efficiency standard, an electric utility
14 may count conservation even if it also receives credit or funding for
15 that conservation from the Bonneville power administration's
16 conservation and renewables discount program or conservation
17 augmentation program.

18 (5) An electric utility contributing to the northwest energy
19 efficiency alliance on its own or through its Bonneville power
20 administration rates may be credited for its share of annual accrued
21 energy savings as determined by the northwest energy efficiency
22 alliance. That credit shall not exceed twenty percent of the utility's
23 annual energy efficiency standard requirement.

24 (6) An electric utility may acquire up to fifteen percent of the
25 energy savings to meet the annual energy efficiency standard using
26 high-efficiency cogeneration. The energy savings resulting from the
27 use of high-efficiency cogeneration are calculated as the difference in
28 energy used by the high-efficiency cogeneration unit and the energy
29 used by equivalent stand-alone thermal and electricity generation
30 processes.

31 (7) Each electric utility shall use practices generally accepted in
32 the Pacific Northwest to measure accrued savings from conservation,
33 including monitoring and verification of those savings.

34 (8) Each electric utility shall pursue energy conservation
35 opportunities in each customer class to achieve savings that are not
36 independently captured by consumer acquisition and that are
37 economically feasible for consumers, taking into account incentives
38 provided by the utility. The portfolio of energy conservation programs

1 used to meet the efficiency standard must be cost-effective. A
2 conservation program implemented by an investor-owned utility is cost-
3 effective if it passes the total resource cost test as defined by the
4 commission.

5 (9) If an electric utility can demonstrate to the commission in the
6 case of an investor-owned utility or the auditor in the case of a
7 consumer-owned utility that it is unable to meet the energy efficiency
8 standard created in this section due to a lack of sufficient
9 opportunities for acquiring conservation, that utility can petition to
10 the commission or auditor, as appropriate, to meet a lesser standard.

11 (10) The provisions of this section do not apply to a small
12 utility. However, nothing in this chapter prohibits the governing body
13 of a small utility from determining the utility should comply with any
14 or all of the provisions of this chapter, which governing bodies are
15 encouraged to do. At any time after this energy efficiency standard is
16 enacted, if a utility no longer meets the definition of a small
17 utility, that utility will be required to meet the provisions of this
18 chapter.

19 NEW SECTION. **Sec. 4.** (1) The following renewable energy standard
20 is established:

21 (a) By January 1, 2010, and each year thereafter through December
22 31, 2014, each electric utility shall use eligible renewable resources
23 or acquire equivalent renewable energy credits to serve at least five
24 percent of its annual retail load.

25 (b) By January 1, 2015, and each year thereafter through December
26 31, 2022, each electric utility shall use eligible renewable resources
27 or acquire equivalent renewable energy credits to serve at least ten
28 percent of its annual retail load.

29 (c) By January 1, 2023, and each year thereafter, each electric
30 utility shall use eligible renewable resources or acquire equivalent
31 renewable energy credits to serve at least fifteen percent of its
32 annual retail load.

33 (2) Nothing in this chapter limits electric utilities from
34 exceeding this renewable energy standard.

35 (3) In meeting this renewable energy standard, an electric utility
36 may count eligible renewable resources even if it also receives credit

1 or funding from the Bonneville power administration's conservation and
2 renewables discount program or conservation augmentation program for
3 those resources.

4 (4) In meeting this renewable energy standard, a consumer-owned
5 utility that is a customer of the Bonneville power administration can
6 count that portion of its load served by eligible renewable resources
7 that are part of the Bonneville power administration's system mix. A
8 utility also can receive credit toward meeting this standard for the
9 portion of environmentally preferred power it purchases from the
10 Bonneville power administration that meets the definition of an
11 eligible renewable resource.

12 (5) An electric utility that offers an optional pricing program
13 that charges a higher rate for electricity generated from renewable
14 energy resources shall not include the renewable energy generated under
15 such a program as eligible renewable energy in its compliance with this
16 renewable energy standard.

17 (6) If an electric utility has insufficient resources, contracts,
18 or credits to meet the renewable standard, it can meet its remaining
19 obligation by making an alternative compliance payment equal to forty-
20 five dollars per megawatt-hour that it is short of its goal, which will
21 then be used to purchase renewable energy credits for state facilities.

22 (7) The provisions of this section do not apply to a small utility.
23 However, nothing in this chapter prohibits the governing body of a
24 small utility from determining the utility should comply with any of
25 the provisions of this chapter, which governing bodies are encouraged
26 to do. At any time after this renewable energy standard is enacted,
27 if a utility no longer meets the definition of a small utility, that
28 utility will be required to meet the provisions of this chapter.

29 NEW SECTION. **Sec. 5.** (1) Each direct service customer and market
30 customer shall meet the energy efficiency standard established in
31 section 3 of this act within its facilities through conservation or by
32 reducing the quantity of energy required to sustain a given level of
33 energy service or industrial production, or both.

34 (2) Each direct service customer and market customer shall meet the
35 renewable energy standard established in section 4 of this act by
36 acquiring eligible renewable energy resources or equivalent renewable
37 energy credits to serve its facilities.

1 (3) A market customer shall meet the efficiency and renewable
2 energy standards established in this chapter for that portion of its
3 electricity needs not met through being a retail customer of an
4 electric utility.

5 (4) Nothing in this chapter limits a direct service customer or a
6 market customer from exceeding the energy efficiency and renewable
7 energy standards.

8 (5) To determine the amount of conservation and eligible renewable
9 resources needed to meet the standards:

10 (a) Each direct service customer shall either rely on consumption
11 data from the 1994 report "Generation and Sales Statistics from the
12 Bonneville Power Administration" or provide documentation to the
13 department showing consumption data for the most recent calendar year.
14 If a direct service customer chooses to provide consumption data to the
15 department, from that time forward, the customer may no longer rely on
16 1994 data. Documentation provided to the department is considered
17 proprietary information and is not subject to chapter 42.17 RCW. The
18 department may report such information only in the aggregate for all
19 direct service customers in the state; and

20 (b) Each market customer shall rely on consumption data for the
21 most recent calendar year for the portion of its electricity needs not
22 met through being a retail customer of an electric utility. The
23 customer shall report this data to the department annually. The
24 department may request metered data from the utility providing
25 electricity distribution services to the customer to verify the
26 consumption data. Documentation provided to the department is
27 considered proprietary information and is not subject to chapter 42.17
28 RCW. The department may report such information only in the aggregate
29 for all such customers in the state.

30 (6) Each direct service customer and market customer will secure an
31 independent audit to verify electricity savings from conservation
32 installed in its facilities.

33 (7) If a direct service customer or market customer can demonstrate
34 to the department through an independent audit that it is unable to
35 meet the energy efficiency standard created in section 3 of this act
36 due to a lack of sufficient opportunities for acquiring conservation or
37 reducing the quantity of energy required to sustain a given level of

1 energy service or industrial production, that customer can petition to
2 the department to meet a lesser standard.

3 NEW SECTION. **Sec. 6.** (1) An electric utility may count eligible
4 net-metered generation towards meeting both the renewable energy and
5 energy efficiency standards if the utility through contract with the
6 customer has purchased the renewable energy credits of the net-metered
7 facility.

8 (2) Direct service customers and market customers may count
9 distributed generation towards meeting both the renewable energy and
10 energy efficiency standards for the amount of electricity produced
11 annually from that distributed generation system that is used to serve
12 the customer's electricity needs.

13 (3) An electric utility, direct service customer, or market
14 customer may receive credit towards meeting the energy efficiency or
15 renewable energy standards for resources when the utility, direct
16 service customer, or market customer also receives credit or funding
17 for those same resources under an efficiency or renewable standard
18 established by federal legislation. However, an electric utility,
19 direct service customer, or market customer may not receive credit
20 towards meeting the energy efficiency or renewable energy standards for
21 resources when the utility, direct service customer, or market customer
22 also receives credit or funding for those same resources under an
23 efficiency or renewable standard established by legislation in another
24 state.

25 (4) The department must convene a group of stakeholders, including
26 the commission, to advise it on the following:

27 (a) Development of criteria for cost-effective conservation that
28 qualifies toward the energy efficiency standard and program
29 implementation guidelines, including verification and monitoring of
30 savings. The department will consider all existing and appropriate
31 criteria and guidelines where applicable, and may rely on work of
32 regional power planning committees in determining criteria and
33 guidelines;

34 (b) Development of a definition of high-efficiency cogeneration
35 that accounts for technological improvements over time;

36 (c) Establishment of annual goals for acquisition of eligible
37 renewable resources;

1 (d) Establishment of a new or selection of an existing system of
2 renewable energy credits that may be used to comply with section 4 of
3 this act. The department will consider all existing and appropriate
4 systems and organizations that facilitate renewable energy credit
5 trading westernwide or nationally;

6 (e) Determination of the appropriate entity to purchase renewable
7 energy credits for state facilities if a utility uses the renewable
8 standard alternative compliance path established in section 4(6) of
9 this act; and

10 (f) Development of an appropriate implementation schedule for the
11 provisions of this chapter for any utility that no longer meets the
12 definition of a small utility after the effective date of this act.

13 (6) By June 30, 2004, the department must adopt rules governing the
14 issues listed in subsection (4) of this section.

15 (7) The commission has the final authority to approve criteria,
16 program implementation guidelines, and goals for the investor-owned
17 utilities. In determining whether costs associated with procuring
18 resources in accordance with this chapter are prudently incurred by an
19 investor-owned utility and should be recovered in rates, the commission
20 shall apply the same principles it uses in determining prudence and
21 cost recovery for other electricity resources used to serve customers
22 in the state of Washington.

23 NEW SECTION. **Sec. 7.** (1) On or before June 1, 2007, each electric
24 utility, direct service customer, and market customer must demonstrate
25 progress in meeting the efficiency and renewable standards in this
26 chapter. Investor-owned utilities will report to the commission,
27 consumer-owned utilities will report to the auditor, and direct service
28 customers and market customers will report to the department.

29 (2) On or before June 1, 2010, and annually thereafter, each
30 electric utility, direct service customer, and market customer must
31 demonstrate compliance with the efficiency and renewable standards in
32 this chapter, for the annual period ending the previous December 31st.
33 Each investor-owned utility will demonstrate compliance to the
34 commission and each consumer-owned utility will demonstrate compliance
35 to the auditor or by independent audit. The auditor and commission
36 will share this information with the department. Each direct service

1 customer and market customer will demonstrate compliance to the
2 department.

3 (3) Each report must include at least the following: The amount of
4 electricity generated or acquired from eligible renewable resources;
5 the amount of renewable energy credits acquired, sold, or traded; the
6 amount of funds provided through the renewable standard alternative
7 compliance payment; the annual retail load for an electric utility or
8 the annual electricity consumption data for a direct service customer
9 or market customer; and the amount of conservation annually acquired.

10 NEW SECTION. **Sec. 8.** (1) On or before December 1, 2010, and
11 biennially thereafter, the department and commission shall submit a
12 report to the legislature on the accomplishments of the efficiency and
13 renewable standards created in this chapter, including unachieved cost-
14 effective conservation opportunities, and make recommendations for
15 revisions to the standards. The commission may initiate rule-making
16 proceedings based on the results of these reports to modify
17 requirements imposed on investor-owned utilities.

18 (2) On or before January 1, 2016, the department shall review and
19 recommend to the legislature continuation or modification of the
20 efficiency and renewable standards based on assessments of the
21 effectiveness of the standards, market conditions, and unachieved
22 opportunities.

23 NEW SECTION. **Sec. 9.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute
28 a new chapter in Title 80 RCW.

29 **Sec. 11.** RCW 42.17.310 and 2002 c 335 s 1, 2002 c 224 s 2, 2002 c
30 205 s 4, and 2002 c 172 s 1 are each reenacted and amended to read as
31 follows:

- 32 (1) The following are exempt from public inspection and copying:
33 (a) Personal information in any files maintained for students in

1 public schools, patients or clients of public institutions or public
2 health agencies, or welfare recipients.

3 (b) Personal information in files maintained for employees,
4 appointees, or elected officials of any public agency to the extent
5 that disclosure would violate their right to privacy.

6 (c) Information required of any taxpayer in connection with the
7 assessment or collection of any tax if the disclosure of the
8 information to other persons would (i) be prohibited to such persons by
9 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
10 taxpayer's right to privacy or result in unfair competitive
11 disadvantage to the taxpayer.

12 (d) Specific intelligence information and specific investigative
13 records compiled by investigative, law enforcement, and penology
14 agencies, and state agencies vested with the responsibility to
15 discipline members of any profession, the nondisclosure of which is
16 essential to effective law enforcement or for the protection of any
17 person's right to privacy.

18 (e) Information revealing the identity of persons who are witnesses
19 to or victims of crime or who file complaints with investigative, law
20 enforcement, or penology agencies, other than the public disclosure
21 commission, if disclosure would endanger any person's life, physical
22 safety, or property. If at the time a complaint is filed the
23 complainant, victim or witness indicates a desire for disclosure or
24 nondisclosure, such desire shall govern. However, all complaints filed
25 with the public disclosure commission about any elected official or
26 candidate for public office must be made in writing and signed by the
27 complainant under oath.

28 (f) Test questions, scoring keys, and other examination data used
29 to administer a license, employment, or academic examination.

30 (g) Except as provided by chapter 8.26 RCW, the contents of real
31 estate appraisals, made for or by any agency relative to the
32 acquisition or sale of property, until the project or prospective sale
33 is abandoned or until such time as all of the property has been
34 acquired or the property to which the sale appraisal relates is sold,
35 but in no event shall disclosure be denied for more than three years
36 after the appraisal.

37 (h) Valuable formulae, designs, drawings, computer source code or

1 object code, and research data obtained by any agency within five years
2 of the request for disclosure when disclosure would produce private
3 gain and public loss.

4 (i) Preliminary drafts, notes, recommendations, and intra-agency
5 memorandums in which opinions are expressed or policies formulated or
6 recommended except that a specific record shall not be exempt when
7 publicly cited by an agency in connection with any agency action.

8 (j) Records which are relevant to a controversy to which an agency
9 is a party but which records would not be available to another party
10 under the rules of pretrial discovery for causes pending in the
11 superior courts.

12 (k) Records, maps, or other information identifying the location of
13 archaeological sites in order to avoid the looting or depredation of
14 such sites.

15 (l) Any library record, the primary purpose of which is to maintain
16 control of library materials, or to gain access to information, which
17 discloses or could be used to disclose the identity of a library user.

18 (m) Financial information supplied by or on behalf of a person,
19 firm, or corporation for the purpose of qualifying to submit a bid or
20 proposal for (i) a ferry system construction or repair contract as
21 required by RCW 47.60.680 through 47.60.750 or (ii) highway
22 construction or improvement as required by RCW 47.28.070.

23 (n) Railroad company contracts filed prior to July 28, 1991, with
24 the utilities and transportation commission under RCW 81.34.070, except
25 that the summaries of the contracts are open to public inspection and
26 copying as otherwise provided by this chapter.

27 (o) Financial and commercial information and records supplied by
28 private persons pertaining to export services provided pursuant to
29 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
30 export projects pursuant to RCW 43.23.035.

31 (p) Financial disclosures filed by private vocational schools under
32 chapters 28B.85 and 28C.10 RCW.

33 (q) Records filed with the utilities and transportation commission
34 or attorney general under RCW 80.04.095 that a court has determined are
35 confidential under RCW 80.04.095.

36 (r) Financial and commercial information and records supplied by
37 businesses or individuals during application for loans or program

1 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
2 or during application for economic development loans or program
3 services provided by any local agency.

4 (s) Membership lists or lists of members or owners of interests of
5 units in timeshare projects, subdivisions, camping resorts,
6 condominiums, land developments, or common-interest communities
7 affiliated with such projects, regulated by the department of
8 licensing, in the files or possession of the department.

9 (t) All applications for public employment, including the names of
10 applicants, resumes, and other related materials submitted with respect
11 to an applicant.

12 (u) The residential addresses or residential telephone numbers of
13 employees or volunteers of a public agency which are held by any public
14 agency in personnel records, public employment related records, or
15 volunteer rosters, or are included in any mailing list of employees or
16 volunteers of any public agency.

17 (v) The residential addresses and residential telephone numbers of
18 the customers of a public utility contained in the records or lists
19 held by the public utility of which they are customers, except that
20 this information may be released to the division of child support or
21 the agency or firm providing child support enforcement for another
22 state under Title IV-D of the federal social security act, for the
23 establishment, enforcement, or modification of a support order.

24 (w)(i) The federal social security number of individuals governed
25 under chapter 18.130 RCW maintained in the files of the department of
26 health, except this exemption does not apply to requests made directly
27 to the department from federal, state, and local agencies of
28 government, and national and state licensing, credentialing,
29 investigatory, disciplinary, and examination organizations; (ii) the
30 current residential address and current residential telephone number of
31 a health care provider governed under chapter 18.130 RCW maintained in
32 the files of the department, if the provider requests that this
33 information be withheld from public inspection and copying, and
34 provides to the department an accurate alternate or business address
35 and business telephone number. On or after January 1, 1995, the
36 current residential address and residential telephone number of a
37 health care provider governed under RCW 18.130.040 maintained in the
38 files of the department shall automatically be withheld from public

1 inspection and copying unless the provider specifically requests the
2 information be released, and except as provided for under RCW
3 42.17.260(9).

4 (x) Information obtained by the board of pharmacy as provided in
5 RCW 69.45.090.

6 (y) Information obtained by the board of pharmacy or the department
7 of health and its representatives as provided in RCW 69.41.044,
8 69.41.280, and 18.64.420.

9 (z) Financial information, business plans, examination reports, and
10 any information produced or obtained in evaluating or examining a
11 business and industrial development corporation organized or seeking
12 certification under chapter 31.24 RCW.

13 (aa) Financial and commercial information supplied to the state
14 investment board by any person when the information relates to the
15 investment of public trust or retirement funds and when disclosure
16 would result in loss to such funds or in private loss to the providers
17 of this information.

18 (bb) Financial and valuable trade information under RCW 51.36.120.

19 (cc) Client records maintained by an agency that is a domestic
20 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
21 crisis center as defined in RCW 70.125.030.

22 (dd) Information that identifies a person who, while an agency
23 employee: (i) Seeks advice, under an informal process established by
24 the employing agency, in order to ascertain his or her rights in
25 connection with a possible unfair practice under chapter 49.60 RCW
26 against the person; and (ii) requests his or her identity or any
27 identifying information not be disclosed.

28 (ee) Investigative records compiled by an employing agency
29 conducting a current investigation of a possible unfair practice under
30 chapter 49.60 RCW or of a possible violation of other federal, state,
31 or local laws prohibiting discrimination in employment.

32 (ff) Business related information protected from public inspection
33 and copying under RCW 15.86.110.

34 (gg) Financial, commercial, operations, and technical and research
35 information and data submitted to or obtained by the clean Washington
36 center in applications for, or delivery of, program services under
37 chapter 70.95H RCW.

1 (hh) Information and documents created specifically for, and
2 collected and maintained by a quality improvement committee pursuant to
3 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
4 4.24.250, regardless of which agency is in possession of the
5 information and documents.

6 (ii) Personal information in files maintained in a data base
7 created under RCW 43.07.360.

8 (jj) Financial and commercial information requested by the public
9 stadium authority from any person or organization that leases or uses
10 the stadium and exhibition center as defined in RCW 36.102.010.

11 (kk) Names of individuals residing in emergency or transitional
12 housing that are furnished to the department of revenue or a county
13 assessor in order to substantiate a claim for property tax exemption
14 under RCW 84.36.043.

15 (ll) The names, residential addresses, residential telephone
16 numbers, and other individually identifiable records held by an agency
17 in relation to a vanpool, carpool, or other ride-sharing program or
18 service. However, these records may be disclosed to other persons who
19 apply for ride-matching services and who need that information in order
20 to identify potential riders or drivers with whom to share rides.

21 (mm) The personally identifying information of current or former
22 participants or applicants in a paratransit or other transit service
23 operated for the benefit of persons with disabilities or elderly
24 persons.

25 (nn) The personally identifying information of persons who acquire
26 and use transit passes and other fare payment media including, but not
27 limited to, stored value smart cards and magnetic strip cards, except
28 that an agency may disclose this information to a person, employer,
29 educational institution, or other entity that is responsible, in whole
30 or in part, for payment of the cost of acquiring or using a transit
31 pass or other fare payment media, or to the news media when reporting
32 on public transportation or public safety. This information may also
33 be disclosed at the agency's discretion to governmental agencies or
34 groups concerned with public transportation or public safety.

35 (oo) Proprietary financial and commercial information that the
36 submitting entity, with review by the department of health,
37 specifically identifies at the time it is submitted and that is
38 provided to or obtained by the department of health in connection with

1 an application for, or the supervision of, an antitrust exemption
2 sought by the submitting entity under RCW 43.72.310. If a request for
3 such information is received, the submitting entity must be notified of
4 the request. Within ten business days of receipt of the notice, the
5 submitting entity shall provide a written statement of the continuing
6 need for confidentiality, which shall be provided to the requester.
7 Upon receipt of such notice, the department of health shall continue to
8 treat information designated under this section as exempt from
9 disclosure. If the requester initiates an action to compel disclosure
10 under this chapter, the submitting entity must be joined as a party to
11 demonstrate the continuing need for confidentiality.

12 (pp) Records maintained by the board of industrial insurance
13 appeals that are related to appeals of crime victims' compensation
14 claims filed with the board under RCW 7.68.110.

15 (qq) Financial and commercial information supplied by or on behalf
16 of a person, firm, corporation, or entity under chapter 28B.95 RCW
17 relating to the purchase or sale of tuition units and contracts for the
18 purchase of multiple tuition units.

19 (rr) Any records of investigative reports prepared by any state,
20 county, municipal, or other law enforcement agency pertaining to sex
21 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
22 defined in RCW 71.09.020, which have been transferred to the Washington
23 association of sheriffs and police chiefs for permanent electronic
24 retention and retrieval pursuant to RCW 40.14.070(2)(b).

25 (ss) Credit card numbers, debit card numbers, electronic check
26 numbers, card expiration dates, or bank or other financial account
27 numbers supplied to an agency for the purpose of electronic transfer of
28 funds, except when disclosure is expressly required by law.

29 (tt) Financial information, including but not limited to account
30 numbers and values, and other identification numbers supplied by or on
31 behalf of a person, firm, corporation, limited liability company,
32 partnership, or other entity related to an application for a liquor
33 license, gambling license, or lottery retail license.

34 (uu) Records maintained by the employment security department and
35 subject to chapter 50.13 RCW if provided to another individual or
36 organization for operational, research, or evaluation purposes.

37 (vv) Individually identifiable information received by the work

1 force training and education coordinating board for research or
2 evaluation purposes.

3 (ww) Those portions of records assembled, prepared, or maintained
4 to prevent, mitigate, or respond to criminal terrorist acts, which are
5 acts that significantly disrupt the conduct of government or of the
6 general civilian population of the state or the United States and that
7 manifest an extreme indifference to human life, the public disclosure
8 of which would have a substantial likelihood of threatening public
9 safety, consisting of:

10 (i) Specific and unique vulnerability assessments or specific and
11 unique response or deployment plans, including compiled underlying data
12 collected in preparation of or essential to the assessments, or to the
13 response or deployment plans; and

14 (ii) Records not subject to public disclosure under federal law
15 that are shared by federal or international agencies, and information
16 prepared from national security briefings provided to state or local
17 government officials related to domestic preparedness for acts of
18 terrorism.

19 (xx) Commercial fishing catch data from logbooks required to be
20 provided to the department of fish and wildlife under RCW 77.12.047,
21 when the data identifies specific catch location, timing, or
22 methodology and the release of which would result in unfair competitive
23 disadvantage to the commercial fisher providing the catch data.
24 However, this information may be released to government agencies
25 concerned with the management of fish and wildlife resources.

26 (yy) Sensitive wildlife data obtained by the department of fish and
27 wildlife. However, sensitive wildlife data may be released to
28 government agencies concerned with the management of fish and wildlife
29 resources. Sensitive wildlife data includes:

30 (i) The nesting sites or specific locations of endangered species
31 designated under RCW 77.12.020, or threatened or sensitive species
32 classified by rule of the department of fish and wildlife;

33 (ii) Radio frequencies used in, or locational data generated by,
34 telemetry studies; or

35 (iii) Other location data that could compromise the viability of a
36 specific fish or wildlife population, and where at least one of the
37 following criteria are met:

38 (A) The species has a known commercial or black market value;

1 (B) There is a history of malicious take of that species; or

2 (C) There is a known demand to visit, take, or disturb, and the
3 species behavior or ecology renders it especially vulnerable or the
4 species has an extremely limited distribution and concentration.

5 (zz) The personally identifying information of persons who acquire
6 recreational licenses under RCW 77.32.010 or commercial licenses under
7 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
8 department, and type of license, endorsement, or tag. However, the
9 department of fish and wildlife may disclose personally identifying
10 information to:

11 (i) Government agencies concerned with the management of fish and
12 wildlife resources;

13 (ii) The department of social and health services, child support
14 division, and to the department of licensing in order to implement RCW
15 77.32.014 and 46.20.291; and

16 (iii) Law enforcement agencies for the purpose of firearm
17 possession enforcement under RCW 9.41.040.

18 (aaa)(i) Discharge papers of a veteran of the armed forces of the
19 United States filed at the office of the county auditor before July 1,
20 2002, that have not been commingled with other recorded documents.
21 These records will be available only to the veteran, the veteran's next
22 of kin, a deceased veteran's properly appointed personal representative
23 or executor, a person holding that veteran's general power of attorney,
24 or to anyone else designated in writing by that veteran to receive the
25 records.

26 (ii) Discharge papers of a veteran of the armed forces of the
27 United States filed at the office of the county auditor before July 1,
28 2002, that have been commingled with other records, if the veteran has
29 recorded a "request for exemption from public disclosure of discharge
30 papers" with the county auditor. If such a request has been recorded,
31 these records may be released only to the veteran filing the papers,
32 the veteran's next of kin, a deceased veteran's properly appointed
33 personal representative or executor, a person holding the veteran's
34 general power of attorney, or anyone else designated in writing by the
35 veteran to receive the records.

36 (iii) Discharge papers of a veteran filed at the office of the
37 county auditor after June 30, 2002, are not public records, but will be
38 available only to the veteran, the veteran's next of kin, a deceased

1 veteran's properly appointed personal representative or executor, a
2 person holding the veteran's general power of attorney, or anyone else
3 designated in writing by the veteran to receive the records.

4 (iv) For the purposes of this subsection (1)(aaa), next of kin of
5 deceased veterans have the same rights to full access to the record.
6 Next of kin are the veteran's widow or widower who has not remarried,
7 son, daughter, father, mother, brother, and sister.

8 (bbb) Those portions of records containing specific and unique
9 vulnerability assessments or specific and unique emergency and escape
10 response plans at a city, county, or state adult or juvenile
11 correctional facility, the public disclosure of which would have a
12 substantial likelihood of threatening the security of a city, county,
13 or state adult or juvenile correctional facility or any individual's
14 safety.

15 (ccc) Information compiled by school districts or schools in the
16 development of their comprehensive safe school plans pursuant to RCW
17 28A.320.125, to the extent that they identify specific vulnerabilities
18 of school districts and each individual school.

19 (ddd) Information regarding the infrastructure and security of
20 computer and telecommunications networks, consisting of security
21 passwords, security access codes and programs, access codes for secure
22 software applications, security and service recovery plans, security
23 risk assessments, and security test results to the extent that they
24 identify specific system vulnerabilities.

25 (eee) Documentation collected by the department of community,
26 trade, and economic development under section 5(5) of this act from
27 direct service customers and market customers.

28 (2) Except for information described in subsection (1)(c)(i) of
29 this section and confidential income data exempted from public
30 inspection pursuant to RCW 84.40.020, the exemptions of this section
31 are inapplicable to the extent that information, the disclosure of
32 which would violate personal privacy or vital governmental interests,
33 can be deleted from the specific records sought. No exemption may be
34 construed to permit the nondisclosure of statistical information not
35 descriptive of any readily identifiable person or persons.

36 (3) Inspection or copying of any specific records exempt under the
37 provisions of this section may be permitted if the superior court in
38 the county in which the record is maintained finds, after a hearing

1 with notice thereof to every person in interest and the agency, that
2 the exemption of such records is clearly unnecessary to protect any
3 individual's right of privacy or any vital governmental function.

4 (4) Agency responses refusing, in whole or in part, inspection of
5 any public record shall include a statement of the specific exemption
6 authorizing the withholding of the record (or part) and a brief
7 explanation of how the exemption applies to the record withheld.

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