

2 SHB 1277 - S COMM AMD
3 By Committee on Ways & Means

4 ADOPTED 4/17/97

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 84.08 RCW
8 to read as follows:

9 (1) For purposes of this section, "tax information" means
10 confidential income data and proprietary business information obtained
11 by the department in the course of carrying out the duties now or
12 hereafter imposed upon it in this title that has been communicated in
13 confidence in connection with the assessment of property and that has
14 not been publicly disseminated by the taxpayer, the disclosure of which
15 would be either highly offensive to a reasonable person and not a
16 legitimate concern to the public or would result in an unfair
17 competitive disadvantage to the taxpayer.

18 (2) Tax information is confidential and privileged, and except as
19 authorized by this section, neither the department nor any other person
20 may disclose tax information.

21 (3) Subsection (2) of this section, however, does not prohibit the
22 department from:

23 (a) Disclosing tax information to any county assessor or county
24 treasurer;

25 (b) Disclosing tax information in a civil or criminal judicial
26 proceeding or an administrative proceeding in respect to taxes or
27 penalties imposed under this title or Title 82 RCW or in respect to
28 assessment or valuation for tax purposes of the property to which the
29 information or facts relate;

30 (c) Disclosing tax information with the written permission of the
31 taxpayer;

32 (d) Disclosing tax information to the proper officer of the tax
33 department of any state responsible for the imposition or collection of
34 property taxes, or for the valuation of property for tax purposes, if
35 the other state grants substantially similar privileges to the proper
36 officers of this state;

1 (e) Disclosing tax information that is also maintained by another
2 Washington state or local governmental agency as a public record
3 available for inspection and copying under chapter 42.17 RCW or is a
4 document maintained by a court of record not otherwise prohibited from
5 disclosure;

6 (f) Disclosing tax information to a peace officer as defined in RCW
7 9A.04.110 or county prosecutor, for official purposes. The disclosure
8 may be made only in response to a search warrant, subpoena, or other
9 court order, unless the disclosure is for the purpose of criminal tax
10 enforcement. A peace officer or county prosecutor who receives the tax
11 information may disclose the tax information only for use in the
12 investigation and a related court proceeding, or in the court
13 proceeding for which the tax information originally was sought; or

14 (g) Disclosing information otherwise available under chapter 42.17
15 RCW.

16 (4) A violation of this section constitutes a gross misdemeanor.

17 **Sec. 2.** RCW 84.40.020 and 1973 c 69 s 1 are each amended to read
18 as follows:

19 All real property in this state subject to taxation shall be listed
20 and assessed every year, with reference to its value on the first day
21 of January of the year in which it is assessed. Such listing and all
22 supporting documents and records shall be open to public inspection
23 during the regular office hours of the assessor's office: PROVIDED,
24 That confidential income data is hereby exempted from public inspection
25 (~~(pursuant to RCW 42.17.310)~~) as noted in RCW 42.17.260 and 42.17.310.
26 All personal property in this state subject to taxation shall be listed
27 and assessed every year, with reference to its value and ownership on
28 the first day of January of the year in which it is assessed:
29 PROVIDED, That if the stock of goods, wares, merchandise or material,
30 whether in a raw or finished state or in process of manufacture, owned
31 or held by any taxpayer on January 1 of any year does not fairly
32 represent the average stock carried by such taxpayer, such stock shall
33 be listed and assessed upon the basis of the monthly average of stock
34 owned or held by such taxpayer during the preceding calendar year or
35 during such portion thereof as the taxpayer was engaged in business.

36 **Sec. 3.** RCW 84.40.340 and 1973 1st ex.s. c 74 s 1 are each amended
37 to read as follows:

1 For the purpose of verifying any list, statement, or schedule
2 required to be furnished to the assessor by any taxpayer, any assessor
3 or his trained and qualified deputy at any reasonable time may visit,
4 investigate and examine any personal property, and for this purpose the
5 records, accounts and inventories also shall be subject to any such
6 visitation, investigation and examination which shall aid in
7 determining the amount and valuation of such property. Such powers and
8 duties may be performed at any office of the taxpayer in this state,
9 and the taxpayer shall furnish or make available all such information
10 pertaining to property in this state to the assessor although the
11 records may be maintained at any office outside this state.

12 Any information or facts obtained pursuant to this section shall be
13 used by the assessor only for the purpose of determining the assessed
14 valuation of the taxpayer's property: PROVIDED, That such information
15 or facts shall also be made available to the department of revenue upon
16 request for the purpose of determining any sales or use tax liability
17 with respect to personal property, and except in a ((~~court action~~
18 ~~pertaining~~)) civil or criminal judicial proceeding or an administrative
19 proceeding in respect to penalties imposed pursuant to RCW 84.40.130,
20 to such sales or use taxes, or to the assessment or valuation for tax
21 purposes of the property to which such information and facts relate,
22 shall not be disclosed by the assessor or the department of revenue
23 without the permission of the taxpayer to any person other than public
24 officers or employees whose duties relate to valuation of property for
25 tax purposes or to the imposition and collection of sales and use
26 taxes, and any violation of this secrecy provision shall constitute a
27 gross misdemeanor.

28 **Sec. 4.** RCW 42.17.310 and 1996 c 305 s 2, 1996 c 253 s 302, 1996
29 c 191 s 88, and 1996 c 80 s 1 are each reenacted and amended to read as
30 follows:

31 (1) The following are exempt from public inspection and copying:

32 (a) Personal information in any files maintained for students in
33 public schools, patients or clients of public institutions or public
34 health agencies, or welfare recipients.

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

1 (c) Information required of any taxpayer in connection with the
2 assessment or collection of any tax if the disclosure of the
3 information to other persons would (i) be prohibited to such persons by
4 section 1 of this act, RCW 82.32.330, 84.40.020, or 84.40.340 or (ii)
5 violate the taxpayer's right to privacy or result in unfair competitive
6 disadvantage to the taxpayer.

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

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

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

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

32 (h) Valuable formulae, designs, drawings, and research data
33 obtained by any agency within five years of the request for disclosure
34 when disclosure would produce private gain and public loss.

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

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

5 (k) Records, maps, or other information identifying the location of
6 archaeological sites in order to avoid the looting or depredation of
7 such sites.

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

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

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

20 (o) Financial and commercial information and records supplied by
21 private persons pertaining to export services provided pursuant to
22 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
23 export projects pursuant to RCW 43.23.035.

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

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

29 (r) Financial and commercial information and records supplied by
30 businesses or individuals during application for loans or program
31 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
32 or during application for economic development loans or program
33 services provided by any local agency.

34 (s) Membership lists or lists of members or owners of interests of
35 units in timeshare projects, subdivisions, camping resorts,
36 condominiums, land developments, or common-interest communities
37 affiliated with such projects, regulated by the department of
38 licensing, in the files or possession of the department.

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

4 (u) The residential addresses and residential telephone numbers of
5 employees or volunteers of a public agency which are held by the agency
6 in personnel records, employment or volunteer rosters, or mailing lists
7 of employees or volunteers.

8 (v) The residential addresses and residential telephone numbers of
9 the customers of a public utility contained in the records or lists
10 held by the public utility of which they are customers.

11 (w)(i) The federal social security number of individuals governed
12 under chapter 18.130 RCW maintained in the files of the department of
13 health, except this exemption does not apply to requests made directly
14 to the department from federal, state, and local agencies of
15 government, and national and state licensing, credentialing,
16 investigatory, disciplinary, and examination organizations; (ii) the
17 current residential address and current residential telephone number of
18 a health care provider governed under chapter 18.130 RCW maintained in
19 the files of the department, if the provider requests that this
20 information be withheld from public inspection and copying, and
21 provides to the department an accurate alternate or business address
22 and business telephone number. On or after January 1, 1995, the
23 current residential address and residential telephone number of a
24 health care provider governed under RCW 18.130.140 maintained in the
25 files of the department shall automatically be withheld from public
26 inspection and copying unless the provider specifically requests the
27 information be released, and except as provided for under RCW
28 42.17.260(9).

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

31 (y) Information obtained by the board of pharmacy or the department
32 of health and its representatives as provided in RCW 69.41.044,
33 69.41.280, and 18.64.420.

34 (z) Financial information, business plans, examination reports, and
35 any information produced or obtained in evaluating or examining a
36 business and industrial development corporation organized or seeking
37 certification under chapter 31.24 RCW.

38 (aa) Financial and commercial information supplied to the state
39 investment board by any person when the information relates to the

1 investment of public trust or retirement funds and when disclosure
2 would result in loss to such funds or in private loss to the providers
3 of this information.

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

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

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

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

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

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

24 (hh) Information and documents created specifically for, and
25 collected and maintained by a quality improvement committee pursuant to
26 RCW 43.70.510, regardless of which agency is in possession of the
27 information and documents.

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

30 (jj) Names of individuals residing in emergency or transitional
31 housing that are furnished to the department of revenue or a county
32 assessor in order to substantiate a claim for property tax exemption
33 under RCW 84.36.043.

34 (2) Except for information described in subsection (1)(c)(i) of
35 this section and confidential income data exempted from public
36 inspection pursuant to RCW 84.40.020, the exemptions of this section
37 are inapplicable to the extent that information, the disclosure of
38 which would violate personal privacy or vital governmental interests,
39 can be deleted from the specific records sought. No exemption may be

1 construed to permit the nondisclosure of statistical information not
2 descriptive of any readily identifiable person or persons.

3 (3) Inspection or copying of any specific records exempt under the
4 provisions of this section may be permitted if the superior court in
5 the county in which the record is maintained finds, after a hearing
6 with notice thereof to every person in interest and the agency, that
7 the exemption of such records is clearly unnecessary to protect any
8 individual's right of privacy or any vital governmental function.

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

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EFFECT: Makes technical changes suggested by the department of
revenue.