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HOUSE BILL 1277

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State of Washington

55th Legislature

1997 Regular Session

By Representatives B. Thomas, Dunshee, Carrell, Thompson and D. Schmidt; by request of Department of Revenue

Read first time 01/21/97. Referred to Committee on Finance.

1 AN ACT Relating to confidentiality of property tax information;  
2 amending RCW 84.40.020 and 84.40.340; reenacting and amending RCW  
3 42.17.310; adding a new section to chapter 84.08 RCW; and prescribing  
4 penalties.

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

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

8 (1) For purposes of this section, "tax information" means  
9 confidential income data and proprietary business information obtained  
10 by the department in the course of carrying out the duties now or  
11 hereafter imposed upon it in this title.

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

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

17 (a) Disclosing tax information to any county assessor or county  
18 treasurer;

1 (b) Disclosing tax information in a civil or criminal judicial  
2 proceeding or an administrative proceeding in respect to taxes or  
3 penalties imposed under this title or Title 82 RCW or in respect to  
4 assessment or valuation for tax purposes of the property to which the  
5 information or facts relate;

6 (c) Disclosing tax information with the written permission of the  
7 taxpayer;

8 (d) Disclosing tax information to the proper officer of the tax  
9 department of any state responsible for the imposition or collection of  
10 property taxes, or for the valuation of property for tax purposes, if  
11 the other state grants substantially similar privileges to the proper  
12 officers of this state;

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

18 (f) Disclosing tax information to a peace officer as defined in RCW  
19 9A.04.110 or county prosecutor, for official purposes. The disclosure  
20 may be made only in response to a search warrant, subpoena, or other  
21 court order, unless the disclosure is for the purpose of criminal tax  
22 enforcement. A peace officer or county prosecutor who receives the tax  
23 information may disclose the tax information only for use in the  
24 investigation and a related court proceeding, or in the court  
25 proceeding for which the tax information originally was sought.

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

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

29 All real property in this state subject to taxation shall be listed  
30 and assessed every year, with reference to its value on the first day  
31 of January of the year in which it is assessed. Such listing and all  
32 supporting documents and records shall be open to public inspection  
33 during the regular office hours of the assessor's office: PROVIDED,  
34 That confidential income data is exempted from public inspection  
35 (~~pursuant to RCW 42.17.310~~). All personal property in this state  
36 subject to taxation shall be listed and assessed every year, with  
37 reference to its value and ownership on the first day of January of the  
38 year in which it is assessed: PROVIDED, That if the stock of goods,

1 wares, merchandise or material, whether in a raw or finished state or  
2 in process of manufacture, owned or held by any taxpayer on January 1  
3 of any year does not fairly represent the average stock carried by such  
4 taxpayer, such stock shall be listed and assessed upon the basis of the  
5 monthly average of stock owned or held by such taxpayer during the  
6 preceding calendar year or during such portion thereof as the taxpayer  
7 was engaged in business.

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

10 For the purpose of verifying any list, statement, or schedule  
11 required to be furnished to the assessor by any taxpayer, any assessor  
12 or his trained and qualified deputy at any reasonable time may visit,  
13 investigate and examine any personal property, and for this purpose the  
14 records, accounts and inventories also shall be subject to any such  
15 visitation, investigation and examination which shall aid in  
16 determining the amount and valuation of such property. Such powers and  
17 duties may be performed at any office of the taxpayer in this state,  
18 and the taxpayer shall furnish or make available all such information  
19 pertaining to property in this state to the assessor although the  
20 records may be maintained at any office outside this state.

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

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

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

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

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

11       (c) Information (~~required of~~) pertaining to any taxpayer (~~in~~  
12 ~~connection with the assessment or collection of any tax~~) if the  
13 disclosure of the information to other persons would (i) be prohibited  
14 to such persons by section 1 of this act, RCW 82.32.330, 84.40.020, or  
15 84.40.340 or (ii) violate the taxpayer's right to privacy or result in  
16 unfair competitive disadvantage to the taxpayer.

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

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

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

35       (g) Except as provided by chapter 8.26 RCW, the contents of real  
36 estate appraisals, made for or by any agency relative to the  
37 acquisition or sale of property, until the project or prospective sale  
38 is abandoned or until such time as all of the property has been  
39 acquired or the property to which the sale appraisal relates is sold,

1 but in no event shall disclosure be denied for more than three years  
2 after the appraisal.

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

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

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

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

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

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

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

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

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

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

38 (r) Financial and commercial information and records supplied by  
39 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 and residential telephone numbers of  
13 employees or volunteers of a public agency which are held by the agency  
14 in personnel records, employment or volunteer rosters, or mailing lists  
15 of employees or volunteers.

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

19 (w)(i) The federal social security number of individuals governed  
20 under chapter 18.130 RCW maintained in the files of the department of  
21 health, except this exemption does not apply to requests made directly  
22 to the department from federal, state, and local agencies of  
23 government, and national and state licensing, credentialing,  
24 investigatory, disciplinary, and examination organizations; (ii) the  
25 current residential address and current residential telephone number of  
26 a health care provider governed under chapter 18.130 RCW maintained in  
27 the files of the department, if the provider requests that this  
28 information be withheld from public inspection and copying, and  
29 provides to the department an accurate alternate or business address  
30 and business telephone number. On or after January 1, 1995, the  
31 current residential address and residential telephone number of a  
32 health care provider governed under RCW 18.130.140 maintained in the  
33 files of the department shall automatically be withheld from public  
34 inspection and copying unless the provider specifically requests the  
35 information be released, and except as provided for under RCW  
36 42.17.260(9).

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

1 (y) Information obtained by the board of pharmacy or the department  
2 of health and its representatives as provided in RCW 69.41.044,  
3 69.41.280, and 18.64.420.

4 (z) Financial information, business plans, examination reports, and  
5 any information produced or obtained in evaluating or examining a  
6 business and industrial development corporation organized or seeking  
7 certification under chapter 31.24 RCW.

8 (aa) Financial and commercial information supplied to the state  
9 investment board by any person when the information relates to the  
10 investment of public trust or retirement funds and when disclosure  
11 would result in loss to such funds or in private loss to the providers  
12 of this information.

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

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

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

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

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

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

33 (hh) Information and documents created specifically for, and  
34 collected and maintained by a quality improvement committee pursuant to  
35 RCW 43.70.510, regardless of which agency is in possession of the  
36 information and documents.

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

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

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

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

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

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