

2 **SHB 2060** - S COMM AMD

3 By Committee on Energy, Technology & Telecommunications

4

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

7 "NEW SECTION. **Sec. 1.** The definitions in this section apply  
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Cable television service" means the one-way transmission to  
10 subscribers of video programming and other programming service and  
11 subscriber interaction, if any, that is required for the selection or  
12 use of the video programming or other programming service.

13 (2) "Facilities" means all of the plant, equipment, fixtures,  
14 appurtenances, antennas, and other facilities necessary to furnish and  
15 deliver telecommunications services and cable television services,  
16 including but not limited to poles with crossarms, poles without  
17 crossarms, wires, lines, conduits, cables, communication and signal  
18 lines and equipment, braces, guys, anchors, vaults, and all  
19 attachments, appurtenances, and appliances necessary or incidental to  
20 the distribution and use of telecommunications services and cable  
21 television services.

22 (3) "Master permit" means the agreement in whatever form whereby a  
23 city or town may grant general permission to a service provider to  
24 enter, use, and occupy the right of way for the purpose of locating  
25 facilities. This definition is not intended to limit, alter, or change  
26 the extent of the existing authority of a city or town to require a  
27 franchise nor does it change the status of a service provider with an  
28 existing state-wide grant based on a predecessor telephone or telegraph  
29 company's existence at the time of the adoption of the Washington state  
30 Constitution to occupy the right of way. For the purposes of this  
31 subsection, a franchise, except for a cable television franchise, is a  
32 master permit. A master permit does not include cable television  
33 franchises.

34 (4) "Personal wireless services" means commercial mobile services,  
35 unlicensed wireless services, and common carrier wireless exchange  
36 access services, as defined by federal laws and regulations.

1 (5) "Right of way" means land acquired or dedicated for public  
2 roads and streets, but does not include:

3 (a) State highways;

4 (b) Land dedicated for roads, streets, and highways not opened and  
5 not improved for motor vehicle use by the public;

6 (c) Structures, including poles and conduits, located within the  
7 right of way;

8 (d) Federally granted trust lands or forest board trust lands;

9 (e) Lands owned or managed by the state parks and recreation  
10 commission; or

11 (f) Federally granted railroad rights of way acquired under 43  
12 U.S.C. Sec. 912 and related provisions of federal law that are not open  
13 for motor vehicle use.

14 (6) "Service provider" means every corporation, company,  
15 association, joint stock association, firm, partnership, person, city,  
16 or town owning, operating, or managing any facilities used to provide  
17 and providing telecommunications or cable television service for hire,  
18 sale, or resale to the general public. Service provider includes the  
19 legal successor to any such corporation, company, association, joint  
20 stock association, firm, partnership, person, city, or town.

21 (7) "Telecommunications service" means the transmission of  
22 information by wire, radio, optical cable, electromagnetic, or other  
23 similar means for hire, sale, or resale to the general public. For the  
24 purpose of this subsection, "information" means knowledge or  
25 intelligence represented by any form of writing, signs, signals,  
26 pictures, sounds, or any other symbols. For the purpose of this  
27 chapter, telecommunications service excludes the over-the-air  
28 transmission of broadcast television or broadcast radio signals.

29 (8) "Use permit" means the authorization in whatever form whereby  
30 a city or town may grant permission to a service provider to enter and  
31 use the specified right of way for the purpose of installing,  
32 maintaining, repairing, or removing identified facilities.

33 NEW SECTION. **Sec. 2.** A city or town may grant, issue, or deny  
34 permits for the use of the right of way by a service provider for  
35 installing, maintaining, repairing, or removing facilities for  
36 telecommunications services or cable television services pursuant to  
37 ordinances, consistent with this act.

1        NEW SECTION.    **Sec. 3.**    (1) Cities and towns may require a service  
2 provider to obtain a master permit.    A city or town may request, but  
3 not require, that a service provider with an existing state-wide grant  
4 to occupy the right of way obtain a master permit for wireline  
5 facilities.

6        (a) The procedures for the approval of a master permit and the  
7 requirements for a complete application for a master permit shall be  
8 available in written form.    Proprietary information exempt from  
9 disclosure under RCW 42.17.310 shall not be required for a master  
10 permit.

11        (b) Where a city or town requires a master permit, the city or  
12 town shall act upon a complete application within one hundred twenty  
13 days from the date a service provider files the complete application  
14 for the master permit to use the right of way, except:

15        (i) With the agreement of the applicant; or

16        (ii) Where the master permit requires action of the legislative  
17 body of the city or town and such action cannot reasonably be obtained  
18 within the one hundred twenty day period.

19        (2) A city or town may require that a service provider obtain a use  
20 permit.    A city or town must act on a request for a use permit by a  
21 service provider within thirty days of receipt of a completed  
22 application, unless a service provider consents to a different time  
23 period or the service provider has not obtained a master permit  
24 requested by the city or town.

25        (a) For the purpose of this section, "act" means that the city  
26 makes the decision to grant, condition, or deny the use permit, which  
27 may be subject to administrative appeal, or notifies the applicant in  
28 writing of the amount of time that will be required to make the  
29 decision and the reasons for this time period.

30        (b) Requirements otherwise applicable to holders of master permits  
31 shall be deemed satisfied by a holder of a cable franchise in good  
32 standing.

33        (c) Where the master permit does not contain procedures to expedite  
34 approvals and the service provider requires action in less than thirty  
35 days, the service provider shall advise the city or town in writing of  
36 the reasons why a shortened time period is necessary and the time  
37 period within which action by the city or town is requested.    The city  
38 or town shall reasonably cooperate to meet the request where  
39 practicable.

1 (d) A city or town may not deny a use permit to a service provider  
2 with an existing state-wide grant to occupy the right of way for  
3 wireline facilities on the basis of failure to obtain a master permit.

4 (3) The reasons for a denial of a master permit shall be supported  
5 by substantial evidence contained in a written record. A service  
6 provider adversely affected by the final action denying a master  
7 permit, or by an unreasonable failure to act on a master permit as set  
8 forth in subsection (1) of this section, may commence an action within  
9 thirty days to seek relief, which shall be limited to injunctive  
10 relief.

11 (4) A service provider adversely affected by the final action  
12 denying a use permit may commence an action within thirty days to seek  
13 relief, which shall be limited to injunctive relief. In any appeal of  
14 the final action denying a use permit, the standard for review and  
15 burden of proof shall be as set forth in RCW 36.70C.130.

16 (5) A city or town shall:

17 (a) In order to facilitate the scheduling and coordination of work  
18 in the right of way, provide as much advance notice as reasonable of  
19 plans to open the right of way to those service providers who are  
20 current users of the right of way or who have filed notice with the  
21 clerk of the city or town within the past twelve months of their intent  
22 to place facilities in the city or town. A city is not liable for  
23 damages for failure to provide this notice. Where the city has failed  
24 to provide notice of plans to open the right of way consistent with  
25 this subsection, a city may not deny a use permit to a service provider  
26 on the basis that the service provider failed to coordinate with  
27 another project. To carry out this provision, the city or town may  
28 establish a procedure for the filing of advance plans by service  
29 providers and other users of the right of way.

30 (b) Have the authority to require that facilities are installed and  
31 maintained within the right of way in such a manner and at such points  
32 so as not to inconvenience the public use of the right of way or to  
33 adversely affect the public, health, safety, and welfare.

34 (c) Use any proprietary information provided and so designated by  
35 a service provider solely for the purposes that qualify the information  
36 as exempt from disclosure under this section and chapter 42.17 RCW.  
37 Information regarding the location of existing facilities and  
38 information provided as part of an application for a use permit may not  
39 be deemed proprietary and shall be public.

1 (6) A service provider shall:

2 (a) Obtain all permits required by the city or town for the  
3 installation, maintenance, repair, or removal of facilities in the  
4 right of way;

5 (b) Comply with applicable ordinances, construction codes,  
6 regulations, and standards subject to verification by the city or town  
7 of such compliance;

8 (c) Cooperate with the city or town in ensuring that facilities are  
9 installed, maintained, repaired, and removed within the right of way in  
10 such a manner and at such points so as not to inconvenience the public  
11 use of the right of way or to adversely affect the public health,  
12 safety, and welfare;

13 (d) Provide information and plans as reasonably necessary to enable  
14 a city or town to comply with subsection (5) of this section,  
15 including, when notified by the city or town, the provision of advance  
16 planning information pursuant to the procedures established by the city  
17 or town;

18 (e) Obtain the written approval of the facility or structure owner,  
19 if the service provider does not own it, prior to attaching to or  
20 otherwise using a facility or structure in the right of way;

21 (f) Construct, install, operate, and maintain its facilities at its  
22 expense; and

23 (g) Comply with applicable federal and state safety laws and  
24 standards.

25 (7) Nothing in this section shall be construed as:

26 (a) Creating a new duty upon city or towns to be responsible for  
27 construction of facilities for service providers or to modify the right  
28 of way to accommodate such facilities;

29 (b) Creating, expanding, or extending any liability of a city or  
30 town to any third-party user of facilities or third-party beneficiary;  
31 or

32 (c) Limiting the right of a city or town to require an  
33 indemnification agreement as a condition of a service provider's  
34 facilities occupying the right of way.

35 (8) Nothing in this section creates, modifies, expands, or  
36 diminishes a priority of use of the right of way by a service provider  
37 or other utility, either in relation to other service providers or in  
38 relation to other users of the right of way for other purposes.

1        NEW SECTION.    **Sec. 4.**    (1) A city or town shall not adopt or  
2 enforce regulations or ordinances specifically relating to use of the  
3 right of way by a service provider that:

4        (a) Impose requirements that regulate the services or business  
5 operations of the service provider, except where otherwise authorized  
6 in state or federal law;

7        (b) Conflict with federal or state laws, rules, or regulations that  
8 specifically apply to the design, construction, and operation of  
9 facilities or with federal or state worker safety or public safety  
10 laws, rules, or regulations;

11       (c) Regulate the services provided based upon the content or kind  
12 of signals that are carried or are capable of being carried over the  
13 facilities, except where otherwise authorized in state or federal law;  
14 or

15       (d) Unreasonably deny the use of the right of way by a service  
16 provider for installing, maintaining, repairing, or removing facilities  
17 for telecommunications services or cable television services.

18       (2) Nothing in this chapter, including but not limited to the  
19 provisions of subsection (1)(d) of this section, limits the authority  
20 of a city or town to regulate the placement of facilities through its  
21 local zoning or police power, if the regulations do not otherwise:

22       (a) Prohibit the placement of all wireless or of all wireline  
23 facilities within the city or town, or prohibit the placement of all  
24 wireless or of all wireline facilities within city or town rights of  
25 way; or

26       (b) Violate section 253 of the telecommunications act of 1996, P.L.  
27 104-104 (110 Stat. 56).

28       (3) This section does not amend, limit, repeal, or otherwise modify  
29 the authority of cities or towns to regulate cable television services  
30 pursuant to federal law.

31       NEW SECTION.    **Sec. 5.**    (1) A city or town shall not place or extend  
32 a moratorium on the acceptance and processing of applications,  
33 permitting, construction, maintenance, repair, replacement, extension,  
34 operation, or use of any facilities for personal wireless services,  
35 except as consistent with the guidelines for facilities siting  
36 implementation, as agreed to on August 5, 1998, by the federal  
37 communications commission's local and state government advisory  
38 committee, the cellular telecommunications industry association, the

1 personal communications industry association, and the American mobile  
2 telecommunications association. Any city or town implementing such a  
3 moratorium shall, at the request of a service provider impacted by the  
4 moratorium, participate with the service provider in the informal  
5 dispute resolution process included with the guidelines for facilities  
6 siting implementation.

7 NEW SECTION. **Sec. 6.** (1) Cities and towns may require service  
8 providers to relocate authorized facilities within the right of way  
9 when reasonably necessary for construction, alteration, repair, or  
10 improvement of the right of way for purposes of public welfare, health,  
11 or safety.

12 (2) Cities shall notify service providers as soon as practicable of  
13 the need for relocation and shall specify the date by which relocation  
14 shall be completed. In calculating the date that relocation must be  
15 completed, cities shall consult with affected service providers and  
16 consider the extent of facilities to be relocated, the services  
17 requirements, and the construction sequence for the relocation, within  
18 the city's overall project construction sequence and constraints, to  
19 safely complete the relocation. Service providers shall complete the  
20 relocation by the date specified, unless the city, or a reviewing  
21 court, establishes a later date for completion, after a showing by the  
22 service provider that the relocation cannot be completed by the date  
23 specified using best efforts and meeting safety and service  
24 requirements.

25 (3) Service providers may not seek reimbursement for their  
26 relocation expenses from the city or town requesting relocation under  
27 subsection (1) of this section except:

28 (a) Where the service provider had paid for the relocation cost of  
29 the same facilities at the request of the city or town within the past  
30 five years, the service provider's share of the cost of relocation will  
31 be paid by the city or town requesting relocation;

32 (b) Where aerial to underground relocation of authorized facilities  
33 is required by the city or town under subsection (1) of this section,  
34 for service providers with an ownership share of the aerial supporting  
35 structures, the additional incremental cost of underground compared to  
36 aerial relocation, or as provided for in the approved tariff if less,  
37 will be paid by the city or town requiring relocation; and

1 (c) Where the city or town requests relocation under subsection (1)  
2 of this section solely for aesthetic purposes, unless otherwise agreed  
3 to by the parties.

4 (4) Where a project in subsection (1) of this section is primarily  
5 for private benefit, the private party or parties shall reimburse the  
6 cost of relocation in the same proportion to their contribution to the  
7 costs of the project. Service providers will not be precluded from  
8 recovering their costs associated with relocation required under  
9 subsection (1) of this section, provided that the recovery is  
10 consistent with subsection (3) of this section and other applicable  
11 laws.

12 (5) A city or town may require the relocation of facilities at the  
13 service provider's expense in the event of an unforeseen emergency that  
14 creates an immediate threat to the public safety, health, or welfare.

15 NEW SECTION. **Sec. 7.** A city or town may require that a service  
16 provider that is constructing, relocating, or placing ducts or conduits  
17 in public rights of way provide the city or town with additional duct  
18 or conduit and related structures necessary to access the conduit,  
19 provided that:

20 (1) The city or town enters into a contract with the service  
21 provider consistent with RCW 80.36.150. The contract rates to be  
22 charged should recover the incremental costs of the service provider.  
23 If the city or town makes the additional duct or conduit and related  
24 access structures available to any other entity for the purposes of  
25 providing telecommunications or cable television service for hire,  
26 sale, or resale to the general public, the rates to be charged, as set  
27 forth in the contract with the entity that constructed the conduit or  
28 duct, shall recover at least the fully allocated costs of the service  
29 provider. The service provider shall state both contract rates in the  
30 contract. The city or town shall inform the service provider of the  
31 use, and any change in use, of the requested duct or conduit and  
32 related access structures to determine the applicable rate to be paid  
33 by the city or town.

34 (2) Except as otherwise agreed by the service provider and the city  
35 or town, the city or town shall agree that the requested additional  
36 duct or conduit space and related access structures will not be used by  
37 the city or town to provide telecommunications or cable television  
38 service for hire, sale, or resale to the general public.

1 (3) The city or town shall not require that the additional duct or  
2 conduit space be connected to the access structures and vaults of the  
3 service provider.

4 (4) The value of the additional duct or conduit requested by a city  
5 or town shall not be considered a public works construction contract.

6 (5) This section shall not affect the provision of an institutional  
7 network by a cable television provider under federal law.

8 **Sec. 8.** RCW 35.21.860 and 1983 2nd ex.s. c 3 s 39 are each amended  
9 to read as follows:

10 (1) No city or town may impose a franchise fee or any other fee or  
11 charge of whatever nature or description upon the light and power, or  
12 gas distribution businesses, as defined in RCW 82.16.010, or telephone  
13 business, as defined in RCW 82.04.065, or service provider for use of  
14 the right of way, except ((that)):

15 (a) A tax authorized by RCW 35.21.865 may be imposed ((and)) on a  
16 light and power or gas distribution business;

17 (b) A fee may be charged to such businesses or service providers  
18 that recovers actual administrative expenses incurred by a city or town  
19 that are directly related to receiving and approving a permit, license,  
20 and franchise, to inspecting plans and construction, or to the  
21 preparation of a detailed statement pursuant to chapter 43.21C RCW;

22 (c) Taxes permitted by state law on service providers;

23 (d) Franchise requirements and fees for cable television services  
24 as allowed by federal law; and

25 (e) A site-specific charge pursuant to an agreement between the  
26 city or town and a service provider of personal wireless services  
27 acceptable to the parties for:

28 (i) The placement of new structures in the right of way regardless  
29 of height, unless the new structure is the result of a mandated  
30 relocation in which case no charge will be imposed if the previous  
31 location was not charged;

32 (ii) The placement of replacement structures when the replacement  
33 is necessary for the installation or attachment of wireless facilities,  
34 and the overall height of the replacement structure and the wireless  
35 facility is more than sixty feet; or

36 (iii) The placement of personal wireless facilities on structures  
37 owned by the city or town located in the right of way. However, a  
38 site-specific charge shall not apply to the placement of personal

1 wireless facilities on existing structures, unless the structure is  
2 owned by the city or town.

3 A city or town is not required to approve the use permit for the  
4 placement of a facility for personal wireless services that meets one  
5 of the criteria in this subsection absent such an agreement. If the  
6 parties are unable to agree on the amount of the charge, the service  
7 provider may submit the amount of the charge to binding arbitration by  
8 serving notice on the city or town. Within thirty days of receipt of  
9 the initial notice, each party shall furnish a list of acceptable  
10 arbitrators. The parties shall select an arbitrator; failing to agree  
11 on an arbitrator, each party shall select one arbitrator and the two  
12 arbitrators shall select a third arbitrator for an arbitration panel.  
13 The arbitrator or arbitrators shall determine the charge based on  
14 comparable siting agreements involving public land and rights of way.  
15 The arbitrator or arbitrators shall not decide any other disputed  
16 issues, including but not limited to size, location, and zoning  
17 requirements. Costs of the arbitration, including compensation for the  
18 arbitrator's services, must be borne equally by the parties  
19 participating in the arbitration and each party shall bear its own  
20 costs and expenses, including legal fees and witness expenses, in  
21 connection with the arbitration proceeding.

22 (2) Subsection (1) of this section does not prohibit franchise fees  
23 imposed on an electrical energy, natural gas, or telephone business, by  
24 contract existing on April 20, 1982, with a city or town, for the  
25 duration of the contract, but the franchise fees shall be considered  
26 taxes for the purposes of the limitations established in RCW 35.21.865  
27 and 35.21.870 to the extent the fees exceed the costs allowable under  
28 subsection (1) of this section.

29 NEW SECTION. Sec. 9. This act shall not preempt specific  
30 provisions in existing franchises or contracts between cities or towns  
31 and service providers.

32 NEW SECTION. Sec. 10. A new section is added to chapter 35A.21  
33 RCW to read as follows:

34 Each code city is subject to the requirements and restrictions  
35 regarding facilities and rights of way under this chapter.

1       **Sec. 11.** RCW 42.17.310 and 1999 c 326 s 3, 1999 c 290 s 1, and  
2 1999 c 215 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

34       (g) Except as provided by chapter 8.26 RCW, the contents of real  
35 estate appraisals, made for or by any agency relative to the  
36 acquisition or sale of property, until the project or prospective sale  
37 is abandoned or until such time as all of the property has been  
38 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, computer source code or  
4 object code, and research data obtained by any agency within five years  
5 of the request for disclosure when disclosure would produce private  
6 gain and public loss.

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

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

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

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

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

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

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

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

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

1 (r) Financial and commercial information and records supplied by  
2 businesses or individuals during application for loans or program  
3 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
4 or during application for economic development loans or program  
5 services provided by any local agency.

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

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

14 (u) The residential addresses and residential telephone numbers of  
15 employees or volunteers of a public agency which are held by the agency  
16 in personnel records, employment or volunteer rosters, or mailing lists  
17 of employees or volunteers.

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

25 (w)(i) The federal social security number of individuals governed  
26 under chapter 18.130 RCW maintained in the files of the department of  
27 health, except this exemption does not apply to requests made directly  
28 to the department from federal, state, and local agencies of  
29 government, and national and state licensing, credentialing,  
30 investigatory, disciplinary, and examination organizations; (ii) the  
31 current residential address and current residential telephone number of  
32 a health care provider governed under chapter 18.130 RCW maintained in  
33 the files of the department, if the provider requests that this  
34 information be withheld from public inspection and copying, and  
35 provides to the department an accurate alternate or business address  
36 and business telephone number. On or after January 1, 1995, the  
37 current residential address and residential telephone number of a  
38 health care provider governed under RCW (~~18.130.140~~) 18.130.040  
39 maintained in the files of the department shall automatically be

1 withheld from public inspection and copying unless the provider  
2 specifically requests the information be released, and except as  
3 provided for under RCW 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.

38 (hh) Information and documents created specifically for, and  
39 collected and maintained by a quality improvement committee pursuant to

1 RCW 43.70.510, regardless of which agency is in possession of the  
2 information and documents.

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

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

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

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

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

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

32 (oo) Proprietary financial and commercial information that the  
33 submitting entity, with review by the department of health,  
34 specifically identifies at the time it is submitted and that is  
35 provided to or obtained by the department of health in connection with  
36 an application for, or the supervision of, an antitrust exemption  
37 sought by the submitting entity under RCW 43.72.310. If a request for  
38 such information is received, the submitting entity must be notified of  
39 the request. Within ten business days of receipt of the notice, the

1 submitting entity shall provide a written statement of the continuing  
2 need for confidentiality, which shall be provided to the requester.  
3 Upon receipt of such notice, the department of health shall continue to  
4 treat information designated under this section as exempt from  
5 disclosure. If the requester initiates an action to compel disclosure  
6 under this chapter, the submitting entity must be joined as a party to  
7 demonstrate the continuing need for confidentiality.

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

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

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

21 (ss) Proprietary designs, proprietary drawings, proprietary maps,  
22 and other proprietary information regarding existing or planned  
23 facilities that are provided by a service provider to a city, town, or  
24 code city that the service provider specifically identifies at the time  
25 it is submitted and that is provided to the city or town to meet a  
26 request by a city or town for advance planning information for purposes  
27 of planning for, scheduling, and coordinating work in the right of way  
28 under chapter 35.-- RCW (sections 1 through 7 and 9 of this act). The  
29 location of existing facilities may not be deemed proprietary and shall  
30 be public. Designs, drawings, and maps submitted as part of a use  
31 permit application may not be deemed proprietary and shall be public.  
32 If a request for information identified as proprietary is received, the  
33 service provider must be notified of the request. Within ten business  
34 days of receipt of the notice, the service provider shall provide a  
35 written statement of the continuing need for confidentiality, which  
36 shall be provided to the requester. Upon receipt of such a notice, the  
37 city or town shall continue to treat information designated under this  
38 section as exempt from disclosure. If the requester initiates an  
39 action to compel disclosure under this chapter, the service provider

1 must be joined as a party to demonstrate the continuing need for  
2 confidentiality and the city or town is exempt from any liability under  
3 RCW 42.17.340 for failure to disclose proprietary information.

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

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

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

22 NEW SECTION. Sec. 12. Sections 1 through 7 and 9 of this act  
23 constitute a new chapter in Title 35 RCW."

24 **SHB 2060** - S COMM AMD

25 By Committee on Energy, Technology & Telecommunications

26

27 On page 1, line 1 of the title, after "way;" strike the remainder  
28 of the title and insert "amending RCW 35.21.860; reenacting and  
29 amending RCW 42.17.310; adding a new section to chapter 35A.21 RCW; and  
30 adding a new chapter to Title 35 RCW."

--- END ---