
HOUSE BILL 1423

State of Washington

56th Legislature

1999 Regular Session

By Representatives Huff, H. Sommers, Benson and Hatfield; by request of State Investment Board

Read first time . Referred to Committee on .

1 AN ACT Relating to the state investment board; and amending RCW
2 42.17.310 and 42.30.110.

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

4 **Sec. 1.** RCW 42.17.310 and 1998 c 69 s 1 are each amended to read
5 as follows:

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

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

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

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

1 (d) Specific intelligence information and specific investigative
2 records compiled by investigative, law enforcement, and penology
3 agencies, and state agencies vested with the responsibility to
4 discipline members of any profession, the nondisclosure of which is
5 essential to effective law enforcement or for the protection of any
6 person's right to privacy.

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

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

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

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

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

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

37 (k) Records, maps, or other information identifying the location of
38 archaeological sites in order to avoid the looting or depredation of
39 such sites.

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

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

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

13 (o) Financial and commercial information and records supplied by
14 private persons pertaining to export services provided pursuant to
15 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
16 export projects pursuant to RCW 43.23.035.

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

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

22 (r) Financial and commercial information and records supplied by
23 businesses or individuals during application for loans or program
24 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
25 or during application for economic development loans or program
26 services provided by any local agency.

27 (s) Membership lists or lists of members or owners of interests of
28 units in timeshare projects, subdivisions, camping resorts,
29 condominiums, land developments, or common-interest communities
30 affiliated with such projects, regulated by the department of
31 licensing, in the files or possession of the department.

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

35 (u) The residential addresses and residential telephone numbers of
36 employees or volunteers of a public agency which are held by the agency
37 in personnel records, employment or volunteer rosters, or mailing lists
38 of employees or volunteers.

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

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

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

28 (y) Information obtained by the board of pharmacy or the department
29 of health and its representatives as provided in RCW 69.41.044,
30 69.41.280, and 18.64.420.

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

35 (aa) Financial and commercial information, or other information
36 about any person or his, her, or its business operations, supplied to
37 the state investment board by any person when the information relates
38 to the investment of public trust or retirement funds or to the
39 provision of investment management or consulting services to the board

1 and when disclosure (~~would~~) could result in loss to such funds, loss
2 of an investment opportunity, or in private loss to the providers of
3 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) Financial and commercial information requested by the public
31 stadium authority from any person or organization that leases or uses
32 the stadium and exhibition center as defined in RCW 36.102.010.

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

37 (ll) The names, residential addresses, residential telephone
38 numbers, and other individually identifiable records held by an agency
39 in relation to a vanpool, carpool, or other ride-sharing program or

1 service. However, these records may be disclosed to other persons who
2 apply for ride-matching services and who need that information in order
3 to identify potential riders or drivers with whom to share rides.

4 (mm) Proprietary financial and commercial information that the
5 submitting entity, with review by the department of health,
6 specifically identifies at the time it is submitted and that is
7 provided to or obtained by the department of health in connection with
8 an application for, or the supervision of, an antitrust exemption
9 sought by the submitting entity under RCW 43.72.310. If a request for
10 such information is received, the submitting entity must be notified of
11 the request. Within ten business days of receipt of the notice, the
12 submitting entity shall provide a written statement of the continuing
13 need for confidentiality, which shall be provided to the requester.
14 Upon receipt of such notice, the department of health shall continue to
15 treat information designated under this section as exempt from
16 disclosure. If the requester initiates an action to compel disclosure
17 under this chapter, the submitting entity must be joined as a party to
18 demonstrate the continuing need for confidentiality.

19 (nn) Records maintained by the board of industrial insurance
20 appeals that are related to appeals of crime victims' compensation
21 claims filed with the board under RCW 7.68.110.

22 (oo) Financial and commercial information supplied by or on behalf
23 of a person, firm, corporation, or entity under chapter 28B.95 RCW
24 relating to the purchase or sale of tuition units and contracts for the
25 purchase of multiple tuition units.

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

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

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

5 **Sec. 2.** RCW 42.30.110 and 1989 c 238 s 2 are each amended to read
6 as follows:

7 (1) Nothing contained in this chapter may be construed to prevent
8 a governing body from holding an executive session during a regular or
9 special meeting:

10 (a) To consider matters affecting national security;

11 (b) To consider the selection of a site or the acquisition of real
12 estate by lease or purchase when public knowledge regarding such
13 consideration would cause a likelihood of increased price;

14 (c) To consider the minimum price at which real estate will be
15 offered for sale or lease when public knowledge regarding such
16 consideration would cause a likelihood of decreased price. However,
17 final action selling or leasing public property shall be taken in a
18 meeting open to the public;

19 (d) To review negotiations on the performance of publicly bid
20 contracts when public knowledge regarding such consideration would
21 cause a likelihood of increased costs;

22 (e) To consider, in the case of an export trading company,
23 financial and commercial information supplied by private persons to the
24 export trading company;

25 (f) To receive and evaluate complaints or charges brought against
26 a public officer or employee. However, upon the request of such
27 officer or employee, a public hearing or a meeting open to the public
28 shall be conducted upon such complaint or charge;

29 (g) To evaluate the qualifications of an applicant for public
30 employment or to review the performance of a public employee. However,
31 subject to RCW 42.30.140(4), discussion by a governing body of
32 salaries, wages, and other conditions of employment to be generally
33 applied within the agency shall occur in a meeting open to the public,
34 and when a governing body elects to take final action hiring, setting
35 the salary of an individual employee or class of employees, or
36 discharging or disciplining an employee, that action shall be taken in
37 a meeting open to the public;

1 (h) To evaluate the qualifications of a candidate for appointment
2 to elective office. However, any interview of such candidate and final
3 action appointing a candidate to elective office shall be in a meeting
4 open to the public;

5 (i) To discuss with legal counsel representing the agency matters
6 relating to agency enforcement actions, or to discuss with legal
7 counsel representing the agency litigation or potential litigation to
8 which the agency, the governing body, or a member acting in an official
9 capacity is, or is likely to become, a party, when public knowledge
10 regarding the discussion is likely to result in an adverse legal or
11 financial consequence to the agency;

12 (j) To consider, in the case of the state library commission or its
13 advisory bodies, western library network prices, products, equipment,
14 and services, when such discussion would be likely to adversely affect
15 the network's ability to conduct business in a competitive economic
16 climate. However, final action on these matters shall be taken in a
17 meeting open to the public;

18 (k) To consider, in the case of the state investment board,
19 financial and commercial information, or other information about any
20 person or his, her, or its business operations, when the information
21 relates to the investment of public trust or retirement funds or to the
22 provision of investment management or consulting services to the board
23 and when public knowledge regarding the discussion (~~would~~) could
24 result in loss to such funds, loss of an investment opportunity, or in
25 private loss to the providers of this information.

26 (2) Before convening in executive session, the presiding officer of
27 a governing body shall publicly announce the purpose for excluding the
28 public from the meeting place, and the time when the executive session
29 will be concluded. The executive session may be extended to a stated
30 later time by announcement of the presiding officer.

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