
ENGROSSED SUBSTITUTE SENATE BILL 6676

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Energy, Technology & Telecommunications
(originally sponsored by Senators Finkbeiner and Brown; by request of
Governor Locke)

Read first time 02/04/2000.

1 AN ACT Relating to the use of city or town rights of way by
2 telecommunications and cable television providers; amending RCW
3 35.21.860; reenacting and amending RCW 42.17.310; adding a new section
4 to chapter 35A.21 RCW; and adding a new chapter to Title 35 RCW.

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

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

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

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

1 the distribution and use of telecommunications services and cable
2 television services.

3 (3) "Master permit" means the agreement in whatever form whereby a
4 city or town may grant general permission to a service provider to
5 enter, use, and occupy the right of way for the purpose of locating
6 facilities. This definition is not intended to limit, alter, or change
7 the extent of the existing authority of a city or town to require a
8 franchise nor does it change the status of a service provider with an
9 existing state-wide grant to occupy the right of way. For the purposes
10 of this subsection, a franchise, except for a cable television
11 franchise, is a master permit. A master permit does not include cable
12 television franchises.

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

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

18 (a) State highways;

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

21 (c) Structures located within the right of way;

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

23 (e) Lands owned or managed by the state parks and recreation
24 commission; or

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

28 (6) "Service provider" means every corporation, company,
29 association, joint stock association, firm, partnership, person, city,
30 or town owning, operating, or managing any facilities used to provide
31 and providing telecommunications or cable television service for hire,
32 sale, or resale to the general public. Service provider includes the
33 legal successor to any such corporation, company, association, joint
34 stock association, firm, partnership, person, city, or town.

35 (7) "Telecommunications service" means the transmission of
36 information by wire, radio, optical cable, electromagnetic, or other
37 similar means for hire, sale, or resale to the general public. For the
38 purpose of this subsection, "information" means knowledge or
39 intelligence represented by any form of writing, signs, signals,

1 pictures, sounds, or any other symbols. For the purpose of this
2 chapter, telecommunications service excludes the over-the-air
3 transmission of broadcast television or broadcast radio signals.

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

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

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

18 (a) The procedures for the approval of a master permit and the
19 requirements for a complete application for a master permit shall be
20 available in written form. Proprietary information exempt from
21 disclosure under RCW 42.17.310 shall not be required for a master
22 permit.

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

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

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

31 (2) A city or town may require that a service provider obtain a use
32 permit. Except for a good cause, a city or town must act on a request
33 for a use permit by a service provider within thirty days of receipt of
34 a completed application, unless a service provider consents to a
35 different time period or the service provider has not obtained a master
36 permit requested by the city or town.

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

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

9 (c) Where the master permit does not contain procedures to expedite
10 approvals and the service provider requires action in less than thirty
11 days, the service provider shall advise the city or town in writing of
12 the reasons why a shortened time period is necessary and the time
13 period within which action by the city or town is requested. The city
14 or town shall reasonably cooperate to meet the request where
15 practicable.

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

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

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

31 (5) A city or town shall:

32 (a) In order to facilitate the scheduling and coordination of work
33 in the right of way, provide as much advance notice as reasonable of
34 plans to open the right of way to those service providers who are
35 current users of the right of way or who have filed notice with the
36 clerk of the city or town within the past twelve months of their intent
37 to place facilities in the city or town. A city is not liable for
38 damages for failure to provide this notice. Where the city has failed
39 to provide notice of plans to open the right of way consistent with

1 this subsection, a city may not deny a use permit to a service provider
2 on the basis that the service provider failed to coordinate with
3 another project. To carry out this provision, the city or town may
4 establish a procedure for the filing of advance plans by service
5 providers and other users of the right of way.

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

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

16 (6) A service provider shall:

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

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

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

28 (d) Provide information and plans as reasonably necessary to enable
29 a city or town to comply with subsection (5) of this section,
30 including, when notified by the city or town, the provision of advance
31 planning information pursuant to the procedures established by the city
32 or town;

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

36 (f) Construct, install, operate, and maintain its facilities at its
37 expense; and

38 (g) Comply with applicable federal and state safety laws and
39 standards.

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

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

5 (b) Creating, expanding, or extending any liability of a city or
6 town to any third-party user of facilities or third-party beneficiary;
7 or

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

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

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

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

21 (b) Conflict with federal or state laws, rules, or regulations that
22 specifically apply to the design, construction, and operation of
23 facilities or with federal or state worker safety or public safety
24 laws, rules, or regulations;

25 (c) Regulate the services provided based upon the content or kind
26 of signals that are carried or are capable of being carried over the
27 facilities, except where otherwise authorized in state or federal law;
28 or

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

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

36 (a) Prohibit the placement of all wireless or of all wireline
37 facilities within the city or town, or prohibit the placement of all

1 wireless or of all wireline facilities within city or town rights of
2 way; or

3 (b) Violate section 253 of the telecommunications act of 1996, P.L.
4 104-104 (110 Stat. 56).

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

8 NEW SECTION. **Sec. 5.** (1) A city or town shall not place or extend
9 a moratorium on the acceptance and processing of applications,
10 permitting, construction, maintenance, repair, replacement, extension,
11 operation, or use of any facilities for personal wireless services,
12 except as consistent with the guidelines for facilities siting
13 implementation, as agreed to on August 5, 1998, by the federal
14 communications commission's local and state government advisory
15 committee, the cellular telecommunications industry association, the
16 personal communications industry association, and the American mobile
17 telecommunications association. Any city or town implementing such a
18 moratorium shall, at the request of a service provider impacted by the
19 moratorium, participate with the service provider in the informal
20 dispute resolution process included with the guidelines for facilities
21 siting implementation.

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

27 (2) Cities shall notify service providers as soon as practicable of
28 the need for relocation and the date by which relocation shall be
29 completed. In calculating the date that relocation must be completed,
30 cities shall consult with affected service providers and consider the
31 extent of the facilities to be relocated, the services requirements,
32 and the construction sequence required to safely complete the
33 relocation.

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

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

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

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

14 (4) Where a project in subsection (1) of this section is primarily
15 for private benefit, the private party or parties shall reimburse the
16 cost of relocation in the same proportion to their contribution to the
17 costs of the project. Service providers will not be precluded from
18 recovering their costs associated with relocation required under
19 subsection (1) of this section, provided that the recovery is
20 consistent with subsection (3) of this section and other applicable
21 laws.

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

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

30 (1) The city or town enters into a contract with the service
31 provider consistent with RCW 80.36.150. The contract rates to be
32 charged should recover the incremental costs of the service provider.
33 If the city or town makes the additional duct or conduit and related
34 access structures available to any other entity for the purposes of
35 providing telecommunications or cable television service for hire,
36 sale, or resale to the general public, the rates to be charged, as set
37 forth in the contract with the entity that constructed the conduit or
38 duct, shall recover at least the fully allocated costs of the service

1 provider. The service provider shall state both contract rates in the
2 contract. The city or town shall inform the service provider of the
3 use, and any change in use, of the requested duct or conduit and
4 related access structures to determine the applicable rate to be paid
5 by the city or town.

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

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

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

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

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

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

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

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

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

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

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

1 (i) The placement of new or replacement structures in the right of
2 way necessary for the provision of personal wireless services, where
3 the structure exceeds fifty feet or fifteen feet above the height of
4 the existing structure, whichever is greater; or

5 (ii) The placement of personal wireless facilities on structures
6 owned by the city or town located in the right of way.

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

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

32 NEW SECTION. Sec. 9. This act shall not preempt specific
33 provisions in existing franchises or contracts between cities or towns
34 and service providers.

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

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

3 **Sec. 11.** RCW 42.17.310 and 1999 c 326 s 3, 1999 c 290 s 1, and
4 1999 c 215 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

36 (g) Except as provided by chapter 8.26 RCW, the contents of real
37 estate appraisals, made for or by any agency relative to the
38 acquisition or sale of property, until the project or prospective sale

1 is abandoned or until such time as all of the property has been
2 acquired or the property to which the sale appraisal relates is sold,
3 but in no event shall disclosure be denied for more than three years
4 after the appraisal.

5 (h) Valuable formulae, designs, drawings, computer source code or
6 object code, and research data obtained by any agency within five years
7 of the request for disclosure when disclosure would produce private
8 gain and public loss.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 current residential address and residential telephone number of a
2 health care provider governed under RCW (~~18.130.140~~) 18.130.040
3 maintained in the files of the department shall automatically be
4 withheld from public inspection and copying unless the provider
5 specifically requests the information be released, and except as
6 provided for under RCW 42.17.260(9).

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

9 (y) Information obtained by the board of pharmacy or the department
10 of health and its representatives as provided in RCW 69.41.044,
11 69.41.280, and 18.64.420.

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

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

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

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

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

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

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

37 (gg) Financial, commercial, operations, and technical and research
38 information and data submitted to or obtained by the clean Washington

1 center in applications for, or delivery of, program services under
2 chapter 70.95H RCW.

3 (hh) Information and documents created specifically for, and
4 collected and maintained by a quality improvement committee pursuant to
5 RCW 43.70.510, regardless of which agency is in possession of the
6 information and documents.

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

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

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

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

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

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

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

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

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

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

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

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

1 shall be provided to the requester. Upon receipt of such a notice, the
2 city or town shall continue to treat information designated under this
3 section as exempt from disclosure. If the requester initiates an
4 action to compel disclosure under this chapter, the service provider
5 must be joined as a party to demonstrate the continuing need for
6 confidentiality and the city or town is exempt from any liability under
7 RCW 42.17.340 for failure to disclose proprietary information.

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

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

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

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

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