

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6236

56th Legislature
2000 Regular Session

Passed by the Senate March 6, 2000
YEAS 48 NAYS 0

President of the Senate

Passed by the House March 3, 2000
YEAS 98 NAYS 0

**Speaker of the
House of Representatives**

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6236** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 6236

AS AMENDED BY THE HOUSE

Passed Legislature - 2000 Regular Session

State of Washington

56th Legislature

2000 Regular Session

By Senator Fairley; by request of Employment Security Department

Read first time 01/11/2000. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to the transfer of data for operational,
2 evaluation, and research purposes; reenacting and amending RCW
3 50.13.060 and 42.17.310; creating new sections; and prescribing
4 penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that individuals in
7 need of employment and related services would be better served by
8 integrating employment and training services to form a comprehensive
9 network of state and local programs, called a one-stop career
10 development system. Successful integration of employment and training
11 services demands prompt and efficient exchange of information among
12 service providers. The legislature further finds that efficient
13 operation of state programs and their evaluation demand at times
14 information held by the employment security department. Current
15 restrictions on information exchange hamper this coordination,
16 resulting in increased administrative costs, reduced levels of service,
17 and fewer positive outcomes than could otherwise be achieved.

1 **Sec. 2.** RCW 50.13.060 and 1997 c 409 s 605 and 1997 c 58 s 1004
2 are each reenacted and amended to read as follows:

3 (1) Governmental agencies, including law enforcement agencies,
4 prosecuting agencies, and the executive branch, whether state, local,
5 or federal shall have access to information or records deemed private
6 and confidential under this chapter if the information or records are
7 needed by the agency for official purposes and:

8 (a) The agency submits an application in writing to the employment
9 security department for the records or information containing a
10 statement of the official purposes for which the information or records
11 are needed and specific identification of the records or information
12 sought from the department; and

13 (b) The director, commissioner, chief executive, or other official
14 of the agency has verified the need for the specific information in
15 writing either on the application or on a separate document; and

16 (c) The agency requesting access has served a copy of the
17 application for records or information on the individual or employing
18 unit whose records or information are sought and has provided the
19 department with proof of service. Service shall be made in a manner
20 which conforms to the civil rules for superior court. The requesting
21 agency shall include with the copy of the application a statement to
22 the effect that the individual or employing unit may contact the public
23 records officer of the employment security department to state any
24 objections to the release of the records or information. The
25 employment security department shall not act upon the application of
26 the requesting agency until at least five days after service on the
27 concerned individual or employing unit. The employment security
28 department shall consider any objections raised by the concerned
29 individual or employing unit in deciding whether the requesting agency
30 needs the information or records for official purposes.

31 (2) The requirements of subsections (1) and (9) of this section
32 shall not apply to the state legislative branch. The state legislature
33 shall have access to information or records deemed private and
34 confidential under this chapter, if the legislature or a legislative
35 committee finds that the information or records are necessary and for
36 official purposes. If the employment security department does not make
37 information or records available as provided in this subsection, the
38 legislature may exercise its authority granted by chapter 44.16 RCW.

1 (3) In cases of emergency the governmental agency requesting access
2 shall not be required to formally comply with the provisions of
3 subsection (1) of this section at the time of the request if the
4 procedures required by subsection (1) of this section are complied with
5 by the requesting agency following the receipt of any records or
6 information deemed private and confidential under this chapter. An
7 emergency is defined as a situation in which irreparable harm or damage
8 could occur if records or information are not released immediately.

9 (4) The requirements of subsection (1)(c) of this section shall not
10 apply to governmental agencies where the procedures would frustrate the
11 investigation of possible violations of criminal laws or to the release
12 of employing unit names, addresses, number of employees, and aggregate
13 employer wage data for the purpose of state governmental agencies
14 preparing small business economic impact statements under chapter 19.85
15 RCW or preparing cost-benefit analyses under RCW 34.05.328(1)(c).
16 Information provided by the department and held to be private and
17 confidential under state or federal laws must not be misused or
18 released to unauthorized parties. A person who misuses such
19 information or releases such information to unauthorized parties is
20 subject to the sanctions in RCW 50.13.080.

21 (5) Governmental agencies shall have access to certain records or
22 information, limited to such items as names, addresses, social security
23 numbers, and general information about benefit entitlement or employer
24 information possessed by the department, for comparison purposes with
25 records or information possessed by the requesting agency to detect
26 improper or fraudulent claims, or to determine potential tax liability
27 or employer compliance with registration and licensing requirements.
28 In those cases the governmental agency shall not be required to comply
29 with subsection (1)(c) of this section, but the requirements of the
30 remainder of subsection (1) of this section must be satisfied.

31 (6) Governmental agencies may have access to certain records and
32 information, limited to employer information possessed by the
33 department for purposes authorized in chapter 50.38 RCW. Access to
34 these records and information is limited to only those individuals
35 conducting authorized statistical analysis, research, and evaluation
36 studies. Only in cases consistent with the purposes of chapter 50.38
37 RCW are government agencies not required to comply with subsection
38 (1)(c) of this section, but the requirements of the remainder of
39 subsection (1) of this section must be satisfied. Information provided

1 by the department and held to be private and confidential under state
2 or federal laws shall not be misused or released to unauthorized
3 parties subject to the sanctions in RCW 50.13.080.

4 (7) Disclosure to governmental agencies of information or records
5 obtained by the employment security department from the federal
6 government shall be governed by any applicable federal law or any
7 agreement between the federal government and the employment security
8 department where so required by federal law. When federal law does not
9 apply to the records or information state law shall control.

10 (8) The department may provide information for purposes of
11 statistical analysis and evaluation of the WorkFirst program or any
12 successor state welfare program((7)) to the department of social and
13 health services, the office of financial management, and other
14 governmental entities with oversight or evaluation responsibilities for
15 the program ((shall have access to employer wage information on clients
16 in the program whose names and social security numbers are provided to
17 the department)) in accordance with RCW 43.20A.080. The confidential
18 information provided by the department shall remain the property of the
19 department and may be used by the authorized requesting agencies only
20 for statistical analysis, research, and evaluation purposes as provided
21 in RCW 74.08A.410 and 74.08A.420. The department of social and health
22 services ((is)), the office of financial management, or other
23 governmental entities with oversight or evaluation responsibilities for
24 the program are not required to comply with subsection (1)(c) of this
25 section, but the requirements of the remainder of subsection (1) of
26 this section and applicable federal laws and regulations must be
27 satisfied. The confidential information used for evaluation and
28 analysis of welfare reform supplied to the authorized requesting
29 entities with regard to the WorkFirst program or any successor state
30 welfare program are exempt from public inspection and copying under RCW
31 42.17.310.

32 (9) The disclosure of any records or information by a governmental
33 agency which has obtained the records or information under this section
34 is prohibited unless the disclosure is directly connected to the
35 official purpose for which the records or information were obtained.

36 (10) In conducting periodic salary or fringe benefit studies
37 pursuant to law, the department of personnel shall have access to
38 records of the employment security department as may be required for

1 such studies. For such purposes, the requirements of subsection (1)(c)
2 of this section need not apply.

3 (11) (a) To promote the reemployment of job seekers, the
4 commissioner may enter into data-sharing contracts with partners of the
5 one-stop career development system. The contracts shall provide for
6 the transfer of data only to the extent that the transfer is necessary
7 for the efficient provisions of work force programs, including but not
8 limited to public labor exchange, unemployment insurance, worker
9 training and retraining, vocational rehabilitation, vocational
10 education, adult education, transition from public assistance, and
11 support services. The transfer of information under contracts with
12 one-stop partners is exempt from subsection (1)(c) of this section.

13 (b) An individual who applies for services from the department and
14 whose information will be shared under (a) of this subsection (11) must
15 be notified that his or her private and confidential information in the
16 department's records will be shared among the one-stop partners to
17 facilitate the delivery of one-stop services to the individual. The
18 notice must advise the individual that he or she may request that
19 private and confidential information not be shared among the one-stop
20 partners and the department must honor the request. In addition, the
21 notice must:

22 (i) Advise the individual that if he or she requests that private
23 and confidential information not be shared among one-stop partners, the
24 request will in no way affect eligibility for services;

25 (ii) Describe the nature of the information to be shared, the
26 general use of the information by one-stop partner representatives, and
27 among whom the information will be shared;

28 (iii) Inform the individual that shared information will be used
29 only for the purpose of delivering one-stop services and that further
30 disclosure of the information is prohibited under contract and is not
31 subject to disclosure under RCW 42.17.310; and

32 (iv) Be provided in English and an alternative language selected by
33 the one-stop center or job service center as appropriate for the
34 community where the center is located.

35 If the notice is provided in-person, the individual who does not
36 want private and confidential information shared among the one-stop
37 partners must immediately advise the one-stop partner representative of
38 that decision. The notice must be provided to an individual who
39 applies for services telephonically, electronically, or by mail, in a

1 suitable format and within a reasonable time after applying for
2 services, which shall be no later than ten working days from the
3 department's receipt of the application for services. A one-stop
4 representative must be available to answer specific questions regarding
5 the nature, extent, and purpose for which the information may be
6 shared.

7 (12) To facilitate improved operation and evaluation of state
8 programs, the commissioner may enter into data-sharing contracts with
9 other state agencies only to the extent that such transfer is necessary
10 for the efficient operation or evaluation of outcomes for those
11 programs. The transfer of information by contract under this
12 subsection is exempt from subsection (1)(c) of this section.

13 (13) The misuse or unauthorized release of records or information
14 by any person or organization to which access is permitted by this
15 chapter subjects the person or organization to a civil penalty of five
16 thousand dollars and other applicable sanctions under state and federal
17 law. Suit to enforce this section shall be brought by the attorney
18 general and the amount of any penalties collected shall be paid into
19 the employment security department administrative contingency fund.
20 The attorney general may recover reasonable attorneys' fees for any
21 action brought to enforce this section.

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

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

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

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

31 (c) Information required of any taxpayer in connection with the
32 assessment or collection of any tax if the disclosure of the
33 information to other persons would (i) be prohibited to such persons by
34 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
35 taxpayer's right to privacy or result in unfair competitive
36 disadvantage to the taxpayer.

37 (d) Specific intelligence information and specific investigative
38 records compiled by investigative, law enforcement, and penology

1 agencies, and state agencies vested with the responsibility to
2 discipline members of any profession, the nondisclosure of which is
3 essential to effective law enforcement or for the protection of any
4 person's right to privacy.

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

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

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

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

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

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

36 (k) Records, maps, or other information identifying the location of
37 archaeological sites in order to avoid the looting or depredation of
38 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~~) 18.130.040
22 maintained in the files of the department shall automatically be
23 withheld from public inspection and copying unless the provider
24 specifically requests the information be released, and except as
25 provided for under RCW 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 supplied to the state
36 investment board by any person when the information relates to the
37 investment of public trust or retirement funds and when disclosure
38 would result in loss to such funds or in private loss to the providers
39 of this information.

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

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

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

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

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

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

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

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

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

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

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

1 (mm) The personally identifying information of current or former
2 participants or applicants in a paratransit or other transit service
3 operated for the benefit of persons with disabilities or elderly
4 persons.

5 (nn) The personally identifying information of persons who acquire
6 and use transit passes and other fare payment media including, but not
7 limited to, stored value smart cards and magnetic strip cards, except
8 that an agency may disclose this information to a person, employer,
9 educational institution, or other entity that is responsible, in whole
10 or in part, for payment of the cost of acquiring or using a transit
11 pass or other fare payment media, or to the news media when reporting
12 on public transportation or public safety. This information may also
13 be disclosed at the agency's discretion to governmental agencies or
14 groups concerned with public transportation or public safety.

15 (oo) Proprietary financial and commercial information that the
16 submitting entity, with review by the department of health,
17 specifically identifies at the time it is submitted and that is
18 provided to or obtained by the department of health in connection with
19 an application for, or the supervision of, an antitrust exemption
20 sought by the submitting entity under RCW 43.72.310. If a request for
21 such information is received, the submitting entity must be notified of
22 the request. Within ten business days of receipt of the notice, the
23 submitting entity shall provide a written statement of the continuing
24 need for confidentiality, which shall be provided to the requester.
25 Upon receipt of such notice, the department of health shall continue to
26 treat information designated under this section as exempt from
27 disclosure. If the requester initiates an action to compel disclosure
28 under this chapter, the submitting entity must be joined as a party to
29 demonstrate the continuing need for confidentiality.

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

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

37 (rr) Any records of investigative reports prepared by any state,
38 county, municipal, or other law enforcement agency pertaining to sex
39 offenses contained in chapter 9A.44 RCW or sexually violent offenses as

1 defined in RCW 71.09.020, which have been transferred to the Washington
2 association of sheriffs and police chiefs for permanent electronic
3 retention and retrieval pursuant to RCW 40.14.070(2)(b).

4 (ss) Records maintained by the employment security department and
5 subject to chapter 50.13 RCW if provided to another individual or
6 organization for operational, research, or evaluation purposes.

7 (tt) Individually identifiable information received by the work
8 force training and education coordinating board for research or
9 evaluation purposes.

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

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

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

28 NEW SECTION. Sec. 4. If any part of this act is found to be in
29 conflict with federal requirements that are a prescribed condition to
30 the allocation of federal funds to the state or the eligibility of
31 employers in this state for federal unemployment tax credits, the
32 conflicting part of this act is inoperative solely to the extent of the
33 conflict, and the finding or determination does not affect the
34 operation of the remainder of this act. Rules adopted under this act
35 must meet federal requirements that are a necessary condition to the
36 receipt of federal funds by the state or the granting of federal
37 unemployment tax credits to employers in this state.

1 NEW SECTION. **Sec. 5.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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