

2 **SSB 6439** - H COMM AMD **ADOPTED 3-8-02**

3 By Select Committee on Community Security

4

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

7 "**Sec. 1.** RCW 42.17.310 and 2001 c 278 s 1, 2001 c 98 s 2, and 2001
8 c 70 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

28 (e) Information revealing the identity of persons who are witnesses
29 to or victims of crime or who file complaints with investigative, law
30 enforcement, or penology agencies, other than the public disclosure
31 commission, if disclosure would endanger any person's life, physical
32 safety, or property. If at the time a complaint is filed the
33 complainant, victim or witness indicates a desire for disclosure or
34 nondisclosure, such desire shall govern. However, all complaints filed
35 with the public disclosure commission about any elected official or

1 candidate for public office must be made in writing and signed by the
2 complainant under oath.

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

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

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

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

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

24 (k) Records, maps, or other information identifying the location of
25 archaeological sites in order to avoid the looting or depredation of
26 such sites.

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

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

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

1 (o) Financial and commercial information and records supplied by
2 private persons pertaining to export services provided pursuant to
3 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
4 export projects pursuant to RCW 43.23.035.

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

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

10 (r) Financial and commercial information and records supplied by
11 businesses or individuals during application for loans or program
12 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
13 or during application for economic development loans or program
14 services provided by any local agency.

15 (s) Membership lists or lists of members or owners of interests of
16 units in timeshare projects, subdivisions, camping resorts,
17 condominiums, land developments, or common-interest communities
18 affiliated with such projects, regulated by the department of
19 licensing, in the files or possession of the department.

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

23 (u) The residential addresses or residential telephone numbers of
24 employees or volunteers of a public agency which are held by any public
25 agency in personnel records, public employment related records, or
26 volunteer rosters, or are included in any mailing list of employees or
27 volunteers of any public agency.

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

35 (w)(i) The federal social security number of individuals governed
36 under chapter 18.130 RCW maintained in the files of the department of
37 health, except this exemption does not apply to requests made directly
38 to the department from federal, state, and local agencies of
39 government, and national and state licensing, credentialing,

1 investigatory, disciplinary, and examination organizations; (ii) the
2 current residential address and current residential telephone number of
3 a health care provider governed under chapter 18.130 RCW maintained in
4 the files of the department, if the provider requests that this
5 information be withheld from public inspection and copying, and
6 provides to the department an accurate alternate or business address
7 and business telephone number. On or after January 1, 1995, the
8 current residential address and residential telephone number of a
9 health care provider governed under RCW 18.130.040 maintained in the
10 files of the department shall automatically be withheld from public
11 inspection and copying unless the provider specifically requests the
12 information be released, and except as provided for under RCW
13 42.17.260(9).

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

16 (y) Information obtained by the board of pharmacy or the department
17 of health and its representatives as provided in RCW 69.41.044,
18 69.41.280, and 18.64.420.

19 (z) Financial information, business plans, examination reports, and
20 any information produced or obtained in evaluating or examining a
21 business and industrial development corporation organized or seeking
22 certification under chapter 31.24 RCW.

23 (aa) Financial and commercial information supplied to the state
24 investment board by any person when the information relates to the
25 investment of public trust or retirement funds and when disclosure
26 would result in loss to such funds or in private loss to the providers
27 of this information.

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

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

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

38 (ee) Investigative records compiled by an employing agency
39 conducting a current investigation of a possible unfair practice under

1 chapter 49.60 RCW or of a possible violation of other federal, state,
2 or local laws prohibiting discrimination in employment.

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

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

9 (hh) Information and documents created specifically for, and
10 collected and maintained by a quality improvement committee pursuant to
11 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
12 4.24.250, regardless of which agency is in possession of the
13 information and documents.

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

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

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

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

29 (mm) The personally identifying information of current or former
30 participants or applicants in a paratransit or other transit service
31 operated for the benefit of persons with disabilities or elderly
32 persons.

33 (nn) The personally identifying information of persons who acquire
34 and use transit passes and other fare payment media including, but not
35 limited to, stored value smart cards and magnetic strip cards, except
36 that an agency may disclose this information to a person, employer,
37 educational institution, or other entity that is responsible, in whole
38 or in part, for payment of the cost of acquiring or using a transit
39 pass or other fare payment media, or to the news media when reporting

1 on public transportation or public safety. This information may also
2 be disclosed at the agency's discretion to governmental agencies or
3 groups concerned with public transportation or public safety.

4 (oo) 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 (pp) 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 (qq) 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 (rr) Any records of investigative reports prepared by any state,
27 county, municipal, or other law enforcement agency pertaining to sex
28 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
29 defined in RCW 71.09.020, which have been transferred to the Washington
30 association of sheriffs and police chiefs for permanent electronic
31 retention and retrieval pursuant to RCW 40.14.070(2)(b).

32 (ss) Credit card numbers, debit card numbers, electronic check
33 numbers, card expiration dates, or bank or other financial account
34 numbers supplied to an agency for the purpose of electronic transfer of
35 funds, except when disclosure is expressly required by law.

36 (tt) Financial information, including but not limited to account
37 numbers and values, and other identification numbers supplied by or on
38 behalf of a person, firm, corporation, limited liability company,

1 partnership, or other entity related to an application for a liquor
2 license, gambling license, or lottery retail license.

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

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

9 (ww) Those portions of records (~~containing~~) assembled, prepared,
10 or maintained to prevent, mitigate, or respond to terrorism crimes
11 specified in sections 3 through 8, chapter . . . (Substitute House Bill
12 No. 2879), Laws of 2002, the public disclosure of which would have a
13 substantial likelihood of threatening public safety, consisting of:

14 (i) Specific and unique vulnerability assessments or specific and
15 unique response or deployment plans, ((either of which is intended to
16 prevent or mitigate criminal terrorist acts as defined in RCW
17 70.74.285, the public disclosure of which would have a substantial
18 likelihood of threatening public safety)) including compiled underlying
19 data collected in preparation of or essential to the assessments, or to
20 the response or deployment plans; and

21 (ii) Records not subject to public disclosure under federal law
22 that are shared by federal or international agencies, and information
23 prepared from national security briefings provided to state or local
24 government officials related to domestic preparedness for acts of
25 terrorism.

26 (xx) Commercial fishing catch data from logbooks required to be
27 provided to the department of fish and wildlife under RCW 77.12.047,
28 when the data identifies specific catch location, timing, or
29 methodology and the release of which would result in unfair competitive
30 disadvantage to the commercial fisher providing the catch data.
31 However, this information may be released to government agencies
32 concerned with the management of fish and wildlife resources.

33 (yy) Sensitive wildlife data obtained by the department of fish and
34 wildlife. However, sensitive wildlife data may be released to
35 government agencies concerned with the management of fish and wildlife
36 resources. Sensitive wildlife data includes:

37 (i) The nesting sites or specific locations of endangered species
38 designated under RCW 77.12.020, or threatened or sensitive species
39 classified by rule of the department of fish and wildlife;

1 (ii) Radio frequencies used in, or locational data generated by,
2 telemetry studies; or

3 (iii) Other location data that could compromise the viability of a
4 specific fish or wildlife population, and where at least one of the
5 following criteria are met:

6 (A) The species has a known commercial or black market value;

7 (B) There is a history of malicious take of that species; or

8 (C) There is a known demand to visit, take, or disturb, and the
9 species behavior or ecology renders it especially vulnerable or the
10 species has an extremely limited distribution and concentration.

11 (zz) The personally identifying information of persons who acquire
12 recreational licenses under RCW 77.32.010 or commercial licenses under
13 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
14 department, and type of license, endorsement, or tag. However, the
15 department of fish and wildlife may disclose personally identifying
16 information to:

17 (i) Government agencies concerned with the management of fish and
18 wildlife resources;

19 (ii) The department of social and health services, child support
20 division, and to the department of licensing in order to implement RCW
21 77.32.014 and 46.20.291; and

22 (iii) Law enforcement agencies for the purpose of firearm
23 possession enforcement under RCW 9.41.040.

24 (aaa) Information regarding the infrastructure and security of
25 computer and telecommunications networks, consisting of security
26 passwords, security access codes and programs, access codes for secure
27 software applications, security and service recovery plans, security
28 risk assessments, and security test results to the extent that they
29 identify specific system vulnerabilities.

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

38 (3) Inspection or copying of any specific records exempt under the
39 provisions of this section may be permitted if the superior court in

1 the county in which the record is maintained finds, after a hearing
2 with notice thereof to every person in interest and the agency, that
3 the exemption of such records is clearly unnecessary to protect any
4 individual's right of privacy or any vital governmental function.

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

9 NEW SECTION. **Sec. 2.** No later than September 1, 2004, the joint
10 legislative audit and review committee shall review the effect of RCW
11 42.17.310(1) (ww) and (aaa) on state agency performance in responding
12 to requests for disclosure of records under chapter 42.17 RCW. In
13 conducting this review the joint legislative audit and review committee
14 shall select a representative sample of requests for public disclosure,
15 and the agencies' responses to those requests, from up to five state
16 agencies. The joint legislative audit and review committee shall
17 report its findings to the legislature no later than November 30,
18 2004."

19 Correct the title.

EFFECT: (1) Removes exemption provision focused on specific intelligence information and specific investigative records shared by federal and international law enforcement agencies with state or local law enforcement and certain other state and local agencies.

(2) Changes exemption provision for national security records to apply to all records not subject to disclosure under federal law that are shared by federal or international agencies with state or local government officials or to information (rather than records) prepared from national security briefings provided to state and local government officials.

(3) Requires the Joint Legislative Audit and Review Committee (JLARC) to review the effect of the public disclosure exemptions established by this bill on state agency performance in responding to public disclosure requests.

(4) Specifies JLARC is to choose a representative sample from up to five agencies of requests to public disclosure and corresponding responses and requires a report to the Legislature on the JLARC review by November 30, 2004.

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