
HOUSE BILL 2028

State of Washington

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By Representatives D. Schmidt and Romero

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1 AN ACT Relating to the privacy of certain business financial and
2 commercial information; and reenacting and amending RCW 42.17.310.

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

4 **Sec. 1.** RCW 42.17.310 and 2000 c 134 s 3, 2000 c 56 s 1, and 2000
5 c 6 s 5 are each reenacted and amended to read 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, computer source code or
27 object code, and research data obtained by any agency within five years
28 of the request for disclosure when disclosure would produce private
29 gain and public loss.

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

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

1 (k) Records, maps, or other information identifying the location of
2 archaeological sites in order to avoid the looting or depredation of
3 such sites.

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

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

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

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

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

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

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

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

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

38 (u) The residential addresses and residential telephone numbers of
39 employees or volunteers of a public agency which are held by the agency

1 in personnel records, employment or volunteer rosters, or mailing lists
2 of employees or volunteers.

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

10 (w)(i) The federal social security number of individuals governed
11 under chapter 18.130 RCW maintained in the files of the department of
12 health, except this exemption does not apply to requests made directly
13 to the department from federal, state, and local agencies of
14 government, and national and state licensing, credentialing,
15 investigatory, disciplinary, and examination organizations; (ii) the
16 current residential address and current residential telephone number of
17 a health care provider governed under chapter 18.130 RCW maintained in
18 the files of the department, if the provider requests that this
19 information be withheld from public inspection and copying, and
20 provides to the department an accurate alternate or business address
21 and business telephone number. On or after January 1, 1995, the
22 current residential address and residential telephone number of a
23 health care provider governed under RCW 18.130.040 maintained in the
24 files of the department shall automatically be withheld from public
25 inspection and copying unless the provider specifically requests the
26 information be released, and except as provided for under RCW
27 42.17.260(9).

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

30 (y) Information obtained by the board of pharmacy or the department
31 of health and its representatives as provided in RCW 69.41.044,
32 69.41.280, and 18.64.420.

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

37 (aa) Financial and commercial information supplied to the state
38 investment board by any person when the information relates to the
39 investment of public trust or retirement funds and when disclosure

1 would result in loss to such funds or in private loss to the providers
2 of this information.

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

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

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

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

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

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

23 (hh) Information and documents created specifically for, and
24 collected and maintained by a quality improvement committee pursuant to
25 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
26 4.24.250, 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) The personally identifying information of current or former
5 participants or applicants in a paratransit or other transit service
6 operated for the benefit of persons with disabilities or elderly
7 persons.

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

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

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

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

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

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

11 (tt) Financial information, including but not limited to account
12 numbers and values, and other identification numbers supplied by or on
13 behalf of a person, firm, corporation, limited liability company,
14 partnership, or other entity related to an application for a liquor
15 license, gambling license, or lottery retail license.

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

19 (vv) Individually identifiable information received by the work
20 force training and education coordinating board for research or
21 evaluation purposes.

22 (ww) Financial and commercial information and records supplied by
23 or on behalf of a person, firm, or corporation for the purpose of
24 qualifying to submit a bid or proposal for a port district project or
25 for the purpose of negotiating the use or lease of port properties or
26 facilities.

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

35 (3) Inspection or copying of any specific records exempt under the
36 provisions of this section may be permitted if the superior court in
37 the county in which the record is maintained finds, after a hearing
38 with notice thereof to every person in interest and the agency, that

1 the exemption of such records is clearly unnecessary to protect any
2 individual's right of privacy or any vital governmental function.

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

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