

ESHB 1845 - S COMM AMD

By Committee on Financial Services, Insurance & Housing

ADOPTED 04/08/2003

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 42.17.310 and 2002 c 335 s 1, 2002 c 224 s 2, 2002 c  
4 205 s 4, and 2002 c 172 s 1 are each reenacted and amended to read as  
5 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.

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

25 (e) Information revealing the identity of persons who are witnesses  
26 to or victims of crime or who file complaints with investigative, law  
27 enforcement, or penology agencies, other than the public disclosure  
28 commission, if disclosure would endanger any person's life, physical  
29 safety, or property. If at the time a complaint is filed the  
30 complainant, victim or witness indicates a desire for disclosure or

1 nondisclosure, such desire shall govern. However, all complaints filed  
2 with the public disclosure commission about any elected official or  
3 candidate for public office must be made in writing and signed by the  
4 complainant under oath.

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

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

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

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

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

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

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

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

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

5 (o) Financial and commercial information and records supplied by  
6 private persons pertaining to export services provided pursuant to  
7 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
8 export projects pursuant to RCW 43.23.035.

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

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

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

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

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

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

32 (v) The residential addresses and residential telephone numbers of  
33 the customers of a public utility contained in the records or lists  
34 held by the public utility of which they are customers, except that  
35 this information may be released to the division of child support or  
36 the agency or firm providing child support enforcement for another

1 state under Title IV-D of the federal social security act, for the  
2 establishment, enforcement, or modification of a support order.

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

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

23 (y) Information obtained by the board of pharmacy or the department  
24 of health and its representatives as provided in RCW 69.41.044,  
25 69.41.280, and 18.64.420.

26 (z) Financial information, business plans, examination reports, and  
27 any information produced or obtained in evaluating or examining a  
28 business and industrial development corporation organized or seeking  
29 certification under chapter 31.24 RCW.

30 (aa) Financial and commercial information supplied to the state  
31 investment board by any person when the information relates to the  
32 investment of public trust or retirement funds and when disclosure  
33 would result in loss to such funds or in private loss to the providers  
34 of this information.

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

36 (cc) Client records maintained by an agency that is a domestic

1 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
2 crisis center as defined in RCW 70.125.030.

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

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

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

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

19 (hh) Information and documents created specifically for, and  
20 collected and maintained by a quality improvement committee pursuant to  
21 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW  
22 4.24.250, regardless of which agency is in possession of the  
23 information and documents.

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

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

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

33 (ll) The names, residential addresses, residential telephone  
34 numbers, and other individually identifiable records held by an agency  
35 in relation to a vanpool, carpool, or other ride-sharing program or  
36 service. However, these records may be disclosed to other persons who

1 apply for ride-matching services and who need that information in order  
2 to identify potential riders or drivers with whom to share rides.

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

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

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

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

35 (qq) Financial and commercial information supplied by or on behalf  
36 of a person, firm, corporation, or entity under chapter 28B.95 RCW

1 relating to the purchase or sale of tuition units and contracts for the  
2 purchase of multiple tuition units.

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

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

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

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

22 (vv) Individually identifiable information received by the work  
23 force training and education coordinating board for research or  
24 evaluation purposes.

25 (ww) Those portions of records assembled, prepared, or maintained  
26 to prevent, mitigate, or respond to criminal terrorist acts, which are  
27 acts that significantly disrupt the conduct of government or of the  
28 general civilian population of the state or the United States and that  
29 manifest an extreme indifference to human life, the public disclosure  
30 of which would have a substantial likelihood of threatening public  
31 safety, consisting of:

32 (i) Specific and unique vulnerability assessments or specific and  
33 unique response or deployment plans, including compiled underlying data  
34 collected in preparation of or essential to the assessments, or to the  
35 response or deployment plans; and

36 (ii) Records not subject to public disclosure under federal law  
37 that are shared by federal or international agencies, and information

1 prepared from national security briefings provided to state or local  
2 government officials related to domestic preparedness for acts of  
3 terrorism.

4 (xx) Commercial fishing catch data from logbooks required to be  
5 provided to the department of fish and wildlife under RCW 77.12.047,  
6 when the data identifies specific catch location, timing, or  
7 methodology and the release of which would result in unfair competitive  
8 disadvantage to the commercial fisher providing the catch data.  
9 However, this information may be released to government agencies  
10 concerned with the management of fish and wildlife resources.

11 (yy) Sensitive wildlife data obtained by the department of fish and  
12 wildlife. However, sensitive wildlife data may be released to  
13 government agencies concerned with the management of fish and wildlife  
14 resources. Sensitive wildlife data includes:

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

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

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

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

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

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

28 (zz) The personally identifying information of persons who acquire  
29 recreational licenses under RCW 77.32.010 or commercial licenses under  
30 chapter 77.65 or 77.70 RCW, except name, address of contact used by the  
31 department, and type of license, endorsement, or tag. However, the  
32 department of fish and wildlife may disclose personally identifying  
33 information to:

34 (i) Government agencies concerned with the management of fish and  
35 wildlife resources;

36 (ii) The department of social and health services, child support



1 division, and to the department of licensing in order to implement RCW  
2 77.32.014 and 46.20.291; and

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

5 (aaa)(i) Discharge papers of a veteran of the armed forces of the  
6 United States filed at the office of the county auditor before July 1,  
7 2002, that have not been commingled with other recorded documents.  
8 These records will be available only to the veteran, the veteran's next  
9 of kin, a deceased veteran's properly appointed personal representative  
10 or executor, a person holding that veteran's general power of attorney,  
11 or to anyone else designated in writing by that veteran to receive the  
12 records.

13 (ii) Discharge papers of a veteran of the armed forces of the  
14 United States filed at the office of the county auditor before July 1,  
15 2002, that have been commingled with other records, if the veteran has  
16 recorded a "request for exemption from public disclosure of discharge  
17 papers" with the county auditor. If such a request has been recorded,  
18 these records may be released only to the veteran filing the papers,  
19 the veteran's next of kin, a deceased veteran's properly appointed  
20 personal representative or executor, a person holding the veteran's  
21 general power of attorney, or anyone else designated in writing by the  
22 veteran to receive the records.

23 (iii) Discharge papers of a veteran filed at the office of the  
24 county auditor after June 30, 2002, are not public records, but will be  
25 available only to the veteran, the veteran's next of kin, a deceased  
26 veteran's properly appointed personal representative or executor, a  
27 person holding the veteran's general power of attorney, or anyone else  
28 designated in writing by the veteran to receive the records.

29 (iv) For the purposes of this subsection (1)(aaa), next of kin of  
30 deceased veterans have the same rights to full access to the record.  
31 Next of kin are the veteran's widow or widower who has not remarried,  
32 son, daughter, father, mother, brother, and sister.

33 (bbb) Those portions of records containing specific and unique  
34 vulnerability assessments or specific and unique emergency and escape  
35 response plans at a city, county, or state adult or juvenile  
36 correctional facility, the public disclosure of which would have a

1 substantial likelihood of threatening the security of a city, county,  
2 or state adult or juvenile correctional facility or any individual's  
3 safety.

4 (ccc) Information compiled by school districts or schools in the  
5 development of their comprehensive safe school plans pursuant to RCW  
6 28A.320.125, to the extent that they identify specific vulnerabilities  
7 of school districts and each individual school.

8 (ddd) Information regarding the infrastructure and security of  
9 computer and telecommunications networks, consisting of security  
10 passwords, security access codes and programs, access codes for secure  
11 software applications, security and service recovery plans, security  
12 risk assessments, and security test results to the extent that they  
13 identify specific system vulnerabilities.

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

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

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

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By Committee on Financial Services, Insurance & Housing

**ADOPTED 04/08/2003**

1           On page 1, line 2 of the title, after "disclosure;" strike the  
2 remainder of the title and insert "and reenacting and amending RCW  
3 42.17.310."

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