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HOUSE BILL 1766

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State of Washington

58th Legislature

2003 Regular Session

By Representatives Anderson and Benson

Read first time 02/07/2003. Referred to Committee on State Government.

1 AN ACT Relating to the public inspection and copying of state  
2 investment board information; and reenacting and amending RCW  
3 42.17.310.

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

5 **Sec. 1.** RCW 42.17.310 and 2002 c 335 s 1, 2002 c 224 s 2, 2002 c  
6 205 s 4, and 2002 c 172 s 1 are each reenacted and amended to read as  
7 follows:

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

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

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

15 (c) Information required of any taxpayer in connection with the  
16 assessment or collection of any tax if the disclosure of the  
17 information to other persons would (i) be prohibited to such persons by  
18 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the

1 taxpayer's right to privacy or result in unfair competitive  
2 disadvantage to the taxpayer.

3 (d) Specific intelligence information and specific investigative  
4 records compiled by investigative, law enforcement, and penology  
5 agencies, and state agencies vested with the responsibility to  
6 discipline members of any profession, the nondisclosure of which is  
7 essential to effective law enforcement or for the protection of any  
8 person's right to privacy.

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

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

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

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

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

36 (j) Records which are relevant to a controversy to which an agency  
37 is a party but which records would not be available to another party

1 under the rules of pretrial discovery for causes pending in the  
2 superior courts.

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

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

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

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

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

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

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

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

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

37 (t) All applications for public employment, including the names of

1 applicants, resumes, and other related materials submitted with respect  
2 to an applicant.

3 (u) The residential addresses or residential telephone numbers of  
4 employees or volunteers of a public agency which are held by any public  
5 agency in personnel records, public employment related records, or  
6 volunteer rosters, or are included in any mailing list of employees or  
7 volunteers of any public agency.

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

15 (w)(i) The federal social security number of individuals governed  
16 under chapter 18.130 RCW maintained in the files of the department of  
17 health, except this exemption does not apply to requests made directly  
18 to the department from federal, state, and local agencies of  
19 government, and national and state licensing, credentialing,  
20 investigatory, disciplinary, and examination organizations; (ii) the  
21 current residential address and current residential telephone number of  
22 a health care provider governed under chapter 18.130 RCW maintained in  
23 the files of the department, if the provider requests that this  
24 information be withheld from public inspection and copying, and  
25 provides to the department an accurate alternate or business address  
26 and business telephone number. On or after January 1, 1995, the  
27 current residential address and residential telephone number of a  
28 health care provider governed under RCW 18.130.040 maintained in the  
29 files of the department shall automatically be withheld from public  
30 inspection and copying unless the provider specifically requests the  
31 information be released, and except as provided for under RCW  
32 42.17.260(9).

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

35 (y) Information obtained by the board of pharmacy or the department  
36 of health and its representatives as provided in RCW 69.41.044,  
37 69.41.280, and 18.64.420.

1 (z) Financial information, business plans, examination reports, and  
2 any information produced or obtained in evaluating or examining a  
3 business and industrial development corporation organized or seeking  
4 certification under chapter 31.24 RCW.

5 (aa) Financial and commercial information supplied to the state  
6 investment board by any person for two years after the date the  
7 information was supplied when the information relates to the investment  
8 of public trust or retirement funds and when disclosure would result in  
9 a material loss to such funds (~~(or in private loss to the providers of~~  
10 ~~this information)~~)).

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

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

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

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

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

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

31 (hh) Information and documents created specifically for, and  
32 collected and maintained by a quality improvement committee pursuant to  
33 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW  
34 4.24.250, regardless of which agency is in possession of the  
35 information and documents.

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

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

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

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

14 (mm) The personally identifying information of current or former  
15 participants or applicants in a paratransit or other transit service  
16 operated for the benefit of persons with disabilities or elderly  
17 persons.

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

28 (oo) Proprietary financial and commercial information that the  
29 submitting entity, with review by the department of health,  
30 specifically identifies at the time it is submitted and that is  
31 provided to or obtained by the department of health in connection with  
32 an application for, or the supervision of, an antitrust exemption  
33 sought by the submitting entity under RCW 43.72.310. If a request for  
34 such information is received, the submitting entity must be notified of  
35 the request. Within ten business days of receipt of the notice, the  
36 submitting entity shall provide a written statement of the continuing  
37 need for confidentiality, which shall be provided to the requester.  
38 Upon receipt of such notice, the department of health shall continue to

1 treat information designated under this section as exempt from  
2 disclosure. If the requester initiates an action to compel disclosure  
3 under this chapter, the submitting entity must be joined as a party to  
4 demonstrate the continuing need for confidentiality.

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

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

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

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

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

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

30 (vv) Individually identifiable information received by the work  
31 force training and education coordinating board for research or  
32 evaluation purposes.

33 (ww) Those portions of records assembled, prepared, or maintained  
34 to prevent, mitigate, or respond to criminal terrorist acts, which are  
35 acts that significantly disrupt the conduct of government or of the  
36 general civilian population of the state or the United States and that  
37 manifest an extreme indifference to human life, the public disclosure

1 of which would have a substantial likelihood of threatening public  
2 safety, consisting of:

3 (i) Specific and unique vulnerability assessments or specific and  
4 unique response or deployment plans, including compiled underlying data  
5 collected in preparation of or essential to the assessments, or to the  
6 response or deployment plans; and

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

12 (xx) Commercial fishing catch data from logbooks required to be  
13 provided to the department of fish and wildlife under RCW 77.12.047,  
14 when the data identifies specific catch location, timing, or  
15 methodology and the release of which would result in unfair competitive  
16 disadvantage to the commercial fisher providing the catch data.  
17 However, this information may be released to government agencies  
18 concerned with the management of fish and wildlife resources.

19 (yy) Sensitive wildlife data obtained by the department of fish and  
20 wildlife. However, sensitive wildlife data may be released to  
21 government agencies concerned with the management of fish and wildlife  
22 resources. Sensitive wildlife data includes:

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

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

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

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

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

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

36 (zz) The personally identifying information of persons who acquire  
37 recreational licenses under RCW 77.32.010 or commercial licenses under  
38 chapter 77.65 or 77.70 RCW, except name, address of contact used by the



1 department, and type of license, endorsement, or tag. However, the  
2 department of fish and wildlife may disclose personally identifying  
3 information to:

4 (i) Government agencies concerned with the management of fish and  
5 wildlife resources;

6 (ii) The department of social and health services, child support  
7 division, and to the department of licensing in order to implement RCW  
8 77.32.014 and 46.20.291; and

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

11 (aaa)(i) Discharge papers of a veteran of the armed forces of the  
12 United States filed at the office of the county auditor before July 1,  
13 2002, that have not been commingled with other recorded documents.  
14 These records will be available only to the veteran, the veteran's next  
15 of kin, a deceased veteran's properly appointed personal representative  
16 or executor, a person holding that veteran's general power of attorney,  
17 or to anyone else designated in writing by that veteran to receive the  
18 records.

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

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

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

1 (bbb) Those portions of records containing specific and unique  
2 vulnerability assessments or specific and unique emergency and escape  
3 response plans at a city, county, or state adult or juvenile  
4 correctional facility, the public disclosure of which would have a  
5 substantial likelihood of threatening the security of a city, county,  
6 or state adult or juvenile correctional facility or any individual's  
7 safety.

8 (ccc) Information compiled by school districts or schools in the  
9 development of their comprehensive safe school plans pursuant to RCW  
10 28A.320.125, to the extent that they identify specific vulnerabilities  
11 of school districts and each individual school.

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

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

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

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

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