
HOUSE BILL 2350

State of Washington 59th Legislature 2006 Regular Session

By Representatives Morris, Hudgins and B. Sullivan

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Committee on State Government Operations & Accountability.

1 AN ACT Relating to disclosure of energy infrastructure information;
2 amending RCW 42.56.330; reenacting and amending RCW 42.17.310;
3 providing an effective date; and providing an expiration date.

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

5 **Sec. 1.** RCW 42.17.310 and 2005 c 424 s 16, 2005 c 349 s 1, 2005 c
6 312 s 6, 2005 c 284 s 1, 2005 c 172 s 13, and 2005 c 33 s 4 are each
7 reenacted and amended to read as 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, residential telephone numbers,
4 personal wireless telephone numbers, personal electronic mail
5 addresses, Social Security numbers, and emergency contact information
6 of employees or volunteers of a public agency, and the names, dates of
7 birth, residential addresses, residential telephone numbers, personal
8 wireless telephone numbers, personal electronic mail addresses, Social
9 Security numbers, and emergency contact information of dependents of
10 employees or volunteers of a public agency, which are held by any
11 public agency in personnel records, public employment related records,
12 or volunteer rosters, or are included in any mailing list of employees
13 or volunteers of any public agency. For purposes of this subsection,
14 "employees" includes independent provider home care workers as defined
15 in RCW 74.39A.240.

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

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

1 inspection and copying unless the provider specifically requests the
2 information be released, and except as provided for under RCW
3 42.17.260(9).

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

6 (y) Information obtained by the board of pharmacy or the department
7 of health and its representatives as provided in RCW 69.41.044,
8 69.41.280, and 18.64.420.

9 (z) Financial information, business plans, examination reports, and
10 any information produced or obtained in evaluating or examining a
11 business and industrial development corporation organized or seeking
12 certification under chapter 31.24 RCW.

13 (aa) Financial and commercial information supplied to the state
14 investment board by any person when the information relates to the
15 investment of public trust or retirement funds and when disclosure
16 would result in loss to such funds or in private loss to the providers
17 of this information.

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

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

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

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

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

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

1 (hh) Information and documents created specifically for, and
2 collected and maintained by, a quality improvement committee pursuant
3 to RCW 43.70.510 or 70.41.200, by a peer review committee under RCW
4 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640
5 or 18.20.390, regardless of which agency is in possession of the
6 information and documents.

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

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

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

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

22 (mm) The personally identifying information of current or former
23 participants or applicants in a paratransit or other transit service
24 operated for the benefit of persons with disabilities or elderly
25 persons.

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

36 (oo) Proprietary financial and commercial information that the
37 submitting entity, with review by the department of health,
38 specifically identifies at the time it is submitted and that is

1 provided to or obtained by the department of health in connection with
2 an application for, or the supervision of, an antitrust exemption
3 sought by the submitting entity under RCW 43.72.310. If a request for
4 such information is received, the submitting entity must be notified of
5 the request. Within ten business days of receipt of the notice, the
6 submitting entity shall provide a written statement of the continuing
7 need for confidentiality, which shall be provided to the requester.
8 Upon receipt of such notice, the department of health shall continue to
9 treat information designated under this section as exempt from
10 disclosure. If the requester initiates an action to compel disclosure
11 under this chapter, the submitting entity must be joined as a party to
12 demonstrate the continuing need for confidentiality.

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

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

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

26 (ss) Credit card numbers, debit card numbers, electronic check
27 numbers, card expiration dates, or bank or other financial account
28 numbers, except when disclosure is expressly required by or governed by
29 other law.

30 (tt) Financial information, including but not limited to account
31 numbers and values, and other identification numbers supplied by or on
32 behalf of a person, firm, corporation, limited liability company,
33 partnership, or other entity related to an application for a horse
34 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
35 license, gambling license, or lottery retail license.

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

1 (vv) Individually identifiable information received by the work
2 force training and education coordinating board for research or
3 evaluation purposes.

4 (ww) Those portions of records assembled, prepared, or maintained
5 to prevent, mitigate, or respond to criminal terrorist acts, which are
6 acts that significantly disrupt the conduct of government or of the
7 general civilian population of the state or the United States and that
8 manifest an extreme indifference to human life, the public disclosure
9 of which would have a substantial likelihood of threatening public
10 safety, consisting of:

11 (i) Specific and unique vulnerability assessments or specific and
12 unique response or deployment plans, including compiled underlying data
13 collected in preparation of or essential to the assessments, or to the
14 response or deployment plans; and

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

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

27 (yy) Sensitive wildlife data obtained by the department of fish and
28 wildlife. However, sensitive wildlife data may be released to
29 government agencies concerned with the management of fish and wildlife
30 resources. Sensitive wildlife data includes:

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

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

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

- 1 (A) The species has a known commercial or black market value;
2 (B) There is a history of malicious take of that species; or
3 (C) There is a known demand to visit, take, or disturb, and the
4 species behavior or ecology renders it especially vulnerable or the
5 species has an extremely limited distribution and concentration.

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

12 (i) Government agencies concerned with the management of fish and
13 wildlife resources;

14 (ii) The department of social and health services, child support
15 division, and to the department of licensing in order to implement RCW
16 77.32.014 and 46.20.291; and

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

19 (aaa)(i) 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 not been commingled with other recorded documents.
22 These records will be available only to the veteran, the veteran's next
23 of kin, a deceased veteran's properly appointed personal representative
24 or executor, a person holding that veteran's general power of attorney,
25 or to anyone else designated in writing by that veteran to receive the
26 records.

27 (ii) Discharge papers of a veteran of the armed forces of the
28 United States filed at the office of the county auditor before July 1,
29 2002, that have been commingled with other records, if the veteran has
30 recorded a "request for exemption from public disclosure of discharge
31 papers" with the county auditor. If such a request has been recorded,
32 these records may be released only to the veteran filing the papers,
33 the veteran's next of kin, a deceased veteran's properly appointed
34 personal representative or executor, a person holding the veteran's
35 general power of attorney, or anyone else designated in writing by the
36 veteran to receive the records.

37 (iii) Discharge papers of a veteran filed at the office of the
38 county auditor after June 30, 2002, are not public records, but will be

1 available only to the veteran, the veteran's next of kin, a deceased
2 veteran's properly appointed personal representative or executor, a
3 person holding the veteran's general power of attorney, or anyone else
4 designated in writing by the veteran to receive the records.

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

9 (bbb) Those portions of records containing specific and unique
10 vulnerability assessments or specific and unique emergency and escape
11 response plans at a city, county, or state adult or juvenile
12 correctional facility, the public disclosure of which would have a
13 substantial likelihood of threatening the security of a city, county,
14 or state adult or juvenile correctional facility or any individual's
15 safety.

16 (ccc) Information compiled by school districts or schools in the
17 development of their comprehensive safe school plans pursuant to RCW
18 28A.320.125, to the extent that they identify specific vulnerabilities
19 of school districts and each individual school.

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

26 (eee) Information obtained and exempted or withheld from public
27 inspection by the health care authority under RCW 41.05.026, whether
28 retained by the authority, transferred to another state purchased
29 health care program by the authority, or transferred by the authority
30 to a technical review committee created to facilitate the development,
31 acquisition, or implementation of state purchased health care under
32 chapter 41.05 RCW.

33 (fff) Proprietary data, trade secrets, or other information that
34 relates to: (i) A vendor's unique methods of conducting business; (ii)
35 data unique to the product or services of the vendor; or (iii)
36 determining prices or rates to be charged for services, submitted by
37 any vendor to the department of social and health services for purposes

1 of the development, acquisition, or implementation of state purchased
2 health care as defined in RCW 41.05.011.

3 (ggg) The personally identifying information of persons who acquire
4 and use transponders or other technology to facilitate payment of
5 tolls. This information may be disclosed in aggregate form as long as
6 the data does not contain any personally identifying information. For
7 these purposes aggregate data may include the census tract of the
8 account holder as long as any individual personally identifying
9 information is not released. Personally identifying information may be
10 released to law enforcement agencies only for toll enforcement
11 purposes. Personally identifying information may be released to law
12 enforcement agencies for other purposes only if the request is
13 accompanied by a court order.

14 (hhh) Financial, commercial, operations, and technical and research
15 information and data submitted to or obtained by the life sciences
16 discovery fund authority in applications for, or delivery of, grants
17 under chapter 43.350 RCW, to the extent that such information, if
18 revealed, would reasonably be expected to result in private loss to the
19 providers of this information.

20 (iii) Records of mediation communications that are privileged under
21 chapter 7.07 RCW.

22 (jjj) Geographic information system mapping data containing the
23 location and selected attributes of gas transmission and hazardous
24 liquid transmission pipelines, and liquified natural gas facilities,
25 over two hundred fifty pounds per square inch gauge, created or
26 obtained by the utilities and transportation commission, except for
27 assistance to pipeline operators, first responders, local governments,
28 and one-number locator services as provided under RCW 81.88.080 and
29 chapter 19.122 RCW.

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.

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

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

11 **Sec. 2.** RCW 42.56.330 and 2005 c 274 s 413 are each amended to
12 read as follows:

13 The following information relating to public utilities and
14 transportation is exempt from disclosure under this chapter:

15 (1) Records filed with the utilities and transportation commission
16 or attorney general under RCW 80.04.095 that a court has determined are
17 confidential under RCW 80.04.095;

18 (2) The residential addresses and residential telephone numbers of
19 the customers of a public utility contained in the records or lists
20 held by the public utility of which they are customers, except that
21 this information may be released to the division of child support or
22 the agency or firm providing child support enforcement for another
23 state under Title IV-D of the federal social security act, for the
24 establishment, enforcement, or modification of a support order;

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

31 (4) The personally identifying information of current or former
32 participants or applicants in a paratransit or other transit service
33 operated for the benefit of persons with disabilities or elderly
34 persons;

35 (5) The personally identifying information of persons who acquire
36 and use transit passes and other fare payment media including, but not
37 limited to, stored value smart cards and magnetic strip cards, except

1 that an agency may disclose this information to a person, employer,
2 educational institution, or other entity that is responsible, in whole
3 or in part, for payment of the cost of acquiring or using a transit
4 pass or other fare payment media, or to the news media when reporting
5 on public transportation or public safety. This information may also
6 be disclosed at the agency's discretion to governmental agencies or
7 groups concerned with public transportation or public safety;

8 (6) Records of any person that belong to a public utility district
9 or a municipally owned electrical utility, unless the law enforcement
10 authority provides the public utility district or municipally owned
11 electrical utility with a written statement in which the authority
12 states that it suspects that the particular person to whom the records
13 pertain has committed a crime and the authority has a reasonable belief
14 that the records could determine or help determine whether the
15 suspicion might be true. Information obtained in violation of this
16 subsection is inadmissible in any criminal proceeding; and

17 (7) Any information obtained by governmental agencies that is
18 collected by the use of a motor carrier intelligent transportation
19 system or any comparable information equipment attached to a truck,
20 tractor, or trailer; however, the information may be given to other
21 governmental agencies or the owners of the truck, tractor, or trailer
22 from which the information is obtained. As used in this subsection,
23 "motor carrier" has the same definition as provided in RCW 81.80.010.

24 (8) Geographic information system mapping data containing the
25 location and selected attributes of gas transmission and hazardous
26 liquid transmission pipelines, and liquified natural gas facilities,
27 over two hundred fifty pounds per square inch gauge, created or
28 obtained by the utilities and transportation commission, except for
29 assistance to pipeline operators, first responders, local governments,
30 and one-number locator services as provided under RCW 81.88.080 and
31 chapter 19.122 RCW.

32 NEW SECTION. Sec. 3. Section 1 of this act expires July 1, 2006.

33 NEW SECTION. Sec. 4. Section 2 of this act takes effect July 1,
34 2006.

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