
SENATE BILL 5437

State of Washington 60th Legislature 2007 Regular Session

By Senators Pflug, Swecker and Kauffman; by request of Attorney General

Read first time 01/19/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to making adjustments to the recodification of the
2 public records act; amending RCW 42.56.010 and 42.56.030; reenacting
3 and amending RCW 42.56.270, 42.56.270, and 42.56.400; providing an
4 effective date; and providing an expiration date.

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

6 **Sec. 1.** RCW 42.56.010 and 2005 c 274 s 101 are each amended to
7 read as follows:

8 The definitions in ((RCW 42.17.020)) this section apply throughout
9 this chapter unless the context clearly requires otherwise. As used in
10 this chapter, the singular shall take the plural and any gender, the
11 other, as the context requires.

12 (1) "Agency" includes all state agencies and all local agencies.
13 "State agency" includes every state office, department, division,
14 bureau, board, commission, or other state agency. "Local agency"
15 includes every county, city, town, municipal corporation, quasi-
16 municipal corporation, or special purpose district, or any office,
17 department, division, bureau, board, commission, or agency thereof, or
18 other local public agency.

1 (2) "Person" includes an individual, partnership, joint venture,
2 public or private corporation, association, federal, state, or local
3 governmental entity or agency however constituted, candidate,
4 committee, political committee, political party, executive committee
5 thereof, or any other organization or group of persons, however
6 organized.

7 (3) "Public record" includes any writing containing information
8 relating to the conduct of government or the performance of any
9 governmental or proprietary function prepared, owned, used, or retained
10 by any state or local agency regardless of physical form or
11 characteristics. For the office of the secretary of the senate and the
12 office of the chief clerk of the house of representatives, public
13 records means legislative records as defined in RCW 40.14.100 and also
14 means the following: All budget and financial records; personnel
15 leave, travel, and payroll records; records of legislative sessions;
16 reports submitted to the legislature; and any other record designated
17 a public record by any official action of the senate or the house of
18 representatives.

19 (4) "State office" means state legislative office or the office of
20 governor, lieutenant governor, secretary of state, attorney general,
21 commissioner of public lands, insurance commissioner, superintendent of
22 public instruction, state auditor, or state treasurer.

23 (5) "Writing" means handwriting, typewriting, printing,
24 photostating, photographing, and every other means of recording any
25 form of communication or representation including, but not limited to,
26 letters, words, pictures, sounds, or symbols, or combination thereof,
27 and all papers, maps, magnetic or paper tapes, photographic films and
28 prints, motion picture, film and video recordings, magnetic or punched
29 cards, discs, drums, diskettes, sound recordings, and other documents
30 including existing data compilations from which information may be
31 obtained or translated.

32 **Sec. 2.** RCW 42.56.030 and 2005 c 274 s 283 are each amended to
33 read as follows:

34 The people of this state do not yield their sovereignty to the
35 agencies that serve them. The people, in delegating authority, do not
36 give their public servants the right to decide what is good for the
37 people to know and what is not good for them to know. The people

1 insist on remaining informed so that they may maintain control over the
2 instruments that they have created. This chapter shall be liberally
3 construed and its exemptions narrowly construed to promote this public
4 policy and to assure that the public interest will be fully protected.
5 In the event of conflict between the provisions of this chapter and any
6 other act, the provisions of this chapter shall govern.

7 **Sec. 3.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c
8 338 s 5, 2006 c 302 s 12, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c
9 171 s 8 are each reenacted and amended to read as follows:

10 The following financial, commercial, and proprietary information is
11 exempt from disclosure under this chapter:

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

16 (2) Financial information supplied by or on behalf of a person,
17 firm, or corporation for the purpose of qualifying to submit a bid or
18 proposal for (a) a ferry system construction or repair contract as
19 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
20 or improvement as required by RCW 47.28.070;

21 (3) Financial and commercial information and records supplied by
22 private persons pertaining to export services provided under chapters
23 43.163 and 53.31 RCW, and by persons pertaining to export projects
24 under RCW 43.23.035;

25 (4) Financial and commercial information and records supplied by
26 businesses or individuals during application for loans or program
27 services provided by chapters 15.110, 43.163, 43.160, 43.330, and
28 43.168 RCW, or during application for economic development loans or
29 program services provided by any local agency;

30 (5) Financial information, business plans, examination reports, and
31 any information produced or obtained in evaluating or examining a
32 business and industrial development corporation organized or seeking
33 certification under chapter 31.24 RCW;

34 (6) Financial and commercial information supplied to the state
35 investment board by any person when the information relates to the
36 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 (7) Financial and valuable trade information under RCW 51.36.120;

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

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

11 (10)(a) 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 horse
15 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
16 license, gambling license, or lottery retail license;

17 (b) Financial or proprietary information supplied to the liquor
18 control board including the amount of beer or wine sold by a domestic
19 winery, brewery, microbrewery, or certificate of approval holder under
20 RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or
21 wine purchased by a retail licensee in connection with a retail
22 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of
23 shipments of beer or wine.

24 (11) Proprietary data, trade secrets, or other information that
25 relates to: (a) A vendor's unique methods of conducting business; (b)
26 data unique to the product or services of the vendor; or (c)
27 determining prices or rates to be charged for services, submitted by
28 any vendor to the department of social and health services for purposes
29 of the development, acquisition, or implementation of state purchased
30 health care as defined in RCW 41.05.011;

31 (12)(a) When supplied to and in the records of the department of
32 community, trade, and economic development:

33 (i) Financial and proprietary information collected from any person
34 and provided to the department of community, trade, and economic
35 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

36 (ii) Financial or proprietary information collected from any person
37 and provided to the department of community, trade, and economic
38 development or the office of the governor in connection with the

1 siting, recruitment, expansion, retention, or relocation of that
2 person's business and until a siting decision is made, identifying
3 information of any person supplying information under this subsection
4 and the locations being considered for siting, relocation, or expansion
5 of a business;

6 (b) When developed by the department of community, trade, and
7 economic development based on information as described in (a)(i) of
8 this subsection, any work product is not exempt from disclosure;

9 (c) For the purposes of this subsection, "siting decision" means
10 the decision to acquire or not to acquire a site;

11 (d) If there is no written contact for a period of sixty days to
12 the department of community, trade, and economic development from a
13 person connected with siting, recruitment, expansion, retention, or
14 relocation of that person's business, information described in (a)(ii)
15 of this subsection will be available to the public under this chapter;

16 (13) Financial and proprietary information submitted to or obtained
17 by the department of ecology or the authority created under chapter
18 70.95N RCW to implement chapter 70.95N RCW;

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

25 (15) Financial and commercial information provided as evidence to
26 the department of licensing as required by RCW 19.112.110 or
27 19.112.120, except information disclosed in aggregate form that does
28 not permit the identification of information related to individual fuel
29 licensees;

30 (16) Any production records, mineral assessments, and trade secrets
31 submitted by a permit holder, mine operator, or landowner to the
32 department of natural resources under RCW 78.44.085; (~~and~~)

33 (17)(a) Farm plans developed by conservation districts, unless
34 permission to release the farm plan is granted by the landowner or
35 operator who requested the plan, or the farm plan is used for the
36 application or issuance of a permit(~~(-)~~);

37 (b) Farm plans developed under chapter 90.48 RCW and not under the

1 federal clean water act, 33 U.S.C. Sec. 1251 are subject to RCW
2 42.56.610 and 90.64.190; and

3 (18) Information gathered under chapter 19.85 RCW or RCW 34.05.328
4 that can be identified to a particular business.

5 **Sec. 4.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c
6 338 s 5, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c 171 s 8 are each
7 reenacted and amended to read as follows:

8 The following financial, commercial, and proprietary information is
9 exempt from disclosure under this chapter:

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

14 (2) Financial information supplied by or on behalf of a person,
15 firm, or corporation for the purpose of qualifying to submit a bid or
16 proposal for (a) a ferry system construction or repair contract as
17 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
18 or improvement as required by RCW 47.28.070;

19 (3) Financial and commercial information and records supplied by
20 private persons pertaining to export services provided under chapters
21 43.163 and 53.31 RCW, and by persons pertaining to export projects
22 under RCW 43.23.035;

23 (4) Financial and commercial information and records supplied by
24 businesses or individuals during application for loans or program
25 services provided by chapters 15.110, 43.163, 43.160, 43.330, and
26 43.168 RCW, or during application for economic development loans or
27 program services provided by any local agency;

28 (5) Financial information, business plans, examination reports, and
29 any information produced or obtained in evaluating or examining a
30 business and industrial development corporation organized or seeking
31 certification under chapter 31.24 RCW;

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

37 (7) Financial and valuable trade information under RCW 51.36.120;

1 (8) Financial, commercial, operations, and technical and research
2 information and data submitted to or obtained by the clean Washington
3 center in applications for, or delivery of, program services under
4 chapter 70.95H RCW;

5 (9) Financial and commercial information requested by the public
6 stadium authority from any person or organization that leases or uses
7 the stadium and exhibition center as defined in RCW 36.102.010;

8 (10) Financial information, including but not limited to account
9 numbers and values, and other identification numbers supplied by or on
10 behalf of a person, firm, corporation, limited liability company,
11 partnership, or other entity related to an application for a horse
12 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
13 license, gambling license, or lottery retail license;

14 (11) Proprietary data, trade secrets, or other information that
15 relates to: (a) A vendor's unique methods of conducting business; (b)
16 data unique to the product or services of the vendor; or (c)
17 determining prices or rates to be charged for services, submitted by
18 any vendor to the department of social and health services for purposes
19 of the development, acquisition, or implementation of state purchased
20 health care as defined in RCW 41.05.011;

21 (12)(a) When supplied to and in the records of the department of
22 community, trade, and economic development:

23 (i) Financial and proprietary information collected from any person
24 and provided to the department of community, trade, and economic
25 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

26 (ii) Financial or proprietary information collected from any person
27 and provided to the department of community, trade, and economic
28 development or the office of the governor in connection with the
29 siting, recruitment, expansion, retention, or relocation of that
30 person's business and until a siting decision is made, identifying
31 information of any person supplying information under this subsection
32 and the locations being considered for siting, relocation, or expansion
33 of a business;

34 (b) When developed by the department of community, trade, and
35 economic development based on information as described in (a)(i) of
36 this subsection, any work product is not exempt from disclosure;

37 (c) For the purposes of this subsection, "siting decision" means
38 the decision to acquire or not to acquire a site;

1 (d) If there is no written contact for a period of sixty days to
2 the department of community, trade, and economic development from a
3 person connected with siting, recruitment, expansion, retention, or
4 relocation of that person's business, information described in (a)(ii)
5 of this subsection will be available to the public under this chapter;

6 (13) Financial and proprietary information submitted to or obtained
7 by the department of ecology or the authority created under chapter
8 70.95N RCW to implement chapter 70.95N RCW;

9 (14) Financial, commercial, operations, and technical and research
10 information and data submitted to or obtained by the life sciences
11 discovery fund authority in applications for, or delivery of, grants
12 under chapter 43.350 RCW, to the extent that such information, if
13 revealed, would reasonably be expected to result in private loss to the
14 providers of this information;

15 (15) Financial and commercial information provided as evidence to
16 the department of licensing as required by RCW 19.112.110 or
17 19.112.120, except information disclosed in aggregate form that does
18 not permit the identification of information related to individual fuel
19 licensees;

20 (16) Any production records, mineral assessments, and trade secrets
21 submitted by a permit holder, mine operator, or landowner to the
22 department of natural resources under RCW 78.44.085; ~~((and))~~

23 (17)(a) Farm plans developed by conservation districts, unless
24 permission to release the farm plan is granted by the landowner or
25 operator who requested the plan, or the farm plan is used for the
26 application or issuance of a permit~~((-))~~;

27 (b) Farm plans developed under chapter 90.48 RCW and not under the
28 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
29 RCW 42.56.610 and 90.64.190; and

30 (18) Information gathered under chapter 19.85 RCW or RCW 34.05.328
31 that can be identified to a particular business.

32 **Sec. 5.** RCW 42.56.400 and 2006 c 284 s 17 and 2006 c 8 s 210 are
33 each reenacted and amended to read as follows:

34 The following information relating to insurance and financial
35 institutions is exempt from disclosure under this chapter:

36 (1) Records maintained by the board of industrial insurance appeals

1 that are related to appeals of crime victims' compensation claims filed
2 with the board under RCW 7.68.110;

3 (2) Information obtained and exempted or withheld from public
4 inspection by the health care authority under RCW 41.05.026, whether
5 retained by the authority, transferred to another state purchased
6 health care program by the authority, or transferred by the authority
7 to a technical review committee created to facilitate the development,
8 acquisition, or implementation of state purchased health care under
9 chapter 41.05 RCW;

10 (3) The names and individual identification data of all viators
11 regulated by the insurance commissioner under chapter 48.102 RCW;

12 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

13 (5) Information provided under RCW 48.05.510 through 48.05.535,
14 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
15 through 48.46.625;

16 ~~((Information gathered under chapter 19.85 RCW or RCW 34.05.328
17 that can be identified to a particular business;~~

18 ~~(7))~~ Examination reports and information obtained by the
19 department of financial institutions from banks under RCW 30.04.075,
20 from savings banks under RCW 32.04.220, from savings and loan
21 associations under RCW 33.04.110, from credit unions under RCW
22 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and
23 from securities brokers and investment advisers under RCW 21.20.100,
24 all of which is confidential and privileged information;

25 ~~((8))~~ (7) Information provided to the insurance commissioner
26 under RCW 48.110.040(3);

27 ~~((9))~~ (8) Documents, materials, or information obtained by the
28 insurance commissioner under RCW 48.02.065, all of which are
29 confidential and privileged;

30 ~~((10))~~ (9) Confidential proprietary and trade secret information
31 provided to the commissioner under RCW 48.31C.020 through 48.31C.050
32 and 48.31C.070;

33 ~~((11))~~ (10) Data filed under RCW 48.140.020, 48.140.030,
34 48.140.050, and 7.70.140 that, alone or in combination with any other
35 data, may reveal the identity of a claimant, health care provider,
36 health care facility, insuring entity, or self-insurer involved in a
37 particular claim or a collection of claims. For the purposes of this
38 subsection:

1 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

2 (b) "Health care facility" has the same meaning as in RCW
3 48.140.010(6).

4 (c) "Health care provider" has the same meaning as in RCW
5 48.140.010(7).

6 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

7 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);
8 and

9 ((~~+12+~~)) (11) Documents, materials, or information obtained by the
10 insurance commissioner under RCW 48.135.060.

11 NEW SECTION. **Sec. 6.** Section 3 of this act expires June 30, 2008.

12 NEW SECTION. **Sec. 7.** Section 4 of this act takes effect June 30,
13 2008.

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