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**SUBSTITUTE HOUSE BILL 2604**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House State Government (originally sponsored by Representatives Kuderer, Goodman, Johnson, Wilcox, Morris, Hudgins, MacEwen, and Wilson)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to disclosure of financial, commercial, and  
2 proprietary criminal background check information of employees of  
3 private employers; and amending RCW 42.56.270.

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

5 **Sec. 1.** RCW 42.56.270 and 2015 c 274 s 24 are each amended to  
6 read as follows:

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

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

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

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

1 (4) Financial and commercial information and records supplied by  
2 businesses or individuals during application for loans or program  
3 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
4 43.168 RCW, or during application for economic development loans or  
5 program services provided by any local agency;

6 (5) Financial information, business plans, examination reports,  
7 and any information produced or obtained in evaluating or examining a  
8 business and industrial development corporation organized or seeking  
9 certification under chapter 31.24 RCW;

10 (6) Financial and commercial information supplied to the state  
11 investment board by any person when the information relates to the  
12 investment of public trust or retirement funds and when disclosure  
13 would result in loss to such funds or in private loss to the  
14 providers of this information;

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

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

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

23 (10)(a) Financial information, including but not limited to  
24 account numbers and values, and other identification numbers supplied  
25 by or on behalf of a person, firm, corporation, limited liability  
26 company, partnership, or other entity related to an application for a  
27 horse racing license submitted pursuant to RCW 67.16.260(1)(b),  
28 marijuana producer, processor, or retailer license, liquor license,  
29 gambling license, or lottery retail license;

30 (b) Internal control documents, independent auditors' reports and  
31 financial statements, and supporting documents: (i) Of house-banked  
32 social card game licensees required by the gambling commission  
33 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted  
34 by tribes with an approved tribal/state compact for class III gaming;

35 (11) Proprietary data, trade secrets, or other information that  
36 relates to: (a) A vendor's unique methods of conducting business; (b)  
37 data unique to the product or services of the vendor; (~~(c)~~) (c)  
38 determining prices or rates to be charged for services, submitted by  
39 any vendor to the department of social and health services for  
40 purposes of the development, acquisition, or implementation of state

1 purchased health care as defined in RCW 41.05.011; or (d) criminal  
2 background checks, and personally identifiable information associated  
3 with requests for and responses to criminal background checks, of  
4 employees of private cloud service providers who have entered into a  
5 criminal justice information services information agreement;

6 (12)(a) When supplied to and in the records of the department of  
7 commerce:

8 (i) Financial and proprietary information collected from any  
9 person and provided to the department of commerce pursuant to RCW  
10 43.330.050(8); and

11 (ii) Financial or proprietary information collected from any  
12 person and provided to the department of commerce or the office of  
13 the governor in connection with the siting, recruitment, expansion,  
14 retention, or relocation of that person's business and until a siting  
15 decision is made, identifying information of any person supplying  
16 information under this subsection and the locations being considered  
17 for siting, relocation, or expansion of a business;

18 (b) When developed by the department of commerce based on  
19 information as described in (a)(i) of this subsection, any work  
20 product is not exempt from disclosure;

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

23 (d) If there is no written contact for a period of sixty days to  
24 the department of commerce from a person connected with siting,  
25 recruitment, expansion, retention, or relocation of that person's  
26 business, information described in (a)(ii) of this subsection will be  
27 available to the public under this chapter;

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

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

37 (15) Financial and commercial information provided as evidence to  
38 the department of licensing as required by RCW 19.112.110 or  
39 19.112.120, except information disclosed in aggregate form that does

1 not permit the identification of information related to individual  
2 fuel licensees;

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

6 (17)(a) Farm plans developed by conservation districts, unless  
7 permission to release the farm plan is granted by the landowner or  
8 operator who requested the plan, or the farm plan is used for the  
9 application or issuance of a permit;

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

13 (18) Financial, commercial, operations, and technical and  
14 research information and data submitted to or obtained by a health  
15 sciences and services authority in applications for, or delivery of,  
16 grants under RCW 35.104.010 through 35.104.060, to the extent that  
17 such information, if revealed, would reasonably be expected to result  
18 in private loss to providers of this information;

19 (19) Information gathered under chapter 19.85 RCW or RCW  
20 34.05.328 that can be identified to a particular business;

21 (20) Financial and commercial information submitted to or  
22 obtained by the University of Washington, other than information the  
23 university is required to disclose under RCW 28B.20.150, when the  
24 information relates to investments in private funds, to the extent  
25 that such information, if revealed, would reasonably be expected to  
26 result in loss to the University of Washington consolidated endowment  
27 fund or to result in private loss to the providers of this  
28 information;

29 (21) Market share data submitted by a manufacturer under RCW  
30 70.95N.190(4);

31 (22) Financial information supplied to the department of  
32 financial institutions or to a portal under RCW 21.20.883, when filed  
33 by or on behalf of an issuer of securities for the purpose of  
34 obtaining the exemption from state securities registration for small  
35 securities offerings provided under RCW 21.20.880 or when filed by or  
36 on behalf of an investor for the purpose of purchasing such  
37 securities; and

38 (23) Unaggregated or individual notices of a transfer of crude  
39 oil that is financial, proprietary, or commercial information,  
40 submitted to the department of ecology pursuant to RCW

1 90.56.565(1)(a), and that is in the possession of the department of  
2 ecology or any entity with which the department of ecology has shared  
3 the notice pursuant to RCW 90.56.565.

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