
SENATE BILL 5246

State of Washington

66th Legislature

2019 Regular Session

By Senators Hunt and Zeiger

1 AN ACT Relating to sunshine committee recommendations; amending
2 RCW 42.56.230 and 42.56.250; reenacting and amending RCW 42.56.270;
3 adding a new section to chapter 42.56 RCW; and repealing RCW
4 39.26.030 and 42.56.340.

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

6 **Sec. 1.** RCW 42.56.230 and 2018 c 109 s 16 are each amended to
7 read as follows:

8 The following personal information is exempt from public
9 inspection and copying under this chapter, unless the agency has
10 received consent for disclosure from the subject of the information
11 or, in the case of a child, from the child's parent or guardian:

12 (1) Personal information in any files maintained for students in
13 public schools, patients or clients of public institutions or public
14 health agencies, or welfare recipients;

15 (2)(a) Personal information:

16 (i) For a child enrolled in licensed child care in any files
17 maintained by the department of children, youth, and families;

18 (ii) For a child enrolled in a public or nonprofit program
19 serving or pertaining to children, adolescents, or students,
20 including but not limited to early learning or child care services,

1 parks and recreation programs, youth development programs, and after-
2 school programs; or

3 (iii) For the family members or guardians of a child who is
4 subject to the exemption under this subsection (2) if the family
5 member or guardian has the same last name as the child or if the
6 family member or guardian resides at the same address as the child
7 and disclosure of the family member's or guardian's information would
8 result in disclosure of the personal information exempted under
9 (a)(i) and (ii) of this subsection.

10 (b) Emergency contact information under this subsection (2) may
11 be provided to appropriate authorities and medical personnel for the
12 purpose of treating the individual during an emergency situation;

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

16 (4) Information required of any taxpayer in connection with the
17 assessment or collection of any tax if the disclosure of the
18 information to other persons would: (a) Be prohibited to such persons
19 by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance
20 authorized under RCW 35.102.145; or (b) violate the taxpayer's right
21 to privacy or result in unfair competitive disadvantage to the
22 taxpayer;

23 (5) Credit card numbers, debit card numbers, electronic check
24 numbers, card expiration dates, or bank or other financial
25 information as defined in RCW 9.35.005 including social security
26 numbers, except when disclosure is expressly required by or governed
27 by other law;

28 (6) Personal and financial information related to a small loan or
29 any system of authorizing a small loan in RCW 31.45.093;

30 (7)(a) Any record used to prove identity, age, residential
31 address, social security number, or other personal information
32 required to apply for a driver's license or identicard.

33 (b) Information provided under RCW 46.20.111 that indicates that
34 an applicant declined to register with the selective service system.

35 (c) Any record pertaining to a vehicle license plate, driver's
36 license, or identicard issued under RCW 46.08.066 that, alone or in
37 combination with any other records, may reveal the identity of an
38 individual, or reveal that an individual is or was, performing an
39 undercover or covert law enforcement, confidential public health
40 work, public assistance fraud, or child support investigative

1 activity. This exemption does not prevent the release of the total
2 number of vehicle license plates, drivers' licenses, or identicards
3 that, under RCW 46.08.066, an agency or department has applied for,
4 been issued, denied, returned, destroyed, lost, and reported for
5 misuse.

6 (d) Any record pertaining to a vessel registration issued under
7 RCW 88.02.330 that, alone or in combination with any other records,
8 may reveal the identity of an individual, or reveal that an
9 individual is or was, performing an undercover or covert law
10 enforcement activity. This exemption does not prevent the release of
11 the total number of vessel registrations that, under RCW 88.02.330,
12 an agency or department has applied for, been issued, denied,
13 returned, destroyed, lost, and reported for misuse;

14 (8) All information related to individual claims resolution
15 structured settlement agreements submitted to the board of industrial
16 insurance appeals under RCW 51.04.063, other than final orders from
17 the board of industrial insurance appeals.

18 Upon request by the legislature, the department of licensing
19 shall provide a report to the legislature containing all of the
20 information in subsection (7)(c) and (d) of this section that is
21 subject to public disclosure;

22 (9) Voluntarily submitted information contained in a database
23 that is part of or associated with enhanced 911 emergency
24 communications systems, or information contained or used in emergency
25 notification systems as provided under RCW 38.52.575 and 38.52.577;
26 and

27 (10) Until the person reaches eighteen years of age, information,
28 otherwise disclosable under chapter 29A.08 RCW, that relates to a
29 future voter, except for the purpose of processing and delivering
30 ballots.

31 **Sec. 2.** RCW 42.56.250 and 2018 c 109 s 17 are each amended to
32 read as follows:

33 The following employment and licensing information is exempt from
34 public inspection and copying under this chapter:

35 (1) Test questions, scoring keys, and other examination data used
36 to administer a license, employment, or academic examination;

37 (2) All applications for public employment other than for
38 vacancies in elective office, including the names of applicants,

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

3 (3) Professional growth plans (PGPs) in educator license renewals
4 submitted through the eCert system in the office of the
5 superintendent of public instruction;

6 (4)(a) The following information held by any public agency in
7 personnel records, public employment related records, volunteer
8 rosters, or included in any mailing list of employees or volunteers
9 of any public agency:

10 (i) Residential addresses (not including city, state, and zip
11 codes), residential telephone numbers, personal wireless telephone
12 numbers, personal email addresses, social security numbers, driver's
13 license numbers, identicard numbers, passport and visa numbers, and
14 emergency contact information of employees or volunteers of a public
15 agency(~~(7)~~); and (~~the names, dates of birth, residential addresses,~~
16 ~~residential telephone numbers, personal wireless telephone numbers,~~
17 ~~personal email addresses, social security numbers, and emergency~~
18 ~~contact information)~~)

19 (ii) All identifying and contact information of dependents of
20 employees or volunteers of a public agency.

21 (b) For purposes of this subsection (4), "employees" includes
22 independent provider home care workers as defined in RCW 74.39A.240;

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

29 (6) Investigative records compiled by an employing agency
30 conducting an active and ongoing investigation of a possible unfair
31 practice under chapter 49.60 RCW or of a possible violation of other
32 federal, state, or local laws prohibiting discrimination in
33 employment. For purposes of this subsection, the exemption is
34 categorical and exempts the records in their entirety while the
35 investigation is ongoing. Once the agency has notified the
36 complaining employee of the outcome of the investigation, the
37 exemption no longer applies;

38 (7) Criminal history records checks for board staff finalist
39 candidates conducted pursuant to RCW 43.33A.025;

1 (8) Except as provided in RCW 47.64.220, salary and benefit
2 information for maritime employees collected from private employers
3 under RCW 47.64.220(1) and described in RCW 47.64.220(2);

4 (9) Photographs and month and year of birth in the personnel
5 files of employees and workers of criminal justice agencies as
6 defined in RCW 10.97.030. The news media, as defined in RCW
7 5.68.010(5), shall have access to the photographs and full date of
8 birth. For the purposes of this subsection, news media does not
9 include any person or organization of persons in the custody of a
10 criminal justice agency as defined in RCW 10.97.030;

11 (10) The global positioning system data that would indicate the
12 location of the residence of a public employee or volunteer using the
13 global positioning system recording device; and

14 (11) Until the person reaches eighteen years of age, information,
15 otherwise disclosable under chapter 29A.08 RCW, that relates to a
16 future voter, except for the purpose of processing and delivering
17 ballots.

18 **Sec. 3.** RCW 42.56.270 and 2018 c 201 s 8008, 2018 c 196 s 21,
19 and 2018 c 4 s 9 are each reenacted and amended to read as follows:

20 (1) The following financial, commercial, and proprietary
21 information is exempt from disclosure under this chapter, as long as
22 the information is clearly marked as confidential and accompanied by
23 a particularized explanation of expected harm from disclosure at the
24 time of submission or the agency determines that disclosure of the
25 information is substantially likely to cause public or private loss
26 or unfair private gain:

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

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

37 ~~((3))~~ (c) Financial and commercial information and records
38 supplied by private persons pertaining to export services provided

1 under chapters 43.163 and 53.31 RCW, and by persons pertaining to
2 export projects under RCW 43.23.035;

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

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

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

17 ~~((7))~~ (g) Financial and valuable trade information under RCW
18 51.36.120;

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

23 ~~((9))~~ (i) Financial and commercial information requested by the
24 public stadium authority from any person or organization that leases
25 or uses the stadium and exhibition center as defined in RCW
26 36.102.010;

27 ~~((10)(a))~~ (j)(i) Financial information, including but not
28 limited to account numbers and values, and other identification
29 numbers supplied by or on behalf of a person, firm, corporation,
30 limited liability company, partnership, or other entity related to an
31 application for a horse racing license submitted pursuant to RCW
32 67.16.260(1)(b), marijuana producer, processor, or retailer license,
33 liquor license, gambling license, or lottery retail license;

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

1 ~~((11))~~ (k) Proprietary data, trade secrets, or other
2 information that is submitted by any vendor to the department of
3 social and health services for purposes of the development,
4 acquisition, or implementation of state purchased health care as
5 defined in RCW 41.05.011, and that relates to: ~~((a))~~ (i) A vendor's
6 unique methods of conducting business; ~~((b))~~ (ii) data unique to
7 the product or services of the vendor; or ~~((c))~~ (iii) determining
8 prices or rates to be charged for services ~~(, submitted by any vendor~~
9 ~~to the department of social and health services or the health care~~
10 ~~authority for purposes of the development, acquisition, or~~
11 ~~implementation of state purchased health care as defined in RCW~~
12 ~~41.05.011));~~

13 ~~((12)(a))~~ (l)(i) When supplied to and in the records of the
14 department of commerce:

15 ~~((i))~~ (A) Financial and proprietary information collected from
16 any person and provided to the department of commerce pursuant to RCW
17 43.330.050(8); and

18 ~~((ii))~~ (B) Financial or proprietary information collected from
19 any person and provided to the department of commerce or the office
20 of the governor in connection with the siting, recruitment,
21 expansion, retention, or relocation of that person's business and
22 until a siting decision is made, identifying information of any
23 person supplying information under this subsection and the locations
24 being considered for siting, relocation, or expansion of a business;

25 ~~((b))~~ (ii) When developed by the department of commerce based
26 on information as described in ~~((a)(i))~~ (l)(i)(A) of this
27 subsection, any work product is not exempt from disclosure;

28 ~~((c))~~ (iii) For the purposes of this subsection, "siting
29 decision" means the decision to acquire or not to acquire a site;

30 ~~((d))~~ (iv) If there is no written contact for a period of sixty
31 days to the department of commerce from a person connected with
32 siting, recruitment, expansion, retention, or relocation of that
33 person's business, information described in ~~((a)(ii))~~ (l)(i)(B) of
34 this subsection will be available to the public under this chapter;

35 ~~((13))~~ (m) Financial and proprietary information submitted to
36 or obtained by the department of ecology or the authority created
37 under chapter 70.95N RCW to implement chapter 70.95N RCW;

38 ~~((14))~~ (n) Financial, commercial, operations, and technical and
39 research information and data submitted to or obtained by the life
40 sciences discovery fund authority in applications for, or delivery

1 of, grants under chapter 43.350 RCW, to the extent that such
2 information, if revealed, would reasonably be expected to result in
3 private loss to the providers of this information;

4 ~~((15))~~ (o) Financial and commercial information provided as
5 evidence to the department of licensing as required by RCW 19.112.110
6 or 19.112.120, except information disclosed in aggregate form that
7 does not permit the identification of information related to
8 individual fuel licensees;

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

12 ~~((17)(a))~~ (q)(i) Farm plans developed by conservation
13 districts, unless permission to release the farm plan is granted by
14 the landowner or operator who requested the plan, or the farm plan is
15 used for the application or issuance of a permit;

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

19 ~~((18))~~ (r) Financial, commercial, operations, and technical and
20 research information and data submitted to or obtained by a health
21 sciences and services authority in applications for, or delivery of,
22 grants under RCW 35.104.010 through 35.104.060, to the extent that
23 such information, if revealed, would reasonably be expected to result
24 in private loss to providers of this information;

25 ~~((19))~~ (s) Information gathered under chapter 19.85 RCW or RCW
26 34.05.328 that can be identified to a particular business;

27 ~~((20))~~ (t) Financial and commercial information submitted to or
28 obtained by the University of Washington, other than information the
29 university is required to disclose under RCW 28B.20.150, when the
30 information relates to investments in private funds, to the extent
31 that such information, if revealed, would reasonably be expected to
32 result in loss to the University of Washington consolidated endowment
33 fund or to result in private loss to the providers of this
34 information;

35 ~~((21))~~ (u) Market share data submitted by a manufacturer under
36 RCW 70.95N.190(4);

37 ~~((22))~~ (v) Financial information supplied to the department of
38 financial institutions or to a portal under RCW 21.20.883, when filed
39 by or on behalf of an issuer of securities for the purpose of
40 obtaining the exemption from state securities registration for small

1 securities offerings provided under RCW 21.20.880 or when filed by or
2 on behalf of an investor for the purpose of purchasing such
3 securities;

4 ~~((23))~~ (w) Unaggregated or individual notices of a transfer of
5 crude oil that is financial, proprietary, or commercial information,
6 submitted to the department of ecology pursuant to RCW
7 90.56.565(1)(a), and that is in the possession of the department of
8 ecology or any entity with which the department of ecology has shared
9 the notice pursuant to RCW 90.56.565;

10 ~~((24))~~ (x) Financial institution and retirement account
11 information, and building security plan information, supplied to the
12 liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331,
13 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or
14 prospective licensee for the purpose of obtaining, maintaining, or
15 renewing a license to produce, process, transport, or sell marijuana
16 as allowed under chapter 69.50 RCW;

17 ~~((25))~~ (y) Marijuana transport information, vehicle and driver
18 identification data, and account numbers or unique access identifiers
19 issued to private entities for traceability system access, submitted
20 by an individual or business to the liquor and cannabis board under
21 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
22 69.50.345 for the purpose of marijuana product traceability.
23 Disclosure to local, state, and federal officials is not considered
24 public disclosure for purposes of this section;

25 ~~((26))~~ (z) Financial and commercial information submitted to or
26 obtained by the retirement board of any city that is responsible for
27 the management of an employees' retirement system pursuant to the
28 authority of chapter 35.39 RCW, when the information relates to
29 investments in private funds, to the extent that such information, if
30 revealed, would reasonably be expected to result in loss to the
31 retirement fund or to result in private loss to the providers of this
32 information except that ~~((a))~~ (i) the names and commitment amounts
33 of the private funds in which retirement funds are invested and
34 ~~((b))~~ (ii) the aggregate quarterly performance results for a
35 retirement fund's portfolio of investments in such funds are subject
36 to disclosure;

37 ~~((27))~~ (aa) Proprietary financial, commercial, operations, and
38 technical and research information and data submitted to or obtained
39 by the liquor and cannabis board in applications for marijuana
40 research licenses under RCW 69.50.372, or in reports submitted by

1 marijuana research licensees in accordance with rules adopted by the
2 liquor and cannabis board under RCW 69.50.372;

3 ~~((28))~~ (bb) Trade secrets, technology, proprietary information,
4 and financial considerations contained in any agreements or
5 contracts, entered into by a licensed marijuana business under RCW
6 69.50.395, which may be submitted to or obtained by the state liquor
7 and cannabis board; ~~((and~~

8 ~~(29))~~ (cc) Financial, commercial, operations, and technical and
9 research information and data submitted to or obtained by the Andy
10 Hill cancer research endowment program in applications for, or
11 delivery of, grants under chapter 43.348 RCW, to the extent that such
12 information, if revealed, would reasonably be expected to result in
13 private loss to providers of this information; ~~((and~~

14 ~~(30))~~ (dd) Proprietary information filed with the department of
15 health under chapter 69.48 RCW; and

16 (ee) Trade secrets as defined in RCW 19.108.010.

17 (2) In any action under RCW 42.56.540 to enjoin disclosure of
18 financial, commercial, or proprietary information pursuant to this
19 section, the court may award attorneys' fees to any defendant,
20 including a requester or agency, to the extent that the defendant
21 prevailed in opposing an injunction.

22 NEW SECTION. Sec. 4. A new section is added to chapter 42.56
23 RCW to read as follows:

24 Bids, quotations, or proposals submitted to an agency for goods
25 or services in response to a solicitation issued for such goods or
26 services are exempt from disclosure until the agency announces the
27 apparent successful bidder based on predetermined criteria or decides
28 not to accept any bids, quotations, or proposals.

29 NEW SECTION. Sec. 5. The following acts or parts of acts are
30 each repealed:

31 (1) RCW 39.26.030 (State procurement records—Disclosure) and
32 2012 c 224 s 4; and

33 (2) RCW 42.56.340 (Timeshare, condominium, etc. owner lists) and
34 2005 c 274 s 414.

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