
ENGROSSED HOUSE BILL 2133

State of Washington

54th Legislature

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By Representatives Chandler, Chappell, Mastin, Schoesler, Grant, Regala, Honeyford, Johnson and Boldt; by request of Department of Agriculture

Read first time 01/08/96. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to disclosure of agricultural business and
2 commodity commission records; amending RCW 42.17.310; adding a new
3 section to chapter 43.23 RCW; and adding a new section to chapter 42.17
4 RCW.

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

6 **Sec. 1.** RCW 42.17.310 and 1995 c 267 s 6 are each amended to read
7 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 82.32.330 or (ii) violate the taxpayer's right to privacy or result
19 in unfair competitive disadvantage to the taxpayer.

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

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

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

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

26 (h) Valuable formulae, designs, drawings, and research data
27 obtained by any agency within five years of the request for disclosure
28 when disclosure would produce private gain and public loss.

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

33 (j) Records which are relevant to a controversy to which an agency
34 is a party but which records would not be available to another party
35 under the rules of pretrial discovery for causes pending in the
36 superior courts.

37 (k) Records, maps, or other information identifying the location of
38 archaeological sites in order to avoid the looting or depredation of
39 such sites.

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

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

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

13 (o) Financial and commercial information and records supplied by
14 private persons pertaining to export services provided pursuant to
15 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
16 export projects pursuant to RCW 43.23.035.

17 (p) Financial disclosures filed by private vocational schools under
18 chapter 28C.10 RCW.

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

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

27 (s) Membership lists or lists of members or owners of interests of
28 units in timeshare projects, subdivisions, camping resorts,
29 condominiums, land developments, or common-interest communities
30 affiliated with such projects, regulated by the department of
31 licensing, in the files or possession of the department.

32 (t) All applications for public employment, including the names of
33 applicants, resumes, and other related materials submitted with respect
34 to an applicant.

35 (u) The residential addresses and residential telephone numbers of
36 employees or volunteers of a public agency which are held by the agency
37 in personnel records, employment or volunteer rosters, or mailing lists
38 of employees or volunteers.

1 (v) The residential addresses and residential telephone numbers of
2 the customers of a public utility contained in the records or lists
3 held by the public utility of which they are customers.

4 (w)(i) The federal social security number of individuals governed
5 under chapter 18.130 RCW maintained in the files of the department of
6 health, except this exemption does not apply to requests made directly
7 to the department from federal, state, and local agencies of
8 government, and national and state licensing, credentialing,
9 investigatory, disciplinary, and examination organizations; (ii) the
10 current residential address and current residential telephone number of
11 a health care provider governed under chapter 18.130 RCW maintained in
12 the files of the department, if the provider requests that this
13 information be withheld from public inspection and copying, and
14 provides to the department an accurate alternate or business address
15 and business telephone number. On or after January 1, 1995, the
16 current residential address and residential telephone number of a
17 health care provider governed under RCW 18.130.140 maintained in the
18 files of the department shall automatically be withheld from public
19 inspection and copying if the provider has provided the department with
20 an accurate alternative or business address and telephone number.

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

23 (y) Information obtained by the board of pharmacy or the department
24 of health and its representatives as provided in RCW 69.41.044,
25 69.41.280, and 18.64.420.

26 (z) Financial information, business plans, examination reports, and
27 any information produced or obtained in evaluating or examining a
28 business and industrial development corporation organized or seeking
29 certification under chapter 31.24 RCW.

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

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

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

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

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

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

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

17 (hh) Information and documents created specifically for, and
18 collected and maintained by a quality improvement committee pursuant to
19 RCW 43.70.510, regardless of which agency is in possession of the
20 information and documents.

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

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

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

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.23 RCW
2 to read as follows:

3 Except for release of statistical information not descriptive of
4 any readily identifiable person or persons, all financial and
5 commercial information and records supplied by persons to the
6 department with respect to export market development projects shall be
7 kept confidential unless confidentiality is waived by the party
8 supplying the information. For purposes of this section, persons
9 include any natural person, joint venture, firm, partnership or
10 association, private or public corporation, or governmental entity.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 42.17 RCW
12 to read as follows:

13 The following agricultural business and commodity commission
14 records are exempt from the disclosure requirements of this chapter:

15 (1) Production or sales records required to determine assessment
16 levels and actual assessment payments to commodity commissions formed
17 under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88,
18 and 16.67 RCW or required by the department of agriculture under RCW
19 15.13.310(4) or 15.49.370(6);

20 (2) Consignment information contained on phytosanitary certificates
21 issued by the department of agriculture under chapters 15.13, 15.49,
22 and 15.17 RCW or federal phytosanitary certificates issued under 7
23 C.F.R. 353 through cooperative agreements with the animal and plant
24 health inspection service, United States department of agriculture, or
25 on applications for phytosanitary certification required by the
26 department of agriculture; and

27 (3) Financial and commercial information and records supplied by
28 persons to commodity commissions formed under chapters 15.24, 15.28,
29 15.44, 15.65, 15.66, 15.74, 15.88, and 16.67 RCW with respect to
30 domestic or export marketing activities or individual producer's
31 production information.

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