
SUBSTITUTE HOUSE BILL 2748

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Government Operations (originally sponsored by Representatives Mastin, Reams, Silver and Johnson)

Read first time 01/26/96.

1 AN ACT Relating to regulatory reform; amending RCW 34.05.328,
2 34.05.330, 34.05.230, 43.110.030, 34.05.542, 34.05.566, 42.17.310, and
3 4.84.350; adding a new section to chapter 34.05 RCW; and creating a new
4 section.

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

6 **Sec. 1.** RCW 34.05.328 and 1995 c 403 s 201 are each amended to
7 read as follows:

8 (1) Before adopting a rule described in subsection (5) of this
9 section, an agency shall:

10 (a) Clearly state in detail the general goals and specific
11 objectives of the statute that the rule implements;

12 (b) Determine that the rule is needed to achieve the general goals
13 and specific objectives stated under (a) of this subsection, and
14 analyze alternatives to rule making and the consequences of not
15 adopting the rule;

16 (c) Determine that the probable benefits of the rule are greater
17 than its probable costs, taking into account both the qualitative and
18 quantitative benefits and costs and the specific directives of the
19 statute being implemented;

1 (d) Determine, after considering alternative versions of the rule
2 and the analysis required under (b) and (c) of this subsection, that
3 the rule being adopted is the least burdensome alternative for those
4 required to comply with it that will achieve the general goals and
5 specific objectives stated under (a) of this subsection;

6 (e) Determine that the rule does not require those to whom it
7 applies to take an action that violates requirements of another federal
8 or state law;

9 (f) Determine that the rule does not impose more stringent
10 performance requirements on private entities than on public entities
11 unless required to do so by federal or state law;

12 (g) Determine if the rule differs from any federal regulation or
13 statute applicable to the same activity or subject matter and, if so,
14 determine that the difference is justified by the following:

15 (i) A state statute that explicitly allows the agency to differ
16 from federal standards; or

17 (ii) Substantial evidence that the difference is necessary to
18 achieve the general goals and specific objectives stated under (a) of
19 this subsection; ((and))

20 (h) Coordinate the substance of the rule, to the maximum extent
21 practicable, with other federal, state, and local laws applicable to
22 the same activity or subject matter; and

23 (i) Contact the municipal research council. The council may
24 provide information regarding the substance of local regulations and
25 ordinances. An agency has complied with the local law coordination
26 requirement of this subsection if after contacting the municipal
27 research council, the council, at its discretion, has supplied
28 information and the agency has considered it.

29 (2) In making its determinations pursuant to subsection (1) (b)
30 through (g) of this section, the agency shall place in the rule-making
31 file documentation of sufficient quantity and quality so as to persuade
32 a reasonable person that the determinations are justified.

33 (3) Before adopting rules described in subsection (5) of this
34 section, an agency shall place in the rule-making file a rule
35 implementation plan for rules filed under each adopting order. The
36 plan shall describe how the agency intends to:

37 (a) Implement and enforce the rule, including a description of the
38 resources the agency intends to use;

39 (b) Inform and educate affected persons about the rule;

1 (c) Promote and assist voluntary compliance; and

2 (d) Evaluate whether the rule achieves the purpose for which it was
3 adopted, including, to the maximum extent practicable, the use of
4 interim milestones to assess progress and the use of objectively
5 measurable outcomes.

6 (4) After adopting a rule described in subsection (5) of this
7 section regulating the same activity or subject matter as another
8 provision of federal or state law, an agency shall do all of the
9 following:

10 (a) Provide to the business assistance center a list citing by
11 reference the other federal and state laws that regulate the same
12 activity or subject matter;

13 (b) Coordinate implementation and enforcement of the rule with the
14 other federal and state entities regulating the same activity or
15 subject matter by making every effort to do one or more of the
16 following:

17 (i) Deferring to the other entity;

18 (ii) Designating a lead agency; or

19 (iii) Entering into an agreement with the other entities specifying
20 how the agency and entities will coordinate implementation and
21 enforcement.

22 If the agency is unable to comply with this subsection (4)(b), the
23 agency shall report to the legislature pursuant to (c) of this
24 subsection;

25 (c) Report to the joint administrative rules review committee:

26 (i) The existence of any overlap or duplication of other federal or
27 state laws, any differences from federal law, and any known overlap,
28 duplication, or conflict with local laws; and

29 (ii) Make recommendations for any legislation that may be necessary
30 to eliminate or mitigate any adverse effects of such overlap,
31 duplication, or difference.

32 (5)(a) Except as provided in (b) of this subsection, this section
33 applies to:

34 (i) Significant legislative rules of the departments of ecology,
35 labor and industries, health, revenue, and natural resources, the
36 employment security department, the forest practices board, the office
37 of the insurance commissioner, and to the legislative rules of the
38 department of fish and wildlife implementing chapter 75.20 RCW; and

1 (ii) Any rule of any agency, if this section is voluntarily made
2 applicable to the rule by the agency, or is made applicable to the rule
3 by a majority vote of the joint administrative rules review committee
4 within (~~forty-five~~) sixty days of receiving the notice of proposed
5 rule making under RCW 34.05.320.

6 (b) This section does not apply to:

7 (i) Emergency rules adopted under RCW 34.05.350;

8 (ii) Rules relating only to internal governmental operations that
9 are not subject to violation by a nongovernment party;

10 (iii) Rules adopting or incorporating by reference without material
11 change federal statutes or regulations, Washington state statutes,
12 rules of other Washington state agencies, shoreline master programs
13 other than those programs governing shorelines of state-wide
14 significance, or, as referenced by Washington state law, national
15 consensus codes that generally establish industry standards, if the
16 material adopted or incorporated regulates the same subject matter and
17 conduct as the adopting or incorporating rule;

18 (iv) Rules that only correct typographical errors, make address or
19 name changes, or clarify language of a rule without changing its
20 effect;

21 (v) Rules the content of which is explicitly and specifically
22 dictated by statute; or

23 (vi) Rules that set or adjust fees or rates pursuant to legislative
24 standards.

25 (c) For purposes of this subsection:

26 (i) A "procedural rule" is a rule that adopts, amends, or repeals
27 (A) any procedure, practice, or requirement relating to any agency
28 hearings; (B) any filing or related process requirement for making
29 application to an agency for a license or permit; or (C) any policy
30 statement pertaining to the consistent internal operations of an
31 agency.

32 (ii) An "interpretive rule" is a rule, the violation of which does
33 not subject a person to a penalty or sanction, that sets forth the
34 agency's interpretation of statutory provisions it administers.

35 (iii) A "significant legislative rule" is a rule other than a
36 procedural or interpretive rule that (A) adopts substantive provisions
37 of law pursuant to delegated legislative authority, the violation of
38 which subjects a violator of such rule to a penalty or sanction; (B)
39 establishes, alters, or revokes any qualification or standard for the

1 issuance, suspension, or revocation of a license or permit; or (C)
2 adopts a new, or makes significant amendments to, a policy or
3 regulatory program.

4 (d) In the notice of proposed rule making under RCW 34.05.320, an
5 agency shall state whether this section applies to the proposed rule
6 pursuant to (a)(i) of this subsection, or if the agency will apply this
7 section voluntarily.

8 (6) By January 31, 1996, and by January 31st of each even-numbered
9 year thereafter, the office of financial management, after consulting
10 with state agencies, counties, and cities, and business, labor, and
11 environmental organizations, shall report to the governor and the
12 legislature regarding the effects of this section on the regulatory
13 system in this state. The report shall document:

14 (a) The rules proposed to which this section applied and to the
15 extent possible, how compliance with this section affected the
16 substance of the rule, if any, that the agency ultimately adopted;

17 (b) The costs incurred by state agencies in complying with this
18 section;

19 (c) Any legal action maintained based upon the alleged failure of
20 any agency to comply with this section, the costs to the state of such
21 action, and the result;

22 (d) The extent to which this section has adversely affected the
23 capacity of agencies to fulfill their legislatively prescribed mission;

24 (e) The extent to which this section has improved the acceptability
25 of state rules to those regulated; and

26 (f) Any other information considered by the office of financial
27 management to be useful in evaluating the effect of this section.

28 (7) As used in this section "local laws" means ordinances adopted
29 by cities, towns, and counties.

30 NEW SECTION. Sec. 2. A new section is added to chapter 34.05 RCW
31 to read as follows:

32 RCW 34.05.322 does not apply to: The commissioner of public lands,
33 the department of social and health services, the department of
34 ecology, the department of agriculture, the department of health, the
35 department of revenue, the department of licensing, the employment
36 security department, and the fish and wildlife commission.

1 **Sec. 3.** RCW 34.05.330 and 1995 c 403 s 703 are each amended to
2 read as follows:

3 (1) Any person may petition an agency requesting the adoption,
4 amendment, or repeal of any rule. The office of financial management
5 shall prescribe by rule the format for such petitions and the procedure
6 for their submission, consideration, and disposition and provide a
7 standard form that may be used to petition any agency. Within sixty
8 days after submission of a petition, the agency shall either (a) deny
9 the petition in writing, stating (i) its reasons for the denial,
10 specifically addressing the concerns raised by the petitioner, and,
11 where appropriate, (ii) the alternative means by which it will address
12 the concerns raised by the petitioner, or (b) initiate rule-making
13 proceedings in accordance with this chapter.

14 (2) If an agency denies a petition to repeal or amend a rule
15 submitted under subsection (1) of this section, the petitioner, within
16 thirty days of the denial, may appeal the denial to the governor. The
17 governor shall immediately file notice of the appeal with the code
18 reviser for publication in the Washington state register. Within
19 forty-five days after receiving the appeal, the governor shall either
20 (a) deny the petition in writing, stating (i) his or her reasons for
21 the denial, specifically addressing the concerns raised by the
22 petitioner, and, (ii) where appropriate, the alternative means by which
23 he or she will address the concerns raised by the petitioner; (b) for
24 agencies listed in RCW 43.17.010, direct the agency to initiate rule-
25 making proceedings in accordance with this chapter; or (c) for agencies
26 not listed in RCW 43.17.010, recommend that the agency initiate rule-
27 making proceedings in accordance with this chapter. The governor's
28 response to the appeal shall be published in the Washington state
29 register and copies shall be submitted to the chief clerk of the house
30 of representatives and the secretary of the senate.

31 (3) If an agency denies a petition to adopt, repeal, or amend a
32 rule submitted under subsection (1) of this section, the petitioner may
33 petition the joint administrative rules review committee to review the
34 agency's denial.

35 (4) In petitioning for repeal or amendment of a rule under this
36 section, a person is encouraged to address, among other concerns:

37 (a) Whether the rule is authorized;

38 (b) Whether the rule is needed;

1 (c) Whether the rule conflicts with or duplicates other federal,
2 state, or local laws;

3 (d) Whether alternatives to the rule exist that will serve the same
4 purpose at less cost;

5 (e) Whether the rule applies differently to public and private
6 entities;

7 (f) Whether the rule serves the purposes for which it was adopted;

8 (g) Whether the costs imposed by the rule are unreasonable;

9 (h) Whether the rule is clearly and simply stated; and

10 (i) Whether the rule is different than a federal law applicable to
11 the same activity or subject matter without adequate justification.

12 ~~((+4))~~ (5) The business assistance center and the office of
13 financial management shall coordinate efforts among agencies to inform
14 the public about the existence of this rules review process.

15 ~~((+5))~~ (6) The office of financial management shall initiate the
16 rule making required by subsection (1) of this section by September 1,
17 1995.

18 **Sec. 4.** RCW 34.05.230 and 1995 c 403 s 702 are each amended to
19 read as follows:

20 (1) If the adoption of rules is not feasible and practicable, an
21 agency is encouraged to advise the public of its current opinions,
22 approaches, and likely courses of action by means of interpretive or
23 policy statements. Current interpretive and policy statements are
24 advisory only. An agency is encouraged to convert long-standing
25 interpretive and policy statements into rules.

26 (2) A person may petition an agency requesting the adoption of a
27 rule to supersede one or more specified principles of law or policy
28 used by the agency as part of the basis for its decisions in particular
29 cases.

30 (3) The agency shall:

31 (a) Notify the joint administrative rules review committee of the
32 request; and

33 (b) Adopt such a rule as soon as feasible and to the extent
34 practicable, and in accordance with the requirements of this chapter.

35 (4) A person may petition an agency requesting the conversion of
36 interpretive and policy statements into rules. Upon submission, the
37 agency shall notify the joint administrative rules review committee of
38 the petition. Within sixty days after submission of a petition, the

1 agency shall either deny the petition in writing, stating its reasons
2 for the denial, or initiate rule-making proceedings in accordance with
3 this chapter.

4 ~~((+3))~~ (5) Each agency shall maintain a roster of interested
5 persons, consisting of persons who have requested in writing to be
6 notified of all interpretive and policy statements issued by that
7 agency. Each agency shall update the roster once each year and
8 eliminate persons who do not indicate a desire to continue on the
9 roster. Whenever an agency issues an interpretive or policy statement,
10 it shall send a copy of the statement to each person listed on the
11 roster. The agency may charge a nominal fee to the interested person
12 for this service.

13 **Sec. 5.** RCW 43.110.030 and 1990 c 104 s 2 are each amended to read
14 as follows:

15 The municipal research council shall contract for the provision of
16 municipal research and services to cities and towns. Contracts for
17 municipal research and services shall be made with state agencies,
18 educational institutions, or private consulting firms, that in the
19 judgment of council members are qualified to provide such research and
20 services. Contracts for staff support may be made with state agencies,
21 educational institutions, or private consulting firms that in the
22 judgment of the council members are qualified to provide such support.

23 Municipal research and services shall consist of: (1) Studying and
24 researching municipal government and issues relating to municipal
25 government; (2) acquiring, preparing, and distributing publications
26 related to municipal government and issues relating to municipal
27 government; (3) providing educational conferences relating to municipal
28 government and issues relating to municipal government; ~~((and))~~ (4)
29 furnishing legal, technical, consultative, and field services to cities
30 and towns concerning planning, public health, utility services, fire
31 protection, law enforcement, public works, and other issues relating to
32 municipal government; and (5) may provide an annual list by general
33 subject matter of available local ordinances to the business assistance
34 center.

35 The activities, programs, and services of the municipal research
36 council shall be carried on, and all expenditures shall be made, in
37 cooperation with the cities and towns of the state acting through the

1 board of directors of the association of Washington cities, which is
2 recognized as their official agency or instrumentality.

3 **Sec. 6.** RCW 34.05.542 and 1988 c 288 s 509 are each amended to
4 read as follows:

5 Subject to other requirements of this chapter or of another
6 statute:

7 (1) A petition for judicial review of a rule may be filed at any
8 time, except as limited by RCW 34.05.375.

9 (2) A petition for judicial review of an order shall be filed with
10 the court and served on the agency, the hearings board if one is
11 involved, the office of the attorney general, and all parties of record
12 within thirty days after service of the final order.

13 (3) A petition for judicial review of agency action other than the
14 adoption of a rule or the entry of an order is not timely unless filed
15 with the court and served on the agency, the office of the attorney
16 general, and all other parties of record within thirty days after the
17 agency action, but the time is extended during any period that the
18 petitioner did not know and was under no duty to discover or could not
19 reasonably have discovered that the agency had taken the action or that
20 the agency action had a sufficient effect to confer standing upon the
21 petitioner to obtain judicial review under this chapter.

22 (4) Service of the petition on the agency shall be by delivery of
23 a copy of the petition to the office of the director, or other chief
24 administrative officer or chairperson of the agency, at the principal
25 office of the agency. Service of a copy by mail upon the other parties
26 of record, the hearings board if one is involved, and the office of the
27 attorney general shall be deemed complete upon deposit in the United
28 States mail, as evidenced by the postmark.

29 (5) Failure to timely serve a petition on the office of the
30 attorney general or the hearings board, if one is involved, is not
31 grounds for dismissal of the petition; provided that service so
32 provided does not impair the orderly conduct of judicial process;
33 provided further that the service so provided as to the hearing board
34 only applies to judicial proceedings pending on the effective date of
35 this act.

36 (6) For the purposes of this section only, "hearings board" means
37 an independent, quasi-judicial, multiperson entity whose sole
38 responsibility is to determine on review in a contested matter the

1 validity or invalidity of an order issued by another governmental
2 entity.

3 **Sec. 7.** RCW 34.05.566 and 1989 c 175 s 26 are each amended to read
4 as follows:

5 (1) Within thirty days after service of the petition for judicial
6 review, or within further time allowed by the court or by other
7 provision of law, the agency shall transmit to the court the original
8 or a certified copy of the agency record for judicial review of the
9 agency action. The record shall consist of any agency documents
10 expressing the agency action, other documents identified by the agency
11 as having been considered by it before its action and used as a basis
12 for its action, and any other material described in this chapter as the
13 agency record for the type of agency action at issue, subject to the
14 provisions of this section.

15 (2) If part of the record has been preserved without a transcript,
16 the agency shall prepare a transcript for inclusion in the record
17 transmitted to the court, except for portions that the parties
18 stipulate to omit in accordance with subsection (4) of this section.

19 (3) The agency may charge a nonindigent petitioner with the
20 reasonable costs of preparing any necessary copies and transcripts for
21 transmittal to the court. A failure by the petitioner to pay any of
22 this cost to the agency relieves the agency from the responsibility for
23 preparation of the record and transmittal to the court.

24 (4) The record may be shortened, summarized, or organized
25 temporarily or, by stipulation of all parties, permanently.

26 (5) The court may tax the cost of preparing transcripts and copies
27 of the record:

28 (a) Against a party who unreasonably refuses to stipulate to
29 shorten, summarize, or organize the record; or

30 (b) In accordance with any provision of law.

31 (6) Additions to the record pursuant to RCW 34.05.562 must be made
32 as ordered by the court.

33 (7) The court may require or permit subsequent corrections or
34 additions to the record.

35 (8) For the purposes of this section, agency includes hearings
36 board as defined in RCW 34.05.542(6).

1 **Sec. 8.** RCW 42.17.310 and 1995 c 267 s 6 are each amended to read
2 as follows:

3 (1) The following are exempt from public inspection and copying:

4 (a) Personal information in any files maintained for students in
5 public schools, patients or clients of public institutions or public
6 health agencies, or welfare recipients.

7 (b) Personal information in files maintained for employees,
8 appointees, or elected officials of any public agency to the extent
9 that disclosure would violate their right to privacy.

10 (c) Information required of any taxpayer in connection with the
11 assessment or collection of any tax if the disclosure of the
12 information to other persons would (i) be prohibited to such persons by
13 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
14 in unfair competitive disadvantage to the taxpayer.

15 (d) Specific intelligence information and specific investigative
16 records compiled by investigative, law enforcement, and penology
17 agencies, and state agencies vested with the responsibility to
18 discipline members of any profession, the nondisclosure of which is
19 essential to effective law enforcement or for the protection of any
20 person's right to privacy.

21 (e) Information revealing the identity of persons who are witnesses
22 to or victims of crime or who file complaints with investigative, law
23 enforcement, or penology agencies, other than the public disclosure
24 commission, if disclosure would endanger any person's life, physical
25 safety, or property. If at the time a complaint is filed the
26 complainant, victim or witness indicates a desire for disclosure or
27 nondisclosure, such desire shall govern. However, all complaints filed
28 with the public disclosure commission about any elected official or
29 candidate for public office must be made in writing and signed by the
30 complainant under oath.

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

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

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

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

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

12 (k) Records, maps, or other information identifying the location of
13 archaeological sites in order to avoid the looting or depredation of
14 such sites.

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

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

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

27 (o) Financial and commercial information and records supplied by
28 private persons pertaining to export services provided pursuant to
29 chapter 43.163 RCW and chapter 53.31 RCW.

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

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

35 (r) Financial and commercial information and records supplied by
36 businesses or individuals during application for loans or program
37 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
38 or during application for economic development loans or program
39 services provided by any local agency.

1 (s) Membership lists or lists of members or owners of interests of
2 units in timeshare projects, subdivisions, camping resorts,
3 condominiums, land developments, or common-interest communities
4 affiliated with such projects, regulated by the department of
5 licensing, in the files or possession of the department.

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

9 (u) The residential addresses and residential telephone numbers of
10 employees or volunteers of a public agency which are held by the agency
11 in personnel records, employment or volunteer rosters, or mailing lists
12 of employees or volunteers.

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

16 (w)(i) The federal social security number of individuals governed
17 under chapter 18.130 RCW maintained in the files of the department of
18 health, except this exemption does not apply to requests made directly
19 to the department from federal, state, and local agencies of
20 government, and national and state licensing, credentialing,
21 investigatory, disciplinary, and examination organizations; (ii) the
22 current residential address and current residential telephone number of
23 a health care provider governed under chapter 18.130 RCW maintained in
24 the files of the department, if the provider requests that this
25 information be withheld from public inspection and copying, and
26 provides to the department an accurate alternate or business address
27 and business telephone number. On or after January 1, 1995, the
28 current residential address and residential telephone number of a
29 health care provider governed under RCW 18.130.140 maintained in the
30 files of the department shall automatically be withheld from public
31 inspection and copying if the provider has provided the department with
32 an accurate alternative or business address and telephone number.

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

35 (y) Information obtained by the board of pharmacy or the department
36 of health and its representatives as provided in RCW 69.41.044,
37 69.41.280, and 18.64.420.

38 (z) Financial information, business plans, examination reports, and
39 any information produced or obtained in evaluating or examining a

1 business and industrial development corporation organized or seeking
2 certification under chapter 31.24 RCW.

3 (aa) Financial and commercial information supplied to the state
4 investment board by any person when the information relates to the
5 investment of public trust or retirement funds and when disclosure
6 would result in loss to such funds or in private loss to the providers
7 of this information.

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

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

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

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

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

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

28 (hh) Information and documents created specifically for, and
29 collected and maintained by a quality improvement committee pursuant to
30 RCW 43.70.510, regardless of which agency is in possession of the
31 information and documents.

32 (ii) Information submitted to an agency to comply with chapter
33 19.85 RCW and RCW 34.05.328.

34 (2) Except for information described in subsection (1)(c)(i) of
35 this section and confidential income data exempted from public
36 inspection pursuant to RCW 84.40.020, the exemptions of this section
37 are inapplicable to the extent that information, the disclosure of
38 which would violate personal privacy or vital governmental interests,
39 can be deleted from the specific records sought. No exemption may be

1 construed to permit the nondisclosure of statistical information not
2 descriptive of any readily identifiable person or persons.

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

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

13 **Sec. 9.** RCW 4.84.350 and 1995 c 403 s 903 are each amended to read
14 as follows:

15 (1) Except as otherwise specifically provided by statute, a court
16 shall award a qualified party that prevails in a judicial review of an
17 agency action fees and other expenses, including reasonable attorneys'
18 fees, unless the court finds that the agency action was substantially
19 justified or that circumstances make an award unjust. A qualified
20 party shall be considered to have prevailed if the qualified party
21 obtained relief on a significant issue that achieves some benefit that
22 the qualified party sought.

23 (2) The amount awarded a qualified party under subsection (1) of
24 this section shall not exceed:

25 (a) For cases involving rule validity:

26 (i) Twenty-five thousand dollars for superior court cases; and

27 (ii) Fifteen thousand dollars for appeals to the court of appeals
28 and the supreme court; and

29 (b) For cases involving other agency action:

30 (i) Fifty thousand dollars for superior court cases; and

31 (ii) Fifteen thousand dollars for appeals to the court of appeals
32 and the supreme court.

33 (3) Subsection (1) of this section shall not apply unless all
34 parties challenging the agency action are qualified parties. If two or
35 more qualified parties join in an action, the award in total shall not
36 exceed twenty-five thousand dollars. The court, in its discretion, may
37 reduce the amount to be awarded pursuant to subsection (1) of this
38 section, or deny any award, to the extent that a qualified party during

1 the course of the proceedings engaged in conduct that unduly or
2 unreasonably protracted the final resolution of the matter in
3 controversy.

4 (4) Qualified parties shall receive awards under this section for
5 cases pending July 23, 1995.

6 NEW SECTION. Sec. 10. It is the intent of the legislature through
7 the enactment of section 6 of this act to clarify the filing procedures
8 in RCW 34.05.542. Section 6 of this act is curative in nature and
9 applies to all judicial proceedings pending on the effective date of
10 this act.

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