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SENATE BILL 5418

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State of Washington

65th Legislature

2017 Regular Session

By Senator Chase

Read first time 01/24/17. Referred to Committee on State Government.

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

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

6 **Sec. 1.** RCW 42.56.230 and 2015 c 224 s 2 and 2015 c 47 s 1 are  
7 each reenacted and amended to 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 early learning;

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 (~~(of [as])~~) as the child or  
6 if the family member or guardian resides at the same address (~~(of~~  
7 ~~[as])~~) as the child and disclosure of the family member's or  
8 guardian's information would result in disclosure of the personal  
9 information exempted under (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; (~~and~~)

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(~~(-)~~); and

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 **Sec. 2.** RCW 42.56.250 and 2014 c 106 s 1 are each amended to  
27 read as follows:

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

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

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

35 (3)(a) The following information held by any public agency in  
36 personnel records, public employment related records, volunteer  
37 rosters, or included in any mailing list of employees or volunteers  
38 of any public agency:

1        (i) Residential addresses (not including city, state, and zip  
2 codes), residential telephone numbers, personal wireless telephone  
3 numbers, personal ((electronic—mail)) email addresses, social  
4 security numbers, driver's license numbers, identicard numbers,  
5 passport and visa numbers, and emergency contact information of  
6 employees or volunteers of a public agency((~~τ~~)); and ((the names,  
7 dates of birth, residential addresses, residential telephone numbers,  
8 personal wireless telephone numbers, personal electronic mail  
9 addresses, social security numbers, and emergency contact  
10 information))

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

13        (b) For purposes of this subsection (3), "employees" includes  
14 independent provider home care workers as defined in RCW 74.39A.240;

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

21        (5) Investigative records compiled by an employing agency  
22 conducting an active and ongoing investigation of a possible unfair  
23 practice under chapter 49.60 RCW or of a possible violation of other  
24 federal, state, or local laws prohibiting discrimination in  
25 employment. For purposes of this subsection, the exemption is  
26 categorical and exempts the records in their entirety while the  
27 investigation is ongoing. Once the agency has notified the  
28 complaining employee of the outcome of the investigation, the  
29 exemption no longer applies;

30        (6) Criminal history records checks for board staff finalist  
31 candidates conducted pursuant to RCW 43.33A.025;

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

35        (8) Photographs and month and year of birth in the personnel  
36 files of employees and workers of criminal justice agencies as  
37 defined in RCW 10.97.030. The news media, as defined in RCW  
38 5.68.010(5), shall have access to the photographs and full date of  
39 birth. For the purposes of this subsection, news media does not

1 include any person or organization of persons in the custody of a  
2 criminal justice agency as defined in RCW 10.97.030.

3 **Sec. 3.** RCW 42.56.270 and 2016 sp.s. c 9 s 3, 2016 sp.s. c 8 s  
4 1, and 2016 c 178 s 1 are each reenacted and amended to read as  
5 follows:

6 (1) The following financial, commercial, and proprietary  
7 information is exempt from disclosure under this chapter, as long as  
8 the information is clearly marked as confidential and accompanied by  
9 a particularized explanation of expected harm from disclosure at the  
10 time of submission or the agency determines that disclosure of the  
11 information is substantially likely to cause public or private loss  
12 or unfair private gain:

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

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

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

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

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

36 ~~((6))~~ (f) Financial and commercial information supplied to the  
37 state investment board by any person when the information relates to  
38 the investment of public trust or retirement funds and when

1 disclosure would result in loss to such funds or in private loss to  
2 the providers of this information;

3 ~~((7))~~ (g) Financial and valuable trade information under RCW  
4 51.36.120;

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

9 ~~((9))~~ (i) Financial and commercial information requested by the  
10 public stadium authority from any person or organization that leases  
11 or uses the stadium and exhibition center as defined in RCW  
12 36.102.010;

13 ~~((10)(a))~~ (j)(i) Financial information, including but not  
14 limited to account numbers and values, and other identification  
15 numbers supplied by or on behalf of a person, firm, corporation,  
16 limited liability company, partnership, or other entity related to an  
17 application for a horse racing license submitted pursuant to RCW  
18 67.16.260(1)(b), marijuana producer, processor, or retailer license,  
19 liquor license, gambling license, or lottery retail license;

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

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

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

1       ~~((i))~~ (A) Financial and proprietary information collected from  
2 any person and provided to the department of commerce pursuant to RCW  
3 43.330.050(8); and

4       ~~((ii))~~ (B) Financial or proprietary information collected from  
5 any person and provided to the department of commerce or the office  
6 of the governor in connection with the siting, recruitment,  
7 expansion, retention, or relocation of that person's business and  
8 until a siting decision is made, identifying information of any  
9 person supplying information under this subsection and the locations  
10 being considered for siting, relocation, or expansion of a business;

11       ~~((b))~~ (ii) When developed by the department of commerce based  
12 on information as described in ~~((a)(i))~~ (1)(i)(A) of this  
13 subsection, any work product is not exempt from disclosure;

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

16       ~~((d))~~ (iv) If there is no written contact for a period of sixty  
17 days to the department of commerce from a person connected with  
18 siting, recruitment, expansion, retention, or relocation of that  
19 person's business, information described in ~~((a)(ii))~~ (1)(i)(B) of  
20 this subsection will be available to the public under this chapter;

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

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

30       ~~((15))~~ (o) Financial and commercial information provided as  
31 evidence to the department of licensing as required by RCW 19.112.110  
32 or 19.112.120, except information disclosed in aggregate form that  
33 does not permit the identification of information related to  
34 individual fuel licensees;

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

38       ~~((17)(a))~~ (q)(i) Farm plans developed by conservation  
39 districts, unless permission to release the farm plan is granted by

1 the landowner or operator who requested the plan, or the farm plan is  
2 used for the application or issuance of a permit;

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

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

12 ~~((19))~~ (s) Information gathered under chapter 19.85 RCW or RCW  
13 34.05.328 that can be identified to a particular business;

14 ~~((20))~~ (t) Financial and commercial information submitted to or  
15 obtained by the University of Washington, other than information the  
16 university is required to disclose under RCW 28B.20.150, when the  
17 information relates to investments in private funds, to the extent  
18 that such information, if revealed, would reasonably be expected to  
19 result in loss to the University of Washington consolidated endowment  
20 fund or to result in private loss to the providers of this  
21 information;

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

24 ~~((22))~~ (v) Financial information supplied to the department of  
25 financial institutions or to a portal under RCW 21.20.883, when filed  
26 by or on behalf of an issuer of securities for the purpose of  
27 obtaining the exemption from state securities registration for small  
28 securities offerings provided under RCW 21.20.880 or when filed by or  
29 on behalf of an investor for the purpose of purchasing such  
30 securities;

31 ~~((23))~~ (w) Unaggregated or individual notices of a transfer of  
32 crude oil that is financial, proprietary, or commercial information,  
33 submitted to the department of ecology pursuant to RCW  
34 90.56.565(1)(a), and that is in the possession of the department of  
35 ecology or any entity with which the department of ecology has shared  
36 the notice pursuant to RCW 90.56.565;

37 ~~((24))~~ (x) Financial institution and retirement account  
38 information, and building security plan information, supplied to the  
39 liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331,  
40 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or



1 prospective licensee for the purpose of obtaining, maintaining, or  
2 renewing a license to produce, process, transport, or sell marijuana  
3 as allowed under chapter 69.50 RCW; (~~and~~

4 ~~(25)~~) (y) Marijuana transport information, vehicle and driver  
5 identification data, and account numbers or unique access identifiers  
6 issued to private entities for traceability system access, submitted  
7 by an individual or business to the liquor and cannabis board under  
8 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and  
9 69.50.345 for the purpose of marijuana product traceability.  
10 Disclosure to local, state, and federal officials is not considered  
11 public disclosure for purposes of this section; (~~and~~

12 ~~(26)~~) (z) Financial and commercial information submitted to or  
13 obtained by the retirement board of any city that is responsible for  
14 the management of an employees' retirement system pursuant to the  
15 authority of chapter 35.39 RCW, when the information relates to  
16 investments in private funds, to the extent that such information, if  
17 revealed, would reasonably be expected to result in loss to the  
18 retirement fund or to result in private loss to the providers of this  
19 information except that (~~(a)~~) (i) the names and commitment amounts  
20 of the private funds in which retirement funds are invested and  
21 (~~(b)~~) (ii) the aggregate quarterly performance results for a  
22 retirement fund's portfolio of investments in such funds are subject  
23 to disclosure; (~~and~~

24 ~~(27)~~) (aa) Proprietary financial, commercial, operations, and  
25 technical and research information and data submitted to or obtained  
26 by the liquor and cannabis board in applications for marijuana  
27 research licenses under RCW 69.50.372, or in reports submitted by  
28 marijuana research licensees in accordance with rules adopted by the  
29 liquor and cannabis board under RCW 69.50.372; and

30 (bb) Trade secrets as defined in RCW 19.108.010.

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

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

38 Bids, quotations, or proposals submitted to an agency for goods  
39 or services in response to a solicitation issued for such goods or

1 services are exempt from disclosure until the agency announces the  
2 apparent successful bidder based on predetermined criteria or decides  
3 not to accept any bids, quotations, or proposals.

4 NEW SECTION. **Sec. 5.** RCW 39.26.030 (State procurement records—  
5 Disclosure) and 2012 c 224 s 4 are each repealed.

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