

2 **SHB 1717** - S AMD 233

3 By Senators Gardner, McCaslin and Hargrove

4 ADOPTED 04/06/01

5 Strike everything after the enacting clause and insert the  
6 following:

7 "**Sec. 1.** RCW 42.17.310 and 2000 c 134 s 3, 2000 c 56 s 1, and 2000  
8 c 6 s 5 are each reenacted and amended to read as follows:

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

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

13 (b) 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 (c) 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 (i) be prohibited to such persons by  
19 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
20 taxpayer's right to privacy or result in unfair competitive  
21 disadvantage to the taxpayer.

22 (d) Specific intelligence information and specific investigative  
23 records compiled by investigative, law enforcement, and penology  
24 agencies, and state agencies vested with the responsibility to  
25 discipline members of any profession, the nondisclosure of which is  
26 essential to effective law enforcement or for the protection of any  
27 person's right to privacy. After the arrest of a suspect and referral  
28 of the case to the prosecuting authority, basic arrest information  
29 contained within the police incident report is no longer exempt, unless  
30 the agency promptly requests an examination of the record in camera and  
31 obtains an injunction against such release pursuant to RCW 42.17.330.  
32 After conviction, acquittal, dismissal of charges, or declination to  
33 file, the remainder of the investigative file in that particular case  
34 is no longer exempt, unless the agency promptly requests an examination  
35 of the record in camera and obtains an injunction against such release  
36 pursuant to RCW 42.17.330.

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

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

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

20 (h) Valuable formulae, designs, drawings, computer source code or  
21 object code, and research data obtained by any agency within five years  
22 of the request for disclosure when disclosure would produce private  
23 gain and public loss.

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

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

32 (k) Records, maps, or other information identifying the location of  
33 archaeological sites in order to avoid the looting or depredation of  
34 such sites.

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

38 (m) Financial information supplied by or on behalf of a person,  
39 firm, or corporation for the purpose of qualifying to submit a bid or

1 proposal for (i) a ferry system construction or repair contract as  
2 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
3 construction or improvement as required by RCW 47.28.070.

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

8 (o) Financial and commercial information and records supplied by  
9 private persons pertaining to export services provided pursuant to  
10 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
11 export projects pursuant to RCW 43.23.035.

12 (p) Financial disclosures filed by private vocational schools under  
13 chapters 28B.85 and 28C.10 RCW.

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

17 (r) Financial and commercial information and records supplied by  
18 businesses or individuals during application for loans or program  
19 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
20 or during application for economic development loans or program  
21 services provided by any local agency.

22 (s) Membership lists or lists of members or owners of interests of  
23 units in timeshare projects, subdivisions, camping resorts,  
24 condominiums, land developments, or common-interest communities  
25 affiliated with such projects, regulated by the department of  
26 licensing, in the files or possession of the department.

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

30 (u) The residential addresses and residential telephone numbers of  
31 employees or volunteers of a public agency which are held by the agency  
32 in personnel records, employment or volunteer rosters, or mailing lists  
33 of employees or volunteers.

34 (v) The residential addresses and residential telephone numbers of  
35 the customers of a public utility contained in the records or lists  
36 held by the public utility of which they are customers, except that  
37 this information may be released to the division of child support or  
38 the agency or firm providing child support enforcement for another

1 state under Title IV-D of the federal social security act, for the  
2 establishment, enforcement, or modification of a support order.

3 (w)(i) The federal social security number of individuals governed  
4 under chapter 18.130 RCW maintained in the files of the department of  
5 health, except this exemption does not apply to requests made directly  
6 to the department from federal, state, and local agencies of  
7 government, and national and state licensing, credentialing,  
8 investigatory, disciplinary, and examination organizations; (ii) the  
9 current residential address and current residential telephone number of  
10 a health care provider governed under chapter 18.130 RCW maintained in  
11 the files of the department, if the provider requests that this  
12 information be withheld from public inspection and copying, and  
13 provides to the department an accurate alternate or business address  
14 and business telephone number. On or after January 1, 1995, the  
15 current residential address and residential telephone number of a  
16 health care provider governed under RCW 18.130.040 maintained in the  
17 files of the department shall automatically be withheld from public  
18 inspection and copying unless the provider specifically requests the  
19 information be released, and except as provided for under RCW  
20 42.17.260(9).

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 or 70.41.200, or by a peer review committee under RCW  
20 4.24.250, regardless of which agency is in possession of the  
21 information and documents.

22 (ii) Personal information in files maintained in a data base  
23 created under RCW 43.07.360.

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

27 (kk) Names of individuals residing in emergency or transitional  
28 housing that are furnished to the department of revenue or a county  
29 assessor in order to substantiate a claim for property tax exemption  
30 under RCW 84.36.043.

31 (ll) The names, residential addresses, residential telephone  
32 numbers, and other individually identifiable records held by an agency  
33 in relation to a vanpool, carpool, or other ride-sharing program or  
34 service. However, these records may be disclosed to other persons who  
35 apply for ride-matching services and who need that information in order  
36 to identify potential riders or drivers with whom to share rides.

37 (mm) The personally identifying information of current or former  
38 participants or applicants in a paratransit or other transit service

1 operated for the benefit of persons with disabilities or elderly  
2 persons.

3 (nn) The personally identifying information of persons who acquire  
4 and use transit passes and other fare payment media including, but not  
5 limited to, stored value smart cards and magnetic strip cards, except  
6 that an agency may disclose this information to a person, employer,  
7 educational institution, or other entity that is responsible, in whole  
8 or in part, for payment of the cost of acquiring or using a transit  
9 pass or other fare payment media, or to the news media when reporting  
10 on public transportation or public safety. This information may also  
11 be disclosed at the agency's discretion to governmental agencies or  
12 groups concerned with public transportation or public safety.

13 (oo) Proprietary financial and commercial information that the  
14 submitting entity, with review by the department of health,  
15 specifically identifies at the time it is submitted and that is  
16 provided to or obtained by the department of health in connection with  
17 an application for, or the supervision of, an antitrust exemption  
18 sought by the submitting entity under RCW 43.72.310. If a request for  
19 such information is received, the submitting entity must be notified of  
20 the request. Within ten business days of receipt of the notice, the  
21 submitting entity shall provide a written statement of the continuing  
22 need for confidentiality, which shall be provided to the requester.  
23 Upon receipt of such notice, the department of health shall continue to  
24 treat information designated under this section as exempt from  
25 disclosure. If the requester initiates an action to compel disclosure  
26 under this chapter, the submitting entity must be joined as a party to  
27 demonstrate the continuing need for confidentiality.

28 (pp) Records maintained by the board of industrial insurance  
29 appeals that are related to appeals of crime victims' compensation  
30 claims filed with the board under RCW 7.68.110.

31 (qq) Financial and commercial information supplied by or on behalf  
32 of a person, firm, corporation, or entity under chapter 28B.95 RCW  
33 relating to the purchase or sale of tuition units and contracts for the  
34 purchase of multiple tuition units.

35 (rr) Any records of investigative reports prepared by any state,  
36 county, municipal, or other law enforcement agency pertaining to sex  
37 offenses contained in chapter 9A.44 RCW or sexually violent offenses as  
38 defined in RCW 71.09.020, which have been transferred to the Washington

1 association of sheriffs and police chiefs for permanent electronic  
2 retention and retrieval pursuant to RCW 40.14.070(2)(b).

3 (ss) Credit card numbers, debit card numbers, electronic check  
4 numbers, card expiration dates, or bank or other financial account  
5 numbers supplied to an agency for the purpose of electronic transfer of  
6 funds, except when disclosure is expressly required by law.

7 (tt) Financial information, including but not limited to account  
8 numbers and values, and other identification numbers supplied by or on  
9 behalf of a person, firm, corporation, limited liability company,  
10 partnership, or other entity related to an application for a liquor  
11 license, gambling license, or lottery retail license.

12 (uu) Records maintained by the employment security department and  
13 subject to chapter 50.13 RCW if provided to another individual or  
14 organization for operational, research, or evaluation purposes.

15 (vv) Individually identifiable information received by the work  
16 force training and education coordinating board for research or  
17 evaluation purposes.

18 (ww) Those portions of records containing specific and unique  
19 vulnerability assessments or specific and unique emergency and escape  
20 response plans at a correctional facility, the public disclosure of  
21 which would have a substantial likelihood of threatening the security  
22 of a correctional facility or any individual's safety.

23 (xx) Records the disclosure of which would reveal, directly or  
24 indirectly, the strategy or position to be taken by an agency during  
25 the course of any collective bargaining, professional negotiations,  
26 professional services contracting or strategic planning with respect to  
27 proprietary services, or grievance or mediation proceedings.

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

36 (3) Inspection or copying of any specific records exempt under the  
37 provisions of this section may be permitted if the superior court in  
38 the county in which the record is maintained finds, after a hearing  
39 with notice thereof to every person in interest and the agency, that

1 the exemption of such records is clearly unnecessary to protect any  
2 individual's right of privacy or any vital governmental function.

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

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9 ADOPTED 04/06/01

10 On page 1, line 1 of the title, after "records;" strike the  
11 remainder of the title and insert "and reenacting and amending RCW  
12 42.17.310."

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