

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2453

57th Legislature
2002 Regular Session

Passed by the House March 11, 2002
Yeas 94 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 8, 2002
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2453** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2453

AS AMENDED BY THE SENATE

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By House Committee on State Government (originally sponsored by Representatives Bush, Haigh, Schmidt, Simpson, Conway, Reardon, Mielke, Wood, Talcott, Miloscia, Cairnes, McIntire, Campbell, Orcutt, Pflug, Cooper, Nixon, Jackley, Ahern, Rockefeller, Van Luven, Esser, Ogden and Woods)

Read first time . Referred to Committee on .

1 AN ACT Relating to exemptions from public inspection; amending RCW
2 73.04.030; reenacting and amending RCW 42.17.310; creating a new
3 section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The protection from identity theft for
6 veterans who choose to file their discharge papers with the county
7 auditor is a matter of gravest concern. At the same time, the
8 integrity of the public record of each county is a matter of utmost
9 importance to the economic life of this state and to the right of each
10 citizen to be secure in his or her ownership of real property and other
11 rights and obligations of our citizens that rely upon the public record
12 for their proof. Likewise the integrity of the public record is
13 essential for the establishment of ancestral ties that may be of
14 interest to this and future generations. While the public record as
15 now kept by the county auditors is sufficient by itself for the
16 accomplishment of these and many other public and private purposes, the
17 proposed use of the public record for purposes that in their nature and
18 intent are not public, so as to keep the veterans' discharge papers

1 from disclosure to those of ill intent, causes concern among many
2 segments of the population of this state.

3 In order to voice these concerns effectively and thoroughly, a
4 working group may be convened by the joint committee on veterans' and
5 military affairs to develop a means to preserve the integrity of the
6 public record while protecting those veterans from identity theft.

7 **Sec. 2.** RCW 42.17.310 and 2001 c 278 s 1, 2001 c 98 s 2, and 2001
8 c 70 s 1 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.

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

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

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

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

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

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

22 (k) Records, maps, or other information identifying the location of
23 archaeological sites in order to avoid the looting or depredation of
24 such sites.

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

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

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

37 (o) Financial and commercial information and records supplied by
38 private persons pertaining to export services provided pursuant to

1 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
2 export projects pursuant to RCW 43.23.035.

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

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

8 (r) Financial and commercial information and records supplied by
9 businesses or individuals during application for loans or program
10 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
11 or during application for economic development loans or program
12 services provided by any local agency.

13 (s) Membership lists or lists of members or owners of interests of
14 units in timeshare projects, subdivisions, camping resorts,
15 condominiums, land developments, or common-interest communities
16 affiliated with such projects, regulated by the department of
17 licensing, in the files or possession of the department.

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

21 (u) The residential addresses or residential telephone numbers of
22 employees or volunteers of a public agency which are held by any public
23 agency in personnel records, public employment related records, or
24 volunteer rosters, or are included in any mailing list of employees or
25 volunteers of any public agency.

26 (v) The residential addresses and residential telephone numbers of
27 the customers of a public utility contained in the records or lists
28 held by the public utility of which they are customers, except that
29 this information may be released to the division of child support or
30 the agency or firm providing child support enforcement for another
31 state under Title IV-D of the federal social security act, for the
32 establishment, enforcement, or modification of a support order.

33 (w)(i) The federal social security number of individuals governed
34 under chapter 18.130 RCW maintained in the files of the department of
35 health, except this exemption does not apply to requests made directly
36 to the department from federal, state, and local agencies of
37 government, and national and state licensing, credentialing,
38 investigatory, disciplinary, and examination organizations; (ii) the
39 current residential address and current residential telephone number of

1 a health care provider governed under chapter 18.130 RCW maintained in
2 the files of the department, if the provider requests that this
3 information be withheld from public inspection and copying, and
4 provides to the department an accurate alternate or business address
5 and business telephone number. On or after January 1, 1995, the
6 current residential address and residential telephone number of a
7 health care provider governed under RCW 18.130.040 maintained in the
8 files of the department shall automatically be withheld from public
9 inspection and copying unless the provider specifically requests the
10 information be released, and except as provided for under RCW
11 42.17.260(9).

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

14 (y) Information obtained by the board of pharmacy or the department
15 of health and its representatives as provided in RCW 69.41.044,
16 69.41.280, and 18.64.420.

17 (z) Financial information, business plans, examination reports, and
18 any information produced or obtained in evaluating or examining a
19 business and industrial development corporation organized or seeking
20 certification under chapter 31.24 RCW.

21 (aa) Financial and commercial information supplied to the state
22 investment board by any person when the information relates to the
23 investment of public trust or retirement funds and when disclosure
24 would result in loss to such funds or in private loss to the providers
25 of this information.

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

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

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

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

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

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

7 (hh) Information and documents created specifically for, and
8 collected and maintained by a quality improvement committee pursuant to
9 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
10 4.24.250, regardless of which agency is in possession of the
11 information and documents.

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

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

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

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

27 (mm) The personally identifying information of current or former
28 participants or applicants in a paratransit or other transit service
29 operated for the benefit of persons with disabilities or elderly
30 persons.

31 (nn) The personally identifying information of persons who acquire
32 and use transit passes and other fare payment media including, but not
33 limited to, stored value smart cards and magnetic strip cards, except
34 that an agency may disclose this information to a person, employer,
35 educational institution, or other entity that is responsible, in whole
36 or in part, for payment of the cost of acquiring or using a transit
37 pass or other fare payment media, or to the news media when reporting
38 on public transportation or public safety. This information may also

1 be disclosed at the agency's discretion to governmental agencies or
2 groups concerned with public transportation or public safety.

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

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

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

25 (rr) Any records of investigative reports prepared by any state,
26 county, municipal, or other law enforcement agency pertaining to sex
27 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
28 defined in RCW 71.09.020, which have been transferred to the Washington
29 association of sheriffs and police chiefs for permanent electronic
30 retention and retrieval pursuant to RCW 40.14.070(2)(b).

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

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

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

4 (vv) Individually identifiable information received by the work
5 force training and education coordinating board for research or
6 evaluation purposes.

7 (ww) Those portions of records containing specific and unique
8 vulnerability assessments or specific and unique response plans, either
9 of which is intended to prevent or mitigate criminal terrorist acts as
10 defined in RCW 70.74.285, the public disclosure of which would have a
11 substantial likelihood of threatening public safety.

12 (xx) Commercial fishing catch data from logbooks required to be
13 provided to the department of fish and wildlife under RCW 77.12.047,
14 when the data identifies specific catch location, timing, or
15 methodology and the release of which would result in unfair competitive
16 disadvantage to the commercial fisher providing the catch data.
17 However, this information may be released to government agencies
18 concerned with the management of fish and wildlife resources.

19 (yy) Sensitive wildlife data obtained by the department of fish and
20 wildlife. However, sensitive wildlife data may be released to
21 government agencies concerned with the management of fish and wildlife
22 resources. Sensitive wildlife data includes:

23 (i) The nesting sites or specific locations of endangered species
24 designated under RCW 77.12.020, or threatened or sensitive species
25 classified by rule of the department of fish and wildlife;

26 (ii) Radio frequencies used in, or locational data generated by,
27 telemetry studies; or

28 (iii) Other location data that could compromise the viability of a
29 specific fish or wildlife population, and where at least one of the
30 following criteria are met:

31 (A) The species has a known commercial or black market value;

32 (B) There is a history of malicious take of that species; or

33 (C) There is a known demand to visit, take, or disturb, and the
34 species behavior or ecology renders it especially vulnerable or the
35 species has an extremely limited distribution and concentration.

36 (zz) The personally identifying information of persons who acquire
37 recreational licenses under RCW 77.32.010 or commercial licenses under
38 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
39 department, and type of license, endorsement, or tag. However, the

1 department of fish and wildlife may disclose personally identifying
2 information to:

3 (i) Government agencies concerned with the management of fish and
4 wildlife resources;

5 (ii) The department of social and health services, child support
6 division, and to the department of licensing in order to implement RCW
7 77.32.014 and 46.20.291; and

8 (iii) Law enforcement agencies for the purpose of firearm
9 possession enforcement under RCW 9.41.040.

10 (aaa)(i) Discharge papers of a veteran of the armed forces of the
11 United States filed at the office of the county auditor before July 1,
12 2002, that have not been commingled with other recorded documents.
13 These records will be available only to the veteran, the veteran's next
14 of kin, a deceased veteran's properly appointed personal representative
15 or executor, a person holding that veteran's general power of attorney,
16 or to anyone else designated in writing by that veteran to receive the
17 records.

18 (ii) Discharge papers of a veteran of the armed forces of the
19 United States filed at the office of the county auditor before July 1,
20 2002, that have been commingled with other records, if the veteran has
21 recorded a "request for exemption from public disclosure of discharge
22 papers" with the county auditor. If such a request has been recorded,
23 these records may be released only to the veteran filing the papers,
24 the veteran's next of kin, a deceased veteran's properly appointed
25 personal representative or executor, a person holding the veteran's
26 general power of attorney, or anyone else designated in writing by the
27 veteran to receive the records.

28 (iii) Discharge papers of a veteran filed at the office of the
29 county auditor after June 30, 2002, are not public records, but will be
30 available only to the veteran, the veteran's next of kin, a deceased
31 veteran's properly appointed personal representative or executor, a
32 person holding the veteran's general power of attorney, or anyone else
33 designated in writing by the veteran to receive the records.

34 (iv) For the purposes of this subsection (1)(aaa), next of kin of
35 deceased veterans have the same rights to full access to the record.
36 Next of kin are the veteran's widow or widower who has not remarried,
37 son, daughter, father, mother, brother, and sister.

38 (2) Except for information described in subsection (1)(c)(i) of
39 this section and confidential income data exempted from public

1 inspection pursuant to RCW 84.40.020, the exemptions of this section
2 are inapplicable to the extent that information, the disclosure of
3 which would violate personal privacy or vital governmental interests,
4 can be deleted from the specific records sought. No exemption may be
5 construed to permit the nondisclosure of statistical information not
6 descriptive of any readily identifiable person or persons.

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

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

17 **Sec. 3.** RCW 73.04.030 and 1989 c 50 s 1 are each amended to read
18 as follows:

19 Each county auditor of the several counties of the state of
20 Washington shall record upon presentation without expense, in a
21 suitable permanent record the discharge of any veteran of the armed
22 forces of the United States who is residing in the state of Washington.

23 The department of veterans affairs, in consultation with the
24 association of county auditors, shall develop and distribute to county
25 auditors the form referred to in RCW 42.17.310(1)(aaa) entitled
26 "request for exemption from public disclosure of discharge papers."

27 The county auditor may charge a basic recording fee and
28 preservation fee that together shall not exceed a total of seven
29 dollars for the recording of the "request for exemption from public
30 disclosure of discharge papers."

31 County auditors shall develop a form for requestors of military
32 discharge papers (form DD214) to verify that the requestor is
33 authorized to receive or view the military discharge paper.

34 NEW SECTION. **Sec. 4.** Section 1 of this act is necessary for the
35 immediate preservation of the public peace, health, or safety, or

1 support of the state government and its existing public institutions,
2 and takes effect immediately.

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