
HOUSE BILL 1965

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Anderson and Johanson

Read first time 02/17/93. Referred to Committee on State Government.

1 AN ACT Relating to geographic information system services and
2 products provided by agencies; amending RCW 42.17.020; reenacting and
3 amending RCW 42.17.310; adding new sections to chapter 42.17 RCW; and
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Geographic information systems have proliferated throughout
8 government, raising issues regarding access to geographic information
9 systems that are not addressed in present law;

10 (2) Public access to agency geographic information systems will be
11 enhanced by establishing user fees for geographic information system
12 services and products that are calculated to recover a reasonable
13 portion of the costs associated with developing and maintaining a
14 geographic information system;

15 (3) To provide agencies authority to recover the costs associated
16 with development and maintenance for geographic information system
17 services and products as well as the value of manipulation of data and
18 duplication costs thereof is in the best interest of the public.

1 **Sec. 2.** RCW 42.17.020 and 1992 c 139 s 1 are each amended to read
2 as follows:

3 (1) "Agency" includes all state agencies and all local agencies.
4 "State agency" includes every state office, department, division,
5 bureau, board, commission, or other state agency. "Local agency"
6 includes every county, city, town, municipal corporation, quasi-
7 municipal corporation, or special purpose district, or any office,
8 department, division, bureau, board, commission, or agency thereof, or
9 other local public agency.

10 (2) "Ballot proposition" means any "measure" as defined by RCW
11 29.01.110, or any initiative, recall, or referendum proposition
12 proposed to be submitted to the voters of the state or any municipal
13 corporation, political subdivision, or other voting constituency from
14 and after the time when the proposition has been initially filed with
15 the appropriate election officer of that constituency prior to its
16 circulation for signatures.

17 (3) "Depository" means a bank designated by a candidate or
18 political committee pursuant to RCW 42.17.050.

19 (4) "Treasurer" and "deputy treasurer" mean the individuals
20 appointed by a candidate or political committee, pursuant to RCW
21 42.17.050, to perform the duties specified in that section.

22 (5) "Candidate" means any individual who seeks election to public
23 office. An individual shall be deemed to seek election when he first:

24 (a) Receives contributions or makes expenditures or reserves space
25 or facilities with intent to promote his candidacy for office; or

26 (b) Announces publicly or files for office.

27 (6) "Commercial advertiser" means any person who sells the service
28 of communicating messages or producing printed material for broadcast
29 or distribution to the general public or segments of the general public
30 whether through the use of newspapers, magazines, television and radio
31 stations, billboard companies, direct mail advertising companies,
32 printing companies, or otherwise.

33 (7) "Commission" means the agency established under RCW 42.17.350.

34 (8) "Compensation" unless the context requires a narrower meaning,
35 includes payment in any form for real or personal property or services
36 of any kind: PROVIDED, That for the purpose of compliance with RCW
37 42.17.241, the term "compensation" shall not include per diem
38 allowances or other payments made by a governmental entity to reimburse

1 a public official for expenses incurred while the official is engaged
2 in the official business of the governmental entity.

3 (9) "Continuing political committee" means a political committee
4 that is an organization of continuing existence not established in
5 anticipation of any particular election campaign.

6 (10) "Contribution" includes a loan, gift, deposit, subscription,
7 forgiveness of indebtedness, donation, advance, pledge, payment,
8 transfer of funds between political committees, or transfer of anything
9 of value, including personal and professional services for less than
10 full consideration, but does not include interest on moneys deposited
11 in a political committee's account, ordinary home hospitality and the
12 rendering of personal services of the sort commonly performed by
13 volunteer campaign workers, or incidental expenses personally incurred
14 by volunteer campaign workers not in excess of fifty dollars personally
15 paid for by the worker. Volunteer services, for the purposes of this
16 chapter, means services or labor for which the individual is not
17 compensated by any person. For the purposes of this chapter,
18 contributions other than money or its equivalents shall be deemed to
19 have a money value equivalent to the fair market value of the
20 contribution. Sums paid for tickets to fund-raising events such as
21 dinners and parties are contributions; however, the amount of any such
22 contribution may be reduced for the purpose of complying with the
23 reporting requirements of this chapter, by the actual cost of
24 consumables furnished in connection with the purchase of the tickets,
25 and only the excess over the actual cost of the consumables shall be
26 deemed a contribution.

27 (11) "Elected official" means any person elected at a general or
28 special election to any public office, and any person appointed to fill
29 a vacancy in any such office.

30 (12) "Election" includes any primary, general, or special election
31 for public office and any election in which a ballot proposition is
32 submitted to the voters: PROVIDED, That an election in which the
33 qualifications for voting include other than those requirements set
34 forth in Article VI, section 1 (Amendment 63) of the Constitution of
35 the state of Washington shall not be considered an election for
36 purposes of this chapter.

37 (13) "Election campaign" means any campaign in support of or in
38 opposition to a candidate for election to public office and any
39 campaign in support of, or in opposition to, a ballot proposition.

1 (14) "Expenditure" includes a payment, contribution, subscription,
2 distribution, loan, advance, deposit, or gift of money or anything of
3 value, and includes a contract, promise, or agreement, whether or not
4 legally enforceable, to make an expenditure. The term "expenditure"
5 also includes a promise to pay, a payment, or a transfer of anything of
6 value in exchange for goods, services, property, facilities, or
7 anything of value for the purpose of assisting, benefiting, or honoring
8 any public official or candidate, or assisting in furthering or
9 opposing any election campaign. For the purposes of this chapter,
10 agreements to make expenditures, contracts, and promises to pay may be
11 reported as estimated obligations until actual payment is made. The
12 term "expenditure" shall not include the partial or complete repayment
13 by a candidate or political committee of the principal of a loan, the
14 receipt of which loan has been properly reported.

15 (15) "Final report" means the report described as a final report in
16 RCW 42.17.080(2).

17 (16) "Geographic information system" means an entire formula,
18 pattern, compilation, program, device, method, technique, process, data
19 base, or system that electronically records, stores, reproduces,
20 updates, and manipulates computer geographic and factual information.

21 (17) "Gift," for the purposes of RCW 42.17.170 and 42.17.2415,
22 means a rendering of anything of value in return for which reasonable
23 consideration is not given and received and includes a rendering of
24 money, property, services, discount, loan forgiveness, payment of
25 indebtedness, or reimbursements from or payments by persons (other than
26 the federal government, or the state of Washington or any agency or
27 political subdivision thereof) for travel or anything else of value.
28 The term "reasonable consideration" refers to the approximate range of
29 consideration that exists in transactions not involving donative
30 intent. However, the value of the gift of partaking in a single hosted
31 reception shall be determined by dividing the total amount of the cost
32 of conducting the reception by the total number of persons partaking in
33 the reception. "Gift" for the purposes of RCW 42.17.170 and 42.17.2415
34 does not include:

35 (a) A gift, other than a gift of partaking in a hosted reception,
36 with a value of fifty dollars or less;

37 (b) The gift of partaking in a hosted reception if the value of the
38 gift is one hundred dollars or less;

1 (c) A contribution that is required to be reported under RCW
2 42.17.090 or 42.17.243;

3 (d) Informational material that is transferred for the purpose of
4 informing the recipient about matters pertaining to official business
5 of the governmental entity of which the recipient is an official or
6 officer, and that is not intended to confer on that recipient any
7 commercial, proprietary, financial, economic, or monetary advantage, or
8 the avoidance of any commercial, proprietary, financial, economic, or
9 monetary disadvantage;

10 (e) A gift that is not used and that, within thirty days after
11 receipt, is returned to the donor or delivered to a charitable
12 organization. However, this exclusion from the definition does not
13 apply if the recipient of the gift delivers the gift to a charitable
14 organization and claims the delivery as a charitable contribution for
15 tax purposes;

16 (f) A gift given under circumstances where it is clear beyond any
17 doubt that the gift was not made as part of any design to gain or
18 maintain influence in the governmental entity of which the recipient is
19 an officer or official or with respect to any legislative matter or
20 matters of that governmental entity; or

21 (g) A gift given prior to September 29, 1991.

22 (~~(17)~~) (18) "Immediate family" includes the spouse, dependent
23 children, and other dependent relatives, if living in the household.

24 (~~(18)~~) (19) "Legislation" means bills, resolutions, motions,
25 amendments, nominations, and other matters pending or proposed in
26 either house of the state legislature, and includes any other matter
27 that may be the subject of action by either house or any committee of
28 the legislature and all bills and resolutions that, having passed both
29 houses, are pending approval by the governor.

30 (~~(19)~~) (20) "Lobby" and "lobbying" each mean attempting to
31 influence the passage or defeat of any legislation by the legislature
32 of the state of Washington, or the adoption or rejection of any rule,
33 standard, rate, or other legislative enactment of any state agency
34 under the state Administrative Procedure Act, chapter 34.05 RCW.
35 Neither "lobby" nor "lobbying" includes an association's or other
36 organization's act of communicating with the members of that
37 association or organization.

38 (~~(20)~~) (21) "Lobbyist" includes any person who lobbies either in
39 his own or another's behalf.

1 (~~(21)~~) (22) "Lobbyist's employer" means the person or persons by
2 whom a lobbyist is employed and all persons by whom he is compensated
3 for acting as a lobbyist.

4 (~~(22)~~) (23) "Person" includes an individual, partnership, joint
5 venture, public or private corporation, association, federal, state, or
6 local governmental entity or agency however constituted, candidate,
7 committee, political committee, political party, executive committee
8 thereof, or any other organization or group of persons, however
9 organized.

10 (~~(23)~~) (24) "Person in interest" means the person who is the
11 subject of a record or any representative designated by that person,
12 except that if that person is under a legal disability, the term
13 "person in interest" means and includes the parent or duly appointed
14 legal representative.

15 (~~(24)~~) (25) "Political advertising" includes any advertising
16 displays, newspaper ads, billboards, signs, brochures, articles,
17 tabloids, flyers, letters, radio or television presentations, or other
18 means of mass communication, used for the purpose of appealing,
19 directly or indirectly, for votes or for financial or other support in
20 any election campaign.

21 (~~(25)~~) (26) "Political committee" means any person (except a
22 candidate or an individual dealing with his own funds or property)
23 having the expectation of receiving contributions or making
24 expenditures in support of, or opposition to, any candidate or any
25 ballot proposition.

26 (~~(26)~~) (27) "Public office" means any federal, state, county,
27 city, town, school district, port district, special district, or other
28 state political subdivision elective office.

29 (~~(27)~~) (28) "Public record" includes any writing containing
30 information relating to the conduct of government or the performance of
31 any governmental or proprietary function prepared, owned, used, or
32 retained by any state or local agency regardless of physical form or
33 characteristics.

34 (~~(28)~~) (29) "Surplus funds" mean, in the case of a political
35 committee or candidate, the balance of contributions that remain in the
36 possession or control of that committee or candidate subsequent to the
37 election for which the contributions were received, and that are in
38 excess of the amount necessary to pay remaining debts incurred by the
39 committee or candidate prior to that election. In the case of a

1 continuing political committee, "surplus funds" mean those
2 contributions remaining in the possession or control of the committee
3 that are in excess of the amount necessary to pay all remaining debts
4 when it makes its final report under RCW 42.17.065.

5 (~~(29)~~) (30) "Writing" means handwriting, typewriting, printing,
6 photostating, photographing, and every other means of recording any
7 form of communication or representation, including, but not limited to,
8 letters, words, pictures, sounds, or symbols, or combination thereof,
9 and all papers, maps, magnetic or paper tapes, photographic films and
10 prints, motion picture, film and video recordings, magnetic or punched
11 cards, discs, drums, diskettes, sound recordings, and other documents
12 including existing data compilations from which information may be
13 obtained or translated.

14 As used in this chapter, the singular shall take the plural and any
15 gender, the other, as the context requires.

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

18 An agency may charge fees for geographic information system
19 services or products. The fees charged may not exceed the costs of
20 providing the geographic information system services and related
21 products plus a portion of the costs associated with developing and
22 maintaining the geographic information system of the agency from which
23 these services and products are produced. The governing body or head
24 of the agency, as appropriate, shall establish the fees by ordinance or
25 rule in accordance with generally accepted accounting principles.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.17 RCW
27 to read as follows:

28 An agency may require a recipient of its geographic information
29 system services or products to enter into an agreement to hold the
30 agency harmless from all claims and losses arising from the use or
31 reliance upon the geographic information system services or products.
32 The agency may require the recipient to identify, to the agency and all
33 subsequent users, in a clear and distinct manner where and in what
34 respect the geographic information system products have been revised,
35 altered, or amended.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 42.17 RCW
2 to read as follows:

3 An agency may not be required to reformat, restructure, modify, or
4 recompile its geographic information system into any form other than
5 the form in which it is maintained. This does not preclude an agency
6 from providing customized geographic information system products or
7 services under an agreement with the purchaser.

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 42.17 RCW
9 to read as follows:

10 Information that is obtained by an agency from a private entity
11 under an agreement not to disclose, and that is incorporated into the
12 agency's geographic information system, is not subject to mandatory
13 disclosure under this chapter.

14 **Sec. 7.** RCW 42.17.310 and 1992 c 139 s 5 and 1992 c 71 s 12 are
15 each reenacted and amended to read as follows:

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

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

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

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

28 (d) Specific intelligence information and specific investigative
29 records compiled by investigative, law enforcement, and penology
30 agencies, and state agencies vested with the responsibility to
31 discipline members of any profession, the nondisclosure of which is
32 essential to effective law enforcement or for the protection of any
33 person's right to privacy.

34 (e) Information revealing the identity of persons who are witnesses
35 to or victims of crime or who file complaints with investigative, law
36 enforcement, or penology agencies, other than the public disclosure
37 commission, if disclosure would endanger any person's life, physical

1 safety, or property. If at the time a complaint is filed the
2 complainant, victim or witness indicates a desire for disclosure or
3 nondisclosure, such desire shall govern. However, all complaints filed
4 with the public disclosure commission about any elected official or
5 candidate for public office must be made in writing and signed by the
6 complainant under oath.

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

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

16 (h) Valuable formulae, designs, drawings, and research data
17 obtained or created by any agency within five years of the request for
18 disclosure when disclosure would produce private gain and public loss.

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

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

27 (k) Records, maps, or other information identifying the location of
28 archaeological sites in order to avoid the looting or depredation of
29 such sites.

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

33 (m) Financial information supplied by or on behalf of a person,
34 firm, or corporation for the purpose of qualifying to submit a bid or
35 proposal for (a) a ferry system construction or repair contract as
36 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
37 or improvement as required by RCW 47.28.070.

38 (n) Railroad company contracts filed prior to July 28, 1991, with
39 the utilities and transportation commission under RCW 81.34.070, except

1 that the summaries of the contracts are open to public inspection and
2 copying as otherwise provided by this chapter.

3 (o) Financial and commercial information and records supplied by
4 private persons pertaining to export services provided pursuant to
5 chapter 43.163 RCW and chapter 53.31 RCW.

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

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

11 (r) Financial and commercial information and records supplied by
12 businesses during application for loans or program services provided by
13 chapter 43.163 RCW and chapters 43.31, 43.63A, and 43.168 RCW.

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

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

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

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.

29 (w) Information obtained by the board of pharmacy as provided in
30 RCW 69.45.090.

31 (x) Information obtained by the board of pharmacy or the department
32 of health and its representatives as provided in RCW 69.41.044,
33 69.41.280, and 18.64.420.

34 (y) Financial information, business plans, examination reports, and
35 any information produced or obtained in evaluating or examining a
36 business and industrial development corporation organized or seeking
37 certification under chapter 31.24 RCW.

38 (z) Financial and commercial information supplied to the state
39 investment board by any person when the information relates to the

1 investment of public trust or retirement funds and when disclosure
2 would result in loss to such funds or in private loss to the providers
3 of this information.

4 (aa) Financial and valuable trade information under RCW 51.36.120.

5 (bb) Client records maintained by an agency that is a domestic
6 violence program as defined in RCW 70.123.020 or a rape crisis center
7 as defined in RCW 70.125.030.

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

14 (dd) Business related information protected from public inspection
15 and copying under RCW 15.86.110.

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

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

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

34 NEW SECTION. **Sec. 8.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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