

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 2264**

Chapter 274, Laws of 1997

55th Legislature  
1997 Regular Session

ABOLISHING THE STATE HEALTH CARE ADVISORY BOARD

EFFECTIVE DATE: 7/1/97

Passed by the House April 21, 1997  
Yeas 61 Nays 36

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

Passed by the Senate April 17, 1997  
Yeas 47 Nays 0

BRAD OWEN  
**President of the Senate**

Approved May 6, 1997

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2264** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

FILED

May 6, 1997 - 4:10 p.m.

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE HOUSE BILL 2264**

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Passed Legislature - 1997 Regular Session

AS AMENDED BY THE SENATE

**State of Washington                      55th Legislature                      1997 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives Koster, Huff, D. Sommers, Sterk, Sherstad, Boldt, Mulliken, Thompson and McMorris)

Read first time 04/07/97.

1            AN ACT Relating to abolishing the state health care policy board;  
2 amending RCW 41.05.021, 43.70.054, 43.70.066, 43.70.068, 43.72.300, and  
3 43.72.310; reenacting and amending RCW 42.17.310; adding a new section  
4 to chapter 43.72 RCW; repealing RCW 43.72.320, 43.73.010, 43.73.020,  
5 43.73.030, and 43.73.040; repealing 1996 c 281 s 2 (uncodified);  
6 providing an effective date; and declaring an emergency.

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

8            **Sec. 1.** RCW 41.05.021 and 1995 1st sp.s. c 6 s 7 are each amended  
9 to read as follows:

10            (1) The Washington state health care authority is created within  
11 the executive branch. The authority shall have an administrator  
12 appointed by the governor, with the consent of the senate. The  
13 administrator shall serve at the pleasure of the governor. The  
14 administrator may employ up to seven staff members, who shall be exempt  
15 from chapter 41.06 RCW, and any additional staff members as are  
16 necessary to administer this chapter. The administrator may delegate  
17 any power or duty vested in him or her by this chapter, including  
18 authority to make final decisions and enter final orders in hearings  
19 conducted under chapter 34.05 RCW. The primary duties of the authority

1 shall be to: Administer state employees' insurance benefits and  
2 retired or disabled school employees' insurance benefits; administer  
3 the basic health plan pursuant to chapter 70.47 RCW; study state-  
4 purchased health care programs in order to maximize cost containment in  
5 these programs while ensuring access to quality health care; and  
6 implement state initiatives, joint purchasing strategies, and  
7 techniques for efficient administration that have potential application  
8 to all state-purchased health services. The authority's duties  
9 include, but are not limited to, the following:

10 (a) To administer health care benefit programs for employees and  
11 retired or disabled school employees as specifically authorized in RCW  
12 41.05.065 and in accordance with the methods described in RCW  
13 41.05.075, 41.05.140, and other provisions of this chapter;

14 (b) To analyze state-purchased health care programs and to explore  
15 options for cost containment and delivery alternatives for those  
16 programs that are consistent with the purposes of those programs,  
17 including, but not limited to:

18 (i) Creation of economic incentives for the persons for whom the  
19 state purchases health care to appropriately utilize and purchase  
20 health care services, including the development of flexible benefit  
21 plans to offset increases in individual financial responsibility;

22 (ii) Utilization of provider arrangements that encourage cost  
23 containment, including but not limited to prepaid delivery systems,  
24 utilization review, and prospective payment methods, and that ensure  
25 access to quality care, including assuring reasonable access to local  
26 providers, especially for employees residing in rural areas;

27 (iii) Coordination of state agency efforts to purchase drugs  
28 effectively as provided in RCW 70.14.050;

29 (iv) Development of recommendations and methods for purchasing  
30 medical equipment and supporting services on a volume discount basis;  
31 and

32 (v) Development of data systems to obtain utilization data from  
33 state-purchased health care programs in order to identify cost centers,  
34 utilization patterns, provider and hospital practice patterns, and  
35 procedure costs, utilizing the information obtained pursuant to RCW  
36 41.05.031;

37 (c) To analyze areas of public and private health care interaction;

38 (d) To provide information and technical and administrative  
39 assistance to the board;

1 (e) To review and approve or deny applications from counties,  
2 municipalities, and other political subdivisions of the state to  
3 provide state-sponsored insurance or self-insurance programs to their  
4 employees in accordance with the provisions of RCW 41.04.205, setting  
5 the premium contribution for approved groups as outlined in RCW  
6 41.05.050;

7 (f) To appoint a health care policy technical advisory committee as  
8 required by RCW 41.05.150;

9 (g) To establish billing procedures and collect funds from school  
10 districts and educational service districts under RCW 28A.400.400 in a  
11 way that minimizes the administrative burden on districts; and

12 (h) To promulgate and adopt rules consistent with this chapter as  
13 described in RCW 41.05.160.

14 (2) On and after January 1, 1996, the public employees' benefits  
15 board may implement strategies to promote managed competition among  
16 employee health benefit plans. Strategies may include but are not  
17 limited to:

18 (a) Standardizing the benefit package;

19 (b) Soliciting competitive bids for the benefit package;

20 (c) Limiting the state's contribution to a percent of the lowest  
21 priced qualified plan within a geographical area;

22 (d) Monitoring the impact of the approach under this subsection  
23 with regards to: Efficiencies in health service delivery, cost shifts  
24 to subscribers, access to and choice of managed care plans state-wide,  
25 and quality of health services. The health care authority shall also  
26 advise on the value of administering a benchmark employer-managed plan  
27 to promote competition among managed care plans. The health care  
28 authority shall report its findings and recommendations to the  
29 legislature by January 1, 1997.

30 (3) The health care authority shall, no later than July 1, 1996,  
31 submit to the appropriate committees of the legislature, proposed  
32 methods whereby, through the use of a voucher-type process, state  
33 employees may enroll with any health carrier to receive employee  
34 benefits. Such methods shall include the employee option of  
35 participating in a health care savings account, as set forth in Title  
36 48 RCW.

37 ~~((4) The Washington health care policy board shall study the~~  
38 ~~necessity and desirability of the health care authority continuing as~~

1 a self-insuring entity and make recommendations to the appropriate  
2 committees of the legislature by December 1, 1996.))

3 **Sec. 2.** RCW 43.70.054 and 1995 c 267 s 2 are each amended to read  
4 as follows:

5 (1) To promote the public interest consistent with chapter 267,  
6 Laws of 1995, the department of health, in cooperation with the  
7 (~~health care policy board and the~~) information services board  
8 established under RCW 43.105.032, shall develop health care data  
9 standards to be used by, and developed in collaboration with,  
10 consumers, purchasers, health carriers, providers, and state government  
11 as consistent with the intent of chapter 492, Laws of 1993 as amended  
12 by chapter 267, Laws of 1995, to promote the delivery of quality health  
13 services that improve health outcomes for state residents. The data  
14 standards shall include content, coding, confidentiality, and  
15 transmission standards for all health care data elements necessary to  
16 support the intent of this section, and to improve administrative  
17 efficiency and reduce cost. Purchasers, as allowed by federal law,  
18 health carriers, health facilities and providers as defined in chapter  
19 48.43 RCW, and state government shall utilize the data standards. The  
20 information and data elements shall be reported as the department of  
21 health directs by rule in accordance with data standards developed  
22 under this section.

23 (2) The health care data collected, maintained, and studied by the  
24 department under this section(~~(, the health care policy board,)~~) or any  
25 other entity: (a) Shall include a method of associating all  
26 information on health care costs and services with discrete cases; (b)  
27 shall not contain any means of determining the personal identity of any  
28 enrollee, provider, or facility; (c) shall only be available for  
29 retrieval in original or processed form to public and private  
30 requesters; (d) shall be available within a reasonable period of time  
31 after the date of request; and (e) shall give strong consideration to  
32 data standards that achieve national uniformity.

33 (3) The cost of retrieving data for state officials and agencies  
34 shall be funded through state general appropriation. The cost of  
35 retrieving data for individuals and organizations engaged in research  
36 or private use of data or studies shall be funded by a fee schedule  
37 developed by the department that reflects the direct cost of retrieving  
38 the data or study in the requested form.

1 (4) All persons subject to this section shall comply with  
2 departmental requirements established by rule in the acquisition of  
3 data, however, the department shall adopt no rule or effect no policy  
4 implementing the provisions of this section without an act of law.

5 (5) The department shall submit developed health care data  
6 standards to the appropriate committees of the legislature by December  
7 31, 1995.

8 **Sec. 3.** RCW 43.70.066 and 1995 c 267 s 4 are each amended to read  
9 as follows:

10 (1) The department of health (~~in consultation with the health~~  
11 ~~policy board~~) shall study the feasibility of a uniform quality  
12 assurance and improvement program for use by all public and private  
13 health plans and health care providers and facilities. In this study,  
14 the department shall consult with:

15 (a) Public and private purchasers of health care services;

16 (b) Health carriers;

17 (c) Health care providers and facilities; and

18 (d) Consumers of health services.

19 (2) In conducting the study, the department shall propose standards  
20 that meet the needs of affected persons and organizations, whether  
21 public or private, without creation of differing levels of quality  
22 assurance. All consumers of health services should be afforded the  
23 same level of quality assurance.

24 (3) At a minimum, the study shall include but not be limited to the  
25 following program components and indicators appropriate for consumer  
26 disclosure:

27 (a) Health care provider training, credentialing, and licensure  
28 standards;

29 (b) Health care facility credentialing and recredentialing;

30 (c) Staff ratios in health care facilities;

31 (d) Annual mortality and morbidity rates of cases based on a  
32 defined set of procedures performed or diagnoses treated in health care  
33 facilities, adjusted to fairly consider variable factors such as  
34 patient demographics and case severity;

35 (e) The average total cost and average length of hospital stay for  
36 a defined set of procedures and diagnoses;

1 (f) The total number of the defined set of procedures, by  
2 specialty, performed by each physician at a health care facility within  
3 the previous twelve months;

4 (g) Utilization performance profiles by provider, both primary care  
5 and specialty care, that have been adjusted to fairly consider variable  
6 factors such as patient demographics and severity of case;

7 (h) Health plan fiscal performance standards;

8 (i) Health care provider and facility recordkeeping and reporting  
9 standards;

10 (j) Health care utilization management that monitors trends in  
11 health service underutilization, as well as overutilization of  
12 services;

13 (k) Health monitoring that is responsive to consumer, purchaser,  
14 and public health assessment needs; and

15 (l) Assessment of consumer satisfaction and disclosure of consumer  
16 survey results.

17 (4) In conducting the study, the department shall develop standards  
18 that permit each health care facility, provider group, or health  
19 carrier to assume responsibility for and determine the physical method  
20 of collection, storage, and assimilation of quality indicators for  
21 consumer disclosure. The study may define the forms, frequency, and  
22 posting requirements for disclosure of information.

23 In developing proposed standards under this subsection, the  
24 department shall identify options that would minimize provider burden  
25 and administrative cost resulting from duplicative private sector data  
26 submission requirements.

27 (5) The department shall submit a preliminary report to the  
28 legislature by December 31, 1995, including recommendations for initial  
29 legislation pursuant to subsection (6) of this section, and shall  
30 submit supplementary reports and recommendations as completed,  
31 consistent with appropriated funds and staffing.

32 (6) The department shall not adopt any rule implementing the  
33 uniform quality assurance program or consumer disclosure provisions  
34 unless expressly directed to do so by an act of law.

35 **Sec. 4.** RCW 43.70.068 and 1995 c 267 s 5 are each amended to read  
36 as follows:

37 (~~No later than July 1, 1995, the health care policy board together~~  
38 ~~with~~) The department of health, the health care authority, the

1 department of social and health services, the office of the insurance  
2 commissioner, and the department of labor and industries shall form an  
3 interagency group for coordination and consultation on quality  
4 assurance activities and collaboration on final recommendations for the  
5 study required under RCW 43.70.066. (~~By December 31, 1996, the group~~  
6 ~~shall review all state agency programs governing health service quality~~  
7 ~~assurance, in light of legislative actions pursuant to RCW~~  
8 ~~43.70.066(6), and shall recommend to the legislature, the~~  
9 ~~consolidation, coordination, or elimination of rules and programs that~~  
10 ~~would be made unnecessary pursuant to the development of a uniform~~  
11 ~~quality assurance and improvement program.))~~

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.72 RCW  
13 to read as follows:

14 As used in this chapter, "health carrier," "health care provider,"  
15 "provider," "health plan," and "health care facility" have the same  
16 meaning as provided in RCW 48.43.005.

17 **Sec. 6.** RCW 43.72.300 and 1993 c 492 s 447 are each amended to  
18 read as follows:

19 (1) The legislature recognizes that competition among health care  
20 providers, facilities, payers, and purchasers will yield the best  
21 allocation of health care resources, the lowest prices for health care  
22 services, and the highest quality of health care when there exists a  
23 large number of buyers and sellers, easily comparable health ((care))  
24 plans and services, minimal barriers to entry and exit into the health  
25 care market, and adequate information for buyers and sellers to base  
26 purchasing and production decisions. However, the legislature finds  
27 that purchasers of health care services and health care coverage do not  
28 have adequate information upon which to base purchasing decisions; that  
29 health care facilities and providers of health care services face legal  
30 and market disincentives to develop economies of scale or to provide  
31 the most cost-efficient and efficacious service; that health insurers,  
32 contractors, and health maintenance organizations face market  
33 disincentives in providing health care coverage to those Washington  
34 residents with the most need for health care coverage; and that  
35 potential competitors in the provision of health care coverage bear  
36 unequal burdens in entering the market for health care coverage.



1 (2) The legislature therefore intends to exempt from state anti-  
2 trust laws, and to provide immunity from federal anti-trust laws  
3 through the state action doctrine for activities approved under this  
4 chapter that might otherwise be constrained by such laws and intends to  
5 displace competition in the health care market: To contain the  
6 aggregate cost of health care services; to promote the development of  
7 comprehensive, integrated, and cost-effective health care delivery  
8 systems through cooperative activities among health care providers and  
9 facilities; to promote comparability of health care coverage; to  
10 improve the cost-effectiveness in providing health care coverage  
11 relative to health promotion, disease prevention, and the amelioration  
12 or cure of illness; to assure universal access to a publicly  
13 determined, uniform package of health care benefits; and to create  
14 reasonable equity in the distribution of funds, treatment, and medical  
15 risk among purchasers of health care coverage, payers of health care  
16 services, providers of health care services, health care facilities,  
17 and Washington residents. To these ends, any lawful action taken  
18 pursuant to chapter 492, Laws of 1993 by any person or entity created  
19 or regulated by chapter 492, Laws of 1993 are declared to be taken  
20 pursuant to state statute and in furtherance of the public purposes of  
21 the state of Washington.

22 (3) The legislature does not intend and unless explicitly permitted  
23 in accordance with RCW 43.72.310 or under rules adopted pursuant to  
24 chapter 492, Laws of 1993, does not authorize any person or entity to  
25 engage in activities or to conspire to engage in activities that would  
26 constitute per se violations of state and federal anti-trust laws  
27 including but not limited to conspiracies or agreements:

28 (a) Among competing health care providers not to grant discounts,  
29 not to provide services, or to fix the price of their services;

30 (b) Among ~~((certified))~~ health ~~((plans))~~ carriers as to the price  
31 or level of reimbursement for health care services;

32 (c) Among ~~((certified))~~ health ~~((plans))~~ carriers to boycott a  
33 group or class of health care service providers;

34 (d) Among purchasers of ~~((certified))~~ health plan coverage to  
35 boycott a particular plan or class of plans;

36 (e) Among ~~((certified))~~ health ~~((plans))~~ carriers to divide the  
37 market for health care coverage; or

38 (f) Among ~~((certified))~~ health ~~((plans))~~ carriers and purchasers to  
39 attract or discourage enrollment of any Washington resident or groups

1 of residents in a ((certified)) health plan based upon the perceived or  
2 actual risk of loss in including such resident or group of residents in  
3 a ((certified)) health plan or purchasing group.

4 **Sec. 7.** RCW 43.72.310 and 1995 c 267 s 8 are each amended to read  
5 as follows:

6 (1) (~~Until May 8, 1995, and after June 30, 1996, a certified~~) A  
7 health ((plan)) carrier, health care facility, health care provider, or  
8 other person involved in the development, delivery, or marketing of  
9 health care or ((certified)) health plans may request, in writing, that  
10 the ((commission)) department of health obtain an informal opinion from  
11 the attorney general as to whether particular conduct is authorized by  
12 chapter 492, Laws of 1993. Trade secret or proprietary information  
13 contained in a request for informal opinion shall be identified as such  
14 and shall not be disclosed other than to an authorized employee of the  
15 ((commission)) department of health or attorney general without the  
16 consent of the party making the request, except that information in  
17 summary or aggregate form and market share data may be contained in the  
18 informal opinion issued by the attorney general. The attorney general  
19 shall issue such opinion within thirty days of receipt of a written  
20 request for an opinion or within thirty days of receipt of any  
21 additional information requested by the attorney general necessary for  
22 rendering an opinion unless extended by the attorney general for good  
23 cause shown. If the attorney general concludes that such conduct is  
24 not authorized by chapter 492, Laws of 1993, the person or organization  
25 making the request may petition the ((commission)) department of health  
26 for review and approval of such conduct in accordance with subsection  
27 (3) of this section.

28 (2) After obtaining the written opinion of the attorney general and  
29 consistent with such opinion, the ((health services commission))  
30 department of health:

31 (a) May authorize conduct by a ((certified)) health ((plan))  
32 carrier, health care facility, health care provider, or any other  
33 person that could tend to lessen competition in the relevant market  
34 upon a strong showing that the conduct is likely to achieve the policy  
35 goals of chapter 492, Laws of 1993 and a more competitive alternative  
36 is impractical;

37 (b) Shall adopt rules governing conduct among providers, health  
38 care facilities, and ((certified)) health ((plans)) carriers including

1 rules governing provider and facility contracts with ((certified))  
2 health ((plans)) carriers, rules governing the use of "most favored  
3 nation" clauses and exclusive dealing clauses in such contracts, and  
4 rules providing that ((certified)) health ((plans)) carriers in rural  
5 areas contract with a sufficient number and type of health care  
6 providers and facilities to ensure consumer access to local health care  
7 services;

8 (c) Shall adopt rules permitting health care providers within the  
9 service area of a plan to collectively negotiate the terms and  
10 conditions of contracts with a ((certified)) health ((plan)) carrier  
11 including the ability of providers to meet and communicate for the  
12 purposes of these negotiations; ((and))

13 (d) Shall adopt rules governing cooperative activities among health  
14 care facilities and providers; and

15 (e) Effective July 1, 1997, in addition to the rule-making  
16 authority granted to the department under this section, the department  
17 shall have the authority to enforce and administer rules previously  
18 adopted by the health services commission and the health care policy  
19 board pursuant to RCW 43.72.310.

20 (3) ~~((Until May 8, 1995, and after June 30, 1996, a certified))~~ A  
21 health ((plan)) carrier, health care facility, health care provider, or  
22 any other person involved in the development, delivery, and marketing  
23 of health care services or ((certified)) health plans may file a  
24 written petition with the ((commission)) department of health  
25 requesting approval of conduct that could tend to lessen competition in  
26 the relevant market. Such petition shall be filed in a form and manner  
27 prescribed by rule of the ((commission)) department of health.

28 The ((commission)) department of health shall issue a written  
29 decision approving or denying a petition filed under this section  
30 within ninety days of receipt of a properly completed written petition  
31 unless extended by the ((commission)) department of health for good  
32 cause shown. The decision shall set forth findings as to benefits and  
33 disadvantages and conclusions as to whether the benefits outweigh the  
34 disadvantages.

35 (4) In authorizing conduct and adopting rules of conduct under this  
36 section, the ((commission)) department of health with the advice of the  
37 attorney general, shall consider the benefits of such conduct in  
38 furthering the goals of health care reform including but not limited  
39 to:

1 (a) Enhancement of the quality of health services to consumers;  
2 (b) Gains in cost efficiency of health services;  
3 (c) Improvements in utilization of health services and equipment;  
4 (d) Avoidance of duplication of health services resources; or  
5 (e) And as to (b) and (c) of this subsection: (i) Facilitates the  
6 exchange of information relating to performance expectations; (ii)  
7 simplifies the negotiation of delivery arrangements and relationships;  
8 and (iii) reduces the transactions costs on the part of ((certified))  
9 health ((plans)) carriers and providers in negotiating more cost-  
10 effective delivery arrangements.

11 These benefits must outweigh disadvantages including and not  
12 limited to:

13 (i) Reduced competition among ((certified)) health ((plans))  
14 carriers, health care providers, or health care facilities;

15 (ii) Adverse impact on quality, availability, or price of health  
16 care services to consumers; or

17 (iii) The availability of arrangements less restrictive to  
18 competition that achieve the same benefits.

19 (5) Conduct authorized by the ((commission)) department of health  
20 shall be deemed taken pursuant to state statute and in the furtherance  
21 of the public purposes of the state of Washington.

22 (6) With the assistance of the attorney general's office, the  
23 ((commission)) department of health shall actively supervise any  
24 conduct authorized under this section to determine whether such conduct  
25 or rules permitting certain conduct should be continued and whether a  
26 more competitive alternative is practical. The ((commission))  
27 department of health shall periodically review petitioned conduct  
28 through, at least, annual progress reports from petitioners, annual or  
29 more frequent reviews by the ((commission)) department of health that  
30 evaluate whether the conduct is consistent with the petition, and  
31 whether the benefits continue to outweigh any disadvantages. If the  
32 ((commission)) department of health determines that the likely benefits  
33 of any conduct approved through rule, petition, or otherwise by the  
34 ((commission)) department of health no longer outweigh the  
35 disadvantages attributable to potential reduction in competition, the  
36 ((commission)) department of health shall order a modification or  
37 discontinuance of such conduct. Conduct ordered discontinued by the  
38 ((commission)) department of health shall no longer be deemed to be

1 taken pursuant to state statute and in the furtherance of the public  
2 purposes of the state of Washington.

3 (7) Nothing contained in chapter 492, Laws of 1993 is intended to  
4 in any way limit the ability of rural hospital districts to enter into  
5 cooperative agreements and contracts pursuant to RCW 70.44.450 and  
6 chapter 39.34 RCW.

7 (8) (~~Only requests for informal opinions under subsection (1) of~~  
8 ~~this section and petitions under subsection (3) of this section that~~  
9 ~~were received prior to May 8, 1995, or after June 30, 1996, shall be~~  
10 ~~considered.)) The secretary of health shall from time to time  
11 establish fees to accompany the filing of a petition or a written  
12 request to the department to obtain an opinion from the attorney  
13 general under this section and for the active supervision of conduct  
14 approved under this section. Such fees may vary according to the size  
15 of the transaction proposed in the petition or under active  
16 supervision. In setting such fees, the secretary shall consider that  
17 consumers and the public benefit when activities meeting the standards  
18 of this section are permitted to proceed; the importance of assuring  
19 that persons sponsoring beneficial activities are not foreclosed from  
20 filing a petition under this section because of the fee; and the  
21 necessity to avoid a conflict, or the appearance of a conflict, between  
22 the interests of the department and the public. The total fee for a  
23 petition under this section, a written request to the department to  
24 obtain an opinion from the attorney general, or a combination of both  
25 regarding the same conduct shall not exceed the level that will defray  
26 the reasonable costs the department and attorney general incur in  
27 considering a petition and in no event shall be greater than twenty-  
28 five thousand dollars. The fee for review of approved conduct shall  
29 not exceed the level that will defray the reasonable costs the  
30 department and attorney general incur in conducting such a review and  
31 in no event shall be greater than ten thousand dollars per annum. The  
32 fees shall be fixed by rule adopted in accordance with the provisions  
33 of the administrative procedure act, chapter 34.05 RCW, and shall be  
34 deposited in the health professions account established in accordance  
35 with RCW 43.70.320.~~

36 **Sec. 8.** RCW 42.17.310 and 1996 c 305 s 2, 1996 c 253 s 302, 1996  
37 c 191 s 88, and 1996 c 80 s 1 are each reenacted and amended to read as  
38 follows:

1 (1) The following are exempt from public inspection and copying:  
2 (a) Personal information in any files maintained for students in  
3 public schools, patients or clients of public institutions or public  
4 health agencies, or welfare recipients.  
5 (b) Personal information in files maintained for employees,  
6 appointees, or elected officials of any public agency to the extent  
7 that disclosure would violate their right to privacy.  
8 (c) Information required of any taxpayer in connection with the  
9 assessment or collection of any tax if the disclosure of the  
10 information to other persons would (i) be prohibited to such persons by  
11 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result  
12 in unfair competitive disadvantage to the taxpayer.  
13 (d) Specific intelligence information and specific investigative  
14 records compiled by investigative, law enforcement, and penology  
15 agencies, and state agencies vested with the responsibility to  
16 discipline members of any profession, the nondisclosure of which is  
17 essential to effective law enforcement or for the protection of any  
18 person's right to privacy.  
19 (e) Information revealing the identity of persons who are witnesses  
20 to or victims of crime or who file complaints with investigative, law  
21 enforcement, or penology agencies, other than the public disclosure  
22 commission, if disclosure would endanger any person's life, physical  
23 safety, or property. If at the time a complaint is filed the  
24 complainant, victim or witness indicates a desire for disclosure or  
25 nondisclosure, such desire shall govern. However, all complaints filed  
26 with the public disclosure commission about any elected official or  
27 candidate for public office must be made in writing and signed by the  
28 complainant under oath.  
29 (f) Test questions, scoring keys, and other examination data used  
30 to administer a license, employment, or academic examination.  
31 (g) Except as provided by chapter 8.26 RCW, the contents of real  
32 estate appraisals, made for or by any agency relative to the  
33 acquisition or sale of property, until the project or prospective sale  
34 is abandoned or until such time as all of the property has been  
35 acquired or the property to which the sale appraisal relates is sold,  
36 but in no event shall disclosure be denied for more than three years  
37 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, and by persons pertaining to  
30 export projects pursuant to RCW 43.23.035.

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

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

36 (r) Financial and commercial information and records supplied by  
37 businesses or individuals during application for loans or program  
38 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,

1 or during application for economic development loans or program  
2 services provided by any local agency.

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

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

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

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

18 (w)(i) The federal social security number of individuals governed  
19 under chapter 18.130 RCW maintained in the files of the department of  
20 health, except this exemption does not apply to requests made directly  
21 to the department from federal, state, and local agencies of  
22 government, and national and state licensing, credentialing,  
23 investigatory, disciplinary, and examination organizations; (ii) the  
24 current residential address and current residential telephone number of  
25 a health care provider governed under chapter 18.130 RCW maintained in  
26 the files of the department, if the provider requests that this  
27 information be withheld from public inspection and copying, and  
28 provides to the department an accurate alternate or business address  
29 and business telephone number. On or after January 1, 1995, the  
30 current residential address and residential telephone number of a  
31 health care provider governed under RCW 18.130.140 maintained in the  
32 files of the department shall automatically be withheld from public  
33 inspection and copying unless the provider specifically requests the  
34 information be released, and except as provided for under RCW  
35 42.17.260(9).

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



1 (y) Information obtained by the board of pharmacy or the department  
2 of health and its representatives as provided in RCW 69.41.044,  
3 69.41.280, and 18.64.420.

4 (z) Financial information, business plans, examination reports, and  
5 any information produced or obtained in evaluating or examining a  
6 business and industrial development corporation organized or seeking  
7 certification under chapter 31.24 RCW.

8 (aa) Financial and commercial information supplied to the state  
9 investment board by any person when the information relates to the  
10 investment of public trust or retirement funds and when disclosure  
11 would result in loss to such funds or in private loss to the providers  
12 of this information.

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

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

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

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

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

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

33 (hh) Information and documents created specifically for, and  
34 collected and maintained by a quality improvement committee pursuant to  
35 RCW 43.70.510, regardless of which agency is in possession of the  
36 information and documents.

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

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

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. 9. The following acts or parts of acts are each  
35 repealed:

- 36        (1) RCW 43.72.320 and 1995 c 267 s 10;  
37        (2) RCW 43.73.010 and 1995 c 265 s 9;  
38        (3) RCW 43.73.020 and 1995 c 265 s 10;

1 (4) RCW 43.73.030 and 1995 c 265 s 11;  
2 (5) RCW 43.73.040 and 1995 c 265 s 12; and  
3 (6) 1996 c 281 s 2 (uncodified).

4 NEW SECTION. **Sec. 10.** This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of the  
6 state government and its existing public institutions, and takes effect  
7 July 1, 1997.

Passed the House April 21, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.