
HOUSE BILL 2882

State of Washington 56th Legislature 2000 Regular Session

By Representatives Poulsen and Crouse; by request of Governor Locke

Read first time . Referred to Committee on .

1 AN ACT Relating to the use of city or town rights of way by
2 telecommunications and cable television providers; amending RCW
3 35.21.860; reenacting and amending RCW 42.17.310; adding a new section
4 to chapter 35A.21 RCW; and adding a new chapter to Title 35 RCW.

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

6 NEW SECTION. **Sec. 1.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Cable television service" means the one-way transmission to
9 subscribers of video programming and other programming service and
10 subscriber interaction, if any, that is required for the selection or
11 use of the video programming or other programming service.

12 (2) "Facilities" means all of the plant, equipment, fixtures,
13 appurtenances, antennas, and other facilities necessary to furnish and
14 deliver telecommunications services and cable television services,
15 including but not limited to poles with crossarms, poles without
16 crossarms, wires, lines, conduits, cables, communication and signal
17 lines and equipment, braces, guys, anchors, vaults, and all
18 attachments, appurtenances, and appliances necessary or incidental to

1 the distribution and use of telecommunications services and cable
2 television services.

3 (3) "Master permit" means the agreement in whatever form whereby a
4 city or town may grant general permission to a service provider to
5 enter, use, and occupy the right of way for the purpose of locating
6 facilities. This definition is not intended to limit, alter, or change
7 the extent of the existing authority of a city or town to require a
8 franchise nor does it change the status of a service provider with an
9 existing state-wide grant to occupy the right of way. For the purposes
10 of this subsection, a franchise, except for a cable television
11 franchise, is a master permit. Master permit does not include cable
12 television franchises.

13 (4) "Personal wireless services" means commercial mobile services,
14 unlicensed wireless services, and common carrier wireless exchange
15 access services, as defined by federal laws and regulations.

16 (5) "Right of way" means land acquired or dedicated for public
17 roads and streets, but does not include:

18 (a) State highways;

19 (b) Land dedicated for roads, streets, and highways not opened and
20 not improved for motor vehicle use by the public;

21 (c) Structures located within the right of way;

22 (d) Federally granted trust lands or forest board trust lands;

23 (e) Lands owned or managed by the state parks and recreation
24 commission; or

25 (f) Federally granted railroad rights of way acquired under 43
26 U.S.C. Sec. 912 and related provisions of federal law that are not open
27 for motor vehicle use.

28 (6) "Service provider" means every corporation, company,
29 association, joint stock association, firm, partnership, person, city,
30 or town owning, operating, or managing any facilities used to provide
31 and providing telecommunications or cable television service for hire,
32 sale, or resale to the general public. Service provider includes the
33 legal successor to any such corporation, company, association, joint
34 stock association, firm, partnership, person, city, or town.

35 (7) "Telecommunications service" means the transmission of
36 information by wire, radio, optical cable, electromagnetic, or other
37 similar means for hire, sale, or resale to the general public. For the
38 purpose of this subsection, "information" means knowledge or
39 intelligence represented by any form of writing, signs, signals,

1 pictures, sounds, or any other symbols. For the purpose of this
2 chapter, telecommunications service excludes the over-the-air
3 transmission of broadcast television or broadcast radio signals.

4 (8) "Use permit" means the authorization in whatever form whereby
5 a city or town may grant permission to a service provider to enter and
6 use the specified right of way for the purpose of installing,
7 maintaining, repairing, or removing identified facilities.

8 NEW SECTION. **Sec. 2.** A city or town may issue or deny permits for
9 the use of the right of way by a service provider for installing,
10 maintaining, repairing, or removing facilities for telecommunications
11 services or cable television services pursuant to ordinances,
12 consistent with this act.

13 NEW SECTION. **Sec. 3.** (1) Cities and towns may require a service
14 provider to obtain a master permit. A city or town may request, but
15 not require, that a service provider with an existing state-wide grant
16 to occupy the right of way obtain a master permit for wireline
17 facilities.

18 (a) The procedures for the approval of a master permit and the
19 requirements for a complete application for a master permit shall be
20 available in written form.

21 (b) Where a city or town requires a master permit, the city or
22 town shall act upon a complete application within one hundred twenty
23 days from the date a service provider files the complete application
24 for the master permit to use the right of way, except:

25 (i) With the agreement of the applicant; or

26 (ii) Where the master permit requires action of the legislative
27 body of the city or town and such action cannot reasonably be obtained
28 within the one hundred twenty day period.

29 (2) A city or town may require that a service provider obtain a use
30 permit. A city or town must act on a request for a use permit by a
31 service provider within thirty days of receipt of a completed
32 application, unless a service provider consents to a different time
33 period or the service provider has not obtained a master permit
34 requested by the city or town.

35 (a) For the purpose of this section, "act" means that the city
36 makes the decision to grant, condition, or deny the use permit, which
37 may be subject to administrative appeal, or notifies the applicant in

1 writing of the amount of time that will be required to make the
2 decision and the reasons for this time period.

3 (b) Requirements otherwise applicable to holders of master permits
4 shall be deemed satisfied by a holder of a cable franchise in good
5 standing.

6 (c) Where the master permit does not contain procedures to expedite
7 approvals and the service provider requires action in less than thirty
8 days, the service provider shall advise the city or town in writing of
9 the reasons why a shortened time period is necessary and the time
10 period within which action by the city or town is requested. The city
11 or town shall reasonably cooperate to meet the request where
12 practicable.

13 (d) A city or town may not deny a use permit to a service provider
14 with an existing state-wide grant to occupy the right of way for
15 wireline facilities on the basis of failure to obtain a master permit.

16 (3) The reasons for a denial of a master permit shall be supported
17 by substantial evidence contained in a written record. A service
18 provider adversely affected by the final action denying a master
19 permit, or by an unreasonable failure to act on a master permit as set
20 forth in subsection (1) of this section, may commence an action within
21 thirty days to seek relief, which shall be limited to injunctive
22 relief.

23 (4) A service provider adversely affected by the final action
24 denying a use permit may commence an action within thirty days to seek
25 relief, which shall be limited to injunctive relief. In any appeal of
26 the final action denying a use permit, the standard for review and
27 burden of proof shall be as set forth in RCW 36.70C.130.

28 (5) A city or town shall:

29 (a) In order to facilitate the scheduling and coordination of work
30 in the right of way, provide as much advance notice as reasonable of
31 plans to open the right of way to those service providers who are
32 current users of the right of way or who have filed notice with the
33 clerk of the city or town within the past twelve months of their intent
34 to place facilities in the city or town. A city is not liable for
35 damages for failure to provide this notice. Where the city has failed
36 to provide notice of plans to open the right of way consistent with
37 this subsection, a city may not deny a use permit to a service provider
38 on the basis that the service provider failed to coordinate with
39 another project.

1 (b) Have the authority to require that facilities are installed and
2 maintained within the right of way in such a manner and at such points
3 so as not to inconvenience the public use of the right of way or to
4 adversely affect the public, health, safety, and welfare.

5 (c) Use any proprietary information provided by a service provider
6 under this subsection solely for the purposes that qualify the
7 information as exempt from disclosure under this section and chapter
8 42.17 RCW. Proprietary information regarding existing or planned
9 facilities that is provided by a service provider to a city or town for
10 the purpose of obtaining a master permit or planning for, scheduling,
11 and coordinating work in the right of way, shall not be deemed a public
12 record under chapter 42.17 RCW and is exempt under RCW 42.17.310 from
13 public inspection and copying.

14 (6) A service provider shall:

15 (a) Obtain all permits required by the city or town for the
16 installation, maintenance, repair, or removal of facilities in the
17 right of way;

18 (b) Comply with applicable ordinances, construction codes,
19 regulations, and standards subject to verification by the city or town
20 of such compliance;

21 (c) Cooperate with the city or town in ensuring that facilities are
22 installed, maintained, repaired, and removed within the right of way in
23 such a manner and at such points so as not to inconvenience the public
24 use of the right of way or to adversely affect the public health,
25 safety, and welfare;

26 (d) Provide information and plans as reasonably necessary to enable
27 a city or town to comply with subsection (5) of this section;

28 (e) Obtain the written approval of the facility or structure owner,
29 if the service provider does not own it, prior to attaching to or
30 otherwise using a facility or structure in the right of way;

31 (f) Construct, install, operate, and maintain its facilities at its
32 expense; and

33 (g) Comply with applicable federal and state safety laws and
34 standards.

35 (7) Nothing in this section shall be construed as:

36 (a) Creating a new duty upon city or towns to be responsible for
37 construction of facilities for service providers or to modify the right
38 of way to accommodate such facilities;

1 (b) Creating, expanding, or extending any liability of a city or
2 town to any third-party user of facilities or third-party beneficiary;
3 or

4 (c) Limiting the right of a city or town to require an
5 indemnification agreement as a condition of a service provider's
6 facilities occupying the right of way.

7 (8) Nothing in this section creates, modifies, expands, or
8 diminishes a priority of use of the right of way by a service provider
9 or other utility, either in relation to other service providers or in
10 relation to other users of the right of way for other purposes.

11 NEW SECTION. **Sec. 4.** (1) A city or town shall not adopt or
12 enforce regulations or ordinances specifically relating to use of the
13 right of way by a service provider that:

14 (a) Impose requirements that regulate the services or business
15 operations of the service provider, except where otherwise authorized
16 in state or federal law;

17 (b) Conflict with federal or state laws, rules, or regulations that
18 specifically apply to the design, construction, and operation of
19 facilities or with federal or state worker safety or public safety
20 laws, rules, or regulations;

21 (c) Regulate the services provided based upon the content or kind
22 of signals that are carried or are capable of being carried over the
23 facilities, except where otherwise authorized in state or federal law;
24 or

25 (d) Unreasonably deny the use of the right of way by a service
26 provider for installing, maintaining, repairing, or removing facilities
27 for telecommunications services or cable television services.

28 (2) Nothing in this section, including but not limited to the
29 provisions of subsection (1)(d) of this section, limits the authority
30 of a city or town to regulate the placement of facilities through its
31 local zoning or police power, if the regulations do not otherwise:

32 (a) Prohibit the placement of all wireless or of all wireline
33 facilities within the city or town, or prohibit the placement of all
34 wireless or of all wireline facilities within city or town rights of
35 way; or

36 (b) Violate section 253 of the telecommunications act of 1996, P.L.
37 104-104 (110 Stat. 56).

1 (3) This section does not amend, limit, repeal, or otherwise modify
2 the authority of cities or towns to regulate cable television services
3 pursuant to federal law.

4 NEW SECTION. **Sec. 5.** (1) A city or town shall not place or extend
5 a moratorium on the acceptance and processing of applications,
6 permitting, construction, maintenance, repair, replacement, extension,
7 operation, or use of any facilities for personal wireless services,
8 except as consistent with the guidelines for facilities siting
9 implementation, as agreed to on August 5, 1998, by the federal
10 communications commission's local and state government advisory
11 committee, the cellular telecommunications industry association, the
12 personal communications industry association, and the American mobile
13 telecommunications association. Any city or town implementing such a
14 moratorium shall, at the request of a service provider impacted by the
15 moratorium, participate with the service provider in the informal
16 dispute resolution process included with the guidelines for facilities
17 siting implementation.

18 NEW SECTION. **Sec. 6.** (1) Cities and towns may require service
19 providers to relocate authorized facilities within the right of way
20 when reasonably necessary for construction, alteration, repair, or
21 improvement of the right of way for purposes of public welfare, health,
22 or safety.

23 (2) Cities shall notify service providers as soon as practicable of
24 the need for relocation and the date by which relocation shall be
25 completed. In calculating the date that relocation must be completed,
26 cities shall consult with affected service providers and consider the
27 extent of the facilities to be relocated, the services requirements,
28 and the construction sequence required to safely complete the
29 relocation. Service providers shall relocate facilities as soon as
30 practicable using all best efforts, subject to safety and service
31 obligations.

32 (3) Service providers may not seek reimbursement for their
33 relocation expenses from the city or town requesting relocation under
34 subsection (1) of this section except:

35 (a) Where the service provider had paid for the relocation cost of
36 the same facilities at the request of the city or town within the past

1 five years, the service provider's share of the cost of relocation will
2 be paid by the city or town requesting relocation;

3 (b) Where aerial to underground relocation of authorized facilities
4 is required by the city or town under subsection (1) of this section,
5 for service providers with an ownership share of the aerial supporting
6 structures, the additional incremental cost of underground compared to
7 aerial relocation, or as provided for in the approved tariff if less,
8 will be paid by the city or town requiring relocation; and

9 (c) Where the city or town requests relocation under subsection (1)
10 of this section solely for aesthetic purposes, unless otherwise agreed
11 to by the parties.

12 (4) Where a project in subsection (1) of this section is primarily
13 for private benefit, the private party or parties shall reimburse the
14 cost of relocation in the same proportion to their contribution to the
15 costs of the project. Service providers will not be precluded from
16 recovering their costs associated with relocation required under
17 subsection (1) of this section, provided that the recovery is
18 consistent with subsection (3) of this section and other applicable
19 laws.

20 (5) A city or town may require the relocation of facilities at the
21 service provider's expense in the event of an unforeseen emergency that
22 creates an immediate threat to the public safety, health, or welfare.

23 NEW SECTION. **Sec. 7.** A city or town may require that a service
24 provider that is constructing, relocating, or placing ducts or conduits
25 in public rights of way provide the city or town with additional duct
26 or conduit and related structures necessary to access the conduit,
27 provided that:

28 (1) The city or town enters into a contract with the service
29 provider consistent with RCW 80.36.150. The contract rates to be
30 charged should recover the incremental costs of the service provider.
31 If the city or town makes the additional duct or conduit and related
32 access structures available to any other entity for the purposes of
33 providing telecommunications or cable television service for hire,
34 sale, or resale to the general public, the rates to be charged, as set
35 forth in the contract with the entity that constructed the conduit or
36 duct, shall recover at least the fully allocated costs of the service
37 provider. The service provider shall state both contract rates in the
38 contract. The city or town shall inform the service provider of the

1 use, and any change in use, of the requested duct or conduit and
2 related access structures to determine the applicable rate to be paid
3 by the city or town.

4 (2) Except as otherwise agreed by the service provider and the city
5 or town, the city or town shall agree that the requested additional
6 duct or conduit space and related access structures will not be used by
7 the city or town to provide telecommunications or cable television
8 service for hire, sale, or resale to the general public.

9 (3) The city or town shall not require that the additional duct or
10 conduit space be connected to the access structures and vaults of the
11 service provider.

12 (4) The value of the additional duct or conduit requested by a city
13 or town shall not be considered a public works construction contract.

14 (5) This section shall not affect the provision of an institutional
15 network by a cable television provider under federal law.

16 **Sec. 8.** RCW 35.21.860 and 1983 2nd ex.s. c 3 s 39 are each amended
17 to read as follows:

18 (1) No city or town may impose a franchise fee or any other fee or
19 charge of whatever nature or description upon the light and power, or
20 gas distribution businesses, as defined in RCW 82.16.010, or telephone
21 business, as defined in RCW 82.04.065, or service provider for use of
22 the right of way, except (~~that~~):

23 (a) A tax authorized by RCW 35.21.865 may be imposed (~~and~~) on a
24 light and power or gas distribution business;

25 (b) A fee may be charged to such businesses or service providers
26 that recovers actual administrative expenses incurred by a city or town
27 that are directly related to receiving and approving a permit, license,
28 and franchise, to inspecting plans and construction, or to the
29 preparation of a detailed statement pursuant to chapter 43.21C RCW;

30 (c) Taxes permitted by state law on service providers;

31 (d) Franchise requirements and fees for cable television services
32 as allowed by federal law; and

33 (e) A site-specific charge pursuant to an agreement between the
34 city or town and a service provider of personal wireless services
35 acceptable to the parties for either:

36 (i) The placement of new or replacement structures in the right of
37 way necessary for the provision of personal wireless services, where

1 the structure exceeds fifty feet or fifteen feet above the height of
2 the existing structure, whichever is greater; or

3 (ii) The placement of personal wireless facilities on structures
4 owned by the city or town located in the right of way.

5 A city or town is not required to approve the use permit for the
6 placement of a facility for personal wireless services that meets one
7 of the criteria in this subsection absent such an agreement.

8 (2) Subsection (1) of this section does not prohibit franchise fees
9 imposed on an electrical energy, natural gas, or telephone business, by
10 contract existing on April 20, 1982, with a city or town, for the
11 duration of the contract, but the franchise fees shall be considered
12 taxes for the purposes of the limitations established in RCW 35.21.865
13 and 35.21.870 to the extent the fees exceed the costs allowable under
14 subsection (1) of this section.

15 NEW SECTION. Sec. 9. This act shall not preempt specific
16 provisions in existing franchises or contracts between cities or towns
17 and service providers.

18 NEW SECTION. Sec. 10. A new section is added to chapter 35A.21
19 RCW to read as follows:

20 Each code city is subject to the requirements and restrictions
21 regarding facilities and rights of way under sections 1 through 7 and
22 9 of this act and RCW 35.21.860.

23 **Sec. 11.** RCW 42.17.310 and 1999 c 326 s 3, 1999 c 290 s 1, and
24 1999 c 215 s 1 are each reenacted and amended to read as follows:

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

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

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

32 (c) Information required of any taxpayer in connection with the
33 assessment or collection of any tax if the disclosure of the
34 information to other persons would (i) be prohibited to such persons by
35 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the

1 taxpayer's right to privacy or result in unfair competitive
2 disadvantage to the taxpayer.

3 (d) Specific intelligence information and specific investigative
4 records compiled by investigative, law enforcement, and penology
5 agencies, and state agencies vested with the responsibility to
6 discipline members of any profession, the nondisclosure of which is
7 essential to effective law enforcement or for the protection of any
8 person's right to privacy.

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

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

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

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

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

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

1 (k) Records, maps, or other information identifying the location of
2 archaeological sites in order to avoid the looting or depredation of
3 such sites.

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

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

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

16 (o) Financial and commercial information and records supplied by
17 private persons pertaining to export services provided pursuant to
18 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
19 export projects pursuant to RCW 43.23.035.

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

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

25 (r) Financial and commercial information and records supplied by
26 businesses or individuals during application for loans or program
27 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
28 or during application for economic development loans or program
29 services provided by any local agency.

30 (s) Membership lists or lists of members or owners of interests of
31 units in timeshare projects, subdivisions, camping resorts,
32 condominiums, land developments, or common-interest communities
33 affiliated with such projects, regulated by the department of
34 licensing, in the files or possession of the department.

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

38 (u) The residential addresses and residential telephone numbers of
39 employees or volunteers of a public agency which are held by the agency

1 in personnel records, employment or volunteer rosters, or mailing lists
2 of employees or volunteers.

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

10 (w)(i) The federal social security number of individuals governed
11 under chapter 18.130 RCW maintained in the files of the department of
12 health, except this exemption does not apply to requests made directly
13 to the department from federal, state, and local agencies of
14 government, and national and state licensing, credentialing,
15 investigatory, disciplinary, and examination organizations; (ii) the
16 current residential address and current residential telephone number of
17 a health care provider governed under chapter 18.130 RCW maintained in
18 the files of the department, if the provider requests that this
19 information be withheld from public inspection and copying, and
20 provides to the department an accurate alternate or business address
21 and business telephone number. On or after January 1, 1995, the
22 current residential address and residential telephone number of a
23 health care provider governed under RCW (~~18.130.140~~) 18.130.040
24 maintained in the files of the department shall automatically be
25 withheld from public inspection and copying unless the provider
26 specifically requests the information be released, and except as
27 provided for under RCW 42.17.260(9).

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

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

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

37 (aa) Financial and commercial information supplied to the state
38 investment board by any person when the information relates to the
39 investment of public trust or retirement funds and when disclosure

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

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

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

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

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

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

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

23 (hh) Information and documents created specifically for, and
24 collected and maintained by a quality improvement committee pursuant to
25 RCW 43.70.510, regardless of which agency is in possession of the
26 information and documents.

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

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

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

36 (ll) The names, residential addresses, residential telephone
37 numbers, and other individually identifiable records held by an agency
38 in relation to a vanpool, carpool, or other ride-sharing program or
39 service. However, these records may be disclosed to other persons who

1 apply for ride-matching services and who need that information in order
2 to identify potential riders or drivers with whom to share rides.

3 (mm) The personally identifying information of current or former
4 participants or applicants in a paratransit or other transit service
5 operated for the benefit of persons with disabilities or elderly
6 persons.

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

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

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

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

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

7 (ss) Proprietary designs, proprietary drawings, proprietary maps,
8 and other proprietary information regarding existing or planned
9 facilities that are provided by a service provider to a city, town, or
10 code city that the service provider specifically identifies at the time
11 it is submitted and that is provided to the city or town in connection
12 with an application for a master permit or for purposes of planning
13 for, scheduling, and coordinating work in the right of way under
14 chapter 35.-- RCW (sections 1 through 7 and 9 of this act). If a
15 request for such information is received, the service provider must be
16 notified of the request. Within ten business days of receipt of the
17 notice, the service provider shall provide a written statement of the
18 continuing need for confidentiality, which shall be provided to the
19 requester. Upon receipt of such a notice, the city or town shall
20 continue to treat information designated under this section as exempt
21 from disclosure. If the requester initiates an action to compel
22 disclosure under this chapter, the service provider must be joined as
23 a party to demonstrate the continuing need for confidentiality and the
24 city or town is exempt from any liability under RCW 42.17.340 for
25 failure to disclose proprietary information.

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

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

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

5 NEW SECTION. **Sec. 12.** Sections 1 through 7 and 9 of this act
6 constitute a new chapter in Title 35 RCW.

--- END ---