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**SUBSTITUTE SENATE BILL 5064**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by Senators Haugen, Horn, Gardner, Benton, Long, Costa, B. Sheldon, Swecker, Patterson, Jacobsen, Shin, Oke, Morton, Eide, Spanel, Johnson, Goings, Sellar, Fraser, Thibaudeau, Franklin, Winsley, Rasmussen and McAuliffe)

Read first time 02/12/1999.

1       AN ACT Relating to confidentiality of certain public transportation  
2 information; and amending RCW 42.17.310.

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

4       **Sec. 1.** RCW 42.17.310 and 1998 c 69 s 1 are each amended to read  
5 as follows:

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

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

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

13       (c) Information required of any taxpayer in connection with the  
14 assessment or collection of any tax if the disclosure of the  
15 information to other persons would (i) be prohibited to such persons by  
16 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
17 taxpayer's right to privacy or result in unfair competitive  
18 disadvantage to the taxpayer.

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

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

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

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

26 (h) Valuable formulae, designs, drawings, and research data  
27 obtained by any agency within five years of the request for disclosure  
28 when disclosure would produce private gain and public loss.

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

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

37 (k) Records, maps, or other information identifying the location of  
38 archaeological sites in order to avoid the looting or depredation of  
39 such sites.

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

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

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

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

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

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

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

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

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

35 (u) The residential addresses and residential telephone numbers of  
36 employees or volunteers of a public agency which are held by the agency  
37 in personnel records, employment or volunteer rosters, or mailing lists  
38 of employees or volunteers.

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

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

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

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

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

35 (aa) Financial and commercial information supplied to the state  
36 investment board by any person when the information relates to the  
37 investment of public trust or retirement funds and when disclosure  
38 would result in loss to such funds or in private loss to the providers  
39 of this information.

1 (bb) Financial and valuable trade information under RCW 51.36.120.  
2 (cc) Client records maintained by an agency that is a domestic  
3 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
4 crisis center as defined in RCW 70.125.030.  
5 (dd) Information that identifies a person who, while an agency  
6 employee: (i) Seeks advice, under an informal process established by  
7 the employing agency, in order to ascertain his or her rights in  
8 connection with a possible unfair practice under chapter 49.60 RCW  
9 against the person; and (ii) requests his or her identity or any  
10 identifying information not be disclosed.  
11 (ee) Investigative records compiled by an employing agency  
12 conducting a current investigation of a possible unfair practice under  
13 chapter 49.60 RCW or of a possible violation of other federal, state,  
14 or local laws prohibiting discrimination in employment.  
15 (ff) Business related information protected from public inspection  
16 and copying under RCW 15.86.110.  
17 (gg) Financial, commercial, operations, and technical and research  
18 information and data submitted to or obtained by the clean Washington  
19 center in applications for, or delivery of, program services under  
20 chapter 70.95H RCW.  
21 (hh) Information and documents created specifically for, and  
22 collected and maintained by a quality improvement committee pursuant to  
23 RCW 43.70.510, regardless of which agency is in possession of the  
24 information and documents.  
25 (ii) Personal information in files maintained in a data base  
26 created under RCW 43.07.360.  
27 (jj) Financial and commercial information requested by the public  
28 stadium authority from any person or organization that leases or uses  
29 the stadium and exhibition center as defined in RCW 36.102.010.  
30 (kk) Names of individuals residing in emergency or transitional  
31 housing that are furnished to the department of revenue or a county  
32 assessor in order to substantiate a claim for property tax exemption  
33 under RCW 84.36.043.  
34 (ll) The names, residential addresses, residential telephone  
35 numbers, and other individually identifiable records (~~held~~) of the  
36 following persons maintained by or on behalf of an agency ((in relation  
37 to)) or its designee performing public transportation or associated  
38 functions: (i) Persons who acquire and use transit passes and other  
39 fare payment media including, but not limited to, stored value smart

1 cards and magnetic strip cards, except that the agency may disclose  
2 this information to a person, employer, educational institution, or  
3 other entity that is responsible, in whole or in part, for payment of  
4 the cost of acquiring or using a transit pass or other fare payment  
5 media; (ii) current or former participants or applicants in a  
6 paratransit or other transit service operated for the benefit of  
7 persons who are elderly, disabled, or otherwise eligible for such  
8 services; and (iii) current or former participants or applicants in a  
9 vanpool, carpool, or other ride-sharing program or service. However,  
10 these records may be disclosed to other persons who apply for ride-  
11 matching services and who need that information in order to identify  
12 potential riders or drivers with whom to share rides.

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

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

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

35 (2) Except for information described in subsection (1)(c)(i) of  
36 this section and confidential income data exempted from public  
37 inspection pursuant to RCW 84.40.020, the exemptions of this section  
38 are inapplicable to the extent that information, the disclosure of  
39 which would violate personal privacy or vital governmental interests,

1 can be deleted from the specific records sought. No exemption may be  
2 construed to permit the nondisclosure of statistical information not  
3 descriptive of any readily identifiable person or persons.

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

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

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