
HOUSE BILL 2741

State of Washington

58th Legislature

2004 Regular Session

By Representatives Miloscia, Armstrong and Upthegrove; by request of Secretary of State

Read first time 01/20/2004. Referred to Committee on State Government.

1 AN ACT Relating to managing digitally archived public records;
2 amending RCW 40.14.020; reenacting and amending RCW 42.17.310 and
3 42.17.310; providing an effective date; and providing an expiration
4 date.

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

6 **Sec. 1.** RCW 40.14.020 and 2002 c 358 s 4 are each amended to read
7 as follows:

8 All public records shall be and remain the property of the state of
9 Washington. They shall be delivered by outgoing officials and
10 employees to their successors and shall be preserved, stored,
11 transferred, destroyed or disposed of, and otherwise managed, only in
12 accordance with the provisions of this chapter. In order to insure the
13 proper management and safeguarding of public records, the division of
14 archives and records management is established in the office of the
15 secretary of state. The state archivist, who shall administer the
16 division and have reasonable access to all public records, wherever
17 kept, for purposes of information, surveying, or cataloguing, shall
18 undertake the following functions, duties, and responsibilities:

19 (1) To manage the archives of the state of Washington;

1 (2) To centralize the archives of the state of Washington, to make
2 them available for reference and scholarship, and to insure their
3 proper preservation;

4 (3) To inspect, inventory, catalog, and arrange retention and
5 transfer schedules on all record files of all state departments and
6 other agencies of state government;

7 (4) To insure the maintenance and security of all state public
8 records and to establish safeguards against unauthorized removal or
9 destruction;

10 (5) To establish and operate such state record centers as may from
11 time to time be authorized by appropriation, for the purpose of
12 preserving, servicing, screening and protecting all state public
13 records which must be preserved temporarily or permanently, but which
14 need not be retained in office space and equipment;

15 (6) To adopt rules under chapter 34.05 RCW:

16 (a) Setting standards for the durability and permanence of public
17 records maintained by state and local agencies;

18 (b) Governing procedures for the creation, maintenance,
19 transmission, cataloging, indexing, storage, or reproduction of
20 photographic, optical, electronic, or other images of public documents
21 or records in a manner consistent with current standards, policies, and
22 procedures of the department of information services for the
23 acquisition of information technology;

24 (c) Governing the accuracy and durability of, and facilitating
25 access to, photographic, optical, electronic, or other images used as
26 public records; or

27 (d) To carry out any other provision of this chapter;

28 (7) To gather and disseminate to interested agencies information on
29 all phases of records management and current practices, methods,
30 procedures, techniques, and devices for efficient and economical
31 management and preservation of records;

32 (8) To operate a central microfilming bureau which will microfilm,
33 at cost, records approved for filming by the head of the office of
34 origin and the archivist; to approve microfilming projects undertaken
35 by state departments and all other agencies of state government; and to
36 maintain proper standards for this work;

37 (9) To maintain necessary facilities for the review of records

1 approved for destruction and for their economical disposition by sale
2 or burning; directly to supervise such destruction of public records as
3 shall be authorized by the terms of this chapter;

4 (10) To assist and train state and local agencies in the proper
5 methods of creating, maintaining, cataloging, indexing, transmitting,
6 storing, and reproducing photographic, optical, electronic, or other
7 images used as public records;

8 (11) To solicit, accept, and expend donations as provided in RCW
9 43.07.037 for the purpose of the archive program. These purposes
10 include, but are not limited to, acquisition, accession,
11 interpretation, and display of archival materials. Donations that do
12 not meet the criteria of the archive program may not be accepted;

13 (12) To preserve, protect, and make accessible electronic and
14 digitally imaged paper and microfilm state and local government public
15 records that have long-term legal, historical, fiscal, or other
16 archival significance in the digital archives. In managing the digital
17 archives, the state archivist shall comply with RCW 42.17.310(1) (ggg)
18 or (hhh), as appropriate.

19 **Sec. 2.** RCW 42.17.310 and 2003 1st sp.s. c 26 s 926, 2003 c 277 s
20 3, and 2003 c 124 s 1 are each reenacted and amended to read as
21 follows:

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

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

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

29 (c) Information required of any taxpayer in connection with the
30 assessment or collection of any tax if the disclosure of the
31 information to other persons would (i) be prohibited to such persons by
32 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
33 taxpayer's right to privacy or result in unfair competitive
34 disadvantage to the taxpayer.

35 (d) Specific intelligence information and specific investigative
36 records compiled by investigative, law enforcement, and penology
37 agencies, and state agencies vested with the responsibility to

1 discipline members of any profession, the nondisclosure of which is
2 essential to effective law enforcement or for the protection of any
3 person's right to privacy.

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

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

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

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

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

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

35 (k) Records, maps, or other information identifying the location of
36 archaeological sites in order to avoid the looting or depredation of
37 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 or residential telephone numbers of
36 employees or volunteers of a public agency which are held by any public
37 agency in personnel records, public employment related records, or

1 volunteer rosters, or are included in any mailing list of employees or
2 volunteers of any public agency.

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 18.130.040 maintained in the
24 files of the department shall automatically be withheld from public
25 inspection and copying unless the provider specifically requests the
26 information be released, and except as provided for under RCW
27 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

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

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

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

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

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

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

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

24 (hh) Information and documents created specifically for, and
25 collected and maintained by a quality improvement committee pursuant to
26 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
27 4.24.250, regardless of which agency is in possession of the
28 information and documents.

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

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

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

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

7 (mm) The personally identifying information of current or former
8 participants or applicants in a paratransit or other transit service
9 operated for the benefit of persons with disabilities or elderly
10 persons.

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

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

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

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

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

11 (ss) Credit card numbers, debit card numbers, electronic check
12 numbers, card expiration dates, or bank or other financial account
13 numbers, except when disclosure is expressly required by or governed by
14 other law.

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

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

23 (vv) Individually identifiable information received by the work
24 force training and education coordinating board for research or
25 evaluation purposes.

26 (ww) Those portions of records assembled, prepared, or maintained
27 to prevent, mitigate, or respond to criminal terrorist acts, which are
28 acts that significantly disrupt the conduct of government or of the
29 general civilian population of the state or the United States and that
30 manifest an extreme indifference to human life, the public disclosure
31 of which would have a substantial likelihood of threatening public
32 safety, consisting of:

33 (i) Specific and unique vulnerability assessments or specific and
34 unique response or deployment plans, including compiled underlying data
35 collected in preparation of or essential to the assessments, or to the
36 response or deployment plans; and

37 (ii) Records not subject to public disclosure under federal law
38 that are shared by federal or international agencies, and information

1 prepared from national security briefings provided to state or local
2 government officials related to domestic preparedness for acts of
3 terrorism.

4 (xx) Commercial fishing catch data from logbooks required to be
5 provided to the department of fish and wildlife under RCW 77.12.047,
6 when the data identifies specific catch location, timing, or
7 methodology and the release of which would result in unfair competitive
8 disadvantage to the commercial fisher providing the catch data.
9 However, this information may be released to government agencies
10 concerned with the management of fish and wildlife resources.

11 (yy) Sensitive wildlife data obtained by the department of fish and
12 wildlife. However, sensitive wildlife data may be released to
13 government agencies concerned with the management of fish and wildlife
14 resources. Sensitive wildlife data includes:

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

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

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

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

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

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

28 (zz) The personally identifying information of persons who acquire
29 recreational licenses under RCW 77.32.010 or commercial licenses under
30 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
31 department, and type of license, endorsement, or tag. However, the
32 department of fish and wildlife may disclose personally identifying
33 information to:

34 (i) Government agencies concerned with the management of fish and
35 wildlife resources;

36 (ii) The department of social and health services, child support
37 division, and to the department of licensing in order to implement RCW
38 77.32.014 and 46.20.291; and

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

3 (aaa)(i) Discharge papers of a veteran of the armed forces of the
4 United States filed at the office of the county auditor before July 1,
5 2002, that have not been commingled with other recorded documents.
6 These records will be available only to the veteran, the veteran's next
7 of kin, a deceased veteran's properly appointed personal representative
8 or executor, a person holding that veteran's general power of attorney,
9 or to anyone else designated in writing by that veteran to receive the
10 records.

11 (ii) Discharge papers of a veteran of the armed forces of the
12 United States filed at the office of the county auditor before July 1,
13 2002, that have been commingled with other records, if the veteran has
14 recorded a "request for exemption from public disclosure of discharge
15 papers" with the county auditor. If such a request has been recorded,
16 these records may be released only to the veteran filing the papers,
17 the veteran's next of kin, a deceased veteran's properly appointed
18 personal representative or executor, a person holding the veteran's
19 general power of attorney, or anyone else designated in writing by the
20 veteran to receive the records.

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

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

31 (bbb) Those portions of records containing specific and unique
32 vulnerability assessments or specific and unique emergency and escape
33 response plans at a city, county, or state adult or juvenile
34 correctional facility, the public disclosure of which would have a
35 substantial likelihood of threatening the security of a city, county,
36 or state adult or juvenile correctional facility or any individual's
37 safety.

1 (ccc) Information compiled by school districts or schools in the
2 development of their comprehensive safe school plans pursuant to RCW
3 28A.320.125, to the extent that they identify specific vulnerabilities
4 of school districts and each individual school.

5 (ddd) Information regarding the infrastructure and security of
6 computer and telecommunications networks, consisting of security
7 passwords, security access codes and programs, access codes for secure
8 software applications, security and service recovery plans, security
9 risk assessments, and security test results to the extent that they
10 identify specific system vulnerabilities.

11 (eee) Information obtained and exempted or withheld from public
12 inspection by the health care authority under RCW 41.05.026, whether
13 retained by the authority, transferred to another state purchased
14 health care program by the authority, or transferred by the authority
15 to a technical review committee created to facilitate the development,
16 acquisition, or implementation of state purchased health care under
17 chapter 41.05 RCW.

18 (fff) Proprietary data, trade secrets, or other information that
19 relates to: (i) A vendor's unique methods of conducting business; (ii)
20 data unique to the product or services of the vendor; or (iii)
21 determining prices or rates to be charged for services, submitted by
22 any vendor to the department of social and health services for purposes
23 of the development, acquisition, or implementation of state purchased
24 health care as defined in RCW 41.05.011.

25 (ggg) Proprietary information deemed confidential for the purposes
26 of section 923, chapter 26, Laws of 2003 1st sp. sess.

27 (hhh) Information regarding the infrastructure, application code,
28 software applications, data base architecture and contents, and
29 computer security of electronic record collections held by the
30 Washington state archives if the records are fully indexed and
31 searchable on the Internet for free, or for any fee specified by law,
32 ordinance, or regulation, or otherwise available as a paper copy upon
33 request. Nothing contained in this exception prevents the state
34 archivist from licensing the use of the data bases or collections for
35 a fee to partially recoup the development costs of making the
36 electronic records available on the Internet if the Washington state
37 archives continues to make the records searchable and viewable on the

1 Internet for free or for any fee specified by law, ordinance, or
2 regulation and also if the state archivist determines the use would
3 benefit the public.

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

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

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

22 **Sec. 3.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
23 each reenacted and amended to read as follows:

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

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

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

31 (c) Information required of any taxpayer in connection with the
32 assessment or collection of any tax if the disclosure of the
33 information to other persons would (i) be prohibited to such persons by
34 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
35 taxpayer's right to privacy or result in unfair competitive
36 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.

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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, computer source code or
27 object code, and research data obtained by any agency within five years
28 of the request for disclosure when disclosure would produce private
29 gain and public loss.

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

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35 is a party but which records would not be available to another party
36 under the rules of pretrial discovery for causes pending in the
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2 archaeological sites in order to avoid the looting or depredation of
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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
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11 construction or improvement as required by RCW 47.28.070.

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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.

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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.

1 (u) The residential addresses or residential telephone numbers of
2 employees or volunteers of a public agency which are held by any public
3 agency in personnel records, public employment related records, or
4 volunteer rosters, or are included in any mailing list of employees or
5 volunteers of any public agency.

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

13 (w)(i) The federal social security number of individuals governed
14 under chapter 18.130 RCW maintained in the files of the department of
15 health, except this exemption does not apply to requests made directly
16 to the department from federal, state, and local agencies of
17 government, and national and state licensing, credentialing,
18 investigatory, disciplinary, and examination organizations; (ii) the
19 current residential address and current residential telephone number of
20 a health care provider governed under chapter 18.130 RCW maintained in
21 the files of the department, if the provider requests that this
22 information be withheld from public inspection and copying, and
23 provides to the department an accurate alternate or business address
24 and business telephone number. On or after January 1, 1995, the
25 current residential address and residential telephone number of a
26 health care provider governed under RCW 18.130.040 maintained in the
27 files of the department shall automatically be withheld from public
28 inspection and copying unless the provider specifically requests the
29 information be released, and except as provided for under RCW
30 42.17.260(9).

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

33 (y) Information obtained by the board of pharmacy or the department
34 of health and its representatives as provided in RCW 69.41.044,
35 69.41.280, and 18.64.420.

36 (z) Financial information, business plans, examination reports, and
37 any information produced or obtained in evaluating or examining a

1 business and industrial development corporation organized or seeking
2 certification under chapter 31.24 RCW.

3 (aa) Financial and commercial information supplied to the state
4 investment board by any person when the information relates to the
5 investment of public trust or retirement funds and when disclosure
6 would result in loss to such funds or in private loss to the providers
7 of this information.

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

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

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

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

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

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

28 (hh) Information and documents created specifically for, and
29 collected and maintained by a quality improvement committee pursuant to
30 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
31 4.24.250, regardless of which agency is in possession of the
32 information and documents.

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

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

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

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

11 (mm) The personally identifying information of current or former
12 participants or applicants in a paratransit or other transit service
13 operated for the benefit of persons with disabilities or elderly
14 persons.

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

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

1 under this chapter, the submitting entity must be joined as a party to
2 demonstrate the continuing need for confidentiality.

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

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

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

16 (ss) Credit card numbers, debit card numbers, electronic check
17 numbers, card expiration dates, or bank or other financial account
18 numbers, except when disclosure is expressly required by or governed by
19 other law.

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

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

28 (vv) Individually identifiable information received by the work
29 force training and education coordinating board for research or
30 evaluation purposes.

31 (ww) Those portions of records assembled, prepared, or maintained
32 to prevent, mitigate, or respond to criminal terrorist acts, which are
33 acts that significantly disrupt the conduct of government or of the
34 general civilian population of the state or the United States and that
35 manifest an extreme indifference to human life, the public disclosure
36 of which would have a substantial likelihood of threatening public
37 safety, consisting of:

1 (i) Specific and unique vulnerability assessments or specific and
2 unique response or deployment plans, including compiled underlying data
3 collected in preparation of or essential to the assessments, or to the
4 response or deployment plans; and

5 (ii) Records not subject to public disclosure under federal law
6 that are shared by federal or international agencies, and information
7 prepared from national security briefings provided to state or local
8 government officials related to domestic preparedness for acts of
9 terrorism.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (bbb) Those portions of records containing specific and unique
2 vulnerability assessments or specific and unique emergency and escape
3 response plans at a city, county, or state adult or juvenile
4 correctional facility, the public disclosure of which would have a
5 substantial likelihood of threatening the security of a city, county,
6 or state adult or juvenile correctional facility or any individual's
7 safety.

8 (ccc) Information compiled by school districts or schools in the
9 development of their comprehensive safe school plans pursuant to RCW
10 28A.320.125, to the extent that they identify specific vulnerabilities
11 of school districts and each individual school.

12 (ddd) Information regarding the infrastructure and security of
13 computer and telecommunications networks, consisting of security
14 passwords, security access codes and programs, access codes for secure
15 software applications, security and service recovery plans, security
16 risk assessments, and security test results to the extent that they
17 identify specific system vulnerabilities.

18 (eee) Information obtained and exempted or withheld from public
19 inspection by the health care authority under RCW 41.05.026, whether
20 retained by the authority, transferred to another state purchased
21 health care program by the authority, or transferred by the authority
22 to a technical review committee created to facilitate the development,
23 acquisition, or implementation of state purchased health care under
24 chapter 41.05 RCW.

25 (fff) Proprietary data, trade secrets, or other information that
26 relates to: (i) A vendor's unique methods of conducting business; (ii)
27 data unique to the product or services of the vendor; or (iii)
28 determining prices or rates to be charged for services, submitted by
29 any vendor to the department of social and health services for purposes
30 of the development, acquisition, or implementation of state purchased
31 health care as defined in RCW 41.05.011.

32 (ggg) Information regarding the infrastructure, application code,
33 software applications, data base architecture and contents, and
34 computer security of electronic record collections held by the
35 Washington state archives if the records are fully indexed and
36 searchable on the Internet for free, or for any fee specified by law,
37 ordinance, or regulation, or otherwise available as a paper copy upon
38 request. Nothing contained in this exception prevents the state

1 archivist from licensing the use of the data bases or collections for
2 a fee to partially recoup the development costs of making the
3 electronic records available on the Internet if the Washington state
4 archives continues to make the records searchable and viewable on the
5 Internet for free or for any fee specified by law, ordinance, or
6 regulation and also if the state archivist determines the use would
7 benefit the public.

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

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

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

26 NEW SECTION. Sec. 4. Section 2 of this act expires June 30, 2005.

27 NEW SECTION. Sec. 5. Section 3 of this act takes effect June 30,
28 2005.

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