

SHB 2350 - H AMD 821

By Representative Morris

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 42.17.310 and 2005 c 424 s 16, 2005 c 349 s 1,
4 2005 c 312 s 6, 2005 c 284 s 1, 2005 c 172 s 13, and 2005 c 33 s 4
5 are each reenacted and amended to read as follows:

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

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

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

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

20 (d) Specific intelligence information and specific
21 investigative records compiled by investigative, law enforcement,
22 and penology agencies, and state agencies vested with the
23 responsibility to discipline members of any profession, the
24 nondisclosure of which is essential to effective law enforcement or
25 for the protection of any person's right to privacy.

26 (e) Information revealing the identity of persons who are
27 witnesses to or victims of crime or who file complaints with
28 investigative, law enforcement, or penology agencies, other than
29 the public disclosure commission, if disclosure would endanger any
30 person's life, physical safety, or property. If at the time a
31 complaint is filed the complainant, victim or witness indicates a

1 desire for disclosure or nondisclosure, such desire shall govern.
2 However, all complaints filed with the public disclosure commission
3 about any elected official or candidate for public office must be
4 made in writing and signed by the complainant under oath.

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

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

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

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

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

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

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

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

1 (n) Railroad company contracts filed prior to July 28, 1991,
2 with the utilities and transportation commission under RCW
3 81.34.070, except that the summaries of the contracts are open to
4 public inspection and copying as otherwise provided by this
5 chapter.

6 (o) Financial and commercial information and records supplied
7 by private persons pertaining to export services provided pursuant
8 to chapter 43.163 RCW and chapter 53.31 RCW, and by persons
9 pertaining to export projects pursuant to RCW 43.23.035.

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

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

15 (r) Financial and commercial information and records supplied
16 by businesses or individuals during application for loans or
17 program services provided by chapters 43.163, 43.160, 43.330, and
18 43.168 RCW, or during application for economic development loans or
19 program services provided by any local agency.

20 (s) Membership lists or lists of members or owners of interests
21 of units in timeshare projects, subdivisions, camping resorts,
22 condominiums, land developments, or common-interest communities
23 affiliated with such projects, regulated by the department of
24 licensing, in the files or possession of the department.

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

28 (u) The residential addresses, residential telephone numbers,
29 personal wireless telephone numbers, personal electronic mail
30 addresses, Social Security numbers, and emergency contact
31 information of employees or volunteers of a public agency, and the
32 names, dates of birth, residential addresses, residential telephone
33 numbers, personal wireless telephone numbers, personal electronic
34 mail addresses, Social Security numbers, and emergency contact
35 information of dependents of employees or volunteers of a public
36 agency, which are held by any public agency in personnel records,
37 public employment related records, or volunteer rosters, or are
38 included in any mailing list of employees or volunteers of any
39 public agency. For purposes of this subsection, "employees"

1 includes independent provider home care workers as defined in RCW
2 74.39A.240.

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

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

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

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

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

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

6 (bb) Financial and valuable trade information under RCW
7 51.36.120.

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

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

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

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

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

28 (hh) Information and documents created specifically for, and
29 collected and maintained by, a quality improvement committee
30 pursuant to RCW 43.70.510 or 70.41.200, by a peer review committee
31 under RCW 4.24.250, or by a quality assurance committee pursuant to
32 RCW 74.42.640 or 18.20.390, regardless of which agency is in
33 possession of the information and documents.

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

36 (jj) Financial and commercial information requested by the
37 public stadium authority from any person or organization that
38 leases or uses the stadium and exhibition center as defined in RCW
39 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
4 exemption under RCW 84.36.043.

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

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

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

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

1 requester initiates an action to compel disclosure under this
2 chapter, the submitting entity must be joined as a party to
3 demonstrate the continuing need for confidentiality.

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

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

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

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

22 (tt) Financial information, including but not limited to
23 account numbers and values, and other identification numbers
24 supplied by or on behalf of a person, firm, corporation, limited
25 liability company, partnership, or other entity related to an
26 application for a horse racing license submitted pursuant to RCW
27 67.16.260(1)(b), liquor license, gambling license, or lottery
28 retail license.

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

32 (vv) Individually identifiable information received by the work
33 force training and education coordinating board for research or
34 evaluation purposes.

35 (ww) Those portions of records assembled, prepared, or
36 maintained to prevent, mitigate, or respond to criminal terrorist
37 acts, which are acts that significantly disrupt the conduct of
38 government or of the general civilian population of the state or
39 the United States and that manifest an extreme indifference to

1 human life, the public disclosure of which would have a substantial
2 likelihood of threatening public safety, consisting of:

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

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

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

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

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

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

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

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

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

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

37 (zz) The personally identifying information of persons who
38 acquire recreational licenses under RCW 77.32.010 or commercial
39 licenses under chapter 77.65 or 77.70 RCW, except name, address of

1 contact used by the department, and type of license, endorsement,
2 or tag. However, the department of fish and wildlife may disclose
3 personally identifying information to:

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

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

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

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

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

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

37 (iv) For the purposes of this subsection (1)(aaa), next of kin
38 of deceased veterans have the same rights to full access to the

1 record. Next of kin are the veteran's widow or widower who has not
2 remarried, son, daughter, father, mother, brother, and sister.

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

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

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

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

27 (fff) Proprietary data, trade secrets, or other information
28 that relates to: (i) A vendor's unique methods of conducting
29 business; (ii) data unique to the product or services of the
30 vendor; or (iii) determining prices or rates to be charged for
31 services, submitted by any vendor to the department of social and
32 health services for purposes of the development, acquisition, or
33 implementation of state purchased health care as defined in RCW
34 41.05.011.

35 (ggg) The personally identifying information of persons who
36 acquire and use transponders or other technology to facilitate
37 payment of tolls. This information may be disclosed in aggregate
38 form as long as the data does not contain any personally
39 identifying information. For these purposes aggregate data may

1 include the census tract of the account holder as long as any
2 individual personally identifying information is not released.
3 Personally identifying information may be released to law
4 enforcement agencies only for toll enforcement purposes.
5 Personally identifying information may be released to law
6 enforcement agencies for other purposes only if the request is
7 accompanied by a court order.

8 (hhh) Financial, commercial, operations, and technical and
9 research information and data submitted to or obtained by the life
10 sciences discovery fund authority in applications for, or delivery
11 of, grants under chapter 43.350 RCW, to the extent that such
12 information, if revealed, would reasonably be expected to result in
13 private loss to the providers of this information.

14 (iii) Records of mediation communications that are privileged
15 under chapter 7.07 RCW.

16 (jjj) Information created or obtained pursuant to RCW 81.88.080
17 that reveals the location of the line pipe of natural gas and
18 hazardous liquid pipelines, and information revealing the point
19 specific location of pipeline pressure regulators, compressor
20 stations, metering facilities, taps, breakout tanks, cathodic
21 protection test sites, or valves. However, natural gas and
22 hazardous liquid line pipe location information contained on maps
23 or map images of no greater detail than a scale of one to twenty-
24 four thousand is not exempt. This information continues to be
25 exempt from public disclosure if an agency:

26 (i) Provides to a pipeline operator information otherwise
27 exempt under this subsection relating to that operator's pipeline;
28 or

29 (ii) Shares information otherwise exempt under this subsection
30 with another agency.

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

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

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

13 **Sec. 2.** RCW 42.56.330 and 2005 c 274 s 413 are each amended to
14 read as follows:

15 The following information relating to public utilities and
16 transportation is exempt from disclosure under this chapter:

17 (1) Records filed with the utilities and transportation
18 commission or attorney general under RCW 80.04.095 that a court has
19 determined are confidential under RCW 80.04.095;

20 (2) The residential addresses and residential telephone numbers
21 of the customers of a public utility contained in the records or
22 lists held by the public utility of which they are customers,
23 except that this information may be released to the division of
24 child support or the agency or firm providing child support
25 enforcement for another state under Title IV-D of the federal
26 social security act, for the establishment, enforcement, or
27 modification of a support order;

28 (3) The names, residential addresses, residential telephone
29 numbers, and other individually identifiable records held by an
30 agency in relation to a vanpool, carpool, or other ride-sharing
31 program or service; however, these records may be disclosed to
32 other persons who apply for ride-matching services and who need
33 that information in order to identify potential riders or drivers
34 with whom to share rides;

35 (4) The personally identifying information of current or former
36 participants or applicants in a paratransit or other transit
37 service operated for the benefit of persons with disabilities or
38 elderly persons;

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

12 (6) Records of any person that belong to a public utility
13 district or a municipally owned electrical utility, unless the law
14 enforcement authority provides the public utility district or
15 municipally owned electrical utility with a written statement in
16 which the authority states that it suspects that the particular
17 person to whom the records pertain has committed a crime and the
18 authority has a reasonable belief that the records could determine
19 or help determine whether the suspicion might be true. Information
20 obtained in violation of this subsection is inadmissible in any
21 criminal proceeding; ((and))

22 (7) Any information obtained by governmental agencies that is
23 collected by the use of a motor carrier intelligent transportation
24 system or any comparable information equipment attached to a truck,
25 tractor, or trailer; however, the information may be given to other
26 governmental agencies or the owners of the truck, tractor, or
27 trailer from which the information is obtained. As used in this
28 subsection, "motor carrier" has the same definition as provided in
29 RCW 81.80.010; and

30 (8) Information created or obtained pursuant to RCW 81.88.080
31 that reveals the location of the line pipe of natural gas and
32 hazardous liquid pipelines, and information revealing the point
33 specific location of pipeline pressure regulators, compressor
34 stations, metering facilities, taps, breakout tanks, cathodic
35 protection test sites, or valves. However, natural gas and
36 hazardous liquid line pipe location information contained on maps
37 or map images of no greater detail than a scale of one to twenty-
38 four thousand is not exempt. This information continues to be
39 exempt from public disclosure if an agency:

1 (a) Provides to a pipeline operator information otherwise
2 exempt under this subsection relating to that operator's pipeline;
3 or

4 (b) Shares information otherwise exempt under this subsection
5 with another agency.

6 NEW SECTION. Sec. 3. Section 1 of this act expires July 1,
7 2006.

8 NEW SECTION. Sec. 4. Section 2 of this act takes effect July
9 1, 2006."

EFFECT: Replaces the term "pipeline" with the term "line pipe" to clarify that the information provisions of the bill apply only to a portion of a pipeline, not the entire pipeline. Clarifies that the exemption from public disclosure only applies to information revealing the point specific location of certain specified pipeline facilities. Narrows the exemption to apply to only pipeline information created or obtained by the Washington Utilities and Transportation Commission pursuant to RCW 81.88.080.