

1 **ESSB 5192** - H AMD TO APP COMM AMD (5192-S.E AMH APP H2761.1)
2 By Representative Anderson

3 On page 3, after line 31, insert the following:

4 "Sec. 4. RCW 42.17.310 and 2002 c 335 s 1, 2002 c 224 s 2,
5 2002 c 205 s 4, and 2002 c 172 s 1 are each reenacted and amended
6 to read as follows:

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

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

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

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

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

27 (e) Information revealing the identity of persons who are
28 witnesses to or victims of crime or who file complaints with
29 investigative, law enforcement, or penology agencies, other than
30 the public disclosure commission, if disclosure would endanger any
31 person's life, physical safety, or property. If at the time a
32 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 or residential telephone numbers
29 of employees or volunteers of a public agency which are held by any
30 public agency in personnel records, public employment related
31 records, or volunteer rosters, or are included in any mailing list
32 of employees or volunteers of any public agency.

33 (v) The residential addresses and residential telephone numbers
34 of the customers of a public utility contained in the records or
35 lists held by the public utility of which they are customers,
36 except that this information may be released to the division of
37 child support or the agency or firm providing child support
38 enforcement for another state under Title IV-D of the federal

1 social security act, for the establishment, enforcement, or
2 modification of a support order.

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

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

24 (y) Information obtained by the board of pharmacy or the
25 department of health and its representatives as provided in RCW
26 69.41.044, 69.41.280, and 18.64.420.

27 (z) Financial information, business plans, examination reports,
28 and any information produced or obtained in evaluating or examining
29 a business and industrial development corporation organized or
30 seeking certification under chapter 31.24 RCW.

31 (aa) Financial and commercial information supplied to the state
32 investment board by any person for two years after the date the
33 information was supplied when the information relates to the
34 investment of public trust or retirement funds and when disclosure
35 would result in a material loss to such funds (~~(or in private loss~~
36 ~~to the providers of this information)~~).

37 (bb) Financial and valuable trade information under RCW
38 51.36.120.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (qq) Financial and commercial information supplied by or on
39 behalf of a person, firm, corporation, or entity under chapter

1 28B.95 RCW relating to the purchase or sale of tuition units and
2 contracts for the purchase of multiple tuition units.

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

10 (ss) Credit card numbers, debit card numbers, electronic check
11 numbers, card expiration dates, or bank or other financial account
12 numbers supplied to an agency for the purpose of electronic
13 transfer of funds, except when disclosure is expressly required by
14 law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (ii) The department of social and health services, child
38 support division, and to the department of licensing in order to
39 implement RCW 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
4 the United States filed at the office of the county auditor before
5 July 1, 2002, that have not been commingled with other recorded
6 documents. These records will be available only to the veteran,
7 the veteran's next of kin, a deceased veteran's properly appointed
8 personal representative or executor, a person holding that
9 veteran's general power of attorney, or to anyone else designated
10 in writing by that veteran to receive the 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
13 1, 2002, that have been commingled with other records, if the
14 veteran has recorded a "request for exemption from public
15 disclosure of discharge papers" with the county auditor. If such
16 a request has been recorded, these records may be released only to
17 the veteran filing the papers, the veteran's next of kin, a
18 deceased veteran's properly appointed personal representative or
19 executor, a person holding the veteran's general power of attorney,
20 or anyone else designated in writing by the veteran to receive the
21 records.

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

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

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

1 (ccc) Information compiled by school districts or schools in
2 the development of their comprehensive safe school plans pursuant
3 to RCW 28A.320.125, to the extent that they identify specific
4 vulnerabilities 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
8 secure software applications, security and service recovery plans,
9 security risk assessments, and security test results to the extent
10 that they identify specific system vulnerabilities.

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

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

27 (4) Agency responses refusing, in whole or in part, inspection
28 of any public record shall include a statement of the specific
29 exemption authorizing the withholding of the record (or part) and
30 a brief explanation of how the exemption applies to the record
31 withheld."

32 Correct the title.

EFFECT: Limits the exemption from disclosure under the public disclosure act for financial and commercial information supplied to the board by any person. This exemption is limited to a period of two years after the date that the information was supplied and makes the exemption applicable only if disclosure would result in a material loss to public trust or retirement funds.