
HOUSE BILL 2630

State of Washington 58th Legislature 2004 Regular Session

By Representatives Anderson, Armstrong, Benson and Tom

Read first time 01/19/2004. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to the public oversight and fiduciary
2 accountability of the state investment board; amending RCW 43.33A.020,
3 43.33A.025, 43.33A.035, 43.33A.060, 43.33A.070, 43.33A.090, 43.33A.100,
4 43.33A.120, 43.33A.140, 43.33A.150, 43.33A.160, 43.33A.180, and
5 43.33A.200; reenacting and amending RCW 42.17.310 and 42.17.310; adding
6 new sections to chapter 43.33A RCW; creating new sections; repealing
7 RCW 43.33A.210; prescribing penalties; providing an effective date; and
8 providing an expiration date.

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

10 NEW SECTION. **Sec. 1.** The legislature finds, declares, and
11 determines that public confidence in the responsible management and
12 fiduciary oversight of all public pension funds under the authority of
13 the state investment board is best served by an open and accountable
14 process.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.33A RCW
16 to read as follows:

17 There is hereby created an audit and accountability committee of
18 the state investment board consisting of the state treasurer, the two

1 members of the senate appointed to the board under RCW 43.33A.020(6),
2 and the two members of the house of representatives appointed to the
3 board under RCW 43.33A.020(5). The state treasurer is the chair of the
4 committee.

5 **Sec. 3.** RCW 43.33A.020 and 2002 c 303 s 1 are each amended to read
6 as follows:

7 There is hereby created the state investment board to consist of
8 ~~((fifteen))~~ eighteen members to be appointed as provided in this
9 section.

10 (1) ~~((One member who is an))~~ Two members who are active members of
11 the public employees' retirement system and ~~((has))~~ have been ~~((an))~~
12 active members for at least five years. ~~((This member))~~ One member
13 shall represent state government employees and one member shall
14 represent local government employees. These members shall be appointed
15 by the governor, subject to confirmation by the senate, from a list of
16 nominations submitted by organizations representing active members of
17 the system. The initial term of appointment shall be one year.

18 (2) One member who is an active member of the law enforcement
19 officers' and fire fighters' retirement system and has been an active
20 member for at least five years. This member shall be appointed by the
21 governor, subject to confirmation by the senate, from a list of
22 nominations submitted by organizations representing active members of
23 the system. The initial term of appointment shall be two years.

24 (3) One member who is an active member of the teachers' retirement
25 system and has been an active member for at least five years. This
26 member shall be appointed by the superintendent of public instruction
27 subject to confirmation by the senate. The initial term of appointment
28 shall be three years.

29 (4) The state treasurer or the assistant state treasurer if
30 designated by the state treasurer.

31 ~~((A member of the state house of representatives. This member~~
32 ~~shall be appointed by the speaker of the house of representatives.~~

33 ~~((6) A member of the state senate. This member shall be appointed~~
34 ~~by the president of the senate.))~~ Two members of the house of
35 representatives, with one being a member of the majority party
36 appointed by the speaker of the house of representatives, and the other

1 being a member of the minority party appointed by the minority leader
2 of the house of representatives.

3 (6) Two members of the senate, with one being a member of the
4 majority party appointed by the president of the senate, and the other
5 being a member of the minority party appointed by the minority leader
6 of the senate.

7 (7) One member who is a retired member of a state retirement system
8 shall be appointed by the governor, subject to confirmation by the
9 senate. The initial term of appointment shall be three years.

10 (8) The director of the department of labor and industries.

11 (9) The director of the department of retirement systems.

12 (10) One member who is an active member of the school employees'
13 retirement system and has at least five years of service credit. This
14 member shall be appointed by the superintendent of public instruction
15 subject to confirmation by the senate. The initial term of appointment
16 shall be three years.

17 (11) Five nonvoting members appointed by the state investment board
18 who are considered experienced and qualified in the field of
19 investments.

20 The legislative members shall serve terms of two years. The
21 initial legislative members appointed to the board shall be appointed
22 no sooner than January 10, 1983. The position of a legislative member
23 on the board shall become vacant at the end of that member's term on
24 the board or whenever the member ceases to be a member of the senate or
25 house of representatives from which the member was appointed.

26 After the initial term of appointment, all other members of the
27 state investment board, except ex officio members, shall serve terms of
28 three years and shall hold office until successors are appointed.
29 Members' terms, except for ex officio members, shall commence on
30 January 1 of the year in which the appointments are made.

31 Members may be reappointed for additional terms. Appointments for
32 vacancies shall be made for the unexpired terms in the same manner as
33 the original appointments. Any member may be removed from the board
34 for cause by the member's respective appointing authority or by a vote
35 of sixty percent of the members of the audit and accountability
36 committee recommending removal.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.33A RCW
2 to read as follows:

3 The state investment board is prohibited from any direct or
4 indirect equity or debt participation or holding in any investment
5 services provider, securities dealer or brokerage firm, or any type of
6 domestic or foreign investment partnership, that invests pension funds
7 on behalf of the state investment board or receives fees for services
8 rendered to the board.

9 **Sec. 5.** RCW 43.33A.025 and 2000 c 188 s 1 are each amended to read
10 as follows:

11 (1) Notwithstanding any provision of RCW 43.43.700 through
12 43.43.815, the state investment board shall require a criminal history
13 record check for conviction records through the Washington state patrol
14 criminal identification system, and through the federal bureau of
15 investigation, as well as a check for records of disciplinary actions
16 or investigations by the federal securities and exchange commission,
17 for the purpose of conducting preemployment evaluations of each
18 finalist candidate for a board staff position exempt from the
19 provisions of chapter 41.06 RCW, or for any other position in which the
20 employee will have authority for or access to: (a) Funds under the
21 jurisdiction or responsibility of the investment board; or (b) data or
22 security systems of the investment board or designs for such systems.
23 The record check shall include a fingerprint check using a complete
24 Washington state criminal identification fingerprint card, which shall
25 be forwarded by the state patrol to the federal bureau of
26 investigation.

27 (2) Information received by the investment board pursuant to this
28 section shall be made available by the investment board only to board
29 employees involved in the selection, hiring, background investigation,
30 or job assignment of the person who is the subject of the record check,
31 or to that subject person, and it shall be used only for the purposes
32 of making, supporting, or defending decisions regarding the appointment
33 or hiring of persons for these positions, or securing any necessary
34 bonds or other requirements for such employment. Otherwise, the
35 reports, and information contained therein, shall remain confidential
36 and shall not be subject to the disclosure requirements of chapter
37 42.17 RCW.

1 (3) Fees charged by the Washington state patrol, (~~or~~) the federal
2 bureau of investigation, the securities and exchange commission, or any
3 other law enforcement entity for conducting these investigations and
4 providing these reports shall be paid by the investment board.

5 **Sec. 6.** RCW 43.33A.035 and 1997 c 161 s 2 are each amended to read
6 as follows:

7 The board or its executive director, at the direction of the board,
8 may delegate by contract to private sector or other external advisors
9 or managers the discretionary authority, as fiduciaries, to purchase or
10 otherwise acquire, sell, or otherwise dispose of or manage investments
11 or investment properties on behalf of the board, subject to investment
12 or management criteria established by the board (~~or its executive~~
13 ~~director~~). Such criteria relevant to particular investments or class
14 of investment applicable under the board's contract with an advisor or
15 manager must be (~~incorporated by reference into~~) explicitly stated in
16 the contract.

17 **Sec. 7.** RCW 43.33A.060 and 1981 c 3 s 6 are each amended to read
18 as follows:

19 (1) No member during the term of appointment may be employed by any
20 investment brokerage or mortgage servicing firm doing business with the
21 state investment board. A trust department of a commercial bank or
22 trust company organized under federal or state law is not considered a
23 mortgage servicing firm for purposes of this section.

24 (2) The board is prohibited from conducting business with any
25 former board member or former board employee for a period of two years
26 following the cessation of membership or employment with the board.

27 **Sec. 8.** RCW 43.33A.070 and 1981 c 3 s 7 are each amended to read
28 as follows:

29 No member of the state investment board is liable for the
30 negligence, default, or failure of any (~~other person or~~) other member
31 of the board to perform the duties of the member's office and no member
32 of the board shall be considered or held to be an insurer of the funds
33 or assets of any of the trust and retirement funds nor is any nonvoting
34 member liable for actions performed with the exercise of reasonable

1 diligence within the scope of the member's authorized activities as a
2 member of the board. A member of the state investment board is subject
3 to civil liability only if he or she knowingly engages in malfeasance.

4 **Sec. 9.** RCW 43.33A.090 and 1981 c 3 s 9 are each amended to read
5 as follows:

6 The state investment board shall keep a full and complete public
7 record of its proceedings in appropriate books of record and shall
8 electronically record all of its proceedings. The willful alteration
9 or destruction of any of the public records required under this section
10 constitutes a class B felony, if the alteration or destruction is done
11 with the intent to hinder or obstruct actual or potential legal
12 proceedings or legislative inquiry. Within sixty days of July 1, 1981,
13 the state investment board shall assume physical custody of all
14 investment accounts, files, and other records of each fund placed under
15 the investment authority of the board.

16 **Sec. 10.** RCW 43.33A.100 and 2001 c 302 s 1 are each amended to
17 read as follows:

18 The state investment board shall maintain appropriate offices and
19 employ such personnel as may be necessary to perform its duties.
20 Employment by the investment board shall include but not be limited to
21 an executive director, investment officers, and a confidential
22 secretary, which positions are exempt from classified service under
23 chapter 41.06 RCW. Employment of the executive director by the board
24 shall be for a term of three years, and such employment shall be
25 subject to confirmation by the senate pursuant to the recommendation of
26 the state finance committee: PROVIDED, That nothing shall prevent the
27 board from dismissing the director for cause before the expiration of
28 the term nor shall anything prohibit the board, with the confirmation
29 of the state finance committee, from employing the same individual as
30 director in succeeding terms. Compensation levels for the executive
31 director, a confidential secretary, and all investment officers,
32 including the deputy director for investment management, employed by
33 the investment board shall be established by the state investment
34 board. The investment board is authorized to maintain a retention
35 pool, from the earnings of the funds managed by the board, in order to
36 address recruitment and retention problems. The compensation levels

1 for investment officers shall be limited to the average of state funds
2 of similar size, based upon a biennial survey conducted by the
3 investment board, with review and comment by the joint legislative
4 audit and review committee. However, in any fiscal year the salary
5 increases granted by the investment board from the retention pool to
6 investment officers pursuant to this section may not exceed an average
7 of five percent.

8 The investment board shall provide notice to the director of the
9 department of personnel, the director of financial management, and the
10 chairs of the house of representatives and senate fiscal committees of
11 proposed changes to the compensation levels for the positions. The
12 notice shall be provided not less than sixty days prior to the
13 effective date of the proposed changes.

14 As of July 1, 1981, all employees classified under chapter 41.06
15 RCW and engaged in duties assumed by the state investment board on July
16 1, 1981, are assigned to the state investment board. The transfer
17 shall not diminish any rights granted these employees under chapter
18 41.06 RCW nor exempt the employees from any action which may occur
19 thereafter in accordance with chapter 41.06 RCW.

20 All existing contracts and obligations pertaining to the functions
21 transferred to the state investment board in this 1980 act shall remain
22 in full force and effect, and shall be performed by the board. None of
23 the transfers directed by this 1980 act shall affect the validity of
24 any act performed by a state entity or by any official or employee
25 thereof prior to July 1, 1981.

26 **Sec. 11.** RCW 43.33A.120 and 1981 c 3 s 12 are each amended to read
27 as follows:

28 (1) All accounts, files, and other records of the state investment
29 board which pertain to each retirement system are subject at any time
30 or from time to time to such reasonable periodic, special, or other
31 examinations by the department of retirement systems as the director of
32 the department of retirement systems deems necessary or appropriate.

33 (2) All accounts, files, and other records of the state investment
34 board are subject at any time to examination by the state auditor, who
35 shall be allowed free access to these records in order to conduct
36 examinations.

1 (3) Beginning in 2004, and every six years thereafter, the joint
2 legislative audit and review committee shall conduct a performance
3 review of the board's business operations and comparative financial
4 performance, subject to the oversight of the board's audit and
5 accountability committee. Reimbursement for the performance review
6 shall be made from the board to the joint legislative audit and review
7 committee. The joint legislative audit and review committee shall
8 report the findings of each performance review to the appropriate
9 legislative committees, the ranking members of each party in the senate
10 and the house of representatives, the state auditor, and the governor.

11 NEW SECTION. **Sec. 12.** The joint legislative audit and review
12 committee, in conjunction with the state auditor, shall conduct a net
13 asset value audit of the state investment board private equity
14 portfolio and provide a written report on the findings of the audit to
15 the appropriate legislative committees and the governor by September
16 30, 2004. This audit shall be funded by the state investment board.

17 **Sec. 13.** RCW 43.33A.140 and 1998 c 14 s 1 are each amended to read
18 as follows:

19 The state investment board shall invest and manage the assets
20 entrusted to it with reasonable care, skill, prudence, and diligence
21 under circumstances then prevailing which a prudent person acting in a
22 like capacity and familiar with such matters would use in the conduct
23 of an activity of like character and purpose.

24 The board shall:

25 (1) Consider investments not in isolation, but in the context of
26 the investment of the particular fund as a whole and as part of an
27 overall investment strategy, which should incorporate risk and return
28 objectives reasonably suited for that fund; ~~((and))~~

29 (2) Diversify the investments of the particular fund unless,
30 because of special circumstances that are formally noted in the board's
31 records, the board reasonably determines that the purposes of that fund
32 are better served without diversifying. However, no corporate fixed-
33 income issue or common stock holding may exceed three percent of the
34 cost or six percent of the market value of the assets of that fund; and

35 (3) Not allow investments in private equity funds to exceed ten
36 percent of the investment portfolio managed by the board.

1 **Sec. 14.** RCW 43.33A.150 and 1989 c 179 s 2 are each amended to
2 read as follows:

3 (1) The state investment board shall prepare written reports at
4 least quarterly summarizing both the investment activities of the
5 (~~state investment~~) board and the fees paid to the vendors of services
6 provided to the board, which reports shall be sent to the governor, the
7 senate ways and means committee, the house appropriations committee,
8 the department of retirement systems, and other agencies having a
9 direct financial interest in the investment of funds by the board, and
10 to other persons on written request. The state investment board shall
11 provide information to the department of retirement systems necessary
12 for the preparation of monthly reports.

13 (2) At least annually, the board shall report on the board's
14 investment activities and on the fees paid to the vendors of services
15 provided to the board for the department of labor and industries'
16 accident, medical aid, and reserve funds to the senate financial
17 institutions and insurance committee, the senate economic development
18 and labor committee, and the house commerce and labor committee, or
19 appropriate successor committees.

20 **Sec. 15.** RCW 43.33A.160 and 1991 sp.s. c 13 s 32 are each amended
21 to read as follows:

22 (1) The state investment board shall be funded from the earnings of
23 the funds managed by the state investment board, proportional to the
24 value of the assets of each fund, subject to legislative appropriation.

25 (2) There is established in the state treasury a state investment
26 board expense account from which shall be paid the operating expenses
27 of the state investment board. Prior to November 1 of each even-
28 numbered year, the state investment board shall determine and certify
29 to the state treasurer and the office of financial management the
30 accounting book value and the market cash value of the various funds
31 managed by the investment board in order to determine the proportional
32 liability of the funds for the operating expenses of the state
33 investment board. Pursuant to appropriation, the state treasurer is
34 authorized to transfer such moneys from the various funds managed by
35 the investment board to the state investment board expense account as
36 are necessary to pay the operating expenses of the investment board.

1 **Sec. 16.** RCW 43.33A.180 and 1992 c 232 s 905 are each amended to
2 read as follows:

3 The state investment board shall account for and report on the
4 investments authorized by this chapter in the manner prescribed by the
5 state treasurer in coordination with the office of financial management
6 (~~(under chapter 43.88 RCW)~~).

7 After approval of the director of financial management, all
8 positions, reports, documents, and office equipment along with any
9 appropriation necessary for carrying out the functions and duties
10 transferred shall, on July 1, 1992, be transferred from the state
11 treasurer's office to the state investment board. All employees
12 assigned to such classified positions to be transferred, are assigned,
13 without any loss of rights, to the state investment board.

14 **Sec. 17.** RCW 43.33A.200 and 1997 c 359 s 1 are each amended to
15 read as follows:

16 (1) The board is authorized to create corporations under Title 23B
17 RCW, limited liability companies under chapter 25.15 RCW, and limited
18 partnerships under chapter 25.10 RCW(~~(, of which it may or may not be~~
19 ~~the general partner,~~)) for the purposes of transferring, acquiring,
20 holding, overseeing, operating, or disposing of real estate or other
21 investment assets that are not publicly traded on a daily basis or on
22 an organized exchange. The liability of each entity created by the
23 board is limited to the assets or properties of that entity. No
24 creditor or other person, other than the state of Washington, has any
25 right of action against (~~(the board,~~)) an entity created by the board
26 under this section or its members or employees(~~(, or the state of~~
27 ~~Washington)~~) on account of any debts, obligations, or liabilities of
28 the entity. Entities created under this section may be authorized by
29 the board to make any investment that the board may make, including but
30 not limited to the acquisition of: Equity interests in operating
31 companies, the indebtedness of operating companies, and real estate.

32 (2) Directors, officers, and other principals of entities created
33 under this section must be board members(~~(, board staff,~~)) or
34 principals or direct employees of an advisor or manager that may be
35 engaged by contract by the board (~~(or the entity to manage real estate~~
36 ~~or other investment assets of the entity)~~). Directors of entities
37 created under this section must be appointed by a two-thirds majority

1 vote of the board. Officers and other (~~principals~~) employees of
2 entities created under this section (~~are~~) shall be appointed by the
3 directors of the state entity.

4 (3) A public corporation, limited liability company, or limited
5 partnership created under this section has the same immunity or
6 exemption from taxation as that of the state. The entity shall pay an
7 amount equal to the amounts that would be paid for taxes otherwise
8 levied upon real property and personal property to the public official
9 charged with the collection of such real property and personal property
10 taxes as if the property were in private ownership. The proceeds of
11 such payments must be allocated as though the property were in private
12 ownership.

13 **Sec. 18.** RCW 42.17.310 and 2003 1st sp.s. c 26 s 926, 2003 c 277
14 s 3, and 2003 c 124 s 1 are each reenacted and amended to read as
15 follows:

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

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

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

23 (c) Information required of any taxpayer in connection with the
24 assessment or collection of any tax if the disclosure of the
25 information to other persons would (i) be prohibited to such persons by
26 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
27 taxpayer's right to privacy or result in unfair competitive
28 disadvantage to the taxpayer.

29 (d) Specific intelligence information and specific investigative
30 records compiled by investigative, law enforcement, and penology
31 agencies, and state agencies vested with the responsibility to
32 discipline members of any profession, the nondisclosure of which is
33 essential to effective law enforcement or for the protection of any
34 person's right to privacy.

35 (e) Information revealing the identity of persons who are witnesses
36 to or victims of crime or who file complaints with investigative, law
37 enforcement, or penology agencies, other than the public disclosure

1 commission, if disclosure would endanger any person's life, physical
2 safety, or property. If at the time a complaint is filed the
3 complainant, victim or witness indicates a desire for disclosure or
4 nondisclosure, such desire shall govern. However, all complaints filed
5 with the public disclosure commission about any elected official or
6 candidate for public office must be made in writing and signed by the
7 complainant under oath.

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

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

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

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

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

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

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

35 (m) Financial information supplied by or on behalf of a person,
36 firm, or corporation for the purpose of qualifying to submit a bid or
37 proposal for (i) a ferry system construction or repair contract as

1 required by RCW 47.60.680 through 47.60.750 or (ii) highway
2 construction or improvement as required by RCW 47.28.070.

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

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

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

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

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

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

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

29 (u) The residential addresses or residential telephone numbers of
30 employees or volunteers of a public agency which are held by any public
31 agency in personnel records, public employment related records, or
32 volunteer rosters, or are included in any mailing list of employees or
33 volunteers of any public agency.

34 (v) The residential addresses and residential telephone numbers of
35 the customers of a public utility contained in the records or lists
36 held by the public utility of which they are customers, except that
37 this information may be released to the division of child support or

1 the agency or firm providing child support enforcement for another
2 state under Title IV-D of the federal social security act, for the
3 establishment, enforcement, or modification of a support order.

4 (w)(i) The federal social security number of individuals governed
5 under chapter 18.130 RCW maintained in the files of the department of
6 health, except this exemption does not apply to requests made directly
7 to the department from federal, state, and local agencies of
8 government, and national and state licensing, credentialing,
9 investigatory, disciplinary, and examination organizations; (ii) the
10 current residential address and current residential telephone number of
11 a health care provider governed under chapter 18.130 RCW maintained in
12 the files of the department, if the provider requests that this
13 information be withheld from public inspection and copying, and
14 provides to the department an accurate alternate or business address
15 and business telephone number. On or after January 1, 1995, the
16 current residential address and residential telephone number of a
17 health care provider governed under RCW 18.130.040 maintained in the
18 files of the department shall automatically be withheld from public
19 inspection 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 in
23 RCW 69.45.090.

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

27 (z) Financial information, business plans, examination reports, and
28 any information produced or obtained in evaluating or examining a
29 business and industrial development corporation organized or seeking
30 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 investment
34 of public trust or retirement funds and when disclosure would result in
35 a material loss to such funds (~~(or in private loss to the providers of~~
36 ~~this information)~~)).

37 (bb) Financial and valuable trade information under RCW 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 rape
3 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 by
6 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 under
12 chapter 49.60 RCW or of a possible violation of other federal, state,
13 or local laws prohibiting discrimination in employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (ss) Credit card numbers, debit card numbers, electronic check
8 numbers, card expiration dates, or bank or other financial account
9 numbers, except when disclosure is expressly required by or governed by
10 other law.

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

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

19 (vv) Individually identifiable information received by the work
20 force training and education coordinating board for research or
21 evaluation purposes.

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

29 (i) Specific and unique vulnerability assessments or specific and
30 unique response or deployment plans, including compiled underlying data
31 collected in preparation of or essential to the assessments, or to the
32 response or deployment plans; and

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

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

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

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

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

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

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

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

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

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

31 (i) Government agencies concerned with the management of fish and
32 wildlife resources;

33 (ii) The department of social and health services, child support
34 division, and to the department of licensing in order to implement RCW
35 77.32.014 and 46.20.291; and

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

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

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

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

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

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

36 (ccc) Information compiled by school districts or schools in the
37 development of their comprehensive safe school plans pursuant to RCW

1 28A.320.125, to the extent that they identify specific vulnerabilities
2 of school districts and each individual school.

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

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

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

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

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

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

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

5 **Sec. 19.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
6 each reenacted and amended to read as follows:

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

8 (a) Personal information in any files maintained for students in
9 public schools, patients or clients of public institutions or public
10 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 persons by
17 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
18 taxpayer's right to privacy or result in unfair competitive
19 disadvantage to the taxpayer.

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

26 (e) Information revealing the identity of persons who are witnesses
27 to or victims of crime or who file complaints with investigative, law
28 enforcement, or penology agencies, other than the public disclosure
29 commission, if disclosure would endanger any person's life, physical
30 safety, or property. If at the time a complaint is filed the
31 complainant, victim or witness indicates a desire for disclosure or
32 nondisclosure, such desire shall govern. However, all complaints filed
33 with the public disclosure commission about any elected official or
34 candidate for public office must be made in writing and signed by the
35 complainant under oath.

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

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

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

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

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

20 (k) Records, maps, or other information identifying the location of
21 archaeological sites in order to avoid the looting or depredation of
22 such sites.

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

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

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

35 (o) Financial and commercial information and records supplied by
36 private persons pertaining to export services provided pursuant to
37 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
38 export projects pursuant to RCW 43.23.035.

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

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

6 (r) Financial and commercial information and records supplied by
7 businesses or individuals during application for loans or program
8 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
9 or during application for economic development loans or program
10 services provided by any local agency.

11 (s) Membership lists or lists of members or owners of interests of
12 units in timeshare projects, subdivisions, camping resorts,
13 condominiums, land developments, or common-interest communities
14 affiliated with such projects, regulated by the department of
15 licensing, in the files or possession of the department.

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

19 (u) The residential addresses or residential telephone numbers of
20 employees or volunteers of a public agency which are held by any public
21 agency in personnel records, public employment related records, or
22 volunteer rosters, or are included in any mailing list of employees or
23 volunteers of any public agency.

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

31 (w)(i) The federal social security number of individuals governed
32 under chapter 18.130 RCW maintained in the files of the department of
33 health, except this exemption does not apply to requests made directly
34 to the department from federal, state, and local agencies of
35 government, and national and state licensing, credentialing,
36 investigatory, disciplinary, and examination organizations; (ii) the
37 current residential address and current residential telephone number of
38 a health care provider governed under chapter 18.130 RCW maintained in

1 the files of the department, if the provider requests that this
2 information be withheld from public inspection and copying, and
3 provides to the department an accurate alternate or business address
4 and business telephone number. On or after January 1, 1995, the
5 current residential address and residential telephone number of a
6 health care provider governed under RCW 18.130.040 maintained in the
7 files of the department shall automatically be withheld from public
8 inspection and copying unless the provider specifically requests the
9 information be released, and except as provided for under RCW
10 42.17.260(9).

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

13 (y) Information obtained by the board of pharmacy or the department
14 of health and its representatives as provided in RCW 69.41.044,
15 69.41.280, and 18.64.420.

16 (z) Financial information, business plans, examination reports, and
17 any information produced or obtained in evaluating or examining a
18 business and industrial development corporation organized or seeking
19 certification under chapter 31.24 RCW.

20 (aa) Financial and commercial information supplied to the state
21 investment board by any person for two years after the date the
22 information was supplied when the information relates to the investment
23 of public trust or retirement funds and when disclosure would result in
24 a material loss to such funds (~~(or in private loss to the providers of~~
25 ~~this information)~~).

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

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

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

36 (ee) Investigative records compiled by an employing agency
37 conducting a current investigation of a possible unfair practice under

1 chapter 49.60 RCW or of a possible violation of other federal, state,
2 or local laws prohibiting discrimination in employment.

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

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

9 (hh) Information and documents created specifically for, and
10 collected and maintained by a quality improvement committee pursuant to
11 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
12 4.24.250, regardless of which agency is in possession of the
13 information and documents.

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

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

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

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

29 (mm) The personally identifying information of current or former
30 participants or applicants in a paratransit or other transit service
31 operated for the benefit of persons with disabilities or elderly
32 persons.

33 (nn) The personally identifying information of persons who acquire
34 and use transit passes and other fare payment media including, but not
35 limited to, stored value smart cards and magnetic strip cards, except
36 that an agency may disclose this information to a person, employer,
37 educational institution, or other entity that is responsible, in whole
38 or in part, for payment of the cost of acquiring or using a transit

1 pass or other fare payment media, or to the news media when reporting
2 on public transportation or public safety. This information may also
3 be disclosed at the agency's discretion to governmental agencies or
4 groups concerned with public transportation or public safety.

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

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

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

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

33 (ss) Credit card numbers, debit card numbers, electronic check
34 numbers, card expiration dates, or bank or other financial account
35 numbers, except when disclosure is expressly required by or governed by
36 other law.

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38 numbers and values, and other identification numbers supplied by or on

1 behalf of a person, firm, corporation, limited liability company,
2 partnership, or other entity related to an application for a liquor
3 license, gambling license, or lottery retail license.

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

7 (vv) Individually identifiable information received by the work
8 force training and education coordinating board for research or
9 evaluation purposes.

10 (ww) Those portions of records assembled, prepared, or maintained
11 to prevent, mitigate, or respond to criminal terrorist acts, which are
12 acts that significantly disrupt the conduct of government or of the
13 general civilian population of the state or the United States and that
14 manifest an extreme indifference to human life, the public disclosure
15 of which would have a substantial likelihood of threatening public
16 safety, consisting of:

17 (i) Specific and unique vulnerability assessments or specific and
18 unique response or deployment plans, including compiled underlying data
19 collected in preparation of or essential to the assessments, or to the
20 response or deployment plans; and

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

26 (xx) Commercial fishing catch data from logbooks required to be
27 provided to the department of fish and wildlife under RCW 77.12.047,
28 when the data identifies specific catch location, timing, or
29 methodology and the release of which would result in unfair competitive
30 disadvantage to the commercial fisher providing the catch data.
31 However, this information may be released to government agencies
32 concerned with the management of fish and wildlife resources.

33 (yy) Sensitive wildlife data obtained by the department of fish and
34 wildlife. However, sensitive wildlife data may be released to
35 government agencies concerned with the management of fish and wildlife
36 resources. Sensitive wildlife data includes:

37 (i) The nesting sites or specific locations of endangered species

1 designated under RCW 77.12.020, or threatened or sensitive species
2 classified by rule of the department of fish and wildlife;

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

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

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

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

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

13 (zz) The personally identifying information of persons who acquire
14 recreational licenses under RCW 77.32.010 or commercial licenses under
15 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
16 department, and type of license, endorsement, or tag. However, the
17 department of fish and wildlife may disclose personally identifying
18 information to:

19 (i) Government agencies concerned with the management of fish and
20 wildlife resources;

21 (ii) The department of social and health services, child support
22 division, and to the department of licensing in order to implement RCW
23 77.32.014 and 46.20.291; and

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

26 (aaa)(i) Discharge papers of a veteran of the armed forces of the
27 United States filed at the office of the county auditor before July 1,
28 2002, that have not been commingled with other recorded documents.
29 These records will be available only to the veteran, the veteran's next
30 of kin, a deceased veteran's properly appointed personal representative
31 or executor, a person holding that veteran's general power of attorney,
32 or to anyone else designated in writing by that veteran to receive the
33 records.

34 (ii) Discharge papers of a veteran of the armed forces of the
35 United States filed at the office of the county auditor before July 1,
36 2002, that have been commingled with other records, if the veteran has
37 recorded a "request for exemption from public disclosure of discharge
38 papers" with the county auditor. If such a request has been recorded,

1 these records may be released only to the veteran filing the papers,
2 the veteran's next of kin, a deceased veteran's properly appointed
3 personal representative or executor, a person holding the veteran's
4 general power of attorney, or anyone else designated in writing by the
5 veteran to receive the records.

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

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

16 (bbb) Those portions of records containing specific and unique
17 vulnerability assessments or specific and unique emergency and escape
18 response plans at a city, county, or state adult or juvenile
19 correctional facility, the public disclosure of which would have a
20 substantial likelihood of threatening the security of a city, county,
21 or state adult or juvenile correctional facility or any individual's
22 safety.

23 (ccc) Information compiled by school districts or schools in the
24 development of their comprehensive safe school plans pursuant to RCW
25 28A.320.125, to the extent that they identify specific vulnerabilities
26 of school districts and each individual school.

27 (ddd) Information regarding the infrastructure and security of
28 computer and telecommunications networks, consisting of security
29 passwords, security access codes and programs, access codes for secure
30 software applications, security and service recovery plans, security
31 risk assessments, and security test results to the extent that they
32 identify specific system vulnerabilities.

33 (eee) Information obtained and exempted or withheld from public
34 inspection by the health care authority under RCW 41.05.026, whether
35 retained by the authority, transferred to another state purchased
36 health care program by the authority, or transferred by the authority
37 to a technical review committee created to facilitate the development,

1 acquisition, or implementation of state purchased health care under
2 chapter 41.05 RCW.

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

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

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

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

28 NEW SECTION. **Sec. 20.** RCW 43.33A.210 (Assets not publicly
29 traded--Treatment of rent and income--Management accounts--Application
30 of this chapter and chapter 39.58 RCW) and 1997 c 359 s 2 are each
31 repealed.

32 NEW SECTION. **Sec. 21.** Section 18 of this act expires June 30,
33 2005.

1 NEW SECTION. **Sec. 22.** Section 19 of this act takes effect June
2 30, 2005.

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