
HOUSE BILL 1697

State of Washington

63rd Legislature

2013 Regular Session

By Representative Hunt

Read first time 02/06/13. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to exempting from disclosure and copying valuable
2 commercial information in records pertaining to solid waste collection
3 companies in possession of the Washington utilities and transportation
4 commission; amending RCW 42.56.270; and adding a new section to chapter
5 81.77 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 81.77 RCW
8 to read as follows:

9 Records, subject to chapter 42.56 RCW, filed with the commission or
10 the attorney general from any person that contain valuable commercial
11 information, including trade secrets or confidential marketing, cost,
12 or financial information, or customer-specific usage information, shall
13 not be subject to inspection or copying under chapter 42.56 RCW: (1)
14 Until notice to the person or persons directly affected has been given;
15 and (2) if, within ten days of the notice, the person has obtained a
16 superior court order protecting the records as confidential. The court
17 shall determine that the records are confidential and not subject to
18 inspection and copying if disclosure would result in private loss,
19 including an unfair competitive disadvantage. When providing

1 information to the commission or the attorney general, a person shall
2 designate which records or portions of records contain valuable
3 commercial information. Nothing in this section prevents the use of
4 protective orders by the commission governing disclosure of proprietary
5 or confidential information in contested proceedings.

6 **Sec. 2.** RCW 42.56.270 and 2011 1st sp.s. c 14 s 15 are each
7 amended to read as follows:

8 The following financial, commercial, and proprietary information is
9 exempt from disclosure under this chapter:

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

14 (2) Financial information supplied by or on behalf of a person,
15 firm, or corporation for the purpose of qualifying to submit a bid or
16 proposal for (a) a ferry system construction or repair contract as
17 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
18 or improvement as required by RCW 47.28.070;

19 (3) Financial and commercial information and records supplied by
20 private persons pertaining to export services provided under chapters
21 43.163 and 53.31 RCW, and by persons pertaining to export projects
22 under RCW 43.23.035;

23 (4) Financial and commercial information and records supplied by
24 businesses or individuals during application for loans or program
25 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
26 43.168 RCW, or during application for economic development loans or
27 program services provided by any local agency;

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

32 (6) Financial and commercial information supplied to the state
33 investment board by any person when the information relates to the
34 investment of public trust or retirement funds and when disclosure
35 would result in loss to such funds or in private loss to the providers
36 of this information;

37 (7) Financial and valuable trade information under RCW 51.36.120;

1 (8) Financial, commercial, operations, and technical and research
2 information and data submitted to or obtained by the clean Washington
3 center in applications for, or delivery of, program services under
4 chapter 70.95H RCW;

5 (9) Financial and commercial information requested by the public
6 stadium authority from any person or organization that leases or uses
7 the stadium and exhibition center as defined in RCW 36.102.010;

8 (10)(a) Financial information, including but not limited to account
9 numbers and values, and other identification numbers supplied by or on
10 behalf of a person, firm, corporation, limited liability company,
11 partnership, or other entity related to an application for a horse
12 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
13 license, gambling license, or lottery retail license;

14 (b) Internal control documents, independent auditors' reports and
15 financial statements, and supporting documents: (i) Of house-banked
16 social card game licensees required by the gambling commission pursuant
17 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
18 with an approved tribal/state compact for class III gaming;

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

26 (12)(a) When supplied to and in the records of the department of
27 commerce:

28 (i) Financial and proprietary information collected from any person
29 and provided to the department of commerce pursuant to RCW
30 43.330.050(8); and

31 (ii) Financial or proprietary information collected from any person
32 and provided to the department of commerce or the office of the
33 governor in connection with the siting, recruitment, expansion,
34 retention, or relocation of that person's business and until a siting
35 decision is made, identifying information of any person supplying
36 information under this subsection and the locations being considered
37 for siting, relocation, or expansion of a business;

1 (b) When developed by the department of commerce based on
2 information as described in (a)(i) of this subsection, any work product
3 is not exempt from disclosure;

4 (c) For the purposes of this subsection, "siting decision" means
5 the decision to acquire or not to acquire a site;

6 (d) If there is no written contact for a period of sixty days to
7 the department of commerce from a person connected with siting,
8 recruitment, expansion, retention, or relocation of that person's
9 business, information described in (a)(ii) of this subsection will be
10 available to the public under this chapter;

11 (13) Financial and proprietary information submitted to or obtained
12 by the department of ecology or the authority created under chapter
13 70.95N RCW to implement chapter 70.95N RCW;

14 (14) Financial, commercial, operations, and technical and research
15 information and data submitted to or obtained by the life sciences
16 discovery fund authority in applications for, or delivery of, grants
17 under chapter 43.350 RCW, to the extent that such information, if
18 revealed, would reasonably be expected to result in private loss to the
19 providers of this information;

20 (15) Financial and commercial information provided as evidence to
21 the department of licensing as required by RCW 19.112.110 or
22 19.112.120, except information disclosed in aggregate form that does
23 not permit the identification of information related to individual fuel
24 licensees;

25 (16) Any production records, mineral assessments, and trade secrets
26 submitted by a permit holder, mine operator, or landowner to the
27 department of natural resources under RCW 78.44.085;

28 (17)(a) Farm plans developed by conservation districts, unless
29 permission to release the farm plan is granted by the landowner or
30 operator who requested the plan, or the farm plan is used for the
31 application or issuance of a permit;

32 (b) Farm plans developed under chapter 90.48 RCW and not under the
33 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
34 RCW 42.56.610 and 90.64.190;

35 (18) Financial, commercial, operations, and technical and research
36 information and data submitted to or obtained by a health sciences and
37 services authority in applications for, or delivery of, grants under

1 RCW 35.104.010 through 35.104.060, to the extent that such information,
2 if revealed, would reasonably be expected to result in private loss to
3 providers of this information;

4 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328
5 that can be identified to a particular business;

6 (20) Financial and commercial information submitted to or obtained
7 by the University of Washington, other than information the university
8 is required to disclose under RCW 28B.20.150, when the information
9 relates to investments in private funds, to the extent that such
10 information, if revealed, would reasonably be expected to result in
11 loss to the University of Washington consolidated endowment fund or to
12 result in private loss to the providers of this information; (~~and~~)

13 (21) Financial, commercial, operations, and technical and research
14 information and data submitted to or obtained by innovate Washington in
15 applications for, or delivery of, grants and loans under chapter 43.333
16 RCW, to the extent that such information, if revealed, would reasonably
17 be expected to result in private loss to the providers of this
18 information; and

19 (22) Records containing commercial information that are exempt
20 under section 1 of this act.

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