

Exemptions Criteria Worksheet

1. **Exemption:** RCW 42.56.330(4) and (5)

2. **Session Law:** Laws of 1999, chapter 215

3. **Category:** Transportation

4. **Cross-ref.:** None

5. **Date Enacted:** 1999

6. **(Text of exemption)** (4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons; (5) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

7. **Exemption protects:** ☐ Safety ☒ Privacy ☐ Financial ☐ Other (explain):

8. **Purpose (including purpose of accompanying legislation if applicable):**

This bill supplements the 1997 bill exempting personal information in ride share programs. It expands the exemption to cover transit programs.

9. **Information covered:** ☐ About gov't function ☒ Collected/held by gov't

☐ Public funds ☐ Public official ☐ Vital gov't Interest ☐ Confidential/private ☐ Other

Describe:

10. **Stakeholders:**

1. Washington Transit Assoc. Contacted: ☐ yes ☐ no

2. Allied Daily Newspapers Contacted: ☐ yes ☐ no

3. Sound Transit Contacted: ☐ yes ☐ no

4. Computer Professionals for Social Responsibility
Contacted: ☐ yes ☐ no

11. **Add'l bill**

Information: Floor debate: ☐ yes ☒ no

Bill Reports: ☒ yes ☐ no

12. **Comments (including significant court decisions; related WACs sections, or other).**

RCW 42.56.330
Public utilities and transportation.

*** CHANGE IN 2008 *** (SEE 2729-S.SL) ***

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

- (1) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095;
- (2) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order;
- (3) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service; however, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides;
- (4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons;
- (5) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety;
- (6) Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this subsection, "motor carrier" has the same definition as provided in RCW 81.80.010; and
- (7) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order.

[2007 c 197 § 5; 2006 c 209 § 8; 2005 c 274 § 413.]

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

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

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

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

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

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

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

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

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

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

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

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents.

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

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

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

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

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

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

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

SSB 5064

C 215 L 99

Protecting certain public transportation information.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Horn, Gardner, Benton, Long, Costa, B. Sheldon, Swecker, Patterson, Jacobsen, Shin, Oke, Morton, Eide, Spanel, Johnson, Goings, Sellar, Fraser, Thibaudeau, Franklin, Winsley, Rasmussen and McAuliffe).

Senate Committee on Transportation
House Committee on State Government

Background: Each state and local agency is required to make all public records available for public inspection and copying unless the record is exempt from disclosure. The Legislature has enacted a number of such exemptions, including residential addresses and phone numbers of employees or volunteers of a public agency, and the residential addresses and phone numbers of public utility customers.

Current law provides an exemption for the names or other personally identifiable information maintained by public transit agencies regarding persons who participate in vanpool, carpool, or other ride-sharing programs or services. However, there is no express exemption provided for such information maintained by agencies regarding transit pass purchasers or persons who participate in paratransit services.

Summary: The names and other personally identifiable information maintained by public transit agencies regarding persons who participate in public transportation programs administered by the agency are exempt from public inspection and copying. Persons whose information is protected include (1) users of paratransit services, and (2) transit pass purchasers.

Personally identifying information of persons who acquire and use transit passes and other fare payment media, such as smart cards and magnetic strip cards, may be disclosed to (1) those responsible for payment of the transit passes, (2) the news media when reporting on public transportation or safety, and (3) governmental agencies or groups concerned with public transportation or safety.

Public entities and private entities under the public-private transportation initiatives that provide transit, ferry service, toll facilities or other transportation services may only use personal information obtained from the use of electronic toll payments, transit passes or other fare media for billing purposes and not to track individuals' use of the facilities or services.

Votes on Final Passage:

Senate	45	0	
House	93	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 25, 1999

SB 5095

C 246 L 99

Clarifying that public corporations, commissions, and authorities are public agencies for purposes of the open public meetings act.

By Senators Thibaudeau, Horn, Kohl-Welles, Patterson, Haugen, Prentice and Costa.

Senate Committee on State & Local Government
House Committee on State Government

Background: Any city, town, or county may create a public corporation, commission or authority to: administer and execute federal grants or programs; receive and administer private funds, goods, or services for any lawful purpose; and perform any lawful public purpose or public function. The ordinance or resolution creating the public entity must limit the liability of these authorities to the assets and properties of the authorities in order to prevent recourse to the cities, towns, or counties or their assets or credit. The Pike Place Market in Seattle is an example of such a public authority. Questions have arisen as to whether these public authorities are governed by both the state's Open Public Meetings Act and public records statutes.

Summary: Public corporations, commissions, and authorities created by cities, towns, and counties must comply with the general laws regulating local governments, multi-member governing bodies, and local governmental officials (e.g., open public meetings, open public records, ethics for municipal officers, local government whistleblower law and the like).

Votes on Final Passage:

Senate	46	0	
House	92	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 25, 1999

2SSB 5102

C 117 L 99

Funding fire fighter training and pensions.

By Senate Committee on Ways & Means (originally sponsored by Senators Haugen, Snyder, Winsley, Goings, Gardner, T. Sheldon, Bauer, Rasmussen, Hale, McCaslin, Sellar, Swecker, Patterson, Morton, Prentice, Oke, Kohl-Welles and Costa).

Senate Committee on Transportation
Senate Committee on Ways & Means
House Committee on Appropriations

Background: *Fire Fighter Training.* Of the 23,000 fire fighters in Washington, 72 percent (16,800) are volunteers and/or paid on-call fire fighters. The State Patrol esti-

HOUSE BILL REPORT

SSB 5064

As Reported By House Committee On:
State Government

Title: An act relating to confidentiality of certain public transportation information.

Brief Description: Protecting certain public transportation information.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Haugen, Horn, Gardner, Benton, Long, Costa, B. Sheldon, Swecker, Patterson, Jacobsen, Shin, Oke, Morton, Eide, Spanel, Johnson, Goings, Sellar, Fraser, Thibaudeau, Franklin, Winsley, Rasmussen and McAuliffe).

Brief History:

Committee Activity:

State Government: 3/26/99, 4/2/99 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Exempts certain personally identifiable information held by public transit authorities from public disclosure.
- Precludes public transportation authorities and private entities operating under the public-private transportation initiatives program from collecting information about the movement of passengers other than for billing purposes.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass as amended. Signed by 7 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Campbell, Republican Vice Chair; Miloscia, Democratic Vice Chair; Dunshee; Haigh and D. Schmidt.

Minority Report: Without recommendation. Signed by 1 member: Representative Lambert.

Staff: Steve Lundin (786-7127).

Background:

The Open Public Records law was approved by state voters in 1972 as part of Initiative Measure No. 276. All public records of state agencies and local governments are open to public inspection and copying, unless a law expressly excludes the public records from public inspection and copying. This disclosure requirement is liberally construed and any exception is narrowly constructed.

Among others, the following public records are exempt from inspection and copying: (1) Personal information in files the disclosure of which would violate the right to privacy; (2) certain financial and commercial information supplied by individuals applying for various programs; and (3) names, residential addresses, residential phone numbers and other individually identifiable information for vanpool, carpool, and other ride-share programs.

Summary of Amended Bill:

Personally identifiable information on the following persons is exempt from public disclosure:

- Current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons who are elderly, disabled, or otherwise eligible for such services; and
- Persons who acquire and use transit passes and other fare payment media, including smart cards.

However, an agency may disclose personally identifiable information from transit passes or other fare payment media to a person or employer responsible for paying all or part of the costs of the pass, the news media when reporting stories on public transportation or public safety, and government agencies or groups concerned with public transportation or public safety.

Transportation authorities, and private entities operating under the public-private transportation initiatives program, may not use personally identifiable information obtained from electronic toll payments to track or monitor individual use of the public transportation facilities or service, except for billing purposes and to provide statistical compilations and reports that do not identify an individual.

Amended Bill Compared to Substitute Bill: Authority was added allowing the release of personally identifiable information to the news media and groups concerned with public transportation or public safety. The restriction was added precluding

personally identifiable information from being used to track or monitor use of public transportation facilities or services.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (With amendment) This language has been worked out with the interested parties. This allows meaningful reporting to be done. This provides assurances that personally identifiable information obtained from the use of these systems is private.

Testimony Against: (Concerns) I have concerns that law enforcement may be able to track peoples' movements with this information.

Testified: (In support with amendment) Ron Main, RTA Sound Transit; and Rowland Thompson, Allied Daily Newspapers.

(Concerns) Janeane Dubuar, Computer Professionals for Social Responsibility.

SENATE BILL REPORT

SSB 5064

As Passed Senate, March 10, 1999

Title: An act relating to confidentiality of certain public transportation information.

Brief Description: Protecting certain public transportation information.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Haugen, Horn, Gardner, Benton, Long, Costa, B. Sheldon, Swecker, Patterson, Jacobsen, Shin, Oke, Morton, Eide, Spanel, Johnson, Goings, Sellar, Fraser, Thibaudeau, Franklin, Winsley, Rasmussen and McAuliffe).

Brief History:

Committee Activity: Transportation: 1/20/99, 2/11/99 [DPS].
Passed Senate, 3/10/99, 45-0.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5064 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chair; Gardner, Vice Chair; Benton, Eide, Horn, Jacobsen, Johnson, Morton, Oke, Patterson, Sellar, Sheahan, T. Sheldon and Shin.

Staff: Kelly Simpson (786-7305)

Background: Each state and local agency is required to make all public records available for public inspection and copying unless the record is exempt from disclosure. The Legislature has enacted a number of such exemptions, including residential addresses and phone numbers of employees or volunteers of a public agency, and the residential addresses and phone numbers of public utility customers.

Current law provides an exemption for the names or other personally identifiable information maintained by public transit agencies regarding persons who participate in vanpool, carpool, or other ride-sharing programs or services. However, there is no express exemption provided for such information maintained by agencies regarding transit pass purchasers, persons who participate in paratransit services, or for persons who apply for or participate in other public transportation programs administered by transit agencies.

Summary of Bill: The names and other personally identifiable information maintained by public transit agencies regarding persons who participate in public transportation programs administered by the agency are exempt from public inspection and copying. Persons whose information is protected include: (1) transit pass purchasers; (2) users of paratransit services; and (3) current or former participants or applicants in a vanpool, carpool, or other ride-sharing program.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill protects people who use public transit services. For instance, information that a person was participating in a ride-sharing service could tip off a thief that the house was unoccupied, even though a car is parked in the driveway.

Testimony Against: None.

Testified: PRO: Dan Snow, WA State Transit Assn.; Mike Harbour, Intercity Transit; Candace Carlson, King Co. Metro; Roland Thompson, Allied Newspapers of WA (concerns); Janeane Dubuar, Computer Professionals for Social Responsibility (concerns); Steve Lindstrom, C-Tran.

House Amendment(s): Personally identifying information of persons who acquire and use transit passes and other fare payment media, such as smart cards and magnetic strip cards, may be disclosed to (1) the news media when reporting on public transportation or safety and (2) governmental agencies or groups concerned with public transportation or safety.

Public entities and private entities under the public-private transportation initiatives that provide transit, ferry service, toll facilities or other transportation services may only use personal information obtained from the use of electronic toll payments, transit passes or other fare media for billing purposes and not to track individuals' use of the facilities or services.