

(2) A person shall be guilty of a misdemeanor if the person knowingly: Signs more than one petition for any single candidacy of any single candidate; signs the petition when he or she is not a legal voter; or makes a false statement as to his or her residence.

Passed the House February 28, 1984.

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CHAPTER 143

[House Bill No. 1413]

RAIL TRANSPORTATION—PUBLIC UTILITY PROVISIONS MODIFIED

AN ACT Relating to rail transportation; amending section 81.04.130, chapter 14, Laws of 1961 and RCW 81.04.130; amending section 81.04.150, chapter 14, Laws of 1961 and RCW 81.04.150; amending section 81.04.250, chapter 14, Laws of 1961 and RCW 81.04.250; amending section 81.28.040, chapter 14, Laws of 1961 and RCW 81.28.040; amending section 81.28.050, chapter 14, Laws of 1961 as amended by section 1, chapter 116, Laws of 1981 and RCW 81.28.050; amending section 81.28.180, chapter 14, Laws of 1961 and RCW 81.28.180; amending section 81.28.190, chapter 14, Laws of 1961 and RCW 81.28.190; amending section 81.28.200, chapter 14, Laws of 1961 and RCW 81.28.200; amending section 81.28.230, chapter 14, Laws of 1961 and RCW 81.28.230; amending section 31, chapter 1, Laws of 1973 as last amended by section 10, chapter 133, Laws of 1983 and RCW 42.17.310; adding new sections to chapter 64.04 RCW; and creating a new chapter in Title 81 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 81.04.130, chapter 14, Laws of 1961 and RCW 81.04.130 are each amended to read as follows:

Whenever any public service company (~~(shall)~~), other than a railroad company, files with the commission any schedule, classification, rule, or regulation, the effect of which is to change any rate, fare, charge, rental, or toll (~~(theretofore)~~) previously charged, the commission (~~(shall have)~~) has power, either upon its own motion or upon complaint, upon notice, to (~~(enter upon)~~) hold a hearing concerning (~~(such)~~) the proposed change and the reasonableness and justness (~~(thereof, and)~~) of it. Pending (~~(such)~~) the hearing and the decision (~~(thereon)~~) the commission may suspend the operation of (~~(such)~~) the rate, fare, charge, rental, or toll, if (~~(such)~~) the change is proposed by a common carrier subject to the jurisdiction of the commission, for a period not exceeding seven months, and, if proposed by a public service company other than such a common carrier, for a period not exceeding ten months from the time the (~~(same)~~) change would otherwise go into effect (~~(, and)~~). After a full hearing the commission may make such order in reference ((thereto) to the change as would be provided in a hearing initiated after the ((same) change had become effective.

At any hearing involving any change in any schedule, classification, rule, or regulation the effect of which is to increase any rate, fare, charge, rental, or toll theretofore charged, the burden of proof to show that such

increase is just and reasonable ~~((shall be))~~ is upon the public service company ~~((: PROVIDED, HOWEVER, That))~~. When any common carrier subject to the jurisdiction of the commission ~~((shall))~~ files any tariff, classification, rule, or regulation the effect of which is to decrease any rate, fare, or charge, the burden of proof to show that such decrease is just and reasonable ~~((shall be))~~ is upon ~~((such))~~ the common carrier.

Sec. 2. Section 81.04.150, chapter 14, Laws of 1961 and RCW 81.04-.150 are each amended to read as follows:

Whenever the commission ~~((shall))~~ finds, after hearing had upon its own motion or upon complaint as ~~((herein))~~ provided in this chapter, that any rate, toll, rental, or charge ~~((which))~~ that has been the subject of complaint and inquiry is sufficiently remunerative to the public service company, other than a railroad company, affected ~~((thereby:))~~ by it, the commission may order that ~~((such))~~ the rate, toll, rental, or charge shall not be changed, altered, abrogated, or discontinued, nor shall there be any change in the classification ~~((which))~~ that will change or alter ~~((such))~~ the rate, toll, rental, or charge without first obtaining the consent of the commission authorizing ~~((such))~~ the change to be made.

Sec. 3. Section 81.04.250, chapter 14, Laws of 1961 and RCW 81.04-.250 are each amended to read as follows:

The commission ~~((shall have))~~ has the power upon complaint or upon its own motion to prescribe and authorize just and reasonable rates for the transportation of persons or property by carriers other than railroad companies, and shall exercise ~~((such))~~ that power whenever and as often as it ~~((shall))~~ deems necessary or proper. The commission shall, before any hearing is had upon ~~((such))~~ the complaint or motion, notify the complainants and the carrier concerned of the time and place of ~~((such))~~ the hearing by giving at least ten days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of prescribing and authorizing ~~((such))~~ the rates ~~((: which))~~. The notice ~~((shall be))~~ is sufficient to authorize the commission to inquire into and pass upon the matters designated in this section.

In exercising ~~((its aforesaid))~~ this power the commission may use any standard, formula, method, or theory of valuation reasonably calculated to arrive at the objective of prescribing and authorizing just and reasonable rates.

In the exercise of ~~((said))~~ this power the commission may ~~((in its discretion))~~ give consideration, in ~~((in lieu of))~~ addition to other factors, to the following:

(1) To the effect of ~~((such))~~ the rates upon movement of traffic by ~~((such))~~ the carriers;

(2) To the public need for adequate transportation facilities, equipment, and service at the lowest level of charges consistent with the provision, maintenance, and renewal of ~~((such))~~ the facilities, equipment and service; and

(3) To the carrier need for revenue of a level ~~((which))~~ that under honest, efficient, and economical management is sufficient to cover the cost (including all operating expenses, depreciation accruals, rents, and taxes of every kind) of providing adequate transportation service, plus an amount equal to ~~((such))~~ the percentage of ~~((said))~~ that cost as ~~((shall be))~~ is reasonably necessary for the provision, maintenance, and renewal of ~~((said))~~ the transportation facilities or equipment and a reasonable profit to the carrier. The relation of carrier expenses to carrier revenues may be deemed the proper test of a reasonable profit.

This section does not apply to railroad companies, which shall be regulated in this regard by sections 10 through 20 of this act and rules adopted thereunder.

Sec. 4. Section 81.28.040, chapter 14, Laws of 1961 and RCW 81.28-.040 are each amended to read as follows:

Every common carrier shall file with the commission and shall print and keep open ~~((to the))~~ for public inspection, schedules showing the rates, fares, charges, and classification for the transportation of persons and property within the state between each point upon ~~((its))~~ the carrier's route and all other points thereon; and between each point upon its route and all points upon every route leased, operated, or controlled by it; and between each point on its route or upon any route leased, operated, or controlled by it and all points upon the route of any other common carrier, whenever a through route and joint rate ~~((shall))~~ have been established or ordered between any two such points. If no joint rate over a through route has been established, the several carriers participating in ~~((such))~~ the through route shall file, print, and keep open ~~((to the))~~ for public inspection, ~~((as aforesaid;))~~ the separately established rates, fares, charges, and classifications ~~((; applied))~~ that apply to the through transportation. The schedules printed ~~((as aforesaid;))~~ shall plainly state the places between which property and persons will be carried, ~~((and))~~ shall also contain classification of passengers or property in force, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges ~~((which))~~ that the commission may require to be stated, all privileges or facilities granted or allowed, and any rules or regulations ~~((which))~~ that may in ~~((anywise))~~ any way change, affect, or determine any part, or the aggregate of, such ~~((aforesaid))~~ rates, fares, and charges, or the value of the service rendered to the passenger, shipper, or consignee. ~~((Such))~~ The schedule shall be plainly printed in large type, and a copy ~~((thereof))~~ of it shall be kept by every ~~((such))~~ carrier readily accessible to ~~((and for))~~ inspection by the public in every station or office of ~~((such))~~ the carrier where passengers or

property are respectively received for transportation, when ~~((such)) the station or office is in charge of any agent~~~~((; and in every station or office of such carrier where passenger tickets for transportation or tickets covering sleeping or parlor car or other train accommodation are sold or bills of lading or receipts for property are issued))~~. All or any of ~~((such)) the schedules kept as~~ ~~((aforesaid)) provided in this section~~ shall be immediately produced by ~~((such)) the carrier for inspection upon the demand of any person~~. A notice printed in bold type and stating that ~~((such)) the schedules are on file with the agent and open to inspection by any person and that the agent will assist any~~ ~~((such)) person to determine from~~ ~~((such)) the schedules any transportation rates or fares or rules or regulations~~ ~~((which)) that are in force shall be kept posted by the carrier in two public and conspicuous places in every such station or office~~. The form of ~~((every such)) each schedule shall be prescribed by the commission~~ ~~((and shall conform in the case of railroad companies as nearly as may be to the form of schedules required by the interstate commerce commission under the act of congress entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof and supplementary thereto))~~.

The commission ~~((shall have)) has~~ power, from time to time, ~~((in its discretion;)) to determine and prescribe by order such changes in the form of~~ ~~((such)) the schedules as may be found expedient, and to modify the requirements of this section in respect to publishing, posting, and filing of schedules either in particular instances or by general rule or order applicable to special or peculiar circumstances or conditions~~.

The commission may, in its discretion, suspend the operation of this section in whole or in part as applied to vessels engaged in jobbing business not operating on regular routes. This section does not apply to rail transportation contracts regulated by section 16 of this act or to railroad services or transactions exempted under section 20 of this act.

Sec. 5. Section 81.28.050, chapter 14, Laws of 1961 as amended by section 1, chapter 116, Laws of 1981 and RCW 81.28.050 are each amended to read as follows:

Unless the commission otherwise orders, no change ~~((shall)) may~~ be made in any classification, rate, fare, charge, rule, or regulation filed and published by a common carrier other than a rail carrier, except after thirty days' notice to the commission and to the public. The notice shall be published as provided in RCW 81.28.040 ~~((which)) and~~ shall plainly state the changes proposed to be made in the schedule then in force~~((;))~~ and the time when the changed rate, classification, fare, or charge will go into effect~~((; and))~~. All proposed changes shall be shown by printing, filing, and publishing new schedules or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. In the case of a change proposed by a rail carrier, except for changes to rail contracts between a rail carrier and a shipper authorized under section 16 of this act, which changes

become effective in accordance with that section, a proposal resulting in a rate increase or a new rate shall not become effective for twenty days after the notice is published, and a proposal resulting in a rate decrease shall not become effective for ten days after the notice is published. The commission, for good cause shown, may by order allow changes in rates without requiring the notice and the publication time periods specified in this section. When any change is made in any rate, fare, charge, classification, rule, or regulation, attention shall be directed to ~~((such))~~ the change by some character on the schedule ~~((such))~~. The character and its placement ((to)) shall be designated by the commission. The commission may, by order, for good cause shown, allow changes in any rate, fare, charge, classification, rule, or regulation without requiring any character to indicate each and every change to be made.

Sec. 6. Section 81.28.180, chapter 14, Laws of 1961 and RCW 81.28.180 are each amended to read as follows:

~~((No))~~ A common carrier shall not, directly or indirectly, by any special rate, rebate, drawback, or other device or method, charge, demand, collect, or receive from any person or corporation a greater or lesser compensation for any service rendered or to be rendered in the transportation of persons or property, except as authorized in this title, than it charges, demands, collects, or receives from any person or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under the same or substantially similar circumstances and conditions. This section does not apply to railroad companies, which shall be regulated in this regard by sections 10 through 20 of this act and rules adopted thereunder.

Sec. 7. Section 81.28.190, chapter 14, Laws of 1961 and RCW 81.28.190 are each amended to read as follows:

~~((No))~~ A common carrier shall not make or give any undue or unreasonable preference or advantage to any person or corporation or to any locality or to any particular description of traffic in any respect whatsoever, or subject any particular person or corporation or locality or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. This section does not apply to railroad companies, which shall be regulated in this regard by sections 10 through 20 of this act and rules adopted thereunder.

Sec. 8. Section 81.28.200, chapter 14, Laws of 1961 and RCW 81.28.200 are each amended to read as follows:

~~((No))~~ A common carrier ~~((;))~~ subject to the provisions of this title ~~((;))~~ shall not charge or receive any greater compensation in the aggregate for the transportation of persons or of a like kind of property, for a shorter than for a longer distance over the same line in the same direction, the shorter

being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates, subject to the provisions of this title~~((, but))~~. This shall not be construed as authorizing any such common carrier to charge and receive as great a compensation for a shorter as for a longer distance or haul. Upon application of a common carrier the commission may by order authorize it to charge less for a longer than for a shorter distance for the transportation of persons or property in special cases after investigation by the commission, but the order must specify and prescribe the extent to which the common carrier making ~~((such))~~ the application is relieved from the operation of this section~~((, and))~~. Only to the extent so specified and prescribed ~~((shall))~~ is any common carrier ~~((be))~~ relieved from the operation and requirements of this section. This section does not apply to railroad companies, which shall be regulated in this regard by sections 10 through 20 of this act and rules adopted thereunder.

Sec. 9. Section 81.28.230, chapter 14, Laws of 1961 and RCW 81.28-.230 are each amended to read as follows:

Whenever the commission ~~((shall))~~ finds, after a hearing had upon its own motion or upon complaint, as ~~((herein))~~ provided in this chapter, that the rates, fares, or charges demanded, exacted, charged, or collected by any common carrier for the transportation of persons or property within the state or in connection therewith, or that the regulations or practices of ~~((such))~~ the common carrier affecting ~~((such))~~ those rates are unjust, unreasonable, unjustly discriminatory, or unduly preferential, or in ~~((anywise))~~ any way are in violation of the provisions of law, or that ~~((such))~~ the rates, fares, or charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine and fix by order the just, reasonable, or sufficient rates, fares, or charges, or the regulations or practices to be thereafter observed and enforced ~~((and shall fix the same by order))~~. This section does not apply to railroad companies, which shall be regulated in this regard by sections 10 through 20 of this act and rules adopted thereunder.

NEW SECTION. Sec. 10. In determining whether a rate established by a railroad company is reasonable for purposes of this title, the commission shall follow the Interstate Commerce Commission policy, which provides that railroad companies shall earn adequate revenues. Further, in regulating railroad company rates under this title, the commission has no jurisdiction over general rate increases, inflation-based rate adjustments, or fuel adjustment surcharges approved by the Interstate Commerce Commission.

NEW SECTION. Sec. 11. The commission shall exercise the authority granted under this chapter to regulate railroads in a manner consistent with the Interstate Commerce Act and in a manner that allows the state of

Washington to continue to regulate railroad rates to the maximum extent allowable under federal law and to be certified, in accordance with 49 U.S.C. Sec. 10501 by the federal government to continue such regulation. In compliance with this chapter, the commission, in addition to such other procedures as it may establish, shall administer and follow the provisions of this chapter as nearly as practicable in accordance with the statutes, regulations, and decisions construing federal law.

NEW SECTION. Sec. 12. The commission shall use the standards and procedures established in this chapter to determine reasonableness when acting upon any complaint or protest or in any proceeding concerning any railroad's rate or a classification, rule, or practice related to a rate subject to regulation under this chapter. The commission shall adopt rules relating to the determination of market dominance. The rules shall allow rate increases, not subject to suspension, if the rail carrier proposing the increase is found by the commission not to have market dominance. Market dominance is defined as an absence of effective competition from other carriers or modes of transportation for the transportation to which a rate applies.

When a rate for transportation by a rail carrier is challenged as being unreasonably high, the commission shall not make such a finding until it has determined that there is market dominance and that the rate exceeds a maximum reasonable level for the transportation to which the rate applies. A finding of market dominance does not presumptively establish that the proposed rate exceeds a reasonable maximum.

NEW SECTION. Sec. 13. (1) A railroad company subject to the jurisdiction of the commission may not charge or receive from a person a different compensation by using a special rate, rebate, drawback, or other means, for a service rendered, or to be rendered, than it charges or receives from another person for performing a like or contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances. A railroad company that charges or receives such a different compensation for that service engages in unreasonable discrimination.

(2) A railroad company providing transportation or service subject to the jurisdiction of the commission may not subject a person, place, port, or type of traffic to unreasonable discrimination.

(3) Differences of rates, classifications, rules, and practices of railroad companies subject to the jurisdiction of the commission do not constitute a violation of this section if the differences result from different services provided by rail carriers.

(4) This section does not apply to: (a) Contracts approved under sections 16 and 17 of this act; (b) surcharges or cancellations authorized by the Interstate Commerce Commission; (c) separate rates for distinct rail services; (d) rail rates applicable to different routes; or (e) expenses authorized

under 49 U.S.C. Sec. 10751 by the Interstate Commerce Commission, except that with respect to rates described in (b), (c), and (d) of this subsection, nothing in this subsection affects the commission's authority under this section with respect to rate relationships between ports or within the same port.

NEW SECTION. Sec. 14. The commission may suspend the filing of a schedule, classification, rule, or regulation by a railroad company only upon complaint and only when it is determined that: (1) It is substantially likely that the protesting party will prevail on the merits; (2) without suspension the proposed change will cause substantial injury to the protesting party; (3) and because of the peculiar economic circumstances of the protesting party the provisions requiring refund of moneys in excess of amounts found to be reasonable do not protect the protesting party.

The suspension period for a proceeding to determine the reasonableness of a filing by a railroad company shall not exceed five months. If the commission has not reached a final decision at the end of the fifth month after the schedule, classification, rule, or regulation was to become effective, it shall, if suspended take effect, and if in effect, remain in effect and not be subject to suspension. If a suspension is not ordered, but an investigation is instituted, the commission shall require the railroad to account for all amounts received under the increase until final determination is made and the proceeding is completed. The accounting shall specify by whom and for whom the amounts are paid. When the commission makes its final determination, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unreasonable, plus interest. If a rate is suspended and any portion of the rate is later found to be reasonable, the carrier shall collect from each person using the transportation to which the rate applies the difference between the original rate and the portion of the suspended rate found to be reasonable for any services during the period of suspension, plus interest. Interest, if required, shall be paid at a rate equal to the average yield, on the date the statement is filed, of marketable securities of the federal government having a duration of ninety days.

NEW SECTION. Sec. 15. (1) The commission shall adopt rules in conformance with 49 U.S.C. Sec. 10707a allowing: (a) Rate increases not subject to suspension based upon an adjusted base rate of rail carriers in this state, including a cost-adjustment factor; (b) rate increases that do not exceed a specified percentage of the adjusted base rate.

(2) A rate increase under subsection (1)(b) of this section is not subject to suspension except: (a) Upon complaint by an interested party alleging that the rate increase violates the provisions of this chapter; or (b) if the rate increase is equal to or greater than revenue-variable cost percentage limits specified in 49 U.S.C. Sec. 10707a(e).

(3) For the purposes of this chapter "adjusted base rate" has the same meaning with respect to rail carriers in this state as in 49 U.S.C. Sec. 10707a(a).

NEW SECTION. Sec. 16. A railroad company providing transportation of property may enter into a contract with one or more purchasers of that transportation to provide specified services under specified rates and conditions. Contracts, together with summaries of them, shall be filed with the commission under special rules adopted by the commission relating to contents of contracts, summaries of contracts, and other rules relating thereto. Contents of summaries shall contain nonconfidential information and shall be available for public inspection.

Contracts filed under this section shall be approved by the commission to be effective at any date determined by the commission within sixty days after the filing of the contract or if not disapproved in a proceeding under this section, sixty days after filing.

A contract may, after hearing, be disapproved if the commission determines that the contract does any of the following:

(1) As to contracts other than contracts for the transportation of agricultural products, forest products, and paper: (a) Upon complaint filed by a shipper, that the contract unduly impairs the ability of the contracting railroad company or railroad companies to meet their common carrier obligations; (b) upon complaint filed by a port, that the contract harms or causes unjust discrimination against such port.

(2) As to contracts for the transportation of agricultural products, including forest products and paper, upon showing of a shipper: (a) That the railroad company unjustly discriminates against the shipper by refusing to enter into a contract with the shipper for rates and services for transportation of the same type of commodity under similar conditions to the contract at issue, and that the shipper is ready, willing, and able to enter into the contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or (b) that the railroad company provides rates, services, or other practices that constitute destructive competition. For the purpose of making a determination of what constitutes destructive competition, the commission shall consider the difference between contract rates and published single car rates.

(3) As to contracts that apply only to the transportation of agricultural commodities (including forest products but not including wood pulp, woodchips, pulpwood, or paper) the contract may be disapproved if it requires the use of more than forty percent of the capacity of the railroad's owned or leased equipment, by major car type, in the performance of the terms of the contract. On request of a railroad or other party or on its own initiative, the commission may grant relief from the limitation, as it considers appropriate, if it determines that the additional equipment may be made

available without harming the railroad company's ability to meet its carrier obligations.

A contract that is approved under this section and transportation under the contract may not be subsequently challenged before the commission or in any court on the grounds that the contract violates a provision of this section. The exclusive remedy for any alleged breach of a contract entered into under this section is in an appropriate state or federal court, unless the parties otherwise agree.

NEW SECTION. Sec. 17. The commission may hold a proceeding to review contracts filed under section 16 of this act under the following conditions:

(1) Notwithstanding any other provision of law, the proceedings must begin no later than thirty days after the filing of the contract;

(2) A proceeding may be initiated by the commission, or:

(a) By a shipper to determine whether a contract violates section 16(1)(a) or 16(2)(a) or (b) of this act, but only upon a showing of harm to the shipper;

(b) By a port to determine violation of section 16(1)(b) of this act, but only upon a showing of harm to the port;

(c) By any person the commission finds has an interest under section 16(3) of this act.

If a proceeding is initiated under this section the commission must determine whether the contract is in violation of section 16 of this act within thirty days after commencement of the proceeding. If the commission finds that the contract is not in violation of section 16 of this act, the contract shall become effective. If the commission finds that the contract violates section 16 of this act, the commission shall disapprove the contract, unless the contract unjustly discriminates against a shipper as stated in section 16(2)(a) of this act, in which case the carrier shall be ordered, subject to section 16 of this act, to provide rates and services substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence at the proceeding.

NEW SECTION. Sec. 18. In addition to the liability limitations and exceptions allowed under RCW 81.29.020, a railroad company providing transportation or service subject to jurisdiction of the commission may establish rates for transportation of property under which the liability of the carrier for the property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier, and may provide in the written declaration or agreement for specified amounts to be deducted from any claim against the carrier for loss or damage to the property or for delay in the transportation of the property.

NEW SECTION. Sec. 19. Notwithstanding any other provision of law, all railroad companies providing transportation subject to the commission's jurisdiction shall maintain rates for the transportation of recyclable or recycled materials, other than recyclable or recycled iron or steel, at revenue-to-variable-cost ratios that are equal to or less than the average revenue-to-variable-cost ratio that rail carriers would be required to realize, under honest, economical, and efficient management, in order to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return, or both, on capital employed in the business sufficient to attract and retain capital in adequate amounts to provide a sound transportation system.

NEW SECTION. Sec. 20. In a matter related to a railroad company providing transportation, the commission shall, upon its own motion or the motion of any interested person, exempt persons, classes of persons, transactions, or service from the provisions of this chapter as the commission determines are appropriate and in the public interest. The commission may begin a proceeding either upon its own motion or upon the motion of any interested person. Exemptions established under this section may be temporary, may be subject to revocation, or may be subject to any other conditions that the commission determines are required in the public interest.

Sec. 21. Section 31, chapter 1, Laws of 1973 as last amended by section 10, chapter 133, Laws of 1983 and RCW 42.17.310 are each amended to read as follows:

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

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

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

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to the taxpayer.

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

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property: PROVIDED, That if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure,

such desire shall govern: **PROVIDED, FURTHER,** That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

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

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

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

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

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

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

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

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

(n) Railroad company contracts filed with the utilities and transportation commission under section 16 of this act, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(2) The exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the

county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

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

NEW SECTION. Sec. 22. There is added to chapter 64.04 RCW a new section to read as follows:

Railroad properties, including but not limited to rights-of-way, land held in fee and used for railroad operations, bridges, tunnels, and other facilities, are declared to be suitable for public use upon cessation of railroad operations on the properties. It is in the public interest of the state of Washington that such properties retain their character as public utility and transportation corridors, and that they may be made available for public uses including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation.

NEW SECTION. Sec. 23. There is added to chapter 64.04 RCW a new section to read as follows:

(1) Public utility and transportation corridors are railroad properties (a) on which railroad operations have ceased; (b) that have been found suitable for public use by an order of the Interstate Commerce Commission of the United States; and (c) that have been acquired by purchase, lease, donation, exchange, or other agreement by the state, one of its political subdivisions, or a public utility.

(2) A public utility and transportation corridor retains its public use character as long as it is owned by a public agency or utility. A public utility and transportation corridor is not subject to reversion, taking by adverse possession, or any similar property interests ripening on the cessation of railroad operations.

NEW SECTION. Sec. 24. Sections 10 through 20 of this act shall constitute a new chapter in Title 81 RCW.

NEW SECTION. Sec. 25. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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