

**NEW SECTION.** Sec. 2. A new section is added to chapter 80.08 RCW to read as follows:

Notwithstanding the provisions of RCW 80.08.040, any order granting a public service company permission for the issuance of securities may be based on reasonable estimates of the final terms of the issuance and may allow the public service company to complete the transaction if the final terms are within a range of conditions, terms, and parameters established by the commission. The range of conditions, terms, and parameters may include such things as a range of time in which the securities may be issued, a range in the maximum amount of the issuance, a range in the amount of the issuance costs, a range in the amount of the interest rate to be paid, and ranges in such other terms and conditions as the commission may deem proper.

**NEW SECTION.** Sec. 3. Section 80.08.070, chapter 14, Laws of 1961 and RCW 80.08.070 are each repealed.

Passed the Senate March 10, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 20, 1987.

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## CHAPTER 107

[Substitute Senate Bill No. 5679]

### UTILITIES AND TRANSPORTATION COMMISSION—CERTAIN INFORMATION FILED WITH THE COMMISSION IS EXEMPT FROM PUBLIC DISCLOSURE

AN ACT Relating to the distribution of information filed with the utilities and transportation commission; reenacting and amending RCW 42.17.310; adding a new section to chapter 80.04 RCW; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 80.04 RCW to read as follows:

Records, subject to chapter 42.17 RCW, filed with the commission or the attorney general from any person which contain valuable commercial information, including trade secrets or confidential marketing, cost, or financial information, or customer-specific usage and network configuration and design information, shall not be subject to inspection or copying under chapter 42.17 RCW: (1) Until notice to the person or persons directly affected has been given; and (2) if, within ten days of the notice, the person has obtained a superior court order protecting the records as confidential. The court shall determine that the records are confidential and not subject to inspection and copying if disclosure would result in private loss, including an unfair competitive disadvantage. When providing information to the commission or the attorney general, a person shall designate which records or portions of records contain valuable commercial information. Nothing in

this section shall prevent the use of protective orders by the commission governing disclosure of proprietary or confidential information in contested proceedings.

Sec. 2. Section 31, chapter 1, Laws of 1973 as last amended by section 7, chapter 276, Laws of 1986 and by section 25, chapter 299, Laws of 1986 and RCW 42.17.310 are each reenacted and 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 (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or 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 RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 53.31 RCW.

(p) Financial disclosures filed by private vocational schools under chapter 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under section 1 of this 1987 act that a court has determined are confidential under section 1 of this 1987 act.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, 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. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 18, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 108

[Substitute Senate Bill No. 5892]

### LAND SUBDIVISION—BINDING SITE PLAN APPROVAL MODIFIED

AN ACT Relating to the subdivision of land; and amending RCW 58.17.040.

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

Sec. 1. Section 2, chapter 121, Laws of 1983 and RCW 58.17.040 are each amended to read as follows:

The provisions of this chapter shall not apply to:

- (1) Cemeteries and other burial plots while used for that purpose;
- (2) Divisions of land into lots or tracts each of which is one-one hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land, unless the governing authority of the city, town, or county in which the land is situated shall have adopted a subdivision ordinance requiring plat approval of such divisions: PROVIDED, That for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line;
- (3) Divisions made by testamentary provisions, or the laws of descent;
- (4) Divisions of land into lots or tracts classified for industrial or commercial use when the ((governing body of the)) city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations: PROVIDED, That when a binding site plan authorizes a sale or other transfer of ownership of a lot, parcel, or tract, the binding site plan shall be filed for record in the county auditor's office on each lot, parcel, or tract created pursuant to the binding site plan: PROVIDED FURTHER, That the binding site plan and all of its requirements shall be legally enforceable on the purchaser or other person acquiring ownership of the lot,