

the application of the provision to other persons or circumstances is not affected.

Passed the House April 15, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor May 18, 1987.

Filed in Office of Secretary of State May 18, 1987.

CHAPTER 404

[Engrossed Substitute Senate Bill No. 5143]

PUBLIC DISCLOSURE—JOB APPLICATIONS, EMPLOYEE AND VOLUNTEER RESIDENTIAL INFORMATION, AND PUBLIC UTILITY CUSTOMER RESIDENTIAL INFORMATION

AN ACT Relating to exemption from public disclosure of the contents of public employment applications and the addresses and telephone numbers of natural persons; reenacting and amending RCW 42.17.310; and adding new sections to chapter 42.17 RCW.

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

Sec. 1. 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) Except as provided under section 2 of this 1987 act, all applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(r) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(s) 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.

(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. 2. A new section is added to chapter 42.17 RCW to read as follows:**

All applications and resumes of persons who apply for an executive position with an agency shall be available for public inspection and copying unless the agency: (1) Has adopted a policy requiring the agency's preparation of a list of applicants that includes all applicants who have submitted information in addition to that requested by the public agency in the original application; and (2) makes that list, together with the applications and resumes of the persons on the list, available for public inspection when selected and at least five days before it makes its final selection. The term "executive position" means any position the primary duties of which consist of the management of the public agency by which the person is employed or of a customarily recognized department.

*Sec. 2 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 3. A new section is added to chapter 42.17 RCW to read as follows:

Nothing in RCW 42.17.310(1) (q) through (s) shall affect a positive duty of an agency to disclose or a positive duty to withhold information which duty to disclose or withhold is contained in any other law.

Passed the Senate April 18, 1987.

Passed the House April 13, 1987.

Approved by the Governor May 18, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 2, Engrossed Substitute Senate Bill No. 5143, entitled:

"AN ACT Relating to exemption from public disclosure of the contents of public employment applications and the addresses and telephone numbers of natural persons."

This bill adds provisions to the public disclosure law to exempt from public inspection and copying applications for public employment, residential addresses and telephone numbers of employees and volunteers of a public agency, and residential addresses and telephone numbers of public utility customers. A separate section makes public employment and applications materials if the application is for an executive position.

I support the exemptions from disclosure for residential addresses and telephone numbers. Concerns have been raised regarding public safety where such information is available to the public. There appears to be no compelling public policy reason why this personal information should be generally available.

Under state law, personal information regarding public employees maintained in public agency files, is not disclosable if disclosure violates a right to privacy. Further, the Open Public Meetings Act (Chapter 42.30 RCW) allows public entities to evaluate qualifications of an applicant for public employment in an executive session, so long as the final hiring and salary setting is done in an open meeting. This bill would specifically exempt public employment applications, resumes and other materials submitted from disclosure, unless the application is for an executive position.

Section 2 of the bill causes particular concern to me given the broad access to information about executive position job applicants. It would require disclosure of "all applications and resumes" of executive position applicants. Applications and resumes for this level of position by their nature must be very complete and thorough.

Most top executives are reluctant to jeopardize their present employment position and, more importantly, the relationships that go with that position, which would result from publicizing their application for another position. The disclosure requirement would seriously impact the size and, more importantly, the quality of the pool of applicants. I believe this is true of both the business world as well as the public sector world of executive employment.

I have vetoed section 2 because it will frustrate efforts by public elected and appointed officials and managers to recruit and hire the best at all levels of government. I remain committed to trying to attract the best people to public employment and feel this section would only frustrate the efforts of the many elected officials and managers who share this goal.

With the exception of section 2, Engrossed Substitute Senate Bill No. 5143 is approved."