
SENATE BILL 5783

State of Washington

54th Legislature

1995 Regular Session

By Senators Haugen, McCaslin, Long, Rasmussen and Winsley

Read first time 02/06/95. Referred to Committee on Government Operations.

1 AN ACT Relating to internal discrimination complaint procedures for
2 state departments; reenacting and amending RCW 42.17.310; adding new
3 sections to chapter 43.17 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

6 Practices of discrimination against the employees, contractors,
7 vendors, and customers of Washington state departments because of race,
8 creed, color, national origin, religion, age, gender, marital status,
9 disability, or status as a disabled or Vietnam-era veteran are a matter
10 of state concern that demand that Washington state departments adopt an
11 internal discrimination complaint procedure that protects the rights
12 and privileges of both complainants and respondents;

13 To avoid undue economic and social hardship on complainants and
14 respondents, it is imperative that state departments conduct
15 investigations within reasonable time limits;

16 Continuing conflicts debilitate the morale and productivity of
17 state departments. The informal settlement of discrimination
18 complaints, where appropriate, that may make unnecessary more elaborate
19 proceedings is strongly encouraged.

1 **Sec. 2.** RCW 42.17.310 and 1994 c 233 s 2 and 1994 c 182 s 1 are
2 each reenacted and amended to read as follows:

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

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

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

10 (c) Information required of any taxpayer in connection with the
11 assessment or collection of any tax if the disclosure of the
12 information to other persons would (i) be prohibited to such persons by
13 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
14 in unfair competitive disadvantage to the taxpayer.

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

21 (e) Information revealing the identity of persons who are witnesses
22 to or victims of crime ((~~or~~)), who file complaints with investigative,
23 law enforcement, or penology agencies, other than the public disclosure
24 commission, or who are the respondents in complaints filed with
25 investigative, law enforcement, or penology agencies, other than the
26 public disclosure commission, if disclosure would endanger any person's
27 life, physical safety, or property. If at the time a complaint is
28 filed the complainant, victim or witness indicates a desire for
29 disclosure or nondisclosure, such desire shall govern. However, all
30 complaints filed with the public disclosure commission about any
31 elected official or candidate for public office must be made in writing
32 and signed by the complainant under oath.

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

35 (g) Except as provided by chapter 8.26 RCW, the contents of real
36 estate appraisals, made for or by any agency relative to the
37 acquisition or sale of property, until the project or prospective sale
38 is abandoned or until such time as all of the property has been
39 acquired or the property to which the sale appraisal relates is sold,

1 but in no event shall disclosure be denied for more than three years
2 after the appraisal.

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

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

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

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

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

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

25 (n) Railroad company contracts filed prior to July 28, 1991, with
26 the utilities and transportation commission under RCW 81.34.070, except
27 that the summaries of the contracts are open to public inspection and
28 copying as otherwise provided by this chapter.

29 (o) Financial and commercial information and records supplied by
30 private persons pertaining to export services provided pursuant to
31 chapter 43.163 RCW and chapter 53.31 RCW.

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

34 (q) Records filed with the utilities and transportation commission
35 or attorney general under RCW 80.04.095 that a court has determined are
36 confidential under RCW 80.04.095.

37 (r) Financial and commercial information and records supplied by
38 businesses or individuals during application for loans or program
39 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,

1 or during application for economic development loans or program
2 services provided by any local agency.

3 (s) Membership lists or lists of members or owners of interests of
4 units in timeshare projects, subdivisions, camping resorts,
5 condominiums, land developments, or common-interest communities
6 affiliated with such projects, regulated by the department of
7 licensing, in the files or possession of the department.

8 (t) All applications for public employment, including the names of
9 applicants, resumes, and other related materials submitted with respect
10 to an applicant.

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

15 (v) The residential addresses and residential telephone numbers of
16 the customers of a public utility contained in the records or lists
17 held by the public utility of which they are customers.

18 (w)(i) The federal social security number of individuals governed
19 under chapter 18.130 RCW maintained in the files of the department of
20 health, except this exemption does not apply to requests made directly
21 to the department from federal, state, and local agencies of
22 government, and national and state licensing, credentialing,
23 investigatory, disciplinary, and examination organizations; (ii) the
24 current residential address and current residential telephone number of
25 a health care provider governed under chapter 18.130 RCW maintained in
26 the files of the department, if the provider requests that this
27 information be withheld from public inspection and copying, and
28 provides to the department an accurate alternate or business address
29 and business telephone number. On or after January 1, 1995, the
30 current residential address and residential telephone number of a
31 health care provider governed under RCW 18.130.140 maintained in the
32 files of the department shall automatically be withheld from public
33 inspection and copying if the provider has provided the department with
34 an accurate alternative or business address and telephone number.

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

37 (y) Information obtained by the board of pharmacy or the department
38 of health and its representatives as provided in RCW 69.41.044,
39 69.41.280, and 18.64.420.

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

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

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

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

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

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

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

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

30 (2) Except for information described in subsection (1)(c)(i) of
31 this section and confidential income data exempted from public
32 inspection pursuant to RCW 84.40.020, the exemptions of this section
33 are inapplicable to the extent that information, the disclosure of
34 which would violate personal privacy or vital governmental interests,
35 can be deleted from the specific records sought. No exemption may be
36 construed to permit the nondisclosure of statistical information not
37 descriptive of any readily identifiable person or persons.

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

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

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

9 NEW SECTION. **Sec. 3.** State departments, in accordance with
10 chapter 34.05 RCW, shall adopt rules governing discrimination complaint
11 procedures that address, at a minimum, the following:

12 (1) Procedures for filing and investigating a civil rights
13 complaint against the employees, contractors, vendors, and customers of
14 state departments; and

15 (2) Reasonable time limits for filing a complaint, complaint
16 investigation and the issuance of findings by the department, and the
17 imposing of appropriate discipline, if required. The time limits
18 established must provide a maximum time limit for the completion of
19 each stage of an investigation, including final disposition by the
20 department. The rules shall permit extensions of these time limits
21 only for specified exceptions beyond the control of the department.
22 The rules must provide for adequate notice of the pertinent time limits
23 to all persons affected.

24 Departments shall adopt rules implementing the requirements of this
25 section by December 1, 1995.

26 NEW SECTION. **Sec. 4.** All reports and correspondence generated by
27 the complaint procedure established under rules adopted to implement
28 this chapter, that by law can be disclosed, must be disseminated
29 simultaneously to all affected parties and their representatives and to
30 any requesting party.

31 NEW SECTION. **Sec. 5.** Departments shall conduct a review to
32 determine if the rules adopted under section 3 of this act sufficiently
33 protect the rights and privileges of both complainants and respondents
34 and whether changes in practice and procedure are necessary. The
35 results of this review, including any recommendations and proposed
36 legislation shall be reported to the chief clerk of the Washington

1 state house of representatives and the secretary of the Washington
2 state senate on or before January 1, 1997.

3 NEW SECTION. **Sec. 6.** Departments shall report annually, beginning
4 January 1, 1996, to the legislature on the civil rights enforcement
5 activities of the individual departments describing the department's
6 proceedings, investigations conducted and their outcome, and other work
7 performed; and shall make recommendations regarding legislation needed
8 to assist the departments in the execution of their duties.

9 NEW SECTION. **Sec. 7.** Sections 3 through 6 of this act are each
10 added to chapter 43.17 RCW.

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