

6699

Sponsor(s): Senators Schow, Anderson, Newhouse, Zarelli, Horn, Winsley, Stevens, Benton, Rossi, Long, Sellar and Oke

Brief Title: Limiting the liability of a current or former employer who provides information about a current or former employee's work record to a prospective employer.

SB 6699 - DIGEST

(DIGEST AS PASSED LEGISLATURE)

Provides that an employer who discloses information about a former or current employee to a prospective employer is presumed to be acting in good faith and is immune from civil liability for such disclosure or its consequences if the disclosed information relates to:

- (1) The employee's ability to perform his or her job;
- (2) the diligence, skill or reliability with which the employee carried out the duties of his or her job; or
- (3) any illegal or wrongful act committed by the employee.

VETO MESSAGE ON SB 6699

April 1, 1998

To the Honorable President and Members,
The Senate of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 6699 entitled:

"AN ACT Relating to information provided by former or current employers to a prospective employer;"

I strongly agree with the intent of this legislation. As an employer, I have personally experienced the frustrations that result from current law.

It is clear that the laws applying to employee references need to be reformed. In recent years, employers have been reluctant to provide job reference information regarding former employees, for fear of liability. The consequence is that employers often cannot get adequate information to make good hiring decisions. This can be a big problem in the case of workplace violence or employee theft. Employers who have fired employees because of violence or theft have not divulged that information to prospective employers. Later, such employees have repeated that behavior endangering the life and property of others. Conversely, good employees are disadvantaged because many employers have strict policies against providing more than minimal information, such as confirming dates of employment only.

However, SB 6699 is not crafted finely enough to properly solve these problems. When I met with proponents of this bill, there was disagreement even among them whether reports of an employee's activities outside of work could be discussed in a job reference. Among other concerns, SB 6699 conflicts with the state's anti-blacklisting statute (RCW 49.44.010) and would effectively take away any civil remedy an employee could seek if

blacklisted. Blacklisting occurs when employers band together to exclude from employment, employees who are trying to organize a union, or participate in "undesirable" religious or political organizations.

I strongly agree with the intent of SB 6699, but it needs further refinement. During the interim I will convene a group of knowledgeable lawyers and stakeholders representing all sides of this issue to develop legislation that will address these concerns. And, I will make my staff available to assist the group.

I urge the various interest groups to work together to develop a compromise that satisfies employers' need for freer flow of information, while maintaining meaningful protection for employees. Efforts that were made by Representatives Lantz and Hickel to provide for statements made by an employer with malice or a reckless disregard of truthfulness come much closer to a balanced law that would work for both employers and employees.

For these reasons, I have vetoed Senate Bill No. 6699 in its entirety.

Respectfully submitted,
Gary Locke
Governor