

LEGISLATIVE BILL 1109

Approved by the Governor March 30, 2016

Introduced by Murante, 49; Craighead, 6; Garrett, 3; Hadley, 37; Harr, 8; Hilkemann, 4; Krist, 10; Morfeld, 46; Schumacher, 22; Smith, 14; Stinner, 48; Williams, 36; Watermeier, 1; Baker, 30; Campbell, 25; Kolowski, 31; Kolterman, 24; McCollister, 20; Schilz, 47.

A BILL FOR AN ACT relating to state government; to amend sections 84-712.05 and 85-106.06, Reissue Revised Statutes of Nebraska; to change provisions relating to documents which may be withheld from the public; to require notice and a public forum regarding priority candidates for certain positions at the University of Nebraska; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 84-712.05, Reissue Revised Statutes of Nebraska, is amended to read:

84-712.05 The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on February 1, 2013, and regulations adopted thereunder;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person; records of elections filed under section 44-2821; and patient safety work product under the Patient Safety Improvement Act;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person;

(6) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; lock combinations; or public utility infrastructure specifications or design drawings the public disclosure of which would create a substantial likelihood of endangering public safety or property, unless otherwise provided by state or federal law;

(9) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

(10) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private citizen account payment and customer use information, credit information on others supplied in confidence, and customer lists;

(11) Records or portions of records kept by a publicly funded library

which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(12) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

(13) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

(14) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(15) Job application materials submitted by applicants, other than finalists or a priority candidate for a position described in section 85-106.06 selected using the enhanced public scrutiny process in section 85-106.06, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant who is not an applicant for a position described in section 85-106.06 and (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants;

(16) Records obtained by the Public Employees Retirement Board pursuant to section 84-1512;

(17) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments by citizens; and

(18) Information exchanged between a jurisdictional utility and city pursuant to section 66-1867.

Sec. 2. Section 85-106.06, Reissue Revised Statutes of Nebraska, is amended to read:

85-106.06 (1) The chief executive officer of the University of Nebraska shall be appointed by the Board of Regents using the enhanced public scrutiny process in subsection (3) of this section, hold office at the pleasure of the board, and receive such compensation as the board may prescribe.

(2) The University of Nebraska-Lincoln, the University of Nebraska at Omaha, the University of Nebraska at Kearney, the University of Nebraska Medical Center, and any other postsecondary educational institution designated by the Legislature to be a part of the University of Nebraska shall be governed by the Board of Regents, and each shall be managed and administered in the manner prescribed by the board. The chief administrative officer of each such postsecondary educational institution shall be appointed, hold office, and be compensated as prescribed by the Board of Regents. The appointment shall be made using the enhanced public scrutiny process in subsection (4) of this section.

(3)(a) The Board of Regents shall provide public notice of a priority candidate for the position of chief executive officer of the University of Nebraska to be appointed pursuant to subsection (1) of this section. The public notice shall be provided at least thirty days before the date of the public meeting of the Board of Regents at which a final action or vote is to be taken on the employment of the priority candidate. The Board of Regents shall make available the employment application, resume, reference letters, and school transcripts related to the priority candidate prior to or at the time of providing such public notice.

(b) Prior to such public meeting and after the notice is provided, the Board of Regents shall provide a public forum at each campus of the University of Nebraska for the priority candidate for the position of chief executive officer to provide the public, including the media and students, faculty, and staff of the University of Nebraska, with an opportunity to meet and ask questions or provide input regarding the priority candidate.

(4)(a) The chief executive officer of the University of Nebraska shall provide public notice of a priority candidate for a position appointed pursuant to subsection (2) of this section. The chief executive officer shall not make a final appointment for any such position until at least thirty days have elapsed

after the notice is provided. The chief executive officer shall make available the employment application, resume, reference letters, and school transcripts related to the priority candidate prior to or at the time of providing such public notice.

(b) The chief executive officer shall, within such thirty-day period, provide a public forum at the applicable campus of the University of Nebraska for the priority candidate for a position appointed pursuant to subsection (2) of this section to provide the public, including the media and students, faculty, and staff of the University of Nebraska, with an opportunity to meet and ask questions or provide input regarding the priority candidate.

(5) For purposes of this section, priority candidate means an individual preliminarily selected to fill a vacancy in a position appointed pursuant to subsection (1) of this section subject to a final vote of the Board of Regents or to fill a vacancy in a position appointed pursuant to subsection (2) of this section.

Sec. 3. Original sections 84-712.05 and 85-106.06, Reissue Revised Statutes of Nebraska, are repealed.