

Washington Supreme Court says state employee birth dates are public record

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The Washington state Supreme Court ruled Thursday that the birth dates of state employees are open records. (Rachel La Corte / The Associated Press, file)



By [Joseph O'Sullivan](#)

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OLYMPIA — Government transparency and labor legislation haven't just been recent front-burner issues at the Legislature. They've often blown into pure political fire, as interest groups struggle to shift the scales of power.

On Thursday, the Washington Supreme Court ruled on a case where state sunshine law and labor interests crash right into each other.

The decision — that the birth dates of state employees are open records — already has some Democrats talking about reviving legislation to shield those workers' birth dates from disclosure.

The narrow 5-4 court ruling represents a win for transparency advocates and the state's 1972 voter-approved Public Records Act. The majority opinion penned by Justice Debra Stephens found that neither that law nor the state constitution exempts those employee birth dates from disclosure.

The case stems from a long-running fight between state employee unions — a major donor to Democrats — and a conservative group that is trying to reduce public-sector union membership. Employee birth dates in recent years have been a key piece of data in that fight.

The conservative Freedom Foundation has used public-records requests to obtain personal information about union members. The organization then uses that information to [contact members and tell them they're not obligated to pay union dues](#).

Several unions in 2016 filed motions to block disclosure of those records to the Freedom Foundation, prompting the case.

The Seattle Times, along with the Washington Coalition for Open Government and other groups, filed a brief in support of the Freedom Foundation.

Toby Nixon of the Coalition for Open Government celebrated the ruling, calling it in a statement “the right decision.”

Nixon wrote that journalists need birth dates to match different sets of records when investigating the professional, educational and criminal backgrounds of public employees.

“News media have made use of this in the past, for example, [to detect when coaches who prey on students](#) have been allowed to resign and then hired by other districts,” Nixon said.

He added: “We should not sacrifice government transparency so that public sector labor unions can make it more difficult for public employees to be contacted to inform them of their constitutional right.”

The respondents — which included the Washington Public Employees Association (WPEA) — argued among other things that their members have a right to privacy under state law and the state constitution.

The WPEA represents more than 4,000 workers at a range of public institutions, including the Department of Revenue, the Department of Natural Resources, the Liquor

and Cannabis Board, the State School for the Blind, the Washington State Patrol and 15 community colleges.

In a statement, WPEA President Kent Stanford said his organization was “deeply disappointed” in the decision. Union employees, Stanford said, should have privacy protections to shield them from harassment, identity theft, data breaches — and the Freedom Foundation.

“We respect and value governmental transparency, but this is a blatant attempt by secretly-funded, politically-motivated, anti-public service special interests to intimidate and destroy the privacy of public employees in order to fuel their extreme anti-worker ideology,” Stanford said in prepared remarks.

In a statement, Brian Minnich, executive vice president of the Freedom Foundation, called the ruling a “great victory” for his organization and one that “upholds Washington’s strong tradition of open government.”

In a dissenting opinion, Justice Charles Wiggins wrote that the state constitution’s privacy protections should, in fact, extend to employee birth dates, which can be used in some cases to access sensitive personal information.

“The ease with which criminal actors can use these keys to unlock our personal details is shocking; the ruination it can cause is even worse,” Wiggins wrote.

“Identity theft, credit card fraud, hacking, phishing — cybercriminals use our names and birth dates to do all of this and worse,” he added. “To protect against these threats, it is critical to safeguard personally identifying information like names and birth dates.”

Thursday’s court ruling could have a short shelf life.

Some Democrats on Thursday said they’d take a look at reviving a 2018 bill that would have [exempted state employee birth dates from the Public Records Act](#).

That legislation was originally sponsored by Sen. Patty Kuderer, D-Bellevue, who said she wanted to protect state workers from identify theft and harassment.

Labor unions — who have donated hundreds of thousands of dollars to the Democratic Party in Washington and its elected officials — cheered her on. [Senate Bill 6079](#) passed the Senate, but died in the House.

In a statement Thursday, Kuderer said “The Court’s decision exposes thousands of people to great risk from cyber criminals who prize personally identifying information like birthdates.” Kuderer said the ruling would have to be evaluated before any new legislation is considered.

Sen. Sam Hunt, D-Olympia and chair of the Senate's committee dealing with state government issues, however, said that "I assume we'll take a good look" at seeing whether they would reintroduce that legislation.

Meanwhile, House Democrats are also open to potentially shielding state-worker birth dates through legislation, according to House Majority Floor Leader Rep. Monica Stonier, D-Vancouver.

Said Stonier: "I think we would support moving that forward."

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