



89 Main Street, Suite 4
Montpelier, VT 05602

Tel..... (802) 229-9111
Fax..... (802) 229-2211
Email ... info@vlct.org
Web..... www.vlct.org

VERMONT LEGISLATURE'S PUBLIC RECORDS STUDY COMMITTEE

Testimony of
Steven E. Jeffrey, Executive Director
Vermont League of Cities and Towns
Friday, October 10, 2014

1. 24 V.S.A. 1884, Confidential registry

The books of registry held by the treasurer of the municipal corporation or other designated register shall be confidential and the information contained therein shall not be available to the public. (Added 1983, No. 24, § 1, eff. April 6, 1983.)

Comparable language is in the Municipal Bond Bank statutes:

24 § 4643. Form of issuance

(c) The books of registry held by the state treasurer or other designated register shall be confidential and the information contained therein shall not be available to the public. (Added 1969, No. 216 (Adj. Sess.), § 3, eff. March 27, 1970; amended 1983, No. 12, § 4, eff. March 29, 1983.)

Checked with Paul Giuliani, municipal bond counsel for some 40 years. Father was chair of House Ways and Means Committee at time of enactment and had been bond counsel prior to Paul's tenure. Paul cannot think of a good reason why they are other than protecting the confidentiality of bond holders, possibly following the reasoning behind (c)(10) exemption (public or private gain).

Awaiting response from Municipal Securities Rulemaking Board staff member to see if there is good reason and how widespread such legislation is, and whether it was enacted ("Vermont Municipal Bond Registration Act" added Subchapter 4 of Chapter 53, including this section in 1983).

Also awaiting a response from Bob Giroux at the Vermont Municipal Bond Bank.

Sponsor of:

VLCT Health Trust, Inc.

VLCT Municipal Assistance
Center

VLCT Property and Casualty
Intermunicipal Fund, Inc.

VLCT Unemployment
Insurance Trust, Inc.

2. 1 V.S.A. 317(c)(15)

records relating specifically to negotiation of contracts including collective bargaining agreements with public employees

Adversarial relationship. Need level playing field. Unions not subject to same requirements.

Would be concerned that negotiating strategy of public bodies or agencies may well become less democratic if exemption is eliminated. Delegated to one person to develop positions of public agency so no communications are written. Less planning and consideration of implications of possible bargaining positions.

Committee may want to consider requiring disclosure of documents exchanged at bargaining sessions by both parties after offered. VLCT reserves its position on such a concept but wanted to throw out a possible idea for the committee to consider.

3. 1 V.S.A. 317(c)(17)

records of interdepartmental and intradepartmental communications in any county, city, town, village, town school district, incorporated school district, union school district, consolidated water district, fire district, or any other political subdivision of the State to the extent that they cover other than primarily factual materials and are preliminary to any determination of policy or action or precede the presentation of the budget at a meeting held in accordance with section 312 of this title

Court decision on the exemption best states reason for exemption: "[t]he salutary purpose of the exception is to allow decision makers access to the full spectrum of competing ideas that the promise of candor encourages and the specter of public scrutiny chills before voting or otherwise choosing a particular course."

Echo my remarks made on exemption 15 about making municipal decision-making less democratic by chilling conversation and group consideration of innovative ways of dealing with the many challenges -- budgetary as well as policy development and service delivery.

Could open towns to accusations of bargaining in bad faith (unfair labor practice under MERA) if management negotiating team member was to throw out an idea for the first time at the bargaining session and then decide against it

4. 1 V.S.A. 317(c)(10)

lists of names compiled or obtained by a public agency when disclosure would violate a person's right to privacy or produce public or private gain; provided, however, that this section does not apply to lists which are by law made available to the public, or to lists of professional or occupational licensees

Checked with several town clerks. Could not find anyone who felt comfortable using the exemption to deny access. Courts have found you can't ask why people want records so difficult to determine intent is to make profit.

Listers have an issue with providing personal resident property information gathered for development of valuation and grand list (photos, alarm systems).

Don't have a good example of how this exemption protects municipal records. However, would not advocate for its repeal.