

HOUSE BILL REPORT

HB 1444

As Passed Legislature

Title: An act relating to protection of proprietary or confidential information acquired through state health services purchasing.

Brief Description: Protecting proprietary or confidential information acquired through state health services purchasing.

Sponsors: By Representatives Haigh, Eickmeyer, Clibborn, Dickerson, Rockefeller and Morrell.

Brief History:

Committee Activity:

State Government: 2/18/03, 2/21/03 [DP].

Floor Activity:

Passed House: 3/10/03, 95-0.

Senate Amended.

Passed Senate: 4/15/03, 49-0.

House Concurred.

Passed House: 4/23/03, 98-0.

Passed Legislature.

Brief Summary of Bill

- An existing exemption from public inspection of certain records held by the Health Care Authority is retained when transferred to another state purchased health care program or to a technical review committee created to facilitate implementation of state purchased health care. Proprietary data, trade secrets or other information relating to state purchased health care submitted by any vendor to the Department of Social and Health Services (DSHS) is also exempt from disclosure.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass. Signed by 9 members: Representatives Haigh, Chair; Miloscia, Vice Chair; Armstrong, Ranking Minority Member; Shabro, Assistant Ranking Minority Member; Hunt, McDermott, Nixon, Tom and Wallace.

Staff: Marsha Reilly (786-7135).

Background:

The open public records law was approved by state voters in 1972 as part of Initiative Measure No. 276. All public records of state agencies and local governments are open to public inspection and copying unless it is expressly excluded by law. This disclosure requirement is liberally construed and any exception is narrowly construed.

A person's right to privacy is invaded or violated only if disclosure of information about the person: 1) is highly offensive to a reasonable person, and 2) is not of legitimate concern to the public. Beyond that, only those records expressly identified are considered exempt from disclosure.

The Health Care authority (Authority) is responsible for studying all state-purchased health care, alternative health care delivery systems, and strategies for the procurement of health care services, and making recommendations aimed at minimizing the financial burden which health care poses on the state. The Authority is also expected to implement state initiatives, joint purchasing strategies, cost-control strategies, and techniques for efficient administration that have potential application to all state-purchased health services.

The Authority may not disclose 1) proprietary data, trade secrets, and other information relating to a bid, or 2) actuarial formulas, statistics, cost and utilization data, or other proprietary information submitted at the request of the Authority or the Public Employees' Benefits Board (Board) by a contracting insurer, health care service contractor, health maintenance organization, or vendor. Further, the Board may hold an executive session when discussing this confidential information.

Summary of Bill:

The Open Public Meetings Act is changed to allow an executive session to be called when a governing board considers proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services. In addition to the Public Employees Benefits Board, a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care may hold an executive session in accordance with the Open Public Meetings Act.

The current exemption from public disclosure is broadened to include proprietary data, trade secrets, or other information solicited for the development, acquisition, or implementation of state purchased health care services, as long as it is requested to be

confidential by the respondent. All exempted information remains exempt from public disclosure upon transfer to another state purchased health care program or to a committee created to facilitate the development, acquisition, or implementation of state purchased health care.

Proprietary data, trade secrets, or other information relating to a vendor's unique methods of conducting business, unique product or service data, or price determinations or rates when submitted to the Department of Social and Health Services for the development, acquisition, or implementation of state purchased health care is also exempt from public disclosure.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The Authority administers and operates the Board, as well as the basic health care plan. Its primary mission is to provide access to quality health care that is affordable. In order to provide affordable health care, the Authority must evaluate all possible options. Evaluative information requested by the Authority would not be provided unless confidentiality is provided.

Testimony Against: None.

Testified: Representative Haigh, prime sponsor; and Dennis Martin, Health Care Authority.