

SENATE BILL REPORT

SB 5421

As Passed Senate, February 15, 2023

Title: An act relating to exempting benefit enrollment information collected and maintained by the health care authority from public inspection and copying under the public records act.

Brief Description: Exempting benefit enrollment information collected and maintained by the health care authority from public inspection and copying under the public records act.

Sponsors: Senators Conway and Van De Wege.

Brief History:

Committee Activity: State Government & Elections: 1/24/23, 1/27/23 [DP].

Floor Activity: Passed Senate: 2/15/23, 49-0.

Brief Summary of Bill

- Exempts personal, demographic, and documentary information of individuals used to enroll in the Public Employee Benefits Board and the School Employees' Benefits Board from public disclosure requirements.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: Do pass.

Signed by Senators Hunt, Chair; Valdez, Vice Chair; Wilson, J., Ranking Member; Dozier, Fortunato, Hasegawa and Kuderer.

Staff: Samuel Brown (786-7470)

Background: Public Records Act. The Public Records Act (PRA), enacted in 1972 as part of Initiative 276, requires all state and local government agencies to make all public records available for public inspection and copying, unless certain statutory exemptions apply. Over 500 specific references in the PRA or other statutes remove certain information from

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application of the PRA, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential. The provisions requiring public records disclosure must be interpreted liberally, while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

Employment and Licensing Information. There are several statutory exemptions from public disclosure for records related to employment and licensing information. These exemptions include information held by a government agency in personnel and volunteer records for active employees or volunteers, such as residential addresses, telephone numbers, electronic mail addresses, and social security numbers.

Information voluntarily submitted to a state agency or higher education institution that identifies an individual's race or ethnicity, sexual orientation, national origin, or disability status is also exempt from the PRA's disclosure requirements. The exemption does not apply to deidentified or aggregated information.

The Public and School Employees' Benefits Boards. The Health Care Authority (HCA), through the Public Employee Benefits Board (PEBB), provides medical benefits for retired employees of the state, participating local governments, and school employees covered by the School Employees' Benefits Board (SEBB).

Summary of Bill: The following information collected and maintained by HCA as director of PEBB and SEBB is exempt from public disclosure requirements, except in deidentified or aggregate formats:

- addresses, phone numbers, e-mail addresses, social security numbers, driver's license or identicaid numbers, and emergency contact information;
- personal demographic details such as race, ethnicity, sexual orientation, immigration status, national origin, or status as a person with a disability;
- benefit elections;
- documents such as tax returns, or marriage or birth certificates used to verify dependency;
- marital status;
- primary language spoken;
- tobacco use status; and
- tribal affiliation.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There has been recent privatization of Medicare and an interest in getting information from retired people who participate in Washington's state level retiree health care plan. This data should not be accessed by people who are interested in marketing programs to retirees. Because HCA acts as the employer in collecting data for PEBB and SEBB, the data is not guaranteed to be considered personal health information and is not guaranteed to be subject to HIPAA. There is an exemption from the PRA for voluntarily submitted information that identifies individual state employees and personal demographic details, but it does not apply to K-12 employees or retirees. This bill will extend that exemption to those employees and retirees so that personal demographic data is protected as it is for the rest of enrollees.

Persons Testifying: PRO: Senator Steve Conway, Prime Sponsor; Shawn O'Neill, Washington State Health Care Authority.

Persons Signed In To Testify But Not Testifying: No one.