

FINAL BILL REPORT

HB 1444

C 277 L 03

Synopsis as Enacted

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

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

House Committee on State Government
Senate Committee on Health & Long-Term Care

Background:

Under the Open Public Meetings Act of 1971 (Act), all meetings of a governing board of a public agency are open to the public. Actions taken at meetings that do not comply with the Act are null and void. Governing boards may hold executive sessions out of the public eye for certain purposes, such as consideration of matters of national security; consideration of real estate matters when public knowledge may result in an increased price of a property; or, in the case of the State Investment Board, consideration of financial and commercial information relating to the public trust or retirement funds when knowledge of the discussion would result in a loss of funds.

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 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 for 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:

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 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.

Votes on Final Passage:

House 95 0
Senate 49 0 (Senate amended)
House 98 0 (House concurred)

Effective: July 27, 2003