

HOUSE BILL REPORT

HB 1444

As Amended by the Senate

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.

Brief Summary of Bill

- An existing exemption from public inspection of certain records held by the Washington State Health Care Authority (Authority) is retained when transferred to another state purchased health care program or to a committee created to facilitate implementation of state purchased health care.

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 Authority may not disclose: 1) proprietary data, trade secrets, and other information relating to a bid; or 2) actuarial formulas, statistics, costs 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.

The Open Public Meetings Act (Act) identifies circumstances in which a governing body may hold executive sessions.

Summary of Bill:

The Act is changed to allow an executive session to be called when a governing board considers proprietary or confidential non-published information related to the development, acquisition, or implementation of state purchased health care services. In addition to the Board, any committee or entity created to facilitate the development, acquisition, or implementation of state purchased health care may hold an executive session in accordance with the Act.

The current exemption 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.

A person who challenges a request for, or designation of, exempt information may seek judicial review.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment changes "any committee" to "technical review committee" as it refers to nondisclosable health care materials. The Senate amendment also adds an exemption of proprietary data, trade secrets, or other information submitted by any

vendor to the Department of Social and Health Services for the purposes of the development, acquisition, or implementation of state purchased health care that relates to:

- A vendor's unique methods of conducting business;
- Data unique to the product or services of the vendor; or
- Determining prices or rates to be charged for services.

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.