

SENATE BILL REPORT

SHB 2407

As Reported by Senate Committee On:
Labor, Commerce & Consumer Protection, February 23, 2012

Title: An act relating to claims resolution structured settlement agreements.

Brief Description: Restricting the use of information related to claims resolution structured settlement agreements.

Sponsors: House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Roberts, Green, Ormsby, Reykdal, Moeller, Upthegrove and Maxwell).

Brief History: Passed House: 2/11/12, 53-39.

Committee Activity: Labor, Commerce & Consumer Protection: 2/21/12, 2/23/12 [DP, DNP, w/oRec].

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: Do pass.

Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

Minority Report: Do not pass.

Signed by Senator Holmquist Newbry, Ranking Minority Member.

Minority Report: That it be referred without recommendation.

Signed by Senators King, Assistant Ranking Minority Member; Hewitt.

Staff: Mac Nicholson (786-7445)

Background: The Public Records Act (PRA) requires that all state and local government agencies make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally, and the exemptions narrowly, in order to effectuate a general policy favoring disclosure.

Workers who, in the course of employment, are injured or disabled from an occupational disease are entitled to benefits. Depending on the disability, workers are entitled to medical, temporary time-loss, and vocational rehabilitation benefits, as well as benefits for permanent disabilities. Certain injured workers can resolve their industrial insurance claims through claims resolution structured settlements agreements. The Board of Industrial Insurance

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Appeals (BIIA) must approve all settlement agreements. Unrepresented workers must have a conference with an industrial appeals judge to determine whether the agreement is in the worker's best interest before submitting the agreement to BIIA.

Summary of Bill: All information related to individual claims resolution structured settlement agreements submitted to BIIA is exempt from public disclosure under the PRA. Final orders from the BIIA are not exempt.

Information gathered during the settlement agreement process is considered a statement made in the course of compromise negotiations and is inadmissible in any further litigation.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This is an issue about privacy rights. When a person is seeking a structured settlement, a great deal of personal and financial information is made available. This bill limits what is publicly accessible to that information that is part of the final order. Exposing too much personal information could lead to reluctance to pursue structured settlement. This bill finds a good balance and addresses an issue that arose as the Department of Labor and Industries (L&I) and the BIIA were putting together the rules to implement structured settlements. The PRA must be amended to protect information that is brought to the settlement negotiation process. This bill does nothing to change the structured settlement process created last session, and will help make sure workers submit all relevant information.

CON: The bill is well intended but is a bit premature. Settlement agreements are just starting to come online, so to suspect problems requiring legislation is conjectural at this point. Concerns can be dealt with as they arise. The bill isn't drafted narrowly; it exempts all information. This may allow the withholding of information relevant to the ongoing management of the claim.

Persons Testifying: PRO: Representative Roberts, prime sponsor; Vickie Kennedy, L&I; Teresa Mosqueda, WA State Labor Council; David Lauman, WA Assn. for Justice.

CON: Kris Tefft, Assn. of WA Business.