

# HOUSE BILL REPORT

## SB 6522

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### As Reported by House Committee On: Labor & Workforce Development

**Title:** An act relating to restricting the use of personal information gathered during the claims resolution structured settlement agreement process.

**Brief Description:** Restricting the use of personal information gathered during the claims resolution structured settlement agreement process.

**Sponsors:** Senators Holmquist Newbry and Conway.

#### **Brief History:**

##### **Committee Activity:**

Labor & Workforce Development: 2/25/14 [DP].

#### **Brief Summary of Bill**

- Exempts information related to industrial insurance structured settlement agreements submitted to the Board of Industrial Insurance Appeals from public disclosure, except final orders.
- Provides that information gathered during the structured settlement agreement process is inadmissible in future litigation.

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### HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

**Majority Report:** Do pass. Signed by 9 members: Representatives Sells, Chair; Reykdal, Vice Chair; Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Christian, Green, G. Hunt, Moeller and Ormsby.

**Staff:** Joan Elgee (786-7106).

#### **Background:**

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

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*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.*

Workers who, in the course of employment, are injured or disabled from an occupational disease are entitled to industrial insurance 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 may resolve their industrial insurance claim by entering into a claim resolution structured settlement agreement. For workers employed by employers who insure through the State Fund, the Department of Labor and Industries (Department) negotiates settlements. An injured worker who applies to enter settlement negotiations with the Department submits information including their household income, monthly budget, and reasons for settlement. Information in the Department's claim files, including information related to settlements, is confidential and not subject to public disclosure by the Department.

The Board of Industrial Insurance Appeals (BIIA) must approve structured settlement agreements for both employees of State Fund and self-insured employers. Settlement agreements filed with the BIIA include information about other benefits the worker receives, the life expectancy of the worker, and other information. If a worker is not represented by an attorney, an industrial insurance judge first holds a conference with the parties to determine if an agreement is in the best interest of the worker, in which case the judge may inquire into the worker's financial status, among other matters.

The BIIA does not have a specific PRA exemption. A judge's decision whether to approve an agreement entered into by an unrepresented worker, and the BIIA's decision whether to approve an agreement are final orders.

Under court rules, statements made in compromise negotiations are generally not admissible in court.

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**Summary of Bill:**

All information related to claims resolution structured settlement agreements submitted to the BIIA, except final orders, is exempt from public disclosure.

Information gathered during the structured settlement agreement process, including forms filled out by the parties and testimony during a settlement conference, is a statement made in the course of compromise negotiations and is inadmissible in future litigation.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) When structured settlements were first allowed, people had not thought about the fact that workers were being asked to provide information beyond typical workers' compensation information, such as a spouse's income or how many homes a worker has. This information may be presented at the BIIA when it decides whether to approve an agreement. The BIIA has said it is not getting the information it needs. This bill will make the 2011 legislation work better.

(Opposed) None.

**Persons Testifying:** Michael Temple, Washington State Association of Justice.

**Persons Signed In To Testify But Not Testifying:** None.