

HOUSE BILL REPORT

SSB 6499

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to protecting the confidentiality of retirement system files and records relating to health information.

Brief Description: Concerning the confidentiality of retirement system files and records relating to health information.

Sponsors: Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Senators Schoesler, Hunt, Kuderer, Becker, Conway and Hasegawa; by request of Department of Retirement Systems).

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/20/20, 2/21/20 [DP].

Brief Summary of Substitute Bill

- Exempts medical information in certain public retirement system files from public disclosure.
- Permits access to medical information in certain public retirement system files for authorized representatives, specified health care providers or physicians, and persons assisting the Department of Retirement Systems.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass. Signed by 9 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton, Dolan, Hudgins, Mosbrucker and Smith.

Staff: Carrington Skinner (786-7192).

Background:

The Public Records Act (PRA) requires all state and local governmental entities to make available to the public all public records, which are records prepared or retained by a

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governmental entity that relate to the conduct of government or the performance of governmental or proprietary functions. Records are to be disclosed regardless of the form they take unless a specific exemption applies. The PRA specifies that it is to be liberally construed; any exemptions to the disclosure requirement must be interpreted narrowly. A court may enjoin the release of a record if it determines that examination of the record would clearly not be in the public interest and would substantially and irreparably damage a person or vital government functions.

There are a number of statutory exemptions in the PRA for records that contain certain health care and medical information, including certain information collected or obtained by the Department of Health and other state agencies. The federal Health Insurance Portability and Accountability Act and related regulations also prevent the use and disclosure of certain protected health information and medical records.

Summary of Bill:

Medical information in files and records of members of retirement plans administered by the Department of Retirement Systems (DRS) or Law Enforcement Officers' and Firefighters' Plan 2 Retirement Board are confidential and exempt from public disclosure.

There are three circumstances under which medical information may be disclosed:

1. Retirement application files can be reviewed by a representative of an applicant with signed authorization of the applicant.
2. Application files and records can be inspected by health care providers treating or examining an applicant claiming disability retirement benefits or physicians giving medical advice to the DRS regarding any application.
3. Persons rendering assistance to the DRS can inspect health information in application files and records at the discretion of the DRS.

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) This bill was brought forward after working with stakeholders and DRS members about the medical information that is used for catastrophic disability at the DRS and the Department of Labor & Industries (L&I). The two departments often use the same medical information, but the same exemption for medical information at the L&I does not apply to the DRS. A summary sheet is provided for a catastrophic disability determination,

but not releasing the actual medical records is the right thing to do to safeguard member information.

(Opposed) None.

Persons Testifying: Shawn Merchant, Department of Retirement Systems.

Persons Signed In To Testify But Not Testifying: None.