
**State Government & Tribal Relations
Committee**

SB 5421

Brief Description: Exempting benefit enrollment information collected and maintained by the health care authority from public inspection and copying under the public records act.

Sponsors: Senators Conway and Van De Wege.

Brief Summary of Bill

- Exempts from disclosure under the Public Records Act benefit enrollment information, such as personal, demographic, and documentary information, collected and maintained by the Health Care Authority as director of the Public Employees Benefits Board and the School Employees Benefits Board.

Hearing Date: 3/15/23

Staff: Desiree Omli (786-7105).

Background:

The Public Records Act.

The Public Records Act (PRA), enacted in 1972 as part of Initiative 276, requires that all state and local governmental entities make all public records available to the public unless a specific exemption applies or disclosure is prohibited. Public records are records prepared or retained by a governmental entity that relate to the conduct of government or the performance of governmental or proprietary functions. The PRA must be liberally construed; any exemptions to the disclosure requirement must be interpreted narrowly. Unless statute designates certain information or records as confidential and prohibits disclosure, exemptions are permissive, meaning that an agency, although not required to disclose, has the discretion to provide an

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exempt record. Exemptions under the PRA are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be redacted from the requested records.

Employment and Licensing Information.

Certain employment and licensing information is exempt from disclosure under the PRA. Examples of the exemptions include specific information of agency employees or volunteers, or their dependents, held by any public agency in personnel records, public employment records, volunteer rosters, or included in any mailing list of employees or volunteers such as:

- residential addresses;
- residential telephone numbers;
- personal wireless telephone numbers;
- personal email addresses;
- social security numbers;
- driver's license numbers;
- identicard numbers;
- payroll deductions including the amount and identification of the deduction; and
- emergency contact information.

Additional exempt information includes voluntarily submitted information collected and maintained by a state agency or higher education institution that identifies an individual state employee's personal demographic details, defined as race or ethnicity, sexual orientation, immigration status, national origin, or status as a person with a disability. This exemption does not prevent the release of state employee demographic information in a deidentified or aggregate format.

The Public and School Employees' Benefits Boards.

The Health Care Authority (HCA) administers benefits plans, forms benefits contracts, and develops participation rules, and, through the Public Employees' Benefits Board (PEBB), approves schedules of rates and premiums, for state and participating local government employees, and for the retirees of state participating local government employers. The HCA similarly administers benefits plans for school districts, charter schools, and educational service districts through the School Employees' Benefits Board (SEBB).

Disclosure of Health Information.

Under federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) establishes nationwide standards for the use, disclosure, storage, and transfer of protected health information. Entities covered by HIPAA, which are health plans, health care clearinghouses, and health care providers, must have a patient's authorization to use or disclose health care information unless there is a specified exception. The HIPAA allows a state to establish standards that are more stringent than its provisions. In Washington, the Uniform Health Care Information Act (UHCIA) governs the disclosure of health care information by health care providers and their agents or employees. The UHCIA prohibits a health care provider from disclosing health care information about a patient unless there is a statutory exception or a

written authorization by the patient.

Summary of Bill:

The following benefit enrollment information collected and maintained by the HCA as director of PEBB and SEBB is exempt from public disclosure under the PRA, except in a deidentified or aggregate format:

- residential addresses, residential and personal wireless phone numbers, personal email addresses, social security numbers, driver's license or identicaid numbers, payroll deductions, emergency contact information, and, for dependents of employees, the dependent's name;
- date of birth;
- personal demographic details such as race, ethnicity, sexual orientation, immigration status, national origin, or status as a person with a disability;
- benefit elections;
- documents such as tax returns, or marriage or birth certificates used to verify dependency;
- marital status;
- primary language spoken;
- tobacco use status; and
- tribal affiliation.

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.