

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill No:** SB 490a

**49th Legislature, 1st Session, 2009**

**Short Title:** Educational Retirement Info Disclosure

**Sponsor(s):** Senator Stephen H. Fischmann and Others

**Analyst:** Kathleen Forrer

**Date:** March 12, 2009

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**AS AMENDED**

The Senate Judiciary Committee amendment inserts the word “knowingly” after the word “whoever” in Subsection C, thereby clarifying that a violation of the provisions set forth in the bill will be considered a petty misdemeanor only if the person committing the act knows it is a violation.

**Original Bill Summary:**

SB 490 adds a new section to the *Educational Retirement Act* to protect confidential member information from unauthorized disclosure.

SB 490 specifies that the following member information may be disclosed to anyone without prior authorization:

- the names of members;
- the names of local administrative units employing those members;
- the dates of members’ employment, retirement, and reported death;
- members’ service credit; and
- reported salary and the amounts of contributions made by both members and local administrative units.

However, SB 490 prohibits the Educational Retirement Board (ERB) and its employees and contractors from disclosing additional member information to anyone other than:

- the member, the member’s spouse, or the member’s authorized representative;
- other persons specifically identified in a prior release and consent executed by the member, the member’s spouse, or the member’s authorized representative; or
- the Attorney General, appropriate law enforcement agencies, the State Auditor, the Public Education Department (PED), or the Higher Education Department (HED), if the information provided relates to contributions, payments, or management of money received by, or the financial controls or procedures of, a local administrative unit.

In addition, SB 490:

- prohibits a person who receives confidential member information as the result of a violation from disclosing that information to any other person unless authorized by an applicable confidentiality agreement; and
- makes any violation of the provisions in the bill a petty misdemeanor.

**Fiscal Impact:**

SB 490 makes no appropriation.

**Fiscal Issues:**

According to ERB, no additional funding is required to implement the provisions in the bill.

**Issues:**

Noting that the board houses a significant amount of confidential member information, ERB states in its analysis of SB 490 that enactment would “help protect sensitive data from disclosure, without affecting the ability of the public to access appropriate records.” ERB further notes that such protection is particularly important because of the increase in identity theft.

A related bill, SB 399, amends the *Educational Retirement Act* (act) to authorize the director of ERB or the director’s designee to conduct an audit at any time of any local administrative unit in order to ensure compliance with the act and board rules. Although such audits could involve an examination of the type of confidential member information protected by SB 490, audit reports generally do not include information that is personally identifiable.

**Related Bill:**

SB 399 *Local Educational Retirement Unit Audits*