

# HOUSE BILL REPORT

## ESSB 6538

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### As Passed House - Amended:

February 28, 2010

**Title:** An act relating to the definition of small groups for insurance purposes.

**Brief Description:** Defining small groups for insurance purposes.

**Sponsors:** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser and Pflug).

### Brief History:

#### Committee Activity:

Health Care & Wellness: 2/19/10, 2/23/10 [DPA].

#### Floor Activity:

Passed House - Amended: 2/28/10, 58-36.

Senate Refused to Concur.

Passed House - Amended: 3/9/10, 61-36.

### Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Changes the small group market from two to 50 employees, to one to 50 employees.
- Provides a contingent effective date of 180 days after the Insurance Commissioner certifies the President of the United States has signed federal legislation that include guaranteed issue for individuals purchasing health coverage in the individual or small group market.
- Provides a null and void clause if federal legislation including guaranteed issue for individuals in the individual or small group market is not signed by the President by December 31, 2010.
- Provides a definition of "census date" for the purpose of establishing the date health carriers base rate calculations for small employer health coverage.

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## HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

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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.*

**Majority Report:** Do pass as amended. Signed by 7 members: Representatives Cody, Chair; Clibborn, Green, Kelley, Moeller, Morrell and Pedersen.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey, Campbell, Herrera and Hinkle.

**Staff:** Dave Knutson (786-7146).

**Background:**

Prior to 2004 the small group health insurance market included businesses with one to 50 employees. In 2004 a number of changes were made to the small group insurance statutes, including changing the small group size from one to 50 employees, to businesses with two to 50 employees. Licensed insurance products available to small groups are subject to a number of laws, including minimum benefit requirements, and rating and pooling requirements. Groups of one who purchased health insurance coverage in the small group market prior to June 10, 2004, were grandfathered into the small group. Small group policies are guaranteed issue, which means they are available to every person in the small group without any health screening. Individuals purchasing health insurance through the individual market are required to complete the standard health questionnaire, unless they are transitioning from other qualified coverage.

**Summary of Amended Bill:**

Effective January 1, 2011, the definition of small employer or small group for insurance purposes is changed to a group that has between one and 50 employees. Provisions grandfathering the sole proprietors or self-employed that had small coverage prior to June 2004 are removed. Individuals who are self-employed and sole proprietors must show they have been employed by the same small employer for at least 12 months prior to application for small group coverage, and verify that they derived at least 75 percent of their income from a trade or business and filed the appropriate Internal Revenue Service (IRS) form 1040 for the previous taxable year. A self-employed person or sole proprietor in an agricultural trade or business must have derived at least 51 percent of income from the business and filed the appropriate IRS form for the previous taxable year. The bill goes into effect 180 days after the Insurance Commissioner certifies that the President of the United States has signed federal legislation that include guaranteed issue for individuals purchasing health coverage in the individual or small group market.

If the President does not sign federal legislation by December 31, 2010 that provides guaranteed issue for individuals purchasing health coverage, the change in the size of the small group market is null and void.

A definition of "census date" is provided that applies to coverage for small employers. For a small employer applying for a health benefit plan through a contractor other than its current contractor, the census date is the date that final group composition is received by the contractor. For a small employer renewing its health benefit plan through its existing contractor, the census date is 90 days prior to the effective date of the renewal.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed, except sections 1 and 2, relating to changing the size of small group markets from a group of two to 50 to a group of one to 50, which has a contingent effective date of 180 days after the Insurance Commissioner certifies the President of the United States has signed federal legislation that include guaranteed issue for individuals purchasing health coverage in the individual or small group market. However, sections 1 and 2 are null and void if not signed by the President by December 31, 2010.

**Staff Summary of Public Testimony:**

(In support) Sole proprietors and entrepreneurs should be allowed to purchase health coverage through the small group market. Rates in the individual market are too high, and there should be flexibility to purchase coverage in either the individual or small group market.

(Opposed) Opening the small group market to groups of one would allow individuals to game the system and select the coverage most advantageous to them. This will lead to adverse selection in the small group market and will drive up rates for everyone else who purchases health coverage. The small group market is a very fragile health insurance market and this proposal will destabilize it further.

**Persons Testifying:** (In support) Senator Keiser, prime sponsor; Senator Pflug; Bill Daley, Washington Community Action Network; Alexandra Immel, Washington Small Business For Secure Healthcare; Louise Chernin, Greater Seattle Business Association; and Mona Smith, Mona Smith PLLC.

(Opposed) Pam MacEwan and Joe King, Group Health Cooperative; Sydney Zvara, Association of Washington Healthcare Plans; Steve Gano, Premera Blue Cross; Mel Sorensen, America's Health Insurance Plans; and Gary Smith, Independent Business Association.

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