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SUBSTITUTE HOUSE BILL 1740

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State of Washington

62nd Legislature

2011 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Schmick, Jinkins, and Hinkle; by request of Governor Gregoire)

READ FIRST TIME 02/25/11.

1       AN ACT Relating to the creation of a health benefit exchange;  
2 adding new sections to chapter 41.05 RCW; and creating new sections.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4       NEW SECTION. **Sec. 1.** The legislature finds that the affordable  
5 care act requires the states to establish health benefit exchanges.  
6 The legislature intends to establish an exchange, including a  
7 governance structure that will be in place no later than July 1, 2012.  
8 There are many unanswered questions associated with establishing an  
9 exchange that will take a great deal of effort and expertise to answer.  
10 It is therefore the intent of the legislature to establish a process  
11 through which these questions can be answered in order to provide the  
12 legislature and the governor with the information they need to  
13 establish a health benefit exchange in Washington by the deadline  
14 established in the affordable care act.

15       NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW  
16 to read as follows:

17       The state shall establish a health benefit exchange consistent with

1 the federal affordable care act, P.L. 111-148, to begin operations no  
2 later than January 1, 2014, and intended to:

3       (1) Increase access to quality affordable health care coverage,  
4 reduce the number of uninsured persons in Washington state, and  
5 increase the availability of health care coverage through the private  
6 health insurance market to qualified individuals and small employers;

7       (2) Provide consumer choice and portability of health insurance,  
8 regardless of employment status;

9       (3) Create an organized, transparent, and accountable health  
10 insurance marketplace for Washingtonians to purchase affordable,  
11 quality health care coverage, to claim available federal refundable  
12 premium tax credits and cost-sharing subsidies, and to meet the  
13 personal responsibility requirements for minimum essential coverage as  
14 provided under the federal affordable care act;

15       (4) Promote consumer literacy and empower consumers to compare  
16 plans and make informed decisions about their health care and coverage;

17       (5) Effectively and efficiently administer health care subsidies  
18 and determination of eligibility for participation in publicly  
19 subsidized health care programs, including the exchange;

20       (6) Create a health insurance market that competes on the basis of  
21 price, quality, service, and other innovative efforts;

22       (7) Operate in a manner compatible with efforts to improve quality,  
23 contain costs, and promote innovation;

24       (8) Recognize the need for a private health insurance market to  
25 exist outside of the exchange and the need for a regulatory framework  
26 that applies both inside and outside of the exchange; and

27       (9) Recognize that the regulation of the health insurance market,  
28 both inside and outside the exchange, should continue to be performed  
29 by the insurance commissioner.

30           NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05 RCW  
31 to read as follows:

32       The health benefit exchange shall be governed by a public-private  
33 partnership, with a governing board, whose structure shall be  
34 established in legislation by July 1, 2012. Meetings of the board  
35 shall be subject to the open public meetings act, chapter 42.30 RCW.

1        NEW SECTION.    **Sec. 4.**    The definitions in this section apply  
2 throughout sections 1 and 4 through 6 of this act, unless the context  
3 clearly requires otherwise. Terms and phrases used in sections 1 and  
4 4 through 6 of this act that are not defined in this section must be  
5 defined as consistent with implementation of a state health benefit  
6 exchange pursuant to the affordable care act.

7            (1) "Affordable care act" means the federal patient protection and  
8 affordable care act, P.L. 111-148, as amended by the federal health  
9 care and education reconciliation act of 2010, P.L. 111-152, or federal  
10 regulations or guidance issued under the affordable care act.

11           (2) "Authority" means the Washington state health care authority,  
12 established under chapter 41.05 RCW.

13           (3) "Commissioner" means the insurance commissioner, established in  
14 Title 48 RCW.

15           (4) "Exchange" means a state health benefit exchange pursuant to  
16 the affordable care act.

17        NEW SECTION.    **Sec. 5.** (1)(a) In consultation with the joint select  
18 committee on health reform implementation, the authority shall apply  
19 for planning and establishment grants pursuant to the affordable care  
20 act. Whenever possible, planning and establishment grant applications  
21 shall allow for the possibility of partially funding the activities of  
22 the joint select committee on health reform implementation.

23           (b) The authority, in consultation with the joint select committee  
24 on health reform implementation, shall implement provisions of the  
25 planning and establishment grants as approved by the United States  
26 secretary of health and human services.

27           (2) By January 1, 2012, the authority, in consultation with the  
28 joint select committee on health reform implementation, shall develop  
29 a broad range of options for establishing and implementing a state-  
30 administered health benefit exchange. The options must include  
31 analysis and recommendations on the following:

32           (a) The structure of the public-private partnership that will  
33 govern the exchange, operations of the exchange, and administration of  
34 the exchange, including:

35              (i) The goals and principles of governing the exchange;

36              (ii) The creation and implementation of a single state-administered

1 exchange for all geographic areas in the state that operates as the  
2 exchange for both the individual and small employer markets by January  
3 1, 2014;

4 (iii) Whether and under what circumstances the state should  
5 consider establishment of a regionally administered multistate exchange  
6 as an option after implementation of the single state-administered  
7 exchange;

8 (iv) Whether the role of an exchange includes serving as an  
9 aggregator of funds that comprise the premium for a health plan offered  
10 through the exchange;

11 (v) The administrative, fiduciary, accounting, contracting, and  
12 other services to be provided by the exchange;

13 (vi) Coordination of the exchange with other state programs;

14 (vii) Development of sustainable funding for administration of the  
15 exchange as of January 1, 2015; and

16 (viii) Recognizing the need for expedience in determining the  
17 structure of needed information technology, the necessary information  
18 technology to support implementation of exchange activities.

19 (b) Whether to adopt and implement a federal basic health plan  
20 option as authorized in the affordable care act, whether the federal  
21 basic health plan option should be administered by the entity that  
22 administers the exchange or by a state agency, and whether the federal  
23 basic health plan option should merge risk pools for rating with any  
24 portion of the state's medicaid program;

25 (c) Individual and small group market impacts, including whether  
26 to:

27 (i) Merge the risk pools for rating the individual and small group  
28 markets in the exchange and the private health insurance markets; and

29 (ii) Increase the small group market to firms with up to one  
30 hundred employees;

31 (d) Creation of a competitive purchasing environment for qualified  
32 health plans offered through the exchange, including promoting  
33 participation in the exchange to a level sufficient to provide  
34 sustainable funding for the exchange;

35 (e) Certifying, selecting, and facilitating the offer of individual  
36 and small group plans through an exchange, to include designation of  
37 qualified health plans and the levels of coverage for the plans;

38 (f) The role and services provided by producers and navigators;

1       (g) Effective implementation of risk management methods:  
2 Reinsurance, risk corridors, risk adjustment, to include the entity  
3 designated to operate reinsurance and risk adjustment, and the  
4 continuing role of the Washington state health insurance pool;

5       (h) Participation in innovative efforts to contain costs in  
6 Washington's markets for public and private health care coverage;

7       (i) Providing federal refundable premium tax credits and reduced  
8 cost-sharing subsidies through the exchange, including the processes  
9 and entity responsible for determining eligibility to participate in  
10 the exchange and the cost-sharing subsidies provided through the  
11 exchange;

12      (j) The staff, resources, and revenues necessary to operate and  
13 administer an exchange for the first two years of operation; and

14      (k) Any other areas identified by the joint select committee on  
15 health reform implementation.

16      (3)(a) In consultation with the joint select committee on health  
17 reform implementation, the authority shall develop a work plan for the  
18 development of options under subsection (2) of this section in  
19 discrete, prioritized stages.

20      (b) The joint select committee on health reform implementation may  
21 submit to the authority specific questions pertaining to the  
22 establishment of a health benefit exchange under section 2 of this act.

23      (4) The authority shall consult with the commissioner, the joint  
24 select committee on health reform implementation, and stakeholders  
25 relevant to carrying out the activities required under this section,  
26 including: (a) Educated health care consumers who are enrolled in  
27 commercial health insurance coverage and publicly subsidized health  
28 care programs; (b) individuals and entities with experience in  
29 facilitating enrollment in health insurance coverage, including health  
30 carriers, producers, and navigators; (c) representatives of small  
31 businesses, employees of small businesses, and self-employed  
32 individuals; (d) advocates for enrolling hard to reach populations and  
33 populations enrolled in publicly subsidized health care programs; (e)  
34 the office of the insurance commissioner; (f) publicly subsidized  
35 health care programs; and (g) members in good standing of the American  
36 academy of actuaries.

37      NEW SECTION. **Sec. 6.** (1) The authority may enter into:

1           (a) Information sharing agreements with federal and state agencies  
2 and other state exchanges to carry out the provisions of this act:  
3 PROVIDED, That, such agreements include adequate protections with  
4 respect to the confidentiality of the information to be shared and  
5 comply with all state and federal laws and regulations; and

6           (b) Interdepartmental agreements with the office of the insurance  
7 commissioner, the department of social and health services, the  
8 department of health, and any other state agencies necessary to  
9 implement this act.

10          (2) To the extent funding is available, the authority shall:

11           (a) Provide staff and resources to implement this act;

12           (b) Manage and administer the grant and other funds;

13           (c) Expend funds specifically appropriated by the legislature to  
14 implement the provisions of this act; and

15           (d) Adopt all rules necessary for the implementation of this act.

16 All rules must be adopted in accordance with chapter 34.05 RCW.

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