

# SENATE BILL REPORT

## SB 6458

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As of February 5, 2014

**Title:** An act relating to repealing provisions that establish the office of the insurance commissioner and replacing that office with a Washington state insurance board.

**Brief Description:** Repealing provisions that establish the office of the insurance commissioner and replacing that office with a Washington state insurance board.

**Sponsors:** Senators Becker, Angel, Dammeier, Brown, Tom, Schoesler, Bailey, Braun, Hill, Baumgartner, Litzow, Parlette and Honeyford.

**Brief History:**

**Committee Activity:** Health Care: 2/03/14.

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### SENATE COMMITTEE ON HEALTH CARE

**Staff:** Mich'l Needham (786-7442)

**Background:** The Washington State Insurance Commissioner was established as a statewide elected position in 1907. The Commissioner serves four-year terms.

Eleven states, including Washington, have an insurance regulator that is elected. In eight states, the insurance regulator is appointed by an official other than the Governor. In the majority of states, the Governor makes the appointment.

**Summary of Bill:** The State Insurance Board (Board) is established effective January 1, 2015, and the position of the Insurance Commissioner is repealed. The Board assumes all responsibilities of the Commissioner beginning January 1, 2015, and must appoint a director to assume the Commissioner's duties and responsibilities.

The Board is comprised of ten members. Each caucus of the Legislature must submit three nominees to the Governor by July 1, 2014. The Governor must appoint members by October 15, 2014, from designated nominees. The nominees must include the following representatives: one insurance specialist, one economist or actuary, one consumer advocate, and one small business. Remaining nominees must include expertise in insurance administration, market services, consumer services, actuarial science, economics, financial services, or regulation. In addition, the Director of the Department of Financial Institutions

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serves as a nonvoting member, as does the chair. Members serve two-year terms, except the initial appointment of five members must be for one year.

Board members must not have a conflict of interest, which is described as a financial interest for themselves or the entity they represent. Board members must be reimbursed for travel while on official business. The Board must establish an advisory committee to capture the views of the insurance industries and other stakeholders, and may establish technical advisory committees.

All powers, duties, and functions of the Office of Insurance Commissioner (OIC) are transferred to the Board, including all property, documents, employees, and appropriations.

With the effective date of the act, OIC must cease all rulemaking activities. The Board may adopt rules beginning January 1, 2015.

The following laws are repealed effective January 1, 2015: establishment of the Insurance Commissioner, terms of office, bond for office, and the seal of the Commissioner.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed; and sections 2, 4, and 5 take effect January 1, 2015.

**Staff Summary of Public Testimony:** PRO: OIC is not established in the constitution and it is a good time to discuss the status of some agencies. Some people feel they are not being listened to and it is a goal to create an environment where people have broader representation so I modeled this board after the Exchange Board that we created a few years ago. I was impacted by a decision the Commissioner made when he approved plans to sell generic only prescriptions and then revoked that approval. The coverage with full prescription coverage was much more expensive so we went with none at all. It seems unreasonable to me that one person can make changes without additional review. It increases the chance of errors.

CON: The Insurance Commissioner is accountable to the citizens that elect that position and the Legislature, since the Commissioner can only implement and enforce the laws that are passed by the Legislature. Federal law did require changes to the pharmacy coverage and that trumped any previous state decisions. This bill would change the authority to an unelected board, add layers of bureaucracy, and impede citizen's access. The OIC model has been the best structure to ensure consumer safety while holding plans accountable for benefits, rates, and network adequacy. The public rulemaking process requires a public vetting of rules consistent with the Administrative Procedure Act. Moving the authority to an unelected board leaves no single point of accountability, as we have seen with the Exchange Board. Consumers are well served by having an elected official directly accountable to them. This is the most responsive model there is. There is a strong bipartisan tradition of holding this office independently accountable to voters. It is a tricky balance to ensure solvent

insurance markets while balancing the interests of consumers. Across the country, this model has been the most successful balancing solvency needs with consumers' needs. The insurance industry is the only industry exempt from anti-trust laws, and it needs strong regulatory oversight provided by an independently elected official that is accountable to the voters directly.

**Persons Testifying:** PRO: Senator Becker, prime sponsor; Kate Nichols, citizen.

CON: Mary Clogston, American Assn. of Retired Persons, WA Chapter; Teresa Mosqueda, WA State Labor Council; Misha Werschkul, Service Employees International Union Healthcare 775; Mary McHale, American Cancer Society Cancer Action Network; Larry Shannon, WA State Assn. for Justice; Brad Tower, Optometric Physicians of WA.