

# SENATE BILL REPORT

## ESHB 2408

---

As Reported by Senate Committee On:  
Health & Long Term Care, February 22, 2018  
Ways & Means, February 26, 2018

**Title:** An act relating to preserving access to individual market health care coverage throughout Washington state.

**Brief Description:** Preserving access to individual market health care coverage throughout Washington state.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Goodman, Johnson, Slatter, Tharinger, Stanford, Macri, Ormsby, Doglio and Appleton).

**Brief History:** Passed House: 2/14/18, 98-0.

**Committee Activity:** Health & Long Term Care: 2/19/18, 2/22/18 [DPA-WM, DNP, w/oRec].

Ways & Means: 2/24/18, 2/26/18 [DPA(HLTC), DNP].

### Brief Summary of Amended Bill

- Requires health carriers to offer qualified health plans (QHPs) in counties where it offers a health plan approved by the School Employees' Benefits Board (SEBB) or the Public Employees' Benefits Board (PEBB).
- Allows, until December 31, 2019, an individual to purchase a health plan through the Washington State Health Insurance Pool at a reduced rate if there are no available QHPs in the individual's county of residence, but within the same geographic rating area.

---

### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Kuderer, Vice Chair; Conway, Keiser, Mullet and Van De Wege.

**Minority Report:** Do not pass.

Signed by Senator Fain.

---

*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.*

**Minority Report:** That it be referred without recommendation.  
Signed by Senators Rivers, Ranking Member; Bailey and Becker.

**Staff:** Evan Klein (786-7483)

---

## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended by Committee on Health & Long Term Care.  
Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker and Van De Wege.

**Minority Report:** Do not pass.  
Signed by Senators Braun, Ranking Member; Honeyford, Assistant Ranking Member; Bailey, Becker, Brown, Fain, Rivers, Schoesler, Wagoner and Warnick.

**Staff:** Sandy Stith (786-7710)

**Background:** Individual Market Coverage. Individuals may purchase health insurance through the Washington Health Benefit Exchange (Exchange) or in the individual market outside of the Exchange. Most individual market plans are subject to a variety of federal and state requirements, including minimum actuarial values, rate review, and benefit mandates. Most individual plans must be offered in actuarial value tiers: Bronze—60 percent, Silver—70 percent, Gold—80 percent, and Platinum—90 percent.

Through the Exchange, individuals may compare and purchase individual coverage, access premium subsidies, and apply for Medicaid coverage. Premium subsidies are available to individuals between 100 percent and 400 percent of the federal poverty level. Cost sharing reductions are available to individuals between 100 percent and 250 percent of the federal poverty level. Carriers offering plans in the Exchange must offer at least one Silver and one Gold plan. Only health plans certified by the Exchange as qualified health plans (QHPs) may be sold on the Exchange.

The PEBB and SEBB. The PEBB is a nine-member board that approves contracts and benefits for public employees, including most state employees. The SEBB is a nine-member board that is part of the consolidated school district employees' health benefits purchasing program in the Health Care Authority (HCA). The SEBB's responsibilities include developing benefit plans for school employees and participating with the HCA in coordination with the PEBB in the selection of carriers to provide health and dental plans.

The Washington State Health Insurance Pool (WSHIP). The WSHIP is Washington's high risk pool. The WSHIP provides coverage for:

- individuals ineligible for Medicare who were enrolled in WSHIP plans prior to January 1, 2014;
- individuals ineligible for Medicare who live in a county where individual health coverage is unavailable; and
- individuals eligible for Medicare who do not have access to a reasonable choice of Medicare Advantage plans and provide evidence of rejection for medical reasons,

restrictive riders, an uprated premium, preexisting condition limitations, or lack of access to a comprehensive Medicare supplemental plan.

Geographic Rating Area. The Affordable Care Act prohibits variation in rates for a given plan except based on four factors, including the geographic rating area. The Insurance Commissioner (Commissioner), using an analysis of various health status, claims, and utilization factors, sets the geographic rating areas no more frequently than every three years. There are five different rating areas in Washington State.

**Summary of Amended Bill:** For plan years beginning January 1, 2020, any health carrier within an insurance holding company must offer at least one Silver and one Gold QHP on the Exchange in any county where any health carrier in that same holding company offers a PEBB or SEBB-approved plan to employees and their covered dependents. The rates for PEBB or SEBB approved health plans may not include the administrative costs or actuarial risks associated with the QHP offered by the carrier. The HCA must perform an annual actuarial review to ensure compliance with this prohibition.

Until December 31, 2019, a person eligible for WSHIP coverage because individual health coverage is not available must have his or her premium rate reduced. The amount of the reduction is:

- 80 percent for a person whose current modified adjusted gross income is less than or equal to 200 percent of the federal poverty level;
- 60 percent for a person whose current modified adjusted gross income is greater than 200 percent, but less than or equal to 300 percent of the federal poverty level;
- 50 percent for a person whose current modified adjusted gross income is greater than 300 percent, but less than or equal to 400 percent of the federal poverty level; and
- 30 percent for a person whose current modified adjusted gross income is greater than 400 percent of the federal poverty level.

The reductions are funded through the WSHIP assessments.

#### **EFFECT OF HEALTH & LONG TERM CARE COMMITTEE AMENDMENT(S):**

- Removes provisions allowing someone to purchase coverage in another county if there are no individual market plan options in their county and restores language allowing individuals to purchase WSHIP coverage at lower rates depending on their income.
- Expires provisions allowing certain individuals to purchase WSHIP coverage at a lower rate, on December 31, 2019.
- Permits any health carrier within an insurance holding company to offer a Silver and Gold plan on the Exchange if any health carrier in that same holding company offers a fully insured plan approved by PEBB or SEBB, as opposed to requiring the same carrier that offers the PEBB or SEBB approved option to offer options on the Exchange.

**Appropriation:** None.

**Fiscal Note:** Requested on February 15, 2018.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Engrossed Substitute House Bill (Health & Long Term Care):** *The committee recommended a different version of the bill than what was heard.* PRO: The idea is to use the state's purchasing power. Anyone that bids on a contract for the SEBB would also be allowed to offer the fully insured PEBB plan, and they would be required to offer individual market coverage in counties in which they contract. The idea is to use federal subsidies to bring down the cost of these plans, as opposed to just allowing someone to buy into PEBB or SEBB. The risk for PEBB, SEBB, and individual market plans would be pooled separately. The individual market is the only option for 300,000 people to purchase insurance in the state. There has been a change towards more narrow networks, but the choice is currently between narrow networks or a bare county. This bill might not be perfect, but it is the best option available.

CON: There are many public policy options that could stabilize the individual market, but this bill is not the best option. There is an unintended consequence of this bill, which would prohibit the issuance of an health maintenance organization product for SEBB. The transition from various health insurance plans to a consolidated SEBB plan is already a difficult task. The layering of this bill on top of the difficult task of transitioning to SEBB may lead people to perceive that SEBB was a bad idea to begin with. The Legislature should let SEBB get set up first, before requiring SEBB plans to offer individual market coverage. This bill is anti-competitive. The Legislature is urged to reconsider the one-year WSHIP solution. The Office of the Insurance Commissioner is creating incentives to allow carriers to offer coverage in bare counties, which should be allowed to take effect prior to enacting this type of legislation.

OTHER: While we are sympathetic to the issue of bare counties, there is concern that this bill adds new requirements that could limit access to providers and increase the cost of plans, while SEBB is getting put into place. The changes in the recent version of the bill help, but it would be good to find other ways to address the access issue. SEBB has been needed for around 20 years, and just as it is getting launched, this bill came about. There is a worry that this bill would create disincentives and lead to carriers not bidding to offer coverage through SEBB.

**Persons Testifying (Health & Long Term Care):** PRO: Representative Eileen Cody, Prime Sponsor; Sean Graham, Washington State Medical Association; Erin Dziedzic, American Cancer Society Cancer Action Network; Susan G. Komen; Bleeding Disorder Foundation of Washington; Chris Bandoli, Washington State Hospital Association.

CON: Melissa Putman, Kaiser Foundation Health Plan of Washington; Brian Sims, Washington State School Directors Association; Meg Jones, Association of Washington Healthcare Plans.

OTHER: Julie Salvi, Washington Education Association; Doug Nelson, Public School Employees of Washington, SEIU 1948.

**Persons Signed In To Testify But Not Testifying (Health & Long Term Care):** No one.

**Staff Summary of Public Testimony on Bill as Amended by Health & Long Term Care (Ways & Means):** PRO: Concerns about market instability and bare counties are not theoretical. There are ways to stabilize the market. While WSHIP is an expensive mechanism, there will not be an assessment if there are no bare counties. Another option is reinsurance. We believe this is the best bill available to stabilize the market and ensure access. There are always consequences of leaving people uncovered.

CON: WSHIP is currently funded through assessments. These assessments are not paid by Taft-Hartley plans and the PEB plans only pay one-tenth. The House removed this provision which made us neutral on the bill. Tying PEB and SEB to the individual market will drive up costs in both PEB and SEB and the individual market. In 2019, we prefer the WSHIP assessment to cross-county sales. We still do not believe this is the right solution for market stabilization. We would prefer to see how the OIC's new rules and how the federal government's approach to market stabilization work out.

**Persons Testifying (Ways & Means):** PRO: Erin Dziejczak, Susan G Komen Puget Sound, Bleeding Disorder Foundation of Washington; Chris Bandoli, Washington State Hospital Association; Sean Graham, Washington State Medical Association.

CON: Tom Kwieceiak, Building Industry Association of Washington; Meg Jones, Association of Washington Healthcare Plans.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.