

SENATE BILL REPORT

ESSB 6097

As Amended by House, March 5, 2020

Title: An act relating to requiring the insurance commissioner to review a health carrier's surplus levels as part of its rate filing review process.

Brief Description: Requiring the insurance commissioner to review a health carrier's surplus, capital, or profit levels as part of its rate filing review process.

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by Senators Rolfes, Kuderer, Pedersen, Frockt, Conway, Randall, Carlyle and Saldaña).

Brief History:

Committee Activity: Health & Long Term Care: 1/20/20, 2/05/20 [DPS, DNP, w/oRec].

Floor Activity:

Passed Senate: 2/17/20, 47-0.

Passed House: 3/05/20, 83-14.

Brief Summary of Engrossed First Substitute Bill

- Permits the Insurance Commissioner to review the surplus, capital and profits of individual and small group market health insurers in determining the reasonableness of rates.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 6097 be substituted therefor, and the substitute bill do pass.

Signed by Senators Cleveland, Chair; Randall, Vice Chair; Conway, Frockt, Keiser and Van De Wege.

Minority Report: Do not pass.

Signed by Senator Rivers.

Minority Report: That it be referred without recommendation.

Signed by Senators O'Ban, Ranking Member; Becker, Dhingra and Muzzall.

Staff: Evan Klein (786-7483)

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.

Background: The Insurance Commissioner (Commissioner) has authority to regulate health insurance companies in Washington. As part of this authority, the Commissioner has authority to review insurance rates in both the individual and small group markets. Insurers are required to file their individual and group rates with the Commissioner. The Commissioner may disapprove the rates if they are unreasonable in relation to the benefits in the agreement. The Commissioner also reviews individual and small group market insurers for compliance with federal and state requirements such as adjusted community rating and medical loss ratios.

Summary of Engrossed First Substitute Bill: For individual and small group rate filings for plan year 2021 and beyond, the Commissioner may review the surplus, capital, and profit of a health carrier as an element in determining the reasonableness of the carrier's proposed rate. In reviewing the surplus, capital, and profit the Commissioner must consider:

- the current capital facility needs for carriers, including those maintaining and operating hospitals and clinics; and
- whether the carrier's holding company system offers a qualified health plan in the individual market in every county of the state.

Appropriation: None.

Fiscal Note: Available.

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 Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This would allow the commissioner to review the surpluses of nonprofit carrier surpluses when reviewing rates. The surpluses that carriers are holding are rate-payers' money. When the public does not know what the surplus is, it is impossible to know whether the profit ratio of the carriers is reasonable. The three non-profit carriers in Washington are carrying over \$4 billion in surpluses, which far exceed the risk the carriers have. If allowing the insurance commissioner to see these surpluses helps reduce premiums, it will help a number of Washingtonians. Over the last 20 years the surpluses have grown year over year. Out-of-pocket costs and premiums have increased for consumers, and this is a tool that OIC should have in its toolbox to review premium rates for the next year. This is a common sense step for addressing patient out-of-pocket costs. Instability and emerging drugs have been used as reasons for increasing surpluses, but when is a surplus enough, and when can enrollees get relief on their premiums? Three states and the District of Columbia go further than just reviewing surplus, and have mechanisms that reduce premiums and return dollars to enrollees when surpluses become excessive. The NAIC sets minimum standards for surpluses that should be maintained by carriers, but there is no maximum set by the NAIC.

CON: All of Washington's health plans are opposed to this legislation. The OIC should not be able to arbitrarily consider rate factors outside of the actuarially-based process to set rates. Rates are set based on an actuarial analysis, and this legislation brings a political element into the rate-making process for non-profit carriers. There could be a future commissioner that is

subject to external pressures that pushes them to artificially reduce rates. The non-profit insurers are in the most volatile markets in Washington. Surpluses are used for upgrading computer systems, accessing different markets, infrastructure improvements, and various other capital expenditures. For-profits can access capital in the markets that allows them to expand, but non-profits can only tap into surplus. Reserves are also helpful to be ready for catastrophic events. If the insurance commissioner is going to take a snapshot review of reserves, it may not take into account what that money is intended for. The non-profit carriers do still pay the insurance premiums tax, which is roughly triple the average B&O tax. These carriers also provide jobs in Washington, and make various charitable contributions.

Persons Testifying: PRO: Senator Christine Rolfes, Prime Sponsor; Erin Dzedzic, Bleeding Disorder Foundation of Washington, King County, and Foundation for Healthy Generations; Amy Brackenbury, Public Health Roundtable; Lonnie Johns-Brown, Office of the Insurance Commissioner.

CON: Chris Bandoli, Association of Washington Healthcare Plans; Gary Strannigan, Premera Blue Cross; Amber Ulvenes, Kaiser Permanente; Carrie Tellefson, Regence BlueShield.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Clarified that the insurance commissioner's authority to consider a carrier's surplus, capital, or profit levels applies to all individual and small group market filings, instead of only for nonprofit insurers.
- Removes the requirement that the commissioner take into consideration whether a carrier's insurance holding company system offers a qualified health plan in every county of the state.