

SENATE BILL REPORT

ESSB 6112

As Passed Senate, February 12, 2004

Title: An act relating to self-funded multiple employer welfare arrangements.

Brief Description: Regulating self-funded multiple employer welfare arrangements.

Sponsors: Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Prentice, Benton, Winsley, Keiser and Kohl-Welles).

Brief History:

Committee Activity: Financial Services, Insurance & Housing: 1/27/04 [DPS].
Passed Senate: 2/12/04, 49-0.

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Majority Report: That Substitute Senate Bill No. 6112 be substituted therefor, and the substitute bill do pass.

Signed by Senators Benton, Chair; Winsley, Vice Chair; Berkey, Keiser, Murray, Prentice and Roach.

Staff: Joanne Conrad (786-7472)

Background: A "Multiple Employer Welfare Arrangement" (MEWA) is a form of group purchasing arrangement defined by federal ERISA law (the Employee Retirement Income Security Act of 1974). By using a MEWA, employers can offer employee benefits at generally lower cost. Although ERISA usually preempts state attempts at regulation, in the case of MEWAs, states can set specific standards. Approximately 40 states have done so. Washington State currently does not have a MEWA act.

Summary of Bill: A regulatory scheme is created for self-funded MEWAs, including registration with the Office of the Insurance Commissioner (OIC); regulation by OIC to ensure integrity; numerous reporting requirements; and sanctions for noncompliance.

In order to obtain and maintain the ability to do business as a MEWA in Washington State, the MEWA organization must comply with the following regulations:

- Obtain a certificate of authority from OIC;
- MEWA members must be employers in a bona fide association that provides health care services to at least 20 employers, not a mere conduit for the collection of insurance premiums. The association must have been in existence for at least ten years, as of December 31, 2003.
- MEWAs must deposit \$200,000 with OIC, and maintain a surplus of \$2 million or more;

- MEWAs must meet numerous technical requirements for disclosure of financial status, plan operation, and management competence, integrity and bondability; and
- MEWAs are subject to sanction, including a \$10,000 per violation fine or revocation of their certificate of authority.

MEWAs cannot include any type of arrangement by or between federal agencies, contractors, or subcontractors at federal facilities within Washington. MEWAs provide health care services to associations of no fewer than 20 employers and comply with state insurance laws on health benefits.

The OIC may perform market conduct exams on MEWAs. MEWAs may be subject to certain taxation if required after the exhaustion of federal remedies. A method for determining applicable premium taxes is established.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: Thousands of workers need to maintain this type of coverage, which is not like a health care service plan or HMO. The majority of states allow MEWAs. This bill has stricter standards than most states. The bill is the result of extensive meetings between businesses and OIC. Failure to obtain MEWA status would force some businesses to go without coverage.

Testimony Against: The (original) bill is too broad. Failed MEWAs harm consumers. Health care coverage should be purchased in regulated markets. This bill creates an uneven playing field for other types of health insurers. The bill should require various mandated coverages and types of providers.

Testified: Lisa Thatcher, Charles Fox, Timber Products (pro); Rick Wickman, Nancy Wildemuth, Ken Bertrand (con); Gail McGaffick; Bill Daley, OIC (concerns).

House Amendment(s): The "Patient's Bill of Rights" applies to MEWAs. MEWAs are subject to assessments in the Washington State health insurance pool, if not preempted by ERISA. Premium tax provisions require tax to be paid into an escrow account, pending a final determination on ERISA preemption.