
SUBSTITUTE SENATE BILL 5888

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Thibaudeau, Franklin, Poulsen and Kline)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to the Washington state health insurance pool; and
2 amending RCW 42.30.020 and 48.41.060.

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

4 **Sec. 1.** RCW 42.30.020 and 1985 c 366 s 1 are each amended to read
5 as follows:

6 As used in this chapter unless the context indicates otherwise:

7 (1) "Public agency" means:

8 (a) Any state board, commission, committee, department, educational
9 institution, or other state agency, including the Washington state
10 health insurance pool established in chapter 48.41 RCW, which is
11 created by or pursuant to statute, other than courts and the
12 legislature;

13 (b) Any county, city, school district, special purpose district, or
14 other municipal corporation or political subdivision of the state of
15 Washington;

16 (c) Any subagency of a public agency which is created by or
17 pursuant to statute, ordinance, or other legislative act, including but
18 not limited to planning commissions, library or park boards,
19 commissions, and agencies;

1 (d) Any policy group whose membership includes representatives of
2 publicly owned utilities formed by or pursuant to the laws of this
3 state when meeting together as or on behalf of participants who have
4 contracted for the output of generating plants being planned or built
5 by an operating agency.

6 (2) "Governing body" means the multimember board, commission,
7 committee, council, or other policy or rule-making body of a public
8 agency, or any committee thereof when the committee acts on behalf of
9 the governing body, conducts hearings, or takes testimony or public
10 comment.

11 (3) "Action" means the transaction of the official business of a
12 public agency by a governing body including but not limited to receipt
13 of public testimony, deliberations, discussions, considerations,
14 reviews, evaluations, and final actions. "Final action" means a
15 collective positive or negative decision, or an actual vote by a
16 majority of the members of a governing body when sitting as a body or
17 entity, upon a motion, proposal, resolution, order, or ordinance.

18 (4) "Meeting" means meetings at which action is taken.

19 **Sec. 2.** RCW 48.41.060 and 2004 c 260 s 26 are each amended to read
20 as follows:

21 (1) The board shall have the general powers and authority granted
22 under the laws of this state to insurance companies, health care
23 service contractors, and health maintenance organizations, licensed or
24 registered to offer or provide the kinds of health coverage defined
25 under this title. In addition thereto, the board shall:

26 (a) Designate or establish the standard health questionnaire to be
27 used under RCW 48.41.100 and 48.43.018, including the form and content
28 of the standard health questionnaire and the method of its application.
29 The questionnaire must provide for an objective evaluation of an
30 individual's health status by assigning a discreet measure, such as a
31 system of point scoring to each individual. The questionnaire must not
32 contain any questions related to pregnancy, and pregnancy shall not be
33 a basis for coverage by the pool. The questionnaire shall be designed
34 such that it is reasonably expected to identify the eight percent of
35 persons who are the most costly to treat who are under individual
36 coverage in health benefit plans, as defined in RCW 48.43.005, in

1 Washington state or are covered by the pool, if applied to all such
2 persons;

3 (b) Obtain from a member of the American academy of actuaries, who
4 is independent of the board, a certification that the standard health
5 questionnaire meets the requirements of (a) of this subsection;

6 (c) Approve the standard health questionnaire and any modifications
7 needed to comply with this chapter. The standard health questionnaire
8 shall be submitted to an actuary for certification, modified as
9 necessary, and approved at least every eighteen months. The
10 designation and approval of the standard health questionnaire by the
11 board shall not be subject to review and approval by the commissioner.
12 The standard health questionnaire or any modification thereto shall not
13 be used until ninety days after public notice of the approval of the
14 questionnaire or any modification thereto, except that the initial
15 standard health questionnaire approved for use by the board after March
16 23, 2000, may be used immediately following public notice of such
17 approval;

18 (d) In consultation with the insurance commissioner, establish
19 appropriate rates, rate schedules, rate adjustments, expense
20 allowances, claim reserve formulas and any other actuarial functions
21 appropriate to the operation of the pool. Rates shall not be
22 unreasonable in relation to the coverage provided, the risk experience,
23 and expenses of providing the coverage. Rates and rate schedules may
24 be adjusted for appropriate risk factors such as age and area variation
25 in claim costs and shall take into consideration appropriate risk
26 factors in accordance with established actuarial underwriting practices
27 consistent with Washington state individual plan rating requirements
28 under RCW 48.44.022 and 48.46.064;

29 (e) Assess members of the pool in accordance with the provisions of
30 this chapter, and make advance interim assessments as may be reasonable
31 and necessary for the organizational or interim operating expenses.
32 Any interim assessments will be credited as offsets against any regular
33 assessments due following the close of the year. Self-funded multiple
34 employer welfare arrangements are subject to assessment under this
35 subsection only in the event that assessments are not preempted by the
36 employee retirement income security act of 1974, as amended, 29 U.S.C.
37 Sec. 1001 et seq. The arrangements and the commissioner shall
38 initially request an advisory opinion from the United States department

1 of labor or obtain a declaratory ruling from a federal court on the
2 legality of imposing assessments on these arrangements before imposing
3 the assessment. If there has not been a final determination by the
4 United States department of labor or a federal court that the
5 assessments are not preempted by federal law, the assessments provided
6 for in this subsection become effective on March 1, 2005, or thirty
7 days following the issuance of a certificate of authority, whichever is
8 later. During the time period between March 1, 2005, or thirty days
9 following the issuance of a certificate of authority, whichever is
10 later, and the final determination by the United States department of
11 labor or a federal court, any assessments shall be deposited in an
12 interest bearing escrow account maintained by the [self-funded]
13 multiple employer welfare arrangement. Upon a final determination that
14 the assessments are not preempted by the employee retirement income
15 security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all
16 funds in the interest bearing escrow account shall be transferred to
17 the board;

18 (f) Issue policies of health coverage in accordance with the
19 requirements of this chapter;

20 (g) Establish procedures for the administration of the premium
21 discount provided under RCW 48.41.200(3)(a)(iii);

22 (h) Contract with the Washington state health care authority for
23 the administration of the premium discounts provided under RCW
24 48.41.200(3)(a) (i) and (ii);

25 (i) Set a reasonable fee to be paid to an insurance agent licensed
26 in Washington state for submitting an acceptable application for
27 enrollment in the pool; and

28 (j) Provide certification to the commissioner when assessments will
29 exceed the threshold level established in RCW 48.41.037.

30 (2) In addition thereto, the board may:

31 (a) Enter into contracts as are necessary or proper to carry out
32 the provisions and purposes of this chapter including the authority,
33 with the approval of the commissioner, to enter into contracts with
34 similar pools of other states for the joint performance of common
35 administrative functions, or with persons or other organizations for
36 the performance of administrative functions;

37 (b) Sue or be sued, including taking any legal action as necessary

1 to avoid the payment of improper claims against the pool or the
2 coverage provided by or through the pool;

3 (c) Appoint appropriate legal, actuarial, and other committees as
4 necessary to provide technical assistance in the operation of the pool,
5 policy, and other contract design, and any other function within the
6 authority of the pool; and

7 (d) Conduct periodic audits to assure the general accuracy of the
8 financial data submitted to the pool, and the board shall cause the
9 pool to have an annual audit of its operations by an independent
10 certified public accountant.

11 (3) Nothing in this section shall be construed to require or
12 authorize the adoption of rules under chapter 34.05 RCW.

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