

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1690**

Chapter 405, Laws of 2005

59th Legislature  
2005 Regular Session

HEALTH CARE SERVICES--TAXES

EFFECTIVE DATE: 7/24/05

Passed by the House April 18, 2005  
Yeas 95 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate April 11, 2005  
Yeas 45 Nays 3

BRAD OWEN

**President of the Senate**

Approved May 11, 2005.

CHRISTINE GREGOIRE

**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1690** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

**Chief Clerk**

FILED

May 11, 2005 - 2:13 p.m.

**Secretary of State  
State of Washington**

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HOUSE BILL 1690

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AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Cody and Moeller

Read first time 02/02/2005. Referred to Committee on Finance.

1            AN ACT Relating to the applicability of certain taxes and  
2 assessments to state funded health care services; and amending RCW  
3 48.14.0201 and 48.41.090.

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

5            **Sec. 1.** RCW 48.14.0201 and 2004 c 260 s 24 are each amended to  
6 read as follows:

7            (1) As used in this section, "taxpayer" means a health maintenance  
8 organization as defined in RCW 48.46.020, a health care service  
9 contractor as defined in RCW 48.44.010, or a self-funded multiple  
10 employer welfare arrangement as defined in RCW 48.125.010.

11            (2) Each taxpayer shall pay a tax on or before the first day of  
12 March of each year to the state treasurer through the insurance  
13 commissioner's office. The tax shall be equal to the total amount of  
14 all premiums and prepayments for health care services received by the  
15 taxpayer during the preceding calendar year multiplied by the rate of  
16 two percent.

17            (3) Taxpayers shall prepay their tax obligations under this  
18 section. The minimum amount of the prepayments shall be percentages of  
19 the taxpayer's tax obligation for the preceding calendar year

1 recomputed using the rate in effect for the current year. For the  
2 prepayment of taxes due during the first calendar year, the minimum  
3 amount of the prepayments shall be percentages of the taxpayer's tax  
4 obligation that would have been due had the tax been in effect during  
5 the previous calendar year. The tax prepayments shall be paid to the  
6 state treasurer through the commissioner's office by the due dates and  
7 in the following amounts:

8 (a) On or before June 15, forty-five percent;

9 (b) On or before September 15, twenty-five percent;

10 (c) On or before December 15, twenty-five percent.

11 (4) For good cause demonstrated in writing, the commissioner may  
12 approve an amount smaller than the preceding calendar year's tax  
13 obligation as recomputed for calculating the health maintenance  
14 organization's, health care service contractor's, self-funded multiple  
15 employer welfare arrangement's, or certified health plan's prepayment  
16 obligations for the current tax year.

17 (5) Moneys collected under this section shall be deposited in the  
18 general fund through March 31, 1996, and in the health services account  
19 under RCW 43.72.900 after March 31, 1996.

20 (6) The taxes imposed in this section do not apply to:

21 (a) Amounts received by any taxpayer from the United States or any  
22 instrumentality thereof as prepayments for health care services  
23 provided under Title XVIII (medicare) of the federal social security  
24 act.

25 (b) Amounts received by any taxpayer from the state of Washington  
26 as prepayments for health care services provided under:

27 (i) The medical care services program as provided in RCW 74.09.035;

28 (ii) The Washington basic health plan on behalf of subsidized  
29 enrollees as provided in chapter 70.47 RCW; or

30 (iii) The medicaid program on behalf of elderly or disabled clients  
31 as provided in chapter 74.09 RCW when these prepayments are received  
32 prior to July 1, 2009, and are associated with a managed care contract  
33 program that has been implemented on a voluntary demonstration or pilot  
34 project basis.

35 (c) Amounts received by any health care service contractor, as  
36 defined in RCW 48.44.010, as prepayments for health care services  
37 included within the definition of practice of dentistry under RCW  
38 18.32.020.

1       (~~(e)~~) (d) Participant contributions to self-funded multiple  
2 employer welfare arrangements that are not taxable in this state.

3       (7) Beginning January 1, 2000, the state does hereby preempt the  
4 field of imposing excise or privilege taxes upon taxpayers and no  
5 county, city, town, or other municipal subdivision shall have the right  
6 to impose any such taxes upon such taxpayers. This subsection shall be  
7 limited to premiums and payments for health benefit plans offered by  
8 health care service contractors under chapter 48.44 RCW, health  
9 maintenance organizations under chapter 48.46 RCW, and self-funded  
10 multiple employer welfare arrangements as defined in RCW 48.125.010.  
11 The preemption authorized by this subsection shall not impair the  
12 ability of a county, city, town, or other municipal subdivision to  
13 impose excise or privilege taxes upon the health care services directly  
14 delivered by the employees of a health maintenance organization under  
15 chapter 48.46 RCW.

16       (8) The taxes imposed by this section apply to a self-funded  
17 multiple employer welfare arrangement only in the event that they are  
18 not preempted by the employee retirement income security act of 1974,  
19 as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the  
20 commissioner shall initially request an advisory opinion from the  
21 United States department of labor or obtain a declaratory ruling from  
22 a federal court on the legality of imposing state premium taxes on  
23 these arrangements. If there has not been a final determination by the  
24 United States department of labor or a federal court that the taxes are  
25 not preempted by federal law, the taxes provided for in this section  
26 become effective on March 1, 2005, or thirty days following the  
27 issuance of a certificate of authority, whichever is later. During the  
28 time period between March 1, 2005, or thirty days following the  
29 issuance of a certificate of authority, whichever is later, and the  
30 final determination by the United States department of labor or a  
31 federal court, any taxes shall be deposited in an interest bearing  
32 escrow account maintained by the (~~(self-funded)~~) self-funded multiple  
33 employer welfare arrangement. Upon a final determination that the  
34 taxes are not preempted by the employee retirement income security act  
35 of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all funds in the  
36 interest bearing escrow account shall be transferred to the state  
37 treasurer.

1       **Sec. 2.** RCW 48.41.090 and 2000 c 79 s 11 are each amended to read  
2 as follows:

3       (1) Following the close of each accounting year, the pool  
4 administrator shall determine the net premium (premiums less  
5 administrative expense allowances), the pool expenses of  
6 administration, and incurred losses for the year, taking into account  
7 investment income and other appropriate gains and losses.

8       (2)(a) Each member's proportion of participation in the pool shall  
9 be determined annually by the board based on annual statements and  
10 other reports deemed necessary by the board and filed by the member  
11 with the commissioner; and shall be determined by multiplying the total  
12 cost of pool operation by a fraction. The numerator of the fraction  
13 equals that member's total number of resident insured persons,  
14 including spouse and dependents, covered under all health plans in the  
15 state by that member during the preceding calendar year. The  
16 denominator of the fraction equals the total number of resident insured  
17 persons, including spouses and dependents, covered under all health  
18 plans in the state by all pool members during the preceding calendar  
19 year.

20       (b) For purposes of calculating the numerator and the denominator  
21 under (a) of this subsection:

22       (i) All health plans in the state by the state health care  
23 authority include only the uniform medical plan; (~~and~~)

24       (ii) Each ten resident insured persons, including spouse and  
25 dependents, under a stop loss plan or the uniform medical plan shall  
26 count as one resident insured person;

27       (iii) Health plans serving medical care services program clients  
28 under RCW 74.09.035 are exempted from the calculation; and

29       (iv) Health plans established to serve elderly or disabled medicaid  
30 clients under chapter 74.09 RCW when the plan has been implemented on  
31 a demonstration or pilot project basis are exempted from the  
32 calculation until July 1, 2009.

33       (c) Except as provided in RCW 48.41.037, any deficit incurred by  
34 the pool shall be recouped by assessments among members apportioned  
35 under this subsection pursuant to the formula set forth by the board  
36 among members.

37       (3) The board may abate or defer, in whole or in part, the  
38 assessment of a member if, in the opinion of the board, payment of the

1 assessment would endanger the ability of the member to fulfill its  
2 contractual obligations. If an assessment against a member is abated  
3 or deferred in whole or in part, the amount by which such assessment is  
4 abated or deferred may be assessed against the other members in a  
5 manner consistent with the basis for assessments set forth in  
6 subsection (2) of this section. The member receiving such abatement or  
7 deferment shall remain liable to the pool for the deficiency.

8 (4) If assessments exceed actual losses and administrative expenses  
9 of the pool, the excess shall be held at interest and used by the board  
10 to offset future losses or to reduce pool premiums. As used in this  
11 subsection, "future losses" includes reserves for incurred but not  
12 reported claims.

Passed by the House April 18, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.