

# HOUSE BILL REPORT

## HB 2094

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**As Reported by House Committee On:**  
Commerce & Labor

**Title:** An act relating to the taxpayer health care fairness act.

**Brief Description:** Creating the taxpayer health care fairness act.

**Sponsors:** Representatives Conway, Appleton, Green, Kagi, Moeller, Sells, Morrell, VanDeWege and Ormsby.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 2/13/07, 2/22/07 [DPS].

**Brief Summary of Substitute Bill**

- Requires certain employers who have employees enrolled in the Medicaid program or the Basic Health Plan to either: (1) pay assessments to cover the state's costs of providing health benefits to these employees; or (2) enter into agreements to reimburse the state's costs of providing health care coverage to these employees.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member and Crouse.

**Staff:** Jill Reinmuth (786-7134).

**Background:**

Medical assistance is available to state residents from the Department of Social and Health Services (Department), primarily through the Medicaid program. It is also available through the Basic Health Plan, which is a state-sponsored program administered by the Health Care Authority (Authority) to provide subsidized health insurance coverage to low-income

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*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.*

Washington residents who are not eligible for Medicare or institutionalized at the time of enrollment. Both the Department and the Authority are required to report annually to the Legislature on the number of Medicaid enrollees and Basic Health Plan enrollees who upon enrollment or recertification reported being employed, or reported being the dependent of someone who was employed, and the total cost to the state for these enrollees. The information is reported by employers having more than 50 employees as enrollees or recipients, or with dependents as enrollees or recipients. Certain aggregated information regarding these enrollees or recipients is also provided.

Reports for calendar year 2005 were submitted to the Legislature on November 15, 2006. According to the Department's report, 244,771 persons enrolled in the Medicaid program or with dependents enrolled in the Medicaid program were employed. The state's costs for these persons and their dependents were \$1.264 billion. According to the Authority's report, 42,402 persons enrolled in the Basic Health Plan were employed. The state's costs for these enrollees and their enrolled family members were nearly \$81 million.

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### **Summary of Substitute Bill:**

Employers with 1,000 or more employees must report their labor force to the Department of Social and Health Services (Department) and the Health Care Authority (Authority) (collectively, "the agencies") each quarter, beginning with the quarter ending June 30, 2008. Certain seasonal employers and employers that make payments for health care services for all employees who are enrolled in the Medicaid program or the Basic Health Plan are exempt from this reporting requirement. The following employees may be omitted from these reports: employees employed for fewer than 90 days, employees hired through certain job placement services, and employees receiving Social Security disability benefits.

The agencies must provide employers with the number of their employees who are enrolled in the Medicaid program or the Basic Health Plan, but not the names of their employees. The agencies also must notify employers who have employees enrolled in the Medicaid program or Basic Health Plan that the employers must either:

- pay a specified assessment to cover the cost of providing health care to each employee enrolled in the Medicaid program or the Basic Health Plan; or
- for employees enrolled in the Medicaid program, enter into an agreement to reimburse the Department for its contribution to the purchase of health care coverage for each employee; and
- for employees enrolled in the Basic Health Plan, enter into an agreement to reimburse the Authority for its premium contribution to provide health care coverage for each employee.

The Department may require an employee enrolled in the Medicaid program to enroll in available employer-sponsored coverage when it is cost-effective for the state to do so.

Employers who fail to file required reports are subject to a penalty of up to \$250. Employers who fail to pay assessments or negotiate reimbursement agreements are subject to civil penalties of 5 percent of the assessment for the first month, 10 percent for the second month, and 20 percent for the third month, plus an interest penalty of 1 percent per month.

Employers are prohibited from discriminating against employees on the basis of the employee's enrollment in the Medicaid program or in the Basic Health Plan, or actions related to enrollment. Persons who believe that they have been discriminated against may file complaints with the Human Rights Commission or file civil actions for damages in superior court. If an employer discriminates against an employee within 90 days of notification that the employer has employees enrolled in the Medicaid program or the Basic Health Plan, there is a rebuttable presumption of prohibited discrimination.

Assessments, interest, and civil penalties are deposited in the Health Services Account.

These provisions are to be known as the Taxpayer Health Care Fairness Act.

**Substitute Bill Compared to Original Bill:**

The definition of "employee" is modified to exclude employees receiving Social Security disability benefits.

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**Appropriation:** None.

**Fiscal Note:** A preliminary fiscal note is available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support of original bill) Current trends are creating a crisis in employer-provided health insurance. Seven out of 10 of the uninsured are members of working families. Employer-provided health coverage has decreased from 69 percent in 2000 to 60 percent in 2005. Workers are divided between those who are employed and have full benefits and those who are contracted and have much less. There are more part-time workers, and few of these workers have benefits. There is particular concern about workers in food service, hotels, staffing firms, and call centers. Responsible employers have to pay more when other employers cover less.

This bill simply requires employers with employees on certain programs to pay back a share of those expenses. It does not target a particular employer. It does not require changes to benefit plans. It is about sharing costs equitably.

My employer currently provides health care, but it is always on the table for negotiation. Escalating costs may force my employer to do something different. Health care is a human issue, not a political or union issue. It should be a universal right.

My company is a case study of what is going on. I believe that good companies take care of their employees. My company provides health care coverage for 95 percent of its workers. My competitors provide coverage for less than half of their workers. This trend forced us to declare bankruptcy last fall.

Health care coverage is important to the community and to our families. As a result of an accident, my family's medical costs were \$46,000. What would have happened to us without health care coverage?

There has been a significant erosion in health care benefits, and large employers are shifting their costs to taxpayers. This bill requires those employers to take responsibility for some of those costs. It exempts seasonal employees, workers employed for less than 90 days, and persons in transition from Temporary Assistance for Needy Families to work. The state should not leave uninsured persons dangling and unable to enroll in state plans because employees of large profitable employers are taking up spaces.

(Opposed to original bill) Remember that the Basic Health Plan was designed to provide health care for the working poor. Employers cannot require employees to take employer-provided coverage. Do not penalize employers for something they cannot control. Although this bill only covers large employers, small employers are concerned that this is a first step toward covering all employers. This bill does not address the high cost of health care.

Creating a new protected class based on whether or not an employer provides health care coverage trivializes other protected classes.

This bill would cover many companies in the agricultural and fruit packing industries. Their costs would be passed on to small family farmers. Farmers are competing in a global economy, and recently made a comeback in market share. This bill would be a step back for them.

Wal-Mart employed over 17,000 associates in Washington as of December 2006. Seventy percent of these workers were full-time, with more than 35 hours per week. Average wages were more than \$10 per hour. Wal-Mart purchased more than \$1 billion in goods from more than 900 suppliers in Washington. It paid \$181 million in sales taxes and nearly \$20 million in other taxes.

Following the most recent open enrollment period, nearly half of Wal-Mart's workforce had health care coverage, which was up 8 percent from last year. Half of the workforce was previously uninsured. Health care plans are available after six months of employment for full-time employees and after 12 months of employment for part-time employees. Most retailers do not provide benefits for any employees.

The Basic Health Plan is doing exactly what it was intended to do. Only 1.4 percent of Wal-Mart employees are on the Basic Health Plan. This bill is not necessary.

**Persons Testifying:** (In support of original bill) David West, Center for a Changing Workforce; Melissa Champion; Terry Gardiner, Port Chatam; Susan Richardson; and Robby Stern, Washington State Labor Council.

(Opposed to original bill) Mellani McAleenan, Association of Washington Business; Dan Fazio, Washington Farm Bureau; and Steve Gano, Wal-Mart.

**Persons Signed In To Testify But Not Testifying:** Debbie Brussar, UFCW Local 21; Todd Iverson, America in Solidarity; Janet Varon, Northwest Health Law Advocates; and Mark Johnson, Washington Retail Association.