

# HOUSE BILL REPORT

## SHB 2560

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### As Passed Legislature

**Title:** An act relating to defining small employers for purposes of health insurance coverage.

**Brief Description:** Defining small employers for purposes of health insurance coverage.

**Sponsors:** By House Committee on Health Care & Wellness (originally sponsored by Representatives VanDeWege, Kessler, Cody, Morrell, Rolfes, Chase, Barlow, Green and Loomis).

### Brief History:

#### Committee Activity:

Health Care & Wellness: 1/17/08, 1/24/08 [DPS].

#### Floor Activity:

Passed House: 2/14/08, 95-0.

Passed Senate: 3/7/08, 44-0.

Passed Legislature.

### Brief Summary of Substitute Bill

- Modifies the definition of a small employer for the purposes of qualifying to purchase small group health coverage.

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## HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Cody, Chair; Morrell, Vice Chair; Hinkle, Ranking Minority Member; Alexander, Assistant Ranking Minority Member; Barlow, Campbell, Condotta, Green, Moeller, Pedersen, Schual-Berke and Seaquist.

**Staff:** Dave Knutson (786-7146).

### Background:

Washington law has a more restrictive definition of "small employer" or "small group" than does federal law. The federal definition at 42 U.S.C. s300gg-91(e)(4) is "...in connection with a group health plan, with respect to a calendar year and a plan year, an employer who employed

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an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year."

The state definition of a "small employer" or "small group" is more narrow than the federal definition, adding several requirements. These additional requirements include:

- that the employees be "eligible," defined as working a normal work week of 30 or more hours;
- that the majority of these eligible employees be employed within Washington; and
- that the employer not be formed primarily for purposes of buying health insurance and have bona fide employer-employee relationships.

Conflicting federal and state definitions of "small employer" and "small group" may lead to confusion on the part of small employers, health carriers, and the Office of the Insurance Commissioner who may purchase health coverage through the small group insurance market.

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

The definitions of "small employer" and "small group" are modified to eliminate an income test for small businesses in order for them to qualify for small group health coverage. The definition of "employee" of a small employer is modified to be consistent with the federal definition found in the Employee Retirement Income Security Act of 1974 that was in effect on January 1, 2008.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

### **Staff Summary of Public Testimony:**

(In support) The state definitions of "small employer," "small group," and "employee" are more restrictive than the same definitions found in federal law. This causes confusion on the part of health carriers, employers, and employees when an employer tries to purchase health coverage for their employees. Making the state definitions consistent with federal law will make it easier for small employers to purchase health coverage for their employees in the private market.

(With concerns) The definition of "employee" is important to have in state law so carriers will be able to determine the minimum participation rate when providing health coverage to small employers. If the federal definition of "employee" is included in the bill, it would address this concern.

(Opposed) None.

**Persons Testifying:** (In support) Representative Van De Wege, prime sponsor; and Todd Holm.

(With concerns) Gary Smith, Independent Business Association; and Naucee Wildermuth, Regence Blue Shield.

**Persons Signed In To Testify But Not Testifying:** None.