

HOUSE BILL REPORT

ESB 5632

As Passed House - Amended:

February 28, 2024

Title: An act relating to protecting the health care of workers exercising their right to participate in a labor dispute.

Brief Description: Protecting the health care of workers participating in a labor dispute.

Sponsors: Senators Keiser, Cleveland, Conway, Hasegawa, Hunt, Kuderer, Lovelett, Stanford, Valdez and Wilson, C..

Brief History:

Committee Activity:

Health Care & Wellness: 3/14/23, 3/17/23 [DP];

Labor & Workplace Standards: 2/20/24, 2/21/24 [DPA].

Floor Activity:

Passed House: 2/28/24, 56-38.

Brief Summary of Engrossed Bill (As Amended by House)

- Requires the Washington Health Benefit Exchange to administer a health care plan access program to help enroll employees who have lost employer-provided health care coverage as a result of a strike, lockout, or other labor dispute.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass as amended. Signed by 6 members: Representatives Berry, Chair; Fosse, Vice Chair; Bronoske, Doglio, Ormsby and Ortiz-Self.

Minority Report: Do not pass. Signed by 3 members: Representatives Schmidt, Ranking Minority Member; Rude and Ybarra.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Trudes Tango (786-7384).

Background:

The Affordable Care Act and the Washington Health Benefit Exchange.

Under the federal Patient Protection and Affordable Care Act (ACA), each state must establish a health benefit exchange through which consumers may compare and purchase individual and small group coverage, access premium and cost-sharing subsidies, and apply for Medicaid coverage. Qualified health plans (QHPs) sold in an exchange must meet certain standardized actuarial values. The tiers of coverage are based on how much of the health care costs the insurer is required to cover: Bronze—60 percent, Silver—70 percent, Gold—80 percent, and Platinum—90 percent. The ACA also requires all United States citizens and legal residents to have health insurance coverage that meets the ACA's requirements. In general, under the ACA, employers with 50 or more full-time employees are required to offer minimum essential coverage to their full-time employees.

The Washington Health Benefit Exchange (HBE) is responsible for operating the Washington Healthplanfinder, which is an online marketplace for individuals and families to find and enroll in QHPs and Apple Health.

Health Insurance Coverage and Labor Disputes.

In general, there is no requirement that an employer continue health insurance coverage for striking employees. Under National Labor Relations Board precedent, employers are prohibited from unilaterally changing the terms of employee health insurance for striking employees, but the employer is not obligated to provide compensation, such as insurance coverage, during a strike. However, the employer must maintain any accrued benefits to strikers once they return to work.

The federal Consolidated Omnibus Budget Reconciliation Act requires employers with more than 20 employees who provide group health insurance to give employees the option to purchase continued coverage for a limited time under the plan if they are separated from work.

Summary of Amended Bill:

By January 1, 2025, the HBE must establish a worker health plan access program to provide outreach and enrollment assistance for Washingtonians who lose health care coverage provided by an employer or joint labor management trust fund (JLMT) as a result of an active strike, lockout, or other labor dispute.

Subject to the availability of funds, the HBE must provide enrollment assistance to individuals and their dependents who:

- provide self-attestations regarding loss of minimum essential health care coverage from an employer or JLMT as a result of an active strike, lockout, or other labor

- dispute; and
- are eligible for coverage offered through the HBE.

The HBE may request information to determine the status of a strike, lockout, or labor dispute, its impact to coverage, and any other information it determines is necessary to determine eligibility for subsidies. The appropriate employer, labor organization, or other appropriate representative must provide requested information. The HBE may establish additional procedural requirements to administer the program.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill was from last year and has been changed to make clear that the state is not paying premiums for health care coverage. This bill is just to make clear that these employees can enroll in health plans.

(Opposed) None.

Persons Testifying: Senator Karen Keiser, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.