SENATE BILL REPORT SB 5111

As of January 20, 2001

Title: An act relating to the protection of charitable trusts that are health care service contractors and health maintenance organizations.

Brief Description: Protecting charitable trusts.

Sponsors: Senators Thibaudeau, Winsley and Costa.

Brief History:

Committee Activity: Health & Long-Term Care: 1/24/01.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Joan K. Mell (786-7447)

Background: Since the early 1990's, states across the nation have participated in negotiations and litigation about health insurers converting from nonprofit corporate structures to for-profit structures. The argument is that a nonprofit corporation serves a charitable purpose, which must be preserved for the benefit of the general public. For-profit corporations serve the corporation's shareholders.

Many states have resolved the legal issues through the establishment of multi-million dollar endowments or trusts. Various health insurers have funded these accounts. Funding is determined primarily by assessing the fair market value of the health insurance corporation prior to conversion or change in the corporate structure. These accounts include both cash and equity and are paid into over time. Some examples include: two California accounts with combined assets of \$3.2 billion (Blue Cross); Connecticut, \$41 million (Anthem); Virginia, \$175 million (Trigon Blue Cross Blue Shield); and Ohio, \$28 million (Anthem Blue Cross Blue Shield).

Other states are in varying stages of negotiation and settlement. In Texas, the court ruled against the state. The matter is on appeal. The insurer has agreed to pay \$350 million into a charitable trust in the event the state prevails on appeal. A critical component affecting outcomes in various states has been the underlying state statutory scheme. Some state have conversion statutes, others do not. Washington does not have a specific statute governing health insurer conversions.

Summary of Bill: When a nonprofit health care service contractor or health maintenance organization transfers control or governance of a charitable trust or material charitable trust assets, it must notify the Attorney General's office. The notice requirements are specified.

The Attorney General reviews the proposal and determines whether the proposal involves a charitable interest and whether the proposal is a conversion transaction. Some transactions may not be a conversion transaction if immaterial assets are involved. If the Attorney General concludes the proposal involves a charitable interest and is a conversion transaction, the Attorney General refers the matter to the Insurance Commissioner. The Insurance Commissioner's office undertakes regulation of the proposed transaction, which includes assessment of the fair market value of the charitable interest. Several considerations are set forth to guide the Insurance Commissioner's regulatory process, and include public hearings on the proposal.

A condition of state regulation may include payment of proceeds into the health services account.

Appropriation: None.

Fiscal Note: Requested on January 20, 2001.

Effective Date: Ninety days after adjournment of session in which bill is passed.