
SUBSTITUTE HOUSE BILL 2526

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke, Benson, Simpson, G., McMorris, Moeller, Priest and Chase)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to self-funded multiple employer welfare
2 arrangements; amending RCW 48.02.190, 48.03.060, and 48.14.0201; adding
3 a new section to chapter 48.43 RCW; adding a new section to chapter
4 48.31 RCW; adding a new section to chapter 48.99 RCW; adding a new
5 chapter to Title 48 RCW; prescribing penalties; and declaring an
6 emergency.

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

8 NEW SECTION. **Sec. 1.** This chapter may be cited as the "self-
9 funded multiple employer welfare arrangement regulation act."

10 NEW SECTION. **Sec. 2.** The purposes of this chapter are to:

11 (1) Provide for the authorization and registration of self-funded
12 multiple employer welfare arrangements;

13 (2) Regulate self-funded multiple employer welfare arrangements in
14 order to ensure the financial integrity of the arrangements;

15 (3) Provide reporting requirements for self-funded multiple
16 employer welfare arrangements; and

17 (4) Provide for sanctions against self-funded multiple employer

1 welfare arrangements organized, operated, providing benefits, or
2 maintained in this state that do not comply with this chapter.

3 NEW SECTION. **Sec. 3.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Bona fide association" means an association of employers that
6 has been in existence for a period of not less than ten years prior to
7 sponsoring a self-funded multiple employer welfare arrangement, during
8 which time the association has engaged in substantial activities
9 relating to the common interests of member employers, such as
10 conducting employee training programs, rendering safety and regulatory
11 compliance services, conducting accident investigations, monitoring and
12 testing workplace environmental conditions, conducting wage surveys,
13 negotiating collective bargaining agreements, developing employee
14 handbooks, improving employee relations, or engaging in lobbying
15 activities, and that continues to engage in substantial activities in
16 addition to sponsoring an arrangement.

17 (2) "Employer" means any person, firm, corporation, partnership,
18 business trust, legal representative, or other business entity which
19 engages in any business, industry, profession, or activity in this
20 state and employs one or more other persons or who contracts with one
21 or more persons, the essence of which is the personal labor of that
22 person or persons.

23 (3) "Health care service" means that service offered or provided by
24 health care facilities and health care providers relating to the
25 prevention, cure, or treatment of illness, injury, or disease.

26 (4) "Incurred claims" means the value of all amounts paid or
27 payable under a multiple employer welfare arrangement determined by
28 contract to be a liability with an incurred claims date during the
29 valuation period. It includes all payments during the valuation period
30 plus a reasonable estimate of unpaid claims liabilities.

31 (5) "Multiple employer welfare arrangement" means a multiple
32 employer welfare arrangement as defined by 29 U.S.C. Sec. 1002, but
33 does not include an arrangement, plan, program, or interlocal agreement
34 of or between any political subdivisions of this state, any federal
35 agencies, or any contractors or subcontractors with federal agencies at
36 a federal government facility within this state.

37 (6) "Qualified actuary" means an individual who:

1 (a) Is a member in good standing of the American academy of
2 actuaries; and

3 (b) Is qualified to sign statements of actuarial opinion for health
4 annual statements in accordance with the American academy of actuaries
5 qualification standards for actuaries signing the statements.

6 (7) "Self-funded multiple employer welfare arrangement" or
7 "arrangement" means a multiple employer welfare arrangement that does
8 not provide for payment of benefits under the arrangement solely
9 through a policy or policies of insurance issued by one or more
10 insurance companies licensed under this title.

11 (8) "Surplus" means the excess of the assets of a self-funded
12 multiple employer welfare arrangement over the liabilities of the
13 arrangement. The assets and liabilities should be determined in
14 accordance with the accounting practices and procedures manuals as
15 adopted by the national association of insurance commissioners, unless
16 otherwise provided by law.

17 NEW SECTION. **Sec. 4.** (1) Except as provided in subsection (3) of
18 this section, a person may not establish, operate, provide benefits, or
19 maintain a self-funded multiple employer welfare arrangement in this
20 state unless the arrangement first obtains a certificate of authority
21 from the commissioner.

22 (2) An arrangement is considered to be established, operated,
23 providing benefits, or maintained in this state if (a) one or more of
24 the employer members participating in the arrangement is either
25 domiciled in or maintains a place of business in this state, or (b) the
26 activities of the arrangement or employer members fall under the scope
27 of RCW 48.01.020.

28 (3) An arrangement established, operated, providing benefits, or
29 maintained in this state prior to December 31, 2003, has until April 1,
30 2005, to file a substantially complete application for a certificate of
31 authority. An arrangement that files a substantially complete
32 application for a certificate of authority by that date is allowed to
33 continue to operate without a certificate of authority until the
34 commissioner approves or denies the arrangement's application for a
35 certificate of authority.

1 NEW SECTION. **Sec. 5.** The commissioner may not issue a certificate
2 of authority to a self-funded multiple employer welfare arrangement
3 unless the arrangement establishes to the reasonable satisfaction of
4 the commissioner that the following requirements have been satisfied by
5 the arrangement:

6 (1) The employers participating in the arrangement are members of
7 a bona fide association;

8 (2) The employers participating in the arrangement exercise control
9 over the arrangement, as follows:

10 (a) Subject to (b) of this subsection, control exists if the board
11 of directors of the bona fide association or the employers
12 participating in the arrangement have the right to elect at least
13 seventy-five percent of the individuals designated in the arrangement's
14 organizational documents as having control over the operations of the
15 arrangement and the individuals designated in the arrangement's
16 organizational documents in fact exercise control over the operation of
17 the arrangement; and

18 (b) The use of a third-party administrator to process claims and to
19 assist in the administration of the arrangement is not evidence of the
20 lack of exercise of control over the operation of the arrangement;

21 (3) In this state, the arrangement provides only health care
22 services;

23 (4) In this state, the arrangement provides or arranges benefits
24 for health care services in compliance with those provisions of this
25 title that mandate particular benefits or offerings and with provisions
26 that require access to particular types or categories of health care
27 providers and facilities;

28 (5) The arrangement provides health care services to not less than
29 twenty employers and not less than seventy-five employees;

30 (6) The arrangement may not solicit participation in the
31 arrangement from the general public. However, the arrangement may
32 employ licensed insurance agents who receive a commission, unlicensed
33 individuals who do not receive a commission, and may contract with a
34 licensed insurance producer who may be paid a commission or other
35 remuneration, for the purpose of enrolling and renewing the enrollments
36 of employers in the arrangement;

37 (7) The arrangement has been in existence and operated actively for
38 a continuous period of not less than ten years as of December 31, 2003,

1 except for an arrangement that has been in existence and operated
2 actively since December 31, 2000, and is sponsored by an association
3 that has been in existence more than twenty-five years; and

4 (8) The arrangement is not organized or maintained solely as a
5 conduit for the collection of premiums and the forwarding of premiums
6 to an insurance company.

7 NEW SECTION. **Sec. 6.** (1) In addition to the requirements under
8 section 5 of this act, self-funded multiple employer welfare
9 arrangements are subject to the following requirements:

10 (a) Arrangements must maintain a calendar year for operations and
11 reporting purposes;

12 (b) Arrangements must satisfy one of the following requirements:

13 (i)(A) The arrangement must deposit two hundred thousand dollars
14 with the commissioner to be used for the payment of claims in the event
15 that the arrangement becomes insolvent; and

16 (B) The arrangement must submit to the commissioner a written plan
17 of operation that, in the reasonable discretion of the commissioner,
18 ensures the financial integrity of the arrangement; or

19 (ii) The arrangement demonstrates to the reasonable satisfaction of
20 the commissioner the ability of the arrangement to remain financially
21 solvent, for which purpose the commissioner may consider:

22 (A) The pro forma financial statements of the arrangement;

23 (B) The types and levels of excess of loss insurance coverage,
24 including the attachment points of the coverage and whether the points
25 are reflected as annual or monthly levels;

26 (C) Whether a deposit is required for each employee covered under
27 the arrangement equal to at least one month's cost of providing
28 benefits under the arrangement;

29 (D) The experience of the individuals who will be involved in the
30 management of the arrangement, including employees, independent
31 contractors, and consultants; and

32 (E) Other factors as reasonably determined by the commissioner to
33 be relevant to a determination of whether the arrangement is able to
34 operate in a financially solvent manner.

35 (2) The commissioner may require that the articles, bylaws,
36 agreements, trusts, or other documents or instruments describing the
37 rights and obligations of the employers, employees, and beneficiaries

1 of the arrangement provide that employers participating in the
2 arrangement are subject to pro rata assessment for all liabilities of
3 the arrangement.

4 (3) Self-funded multiple employer welfare arrangements with fewer
5 than one thousand covered persons are required to have aggregate stop
6 loss coverage, with an attachment point of one hundred twenty-five
7 percent of expected claims. If the arrangement is allowed to assess
8 the participating employers to cover actual or projected claims in
9 excess of plan assets, then the attachment point shall be increased by
10 the amount of the allowable assessments. If the required attachment
11 point exceeds one hundred seventy-five percent of expected claims,
12 aggregate stop loss coverage shall be waived. Arrangements with one
13 thousand covered persons or more are not required to have aggregate
14 stop loss coverage.

15 (4) The arrangement must demonstrate continued compliance with
16 respect to the conditions set forth in this section as a condition of
17 receiving and maintaining a certificate of authority. The commissioner
18 may waive continued compliance with respect to the conditions in this
19 section at any time after the commissioner has granted a certificate of
20 authority to an arrangement.

21 NEW SECTION. **Sec. 7.** A self-funded multiple employer welfare
22 arrangement must apply for a certificate of authority on a form
23 prescribed by the commissioner and must submit the application,
24 together with the following documents, to the commissioner:

25 (1) A copy of all articles, bylaws, agreements, trusts, or other
26 documents or instruments describing the rights and obligations of the
27 employers, employees, and beneficiaries of the arrangement;

28 (2) A copy of the summary plan description or summary plan
29 descriptions of the arrangement, including those filed or required to
30 be filed with the United States department of labor, together with any
31 amendments to the description;

32 (3) Evidence of coverage of or letters of intent to participate
33 executed by at least twenty employers providing allowable benefits to
34 at least seventy-five employees;

35 (4) A copy of the arrangement's most recent year's financial
36 statements that must include, at a minimum, a balance sheet, an income
37 statement, a statement of changes in financial position, and an

1 actuarial opinion signed by a qualified actuary stating that the unpaid
2 claim liability of the arrangement satisfies the standards under this
3 title;

4 (5) Proof that the arrangement maintains or will maintain fidelity
5 bonds required by the United States department of labor under the
6 employee retirement income security act of 1974, 29 U.S.C. Sec. 1001 et
7 seq.;

8 (6) A copy of any excess of loss insurance coverage policies
9 maintained or proposed to be maintained by the arrangement;

10 (7) Biographical reports on forms prescribed by the national
11 association of insurance commissioners evidencing the general
12 trustworthiness and competence of each individual who is serving or who
13 will serve as an officer, director, trustee, employee, or fiduciary of
14 the arrangement;

15 (8) Fingerprint cards and current fees payable to the Washington
16 state patrol to check the criminal history of any person who exercises
17 control over the financial dealings and operations of the self-funded
18 multiple employer welfare arrangement, including collection of employer
19 contributions, investment of assets, payment of claims, rate setting,
20 and claims adjudication; and

21 (9) A statement executed by a representative of the arrangement
22 certifying, to the best knowledge and belief of the representative,
23 that:

24 (a) The arrangement is in compliance with section 5 of this act;

25 (b) The arrangement is in compliance with the requirements of the
26 employee retirement income security act of 1974, 29 U.S.C. Sec. 1001 et
27 seq., or a statement of any requirements with which the arrangement is
28 not in compliance and a statement of proposed corrective actions; and

29 (c) The arrangement is in compliance with sections 8 and 9 of this
30 act.

31 NEW SECTION. **Sec. 8.** Self-funded multiple employer welfare
32 arrangements must maintain continuously a surplus equal to at least ten
33 percent of the next twelve months projected incurred claims or two
34 million dollars, whichever is greater. The commissioner may proceed
35 against self-funded multiple employer welfare arrangements that fail to
36 maintain the level of surplus required by this section in any manner

1 that the commissioner is authorized to proceed against a health care
2 service contractor that failed to maintain minimum net worth.

3 NEW SECTION. **Sec. 9.** A self-funded multiple employer welfare
4 arrangement must establish and maintain contribution rates for
5 participation under the arrangement that satisfy either of the
6 following requirements:

7 (1) Contribution rates must equal or exceed the sum of projected
8 incurred claims for the year, plus all projected costs of operation of
9 the arrangement for the year, plus an amount equal to any deficiency in
10 the surplus of the arrangement for the prior year, minus an amount
11 equal to the surplus of the arrangement in excess of the minimum
12 required level of surplus; or

13 (2) Contribution rates must equal or exceed a funding level
14 established by a report prepared by a qualified actuary.

15 NEW SECTION. **Sec. 10.** (1) The commissioner shall grant or deny an
16 application for a certificate of authority within one hundred eighty
17 days of the date that a completed application, together with the items
18 designated in section 7 of this act, is submitted to the commissioner.

19 (2) The commissioner shall grant the application of an arrangement
20 that satisfies the applicable requirements of sections 5 through 9 of
21 this act.

22 (3) The commissioner shall deny the application of an arrangement
23 that does not satisfy the applicable requirements of sections 5 through
24 9 of this act. Denial of an application for a certificate of authority
25 is subject to appeal under chapter 34.05 RCW.

26 (4) A certificate of authority granted to an arrangement is
27 effective unless revoked by the commissioner under section 12 of this
28 act.

29 NEW SECTION. **Sec. 11.** (1) A self-funded multiple employer welfare
30 arrangement must comply with the reporting requirements of this
31 section.

32 (2) Every arrangement holding a certificate of authority from the
33 commissioner must file its financial statements as required by this
34 title and by the commissioner in accordance with the accounting

1 practices and procedures manuals as adopted by the national association
2 of insurance commissioners, unless otherwise provided by law.

3 (3) Every arrangement must comply with the provisions of chapters
4 48.12 and 48.13 RCW.

5 (4) Every arrangement holding a certificate of authority shall,
6 annually, before the first day of March, file with the commissioner a
7 true statement of its financial condition, transactions, and affairs as
8 of the thirty-first day of December of the preceding year. The
9 statement forms must be those forms approved by the national
10 association of insurance commissioners for health insurance. The
11 statement must be verified by the oaths of at least two officers of the
12 arrangement. Additional information may be required by this title or
13 by the request of the commissioner.

14 (5) Every arrangement must report their annual and other statements
15 in the same manner required of other insurers by rule of the
16 commissioner.

17 (6) The arrangement must file with the commissioner a copy of the
18 arrangement's internal revenue service form 5500 together with all
19 attachments to the form, at the time required for filing the form.

20 NEW SECTION. **Sec. 12.** (1) The commissioner may impose sanctions
21 against a self-funded multiple employer welfare arrangement that fails
22 to comply with this chapter. The maximum fine may not exceed ten
23 thousand dollars for each violation.

24 (2) The commissioner may issue a notice of intent to revoke the
25 certificate of authority of a self-funded multiple employer welfare
26 arrangement that fails to comply with section 8, 9, or 11 of this act.
27 If, within sixty days of receiving notice under this subsection, the
28 arrangement fails to file with the commissioner a plan to bring the
29 arrangement into compliance with section 8, 9, or 11 of this act, the
30 commissioner may revoke the arrangement's certificate of authority. A
31 revocation of a certificate of authority is subject to appeal under
32 chapter 34.05 RCW.

33 (3) An arrangement that fails to maintain the level of surplus
34 required by section 8 of this act is subject to the sanctions
35 authorized in RCW 48.44.160 through 48.44.166.

1 be made, an examination of the arrangement's business and affairs.
2 Whenever such an examination is made, all of the provisions of chapter
3 48.03 RCW not inconsistent with this chapter shall be applicable. In
4 lieu of making an examination himself or herself, the commissioner may,
5 in the case of a foreign self-funded multiple employer welfare
6 arrangement, accept an examination report of the applicant by the
7 regulatory official in its state of domicile. In the case of a
8 domestic self-funded multiple employer welfare arrangement, the
9 commissioner may accept an examination report of the applicant by the
10 regulatory official of a state that has already licensed the
11 arrangement.

12 NEW SECTION. **Sec. 17.** This chapter does not apply to:

- 13 (1) Single employer entities;
14 (2) Taft-Hartley plans;
15 (3) Self-funded multiple employer welfare arrangements that do not
16 provide coverage for health care services; or
17 (4) Plans that have received a United States department of labor
18 advisory opinion saying that they constitute a single employee welfare
19 benefit plan.

20 NEW SECTION. **Sec. 18.** A new section is added to chapter 48.43 RCW
21 to be codified between RCW 48.43.300 and 48.43.370 to read as follows:

22 A self-funded multiple employer welfare arrangement, as defined in
23 section 3 of this act, is subject to the same RBC reporting
24 requirements as a domestic carrier under RCW 48.43.300 through
25 48.43.370.

26 NEW SECTION. **Sec. 19.** A new section is added to chapter 48.31 RCW
27 to read as follows:

28 A self-funded multiple employer welfare arrangement, as defined in
29 section 3 of this act, is an insurer under this chapter.

30 NEW SECTION. **Sec. 20.** A new section is added to chapter 48.99 RCW
31 to read as follows:

32 A self-funded multiple employer welfare arrangement, as defined in
33 section 3 of this act, is an insurer under this chapter.

1 **Sec. 21.** RCW 48.02.190 and 2003 1st sp.s. c 25 s 923 are each
2 amended to read as follows:

3 (1) As used in this section:

4 (a) "Organization" means every insurer, as defined in RCW
5 48.01.050, having a certificate of authority to do business in this
6 state and every health care service contractor registered to do
7 business in this state. "Class one" organizations shall consist of all
8 insurers as defined in RCW 48.01.050. "Class two" organizations shall
9 consist of all organizations registered under provisions of chapter
10 48.44 RCW. "Class three" organizations shall consist of self-funded
11 multiple employer welfare arrangements as defined in section 3 of this
12 act.

13 (b) "Receipts" means (i) net direct premiums consisting of direct
14 gross premiums, as defined in RCW 48.18.170, paid for insurance written
15 or renewed upon risks or property resident, situated, or to be
16 performed in this state, less return premiums and premiums on policies
17 not taken, dividends paid or credited to policyholders on direct
18 business, and premiums received from policies or contracts issued in
19 connection with qualified plans as defined in RCW 48.14.021, and (ii)
20 prepayments to health care service contractors as set forth in RCW
21 48.44.010(3) less experience rating credits, dividends, prepayments
22 returned to subscribers, and payments for contracts not taken.

23 (2) The annual cost of operating the office of insurance
24 commissioner shall be determined by legislative appropriation. A pro
25 rata share of the cost shall be charged to all organizations. Each
26 class of organization shall contribute sufficient in fees to the
27 insurance commissioner's regulatory account to pay the reasonable
28 costs, including overhead, of regulating that class of organization.

29 (3) Fees charged shall be calculated separately for each class of
30 organization. The fee charged each organization shall be that portion
31 of the cost of operating the insurance commissioner's office, for that
32 class of organization, for the ensuing fiscal year that is represented
33 by the organization's portion of the receipts collected or received by
34 all organizations within that class on business in this state during
35 the previous calendar year: PROVIDED, That the fee shall not exceed
36 one-eighth of one percent of receipts: PROVIDED FURTHER, That the
37 minimum fee shall be one thousand dollars.

1 (4) The commissioner shall annually, on or before June 1, calculate
2 and bill each organization for the amount of its fee. Fees shall be
3 due and payable no later than June 15 of each year: PROVIDED, That if
4 the necessary financial records are not available or if the amount of
5 the legislative appropriation is not determined in time to carry out
6 such calculations and bill such fees within the time specified, the
7 commissioner may use the fee factors for the prior year as the basis
8 for the fees and, if necessary, the commissioner may impose
9 supplemental fees to fully and properly charge the organizations. The
10 penalties for failure to pay fees when due shall be the same as the
11 penalties for failure to pay taxes pursuant to RCW 48.14.060. The fees
12 required by this section are in addition to all other taxes and fees
13 now imposed or that may be subsequently imposed.

14 (5) All moneys collected shall be deposited in the insurance
15 commissioner's regulatory account in the state treasury which is hereby
16 created.

17 (6) Unexpended funds in the insurance commissioner's regulatory
18 account at the close of a fiscal year shall be carried forward in the
19 insurance commissioner's regulatory account to the succeeding fiscal
20 year and shall be used to reduce future fees. During the 2003-2005
21 fiscal biennium, the legislature may transfer from the insurance
22 commissioner's regulatory account to the state general fund such
23 amounts as reflect excess fund balance in the account.

24 **Sec. 22.** RCW 48.03.060 and 1995 c 152 s 2 are each amended to read
25 as follows:

26 (1) Examinations within this state of any insurer or self-funded
27 multiple employer welfare arrangement as defined in section 3 of this
28 act domiciled or having its home offices in this state, other than a
29 title insurer, made by the commissioner or the commissioner's examiners
30 and employees shall, except as to fees, mileage, and expense incurred
31 as to witnesses, be at the expense of the state.

32 (2) Every other examination, whatsoever, or any part of the
33 examination of any person domiciled or having its home offices in this
34 state requiring travel and services outside this state, shall be made
35 by the commissioner or by examiners designated by the commissioner and
36 shall be at the expense of the person examined; but a domestic insurer

1 shall not be liable for the compensation of examiners employed by the
2 commissioner for such services outside this state.

3 (3) When making an examination under this chapter, the commissioner
4 may retain attorneys, appraisers, independent actuaries, independent
5 certified public accountants, or other professionals and specialists as
6 examiners, the cost of which shall be borne by the person who is the
7 subject of the examination, except as provided in subsection (1) of
8 this section.

9 (4) The person examined and liable therefor shall reimburse the
10 state upon presentation of an itemized statement thereof, for the
11 actual travel expenses of the commissioner's examiners, their
12 reasonable living expense allowance, and their per diem compensation,
13 including salary and the employer's cost of employee benefits, at a
14 reasonable rate approved by the commissioner, incurred on account of
15 the examination. Per diem salary and expenses for employees examining
16 insurers domiciled outside the state of Washington shall be established
17 by the commissioner on the basis of the National Association of
18 Insurance Commissioner's recommended salary and expense schedule for
19 zone examiners, or the salary schedule established by the Washington
20 personnel resources board and the expense schedule established by the
21 office of financial management, whichever is higher. A domestic title
22 insurer shall pay the examination expense and costs to the commissioner
23 as itemized and billed by the commissioner.

24 The commissioner or the commissioner's examiners shall not receive
25 or accept any additional emolument on account of any examination.

26 (5) Nothing contained in this chapter limits the commissioner's
27 authority to terminate or suspend any examination in order to pursue
28 other legal or regulatory action under the insurance laws of this
29 state. Findings of fact and conclusions made pursuant to any
30 examination are prima facie evidence in any legal or regulatory action.

31 **Sec. 23.** RCW 48.14.0201 and 1998 c 323 s 1 are each amended to
32 read as follows:

33 (1) As used in this section, "taxpayer" means a health maintenance
34 organization((~~τ~~)) as defined in RCW 48.46.020, ((~~ϕ~~)) a health care
35 service contractor((~~τ~~)) as defined in RCW 48.44.010, or a self-funded
36 multiple employer welfare arrangement as defined in section 3 of this
37 act.

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

7 (3) Taxpayers shall prepay their tax obligations under this
8 section. The minimum amount of the prepayments shall be percentages of
9 the taxpayer's tax obligation for the preceding calendar year
10 recomputed using the rate in effect for the current year. For the
11 prepayment of taxes due during the first calendar year, the minimum
12 amount of the prepayments shall be percentages of the taxpayer's tax
13 obligation that would have been due had the tax been in effect during
14 the previous calendar year. The tax prepayments shall be paid to the
15 state treasurer through the commissioner's office by the due dates and
16 in the following amounts:

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

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

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

20 (4) For good cause demonstrated in writing, the commissioner may
21 approve an amount smaller than the preceding calendar year's tax
22 obligation as recomputed for calculating the health maintenance
23 organization's, health care service contractor's, or certified health
24 plan's prepayment obligations for the current tax year.

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

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

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

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

37 (7) Beginning January 1, 2000, the state does hereby preempt the
38 field of imposing excise or privilege taxes upon taxpayers and no

1 county, city, town, or other municipal subdivision shall have the right
2 to impose any such taxes upon such taxpayers. This subsection shall be
3 limited to premiums and payments for health benefit plans offered by
4 health care service contractors under chapter 48.44 RCW (~~and~~), health
5 maintenance organizations under chapter 48.46 RCW, and self-funded
6 multiple employer welfare arrangements as defined in section 3 of this
7 act. The preemption authorized by this subsection shall not impair the
8 ability of a county, city, town, or other municipal subdivision to
9 impose excise or privilege taxes upon the health care services directly
10 delivered by the employees of a health maintenance organization under
11 chapter 48.46 RCW.

12 (8) The taxes imposed by this section apply to a self-funded
13 multiple employer welfare arrangement only in the event that they are
14 not preempted by the employee retirement income security act of 1974,
15 as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the
16 commissioner shall initially request an advisory opinion from the
17 United States department of labor and obtain a declaratory ruling from
18 a federal court on the legality of imposing state premium taxes on
19 these arrangements before assessing the taxes. If the taxes are not
20 preempted by federal law, the taxes provided for in this section become
21 effective on the first day of March following the issuance of a
22 certificate of authority and shall not be retroactively applied to any
23 period occurring before the arrangement receives a certificate of
24 authority.

25 NEW SECTION. Sec. 24. Sections 1 through 17 of this act
26 constitute a new chapter in Title 48 RCW.

27 NEW SECTION. Sec. 25. This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately.

--- END ---