

SENATE BILL REPORT

SB 5473

As Reported By Senate Committee On:
Health & Long-Term Care, February 28, 2005

Title: An act relating to prohibiting civil or criminal liabilities or penalties for actions related to the Washington state health insurance pool.

Brief Description: Prohibiting civil or criminal liabilities or penalties for actions related to the Washington state health insurance pool.

Sponsors: Senators Keiser, Deccio, Parlette, Pflug and Kohl-Welles.

Brief History:

Committee Activity: Health & Long-Term Care: 2/3/05, 2/28/05 [DPS].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5473 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Thibaudeau, Vice Chair; Benson, Brandland, Franklin, Johnson, Kastama, Kline, Parlette and Poulsen.

Staff: Jonathan Seib (786-7427)

Background: The Washington State Health Insurance Pool (WSHIP) is the state-facilitated insurance program for high-risk individuals who are unable to obtain coverage in the individual market. It is governed by a ten-member volunteer board of directors, six of whom are appointed by the Governor and four of whom are selected from among the health carriers that make up the membership of the pool. The Insurance Commissioner is also a non-voting, ex officio member. WSHIP's day-to-day operations are overseen by an executive director hired by the board.

When outside legal counsel reviewed the board's operations, including its enabling statutes, it suggested that current law did not provide the degree of civil and criminal immunity typically afforded entities such as this. It concluded that although the existing statute is generally quite broad, it lacks clarity and contains language that could lead to an inappropriately narrow interpretation by a court. There is concern that this could interfere with WSHIP operations.

Summary of Substitute Bill: The current law regarding immunity for actions taken in connection with the operation of the Washington State Health Insurance Pool is changed to provide that the pool, its members, board directors, officers, employees, and the insurance commissioner and his or her representatives or employees, are not liable for good faith actions taken in the performance of the powers and duties set forth in the WSHIP enabling statute. However, nothing in the law prohibits legal actions against the pool to enforce its statutory or contractual duties or obligations.

Substitute Bill Compared to Original Bill: The substitute adds language explicitly providing that nothing in the bill prohibits legal actions against the pool to enforce its statutory or contractual duties or obligations.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: In addition to clarifying the current statute to avoid misunderstanding or misinterpretation, the bill includes employees of the pool and the Office of the Insurance Commissioner in the immunity provision. The language of the bill is similar to immunity provisions for other organizations already in law. The pool itself is covered under the current law.

Testimony Against: There is concern about including the pool itself in the immunity provision. Persons who get health care from WSHIP should have the same rights as others.

Who Testified: PRO: Karen Larsen, Washington State Health Insurance Pool.

CON: Bill Daley, Washington Citizen Action.