

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1690

59th Legislature
2005 Regular Session

Passed by the House April 18, 2005
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 11, 2005
Yeas 45 Nays 3

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1690** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1690

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Representatives Cody and Moeller

Read first time 02/02/2005. Referred to Committee on Finance.

1 AN ACT Relating to the applicability of certain taxes and
2 assessments to state funded health care services; and amending RCW
3 48.14.0201 and 48.41.090.

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

5 **Sec. 1.** RCW 48.14.0201 and 2004 c 260 s 24 are each amended to
6 read as follows:

7 (1) As used in this section, "taxpayer" means a health maintenance
8 organization as defined in RCW 48.46.020, a health care service
9 contractor as defined in RCW 48.44.010, or a self-funded multiple
10 employer welfare arrangement as defined in RCW 48.125.010.

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

17 (3) Taxpayers shall prepay their tax obligations under this
18 section. The minimum amount of the prepayments shall be percentages of
19 the taxpayer's tax obligation for the preceding calendar year

1 recomputed using the rate in effect for the current year. For the
2 prepayment of taxes due during the first calendar year, the minimum
3 amount of the prepayments shall be percentages of the taxpayer's tax
4 obligation that would have been due had the tax been in effect during
5 the previous calendar year. The tax prepayments shall be paid to the
6 state treasurer through the commissioner's office by the due dates and
7 in the following amounts:

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

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

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

11 (4) For good cause demonstrated in writing, the commissioner may
12 approve an amount smaller than the preceding calendar year's tax
13 obligation as recomputed for calculating the health maintenance
14 organization's, health care service contractor's, self-funded multiple
15 employer welfare arrangement's, or certified health plan's prepayment
16 obligations for the current tax year.

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

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

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

25 (b) Amounts received by any taxpayer from the state of Washington
26 as prepayments for health care services provided under:

27 (i) The medical care services program as provided in RCW 74.09.035;

28 (ii) The Washington basic health plan on behalf of subsidized
29 enrollees as provided in chapter 70.47 RCW; or

30 (iii) The medicaid program on behalf of elderly or disabled clients
31 as provided in chapter 74.09 RCW when these prepayments are received
32 prior to July 1, 2009, and are associated with a managed care contract
33 program that has been implemented on a voluntary demonstration or pilot
34 project basis.

35 (c) Amounts received by any health care service contractor, as
36 defined in RCW 48.44.010, as prepayments for health care services
37 included within the definition of practice of dentistry under RCW
38 18.32.020.

1 (~~(e)~~) (d) Participant contributions to self-funded multiple
2 employer welfare arrangements that are not taxable in this state.

3 (7) Beginning January 1, 2000, the state does hereby preempt the
4 field of imposing excise or privilege taxes upon taxpayers and no
5 county, city, town, or other municipal subdivision shall have the right
6 to impose any such taxes upon such taxpayers. This subsection shall be
7 limited to premiums and payments for health benefit plans offered by
8 health care service contractors under chapter 48.44 RCW, health
9 maintenance organizations under chapter 48.46 RCW, and self-funded
10 multiple employer welfare arrangements as defined in RCW 48.125.010.
11 The preemption authorized by this subsection shall not impair the
12 ability of a county, city, town, or other municipal subdivision to
13 impose excise or privilege taxes upon the health care services directly
14 delivered by the employees of a health maintenance organization under
15 chapter 48.46 RCW.

16 (8) The taxes imposed by this section apply to a self-funded
17 multiple employer welfare arrangement only in the event that they are
18 not preempted by the employee retirement income security act of 1974,
19 as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the
20 commissioner shall initially request an advisory opinion from the
21 United States department of labor or obtain a declaratory ruling from
22 a federal court on the legality of imposing state premium taxes on
23 these arrangements. If there has not been a final determination by the
24 United States department of labor or a federal court that the taxes are
25 not preempted by federal law, the taxes provided for in this section
26 become effective on March 1, 2005, or thirty days following the
27 issuance of a certificate of authority, whichever is later. During the
28 time period between March 1, 2005, or thirty days following the
29 issuance of a certificate of authority, whichever is later, and the
30 final determination by the United States department of labor or a
31 federal court, any taxes shall be deposited in an interest bearing
32 escrow account maintained by the (~~(self-funded)~~) self-funded multiple
33 employer welfare arrangement. Upon a final determination that the
34 taxes are not preempted by the employee retirement income security act
35 of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all funds in the
36 interest bearing escrow account shall be transferred to the state
37 treasurer.

1 **Sec. 2.** RCW 48.41.090 and 2000 c 79 s 11 are each amended to read
2 as follows:

3 (1) Following the close of each accounting year, the pool
4 administrator shall determine the net premium (premiums less
5 administrative expense allowances), the pool expenses of
6 administration, and incurred losses for the year, taking into account
7 investment income and other appropriate gains and losses.

8 (2)(a) Each member's proportion of participation in the pool shall
9 be determined annually by the board based on annual statements and
10 other reports deemed necessary by the board and filed by the member
11 with the commissioner; and shall be determined by multiplying the total
12 cost of pool operation by a fraction. The numerator of the fraction
13 equals that member's total number of resident insured persons,
14 including spouse and dependents, covered under all health plans in the
15 state by that member during the preceding calendar year. The
16 denominator of the fraction equals the total number of resident insured
17 persons, including spouses and dependents, covered under all health
18 plans in the state by all pool members during the preceding calendar
19 year.

20 (b) For purposes of calculating the numerator and the denominator
21 under (a) of this subsection:

22 (i) All health plans in the state by the state health care
23 authority include only the uniform medical plan; (~~and~~)

24 (ii) Each ten resident insured persons, including spouse and
25 dependents, under a stop loss plan or the uniform medical plan shall
26 count as one resident insured person;

27 (iii) Health plans serving medical care services program clients
28 under RCW 74.09.035 are exempted from the calculation; and

29 (iv) Health plans established to serve elderly or disabled medicaid
30 clients under chapter 74.09 RCW when the plan has been implemented on
31 a demonstration or pilot project basis are exempted from the
32 calculation until July 1, 2009.

33 (c) Except as provided in RCW 48.41.037, any deficit incurred by
34 the pool shall be recouped by assessments among members apportioned
35 under this subsection pursuant to the formula set forth by the board
36 among members.

37 (3) The board may abate or defer, in whole or in part, the
38 assessment of a member if, in the opinion of the board, payment of the

1 assessment would endanger the ability of the member to fulfill its
2 contractual obligations. If an assessment against a member is abated
3 or deferred in whole or in part, the amount by which such assessment is
4 abated or deferred may be assessed against the other members in a
5 manner consistent with the basis for assessments set forth in
6 subsection (2) of this section. The member receiving such abatement or
7 deferment shall remain liable to the pool for the deficiency.

8 (4) If assessments exceed actual losses and administrative expenses
9 of the pool, the excess shall be held at interest and used by the board
10 to offset future losses or to reduce pool premiums. As used in this
11 subsection, "future losses" includes reserves for incurred but not
12 reported claims.

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