

# SENATE BILL REPORT

## 2SHB 2537

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As Reported By Senate Committee On:  
Health & Long-Term Care, February 25, 2008  
Ways & Means, March 03, 2008

**Title:** An act relating to modifications to the health insurance partnership statute necessary for timely implementation of the health insurance partnership.

**Brief Description:** Modifications to the health insurance partnership act.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Cody, Hasegawa, Kenney, Morrell, Green and Loomis).

**Brief History:** Passed House: 2/15/08, 54-40.

**Committee Activity:** Health & Long-Term Care: 2/20/08, 2/25/08 [DPA-WM, DNP]  
Ways & Means: 3/3/08 [DPA, DNP, w/oRec].

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley, Kastama, Kohl-Welles and Marr.

**Minority Report:** Do not pass.

Signed by Senators Pflug, Ranking Minority Member; Carrell and Parlette.

**Staff:** Mich'l Needham (786-7442)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Fairley, Hobbs, Keiser, Kohl-Welles, Rasmussen, Regala, Rockefeller and Tom.

**Minority Report:** Do not pass.

Signed by Senators Zarelli, Ranking Minority Member; Honeyford, Parlette, Roach and Schoesler.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Brandland, Carrell and Hatfield.

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

**Staff:** Elaine Deschamps (786-7441)

**Background:** The 2007 Legislature established a Health Insurance Partnership (Partnership) within the Health Care Authority (HCA) to serve small employers, beginning in September 2008. If funding is provided by the Legislature, the Partnership will provide a premium subsidy for low-income employees with incomes below 200 percent of the federal poverty level. A seven-member Health Insurance Partnership Board (Board) was established. Members include the HCA administrator and individuals with expertise in the health insurance market and benefit design.

The Board is responsible for designating the health benefit plans eligible for premium subsidy from benefit plans available in the private small group market filed with the Office of Insurance Commissioner. They must include at least four plans, with multiple cost-sharing and deductible options, ranging from a high deductible plan to a comprehensive plan. The Board will determine a mid-range plan that will be used as the benchmark for the premium subsidy, and the premium subsidy will be developed similar to the sliding scale used for the Basic Health program. The Board will determine minimum employee participation requirements and whether there should be a minimum employer contribution; employers will continue to determine employee eligibility and their contributions. The Board will evaluate rating methodologies and impacts on applying small group market ratings within a partnership, and it will consider options to manage carrier uncertainty through risk adjustment, reinsurance, or other mechanisms.

The Board has identified a number of issues that must be addressed prior to making subsidized health coverage available to employees of small business through the Partnership. These issues include: risk management and rating impacts related to an employee's ability to choose a health plan; the funding source for subsidies and administrative expenses; potential conflicts between the Partnership statute and the health insurance provisions of Title 48 RCW; potential ERISA implications with designation of the Partnership as the administrator of the plan; modifications to the implementation time line; and clarifying small employer eligibility for the Partnership relative to having at least one employee in subsidy status.

**Summary of Bill (Recommended Amendments):** The Partnership implementation is delayed to January 1, 2009, with coverage scheduled to begin no later than March 1, 2009, subject to available funding.

The Board is authorized to limit the number of small group health benefit plans that will be offered in the Partnership and limit the plans that will be eligible for a subsidy. Up to five benefit plans will be chosen, ranging from catastrophic to comprehensive coverage, and at least one option must be a high deductible health plan and one must be a health savings account. Small employers participating in the Partnership must attest to the fact that they do not currently offer health insurance to their employees, and that at least 50% of their employees are low-wage workers. During a two- year start-up phase of the Partnership, the Board is authorized to limit an individual's health plan choice, and limit coverage of former employees to those eligible for COBRA continuation coverage.

Language requiring the Partnership to offer and administer the small employer's group health benefit is modified to allow small employers to enter an agreement with the Partnership to purchase health benefits through the Partnership. The Board must determine whether the

Partnership should be designated as the administrator and undertake the obligations required of a plan administrator in federal law in order to minimize administrative burdens on participating small employers.

Any administrative surcharge added to the health benefit plans in the Partnership applies only to the health benefit plans purchased through the Partnership, and is not considered part of the small group community rate. The surcharge must reflect administrative and operational expenses remaining after any appropriation by the Legislature for administrative or operational expenses.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments):** Requires small employers participating in the Partnership to attest to the fact that they do not currently offer health insurance to their employees, and that at least 50 percent of their employees are low-wage workers. Makes a technical correction to the reference to health savings accounts that are linked to high deductible health plans.

**EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Recommended Amendments):** The Board must offer up to five health benefit plans, instead of four, and one must be a health savings account.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Second Substitute Bill (Health & Long-Term Care):** PRO: The bill represents changes requested by the Partnership Board to allow them to implement the legislation passed last year. The bill incorporates all the changes requested in the December memo from the Board. This is important legislation that provides some needed assistance for small employers. Health care is very expensive for small businesses and we really need some help. The Partnership will provide an alternative to employers that will allow our low-income employees to get a subsidy for their premium portion. We strongly encourage providing a subsidy for low-income employees.

CON: This bill eliminates the requirement for employers to have at least one low-income employee and opens the Partnership to competing with other coverage. We disagree that the changes requested in the bill are technical and believe they change the focus of the program. It moves the bill from targeted assistance for those with the greatest need. Employers will be competing against employers that are receiving a subsidy. It is an unnecessary expenditure of state funds to offer the same coverage that is available in the small group market. The Small Employer Health Insurance (SEHIP) was a better option. Many of the features of the Partnership are already available for employers. For example, employers can set up Section 125 accounts now, and can access Health Reimbursement Accounts (HRAs) and Health Savings Accounts (HSAs). The Partnership just adds a layer of administrative cost onto private market plans, when there is already a layer of administrative cost in the premiums that ensures administrative services of brokers and others are available. Small business owners are interested in an affordability option but this bill does not address the underlying affordability issues.

**Persons Testifying (Health & Long-Term Care):** PRO: Representative Cody, prime sponsor; Richard Onizuka, Beth Walter, Health Care Authority; Bill Daley, Washington Community Action Network; Jody Hall, business owner, Verite Coffee and Cupcake Royale; Kathleen Devon, business owner and member of Washington Small Business for Health Care Coalition.

CON: Mark Johnson, Washington Retail Association; Donna Steward, Association of Washington Business; Christopher Free, Washington Association of Health Underwriters; Troy Nichols, National Federation of Independent Business; Patrick Connor, Washington Farm Bureau.

**Staff Summary of Public Testimony on HEA Recommended Amendments (Ways & Means):** PRO: This bill incorporates the HIP Board's recommended changes to be able to implement the Partnership. Funds are included in the House budget, not in the Senate budget, and we are hoping that in negotiations the funding can be provided to get the program started. The board was empowered to do some very important innovative work for low-wage workers of small employers - please give this board the funding they need to do what was asked of them.

CON: The proposed striker makes a substantial improvement in an otherwise troublesome bill. You're being asked to provide funding for a program that is not going to work, and provide additional funding that doesn't address all of the changes necessary. We appreciate the approach taken in Senate budget to de-fund the program.

**Persons Testifying (Ways & Means):** PRO: Richard Onizuka, Health Care Authority; Karen Merrikin, Group Health Cooperative.

CON: Donna Steward, Association of Washington Business; Patrick Connor, Farm Bureau; Mel Sorensen, Washington Association of Health Underwriters.