

SENATE BILL REPORT

SB 5977

As of February 14, 2007

Title: An act relating to the taxpayer health care fairness act.

Brief Description: Creating the taxpayer health care fairness act.

Sponsors: Senators Kohl-Welles and Keiser.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/13/07.

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Staff: Jennifer Strus (786-7316)

Background: No state or federal law requires employers to provide health care benefits to their employees. As a result employers are free to choose whether to offer health care benefits to their employees and some employees do not have access to employer-provided health care benefits.

Summary of Bill: Every employer of 1,000 or more employees must report to both the Department of Social and Health Services (DSHS) and the Health Care Authority (HCA) within 30 days of the completion of a calendar quarter, the number employed by the employer. The employer does not have to include in the report any employees employed for fewer than 90 days or those who, during the first 12 months of employment, were employed through job placement activities operated by DSHS, the Employment Security Department or organizations contracting with these agencies; or were employees of a franchiser's franchisees.

An employer who makes payments for the purpose of providing or reimbursing the cost of health care services for all its employees enrolled in the medical assistance program or the basic health plan need not report. Seasonal employers also need not report.

The employer's chief executive officer or an individual performing a similar function must verify the report and submit an affidavit that affirms the signing officer reviewed the report and does not contain any untrue statement of material fact or omit material fact.

From the report, DSHS and HCA must identify the employees of each employer who are enrolled during the reporting calendar quarter in either the Medical Assistance (MA) program or the Basic Health Plan (BHP). DSHS and the HCA must compare the information they

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receive from the report with the information they have as well as the information maintained by the Employment Security Department.

Within 60 days after the completion of a calendar quarter, DSHS and the HCA must notify every employer who has employees enrolled in the MA program or the BHP that the employer, within 30 days of receiving notice, must: (1) pay an assessment for each employee enrolled in one of the programs; or (2) for each employee enrolled in BHP enter into an agreement with the HCA to reimburse the HCA authority for the HCA's premium contribution, up to 100 percent of HCA's cost to provide health care coverage for the employee; or for each employee enrolled in MA to reimburse DSHS up to 100 percent of DSHS's cost, for DSHS's cost of health care coverage for the employee.

An employer that fails to file a timely and complete report is subject to a penalty of \$250 for each offense. If the employer does not timely pay the assessment, he or she is subject to a civil penalty of 5 percent of the assessment due for the first month, 10 percent of the assessment due for the second month and 20 percent of the assessment due for the third month and an interest penalty of 1 percent per month on the assessment due. The employer can request a hearing on the notice of assessment.

The enrollee or prospective enrollee cannot be discriminated or interfered with because he or she has enrolled in the MA program or BHP or made inquiries about the programs. Anyone believing he or she has been discriminated against may file a complaint with the Human Rights Commission or file a civil complaint.

DSHS and HCA must cooperatively administer and enforce this act. They also have authority to inspect records and conduct investigations and audits of employment and payroll to determine whether an employer has complied with this act.

Appropriation: None.

Fiscal Note: Requested on February 12, 2007.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: There is a growing access to health insurance problem for poor and middle class people. Many in the retail and service industry are moving to hiring part-time workers who don't qualify for health care insurance. The average person receiving Medicaid works about 17 hours per week. There is a great cost to the state when businesses push people onto state programs. A health care system is needed where all employers and employees contribute equitably to a health care plan. There is an unlevel playing field for those businesses that provide health care benefits competing against businesses that do not provide those benefits. This bill deals with an area that the Governor's health care plan does not deal with. There are 63,000 employees of employers of more than 1,000 employees not covered by employer-provided health care. This is a fair contribution system that is fair to employees. As the system is currently configured, there is a cost shift of these costs to the taxpayer.

CON: The health care system needs broader reform than the focus of this bill. Retailers operate with a very slim profit margin and this bill would present a huge burden to those

businesses. The BHP was created to provide health care to the working poor and that is exactly what it does. Even an employer who provides coverage cannot force an employee to accept it. If that employee chooses the BHP over the employer's coverage, then, under this bill, the employer is penalized for the employee's choice. This seems unfair. The amendment to the Human Rights Commission statute is technically flawed. This bill does not assist employers with the rising costs of health care. Some businesses hire Temporary Assistance for Needy Families recipients as a method of helping them get off welfare; those folks often receive Medicaid. Any business hiring these employees would be penalized.

Persons Testifying: PRO: David West, Center for a Changing Workforce; Terry Gardner, Business Owner, Port Chatham; Susan Richardson, citizen; Robby Stern, Washington State Labor Council.

CON: Steve Gano, Wal-Mart; Mellani McAleenan, Association of Washington Business; Patrick Connor, Farm Bureau; Mark Johnson, Washington Retail Association.

Signed in, Unable to Testify & Submitted Written Testimony: Janet Varon, Welfare Rights Organizing Coalition.