

# SENATE BILL REPORT

## 2SHB 2551

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As of February 19, 2010

**Title:** An act relating to the establishment of the Washington vaccine association.

**Brief Description:** Establishing the Washington vaccine association.

**Sponsors:** House Committee on Ways & Means (originally sponsored by Representatives Cody, Green, Sullivan, Pedersen, Darneille and Moeller).

**Brief History:** Passed House: 2/12/10, 97-0.

**Committee Activity:** Health & Long-Term Care: 2/18/10.

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

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

**Background:** Washington has been one of the few states purchasing vaccines for all children and participating in the free distribution system provided by the federal government for federally- and state-funded vaccines. This universal purchase program has provided access to the federal Centers for Disease Control (CDC) contract pricing of the vaccines, and the unique single order distribution system that gets vaccines delivered to all providers in the state.

The state funding that contributed to the universal purchase system is funded only through April 2010. The federal Vaccines for Children (VFC) program will continue to purchase vaccines for Medicaid, Native American/Alaskan, uninsured, and underinsured children. State purchasing of vaccines for non-VFC children will end, impacting children covered by individual insurance policies, employer-based coverage, and Taft-Hartley plans by shifting expenses for the vaccine purchase to these other plans and ending access to the CDC contract pricing. Elimination of the universal purchase system will also end the single order distribution system for providers, and require providers to establish a separate and parallel system for purchase, storage, and administration of vaccines for non-VFC children.

Throughout the interim an extensive work group including physicians, nurses, payors, public health, and others have explored alternatives for the efficient purchase of vaccines for all children.

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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.*

**Summary of Bill:** The Washington Vaccine Association (association) is formed as a nonprofit corporation to facilitate universal purchase of vaccines for children, and assess health carriers and third-party administrators for the cost of vaccines for certain children under the age of 19.

The board of directors of the association (board) includes representatives from the licensed health carriers or third-party administrators with the most covered lives in Washington; a health maintenance organization with the most covered lives in Washington; other third-party administrators representing Taft-Hartley health benefit plans and self-funded health care purchasers; other carriers; health care providers, including one board certified pediatrician; and the Secretary of the Department of Health (DOH) as a non-voting member.

DOH must calculate the total nonfederal program cost for the upcoming calendar year by October of each year, as well as the anticipated nonfederal program cost for May through December 2010 by April 1, 2010. The board must establish the estimate for the initial assessment period for May 1, 2010, through December 31, 2010, and notify participants by May 15, 2010. Beginning November 1, 2010, and annually thereafter, the board must establish the method and timing of assessment collection, and develop the formula for the assessment. The board must develop a mechanism to verify the number and cost of doses of vaccine purchased and administered to children covered by each participant that are attributed to each participant to reflect the actual experience with vaccine use.

Participants may prepay the assessment for the initial deposit into the universal vaccine purchase account established in the state treasury. In order to generate start-up funding, the initial deposit must be made before April 30, 2010. Only the Secretary of DOH or the Secretary's designee may authorize expenditures from the account.

The board must establish a committee to develop recommendations to the board on the vaccines to be purchased for the upcoming year. The committee is comprised of at least five voting members, including three carrier or third party administrator representatives, one physician, the Secretary or the Secretary's designee, and one non-voting member representing the vaccine manufacturers. The representative of the vaccine manufacturers is chosen by the Secretary from a list of three nominees submitted collectively by vaccine manufacturers. In selecting vaccines, the committee should consider patient safety and clinical efficacy, public health and purchaser value, patient and provider choice, and stability of vaccine supply. Vaccines manufactured with added mercury may not be purchased unless the mercury-free order cannot be filled and the Secretary declares a temporary emergency shortage.

The association may audit compliance by any health carrier or third-party administrator. DOH must assess a civil penalty against any carrier or third-party administrator that fails to pay the assessment within three months of notification. The penalty is 150 percent of the delinquent assessment. DOH and the association may file liens or seek recovery of costs.

All entities that act as third-party administrators for a health insurer or health care purchaser must register with the Department of Licensing (DOL) by September 1, 2010, and renew their registration annually. Any third-party administrator that fails to register is subject to a civil penalty of between \$1,000 and \$10,000.

The board members are provided immunity from liability for any lawful action provided in the course of their duties. The board may vote to recommend termination of the association on or after June 30, 2015, if the association finds the original intent to ensure more cost-effective purchase and distribution of vaccine than if provided through uncoordinated purchase by health care providers has not been achieved. The recommendation must be provided to the Legislature within 30 days of the vote, and if the Legislature has not acted to reject the board's recommendation by the last day of the next regular legislative session, the board may vote to permanently dissolve the association.

Physicians and clinics ordering state supplied vaccine must ensure they have billing mechanisms in place that enable the association to accurately track vaccine delivered to each covered life and must submit documentation requested by the board. Physicians and others providing childhood immunizations are strongly encouraged to use state supplied vaccine whenever possible. Health insurance carriers and third-party administrators may deny claims for vaccine serum costs when serum or serums providing similar protection are available through state supplied vaccine.

If any portion of this program is invalidated by a court, the board may terminate the program 120 days following a final judicial determination. The assessments paid by carriers may be considered medical expenses for rate setting purposes, and the assessments received by the association are not subject to the business and occupation tax established under RCW 82.04.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

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

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:** PRO: Stakeholders have been working on a collaborative approach to preserve an efficient purchasing method for children's vaccines. This bill is the same bill passed by the Senate, with the exception of the mercury amendment. We would like to see the Senate move the House bill without the mercury amendment. This bill creates an efficient purchasing approach that will ensure all children have access to vaccines. This provides the needed statutory foundation that will allow the stakeholders to work collaboratively. While the association is getting started, the carriers have agreed to make early contributions to the pool to ensure the purchasing of vaccines can continue without a break.

CON: The vaccine program should not be privatized. There are too many vaccines in the schedule now and vaccines recklessly expose children to toxic poisons. This private entity will provide no accountability nor recognition of vaccine damaged families. We support the mercury amendment that was added to the Senate bill and would like to see it added to this bill. Vaccines should be mercury free. Turning vaccines over to private for-profit groups builds in incentives for increased vaccine rates. Children need safer vaccines, not more vaccines.

**Persons Testifying:** PRO: Representative Cody, prime sponsor; Dr. Beth Harvey, Washington Chapter American Academy of Pediatrics, Washington Family Physicians, Washington State Medical Association; Sydney Smith Zvarra, Association of Washington Healthcare Plans; Jack McRae, Premera Blue Cross; Ross Baker, Regence Blue Shield; Amber Ulvenes, Group Health.

CON: Ann Clifton, Mercury Awareness Team; Shelby Shrauner, Voice of the Future.