

# SENATE BILL REPORT

## SB 5445

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As of February 10, 2011

**Title:** An act relating to the creation of a health benefit exchange.

**Brief Description:** Establishing a health benefit exchange.

**Sponsors:** Senators Keiser, Pflug, White, Conway and Kline; by request of Governor Gregoire.

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 2/03/11, 2/07/11.

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

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

**Background:** The federal Patient Protection and Affordable Care Act (PPACA), passed in March 2010, requires states to establish health insurance exchanges (Exchange) by January 1, 2014, to facilitate the purchase of individual insurance and small employer group insurance, and provide access to premium tax credits and cost-sharing reductions for individuals with family incomes between 133 percent and 400 percent of the Federal Poverty Level (FPL). Individuals with income below 133 percent will have access to expanded Medicaid programs. The federal subsidies for individuals will only be available through the Exchange, or through a federal Basic Health option that states may choose to have available for individuals with family income between 133 percent and 200 percent of the FPL.

The Exchanges are responsible for a number of functions or services, including:

- certifying qualified health plans that may offer products;
- seamless linking with Medicaid eligibility and enrollment;
- verifying income and citizenship status;
- ensuring the benefit packages offered include the essential health benefits and are available at four benefit values – 60 percent, 70 percent, 80 percent and 90 percent;
- applying risk adjustment and reinsurance;
- operating a toll free hotline and consumer portal that allows comparison shopping and premium calculation and facilitates enrollment; and
- adjudicating appeals.

Exchanges may be administered by public agencies, private nonprofit entities, or some combination. States have a number of policy decisions about the structure and focus of the

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Exchange, and must demonstrate good progress toward development of an Exchange by January 1, 2013, as certified by the federal Department of Health and Human Services (HHS). HHS has made grant funding available to all states to help with the research and planning, and has recently announced the availability of additional grant opportunities to fund the development and implementation. HHS will establish an Exchange for residents and small employer groups in states that choose not to establish their own Exchange.

**Summary of Bill:** The state must establish an Exchange consistent with PPACA intending to:

- increase access to quality affordable health care coverage;
- recognize the need for a private health insurance market to exist outside the Exchange and for a regulatory framework that applies both inside and outside the Exchange;
- create an organized insurance marketplace that provides access to federal subsidies;
- recognize the regulation of the insurance market should continue to be performed by the Insurance Commissioner;
- strengthen the health care delivery system;
- promote quality improvement, cost containment and innovative payment structures;
- increase the availability of private health insurance;
- create a health insurance market that competes on price, quality, service or other innovations and not on risk selection;
- promote consumer literacy;
- effectively administer subsidies and determination of eligibility for all subsidized programs;
- seamlessly direct consumers to information and assist with enrollment; and
- create opportunities to address possible future changes in federal law and funding challenges.

The Health Benefit Exchange Development Board (Board) is created within the Health Care Authority (HCA), consisting of seven board members with expertise in the health care system and private and public health care coverage. Five board members are appointed by the Governor and two are appointed by the Insurance Commissioner. The HCA administrator serves as chair of the Board. The Board may establish technical advisory committees and seek advice from technical experts.

By January 1, 2012, the Board and HCA must develop a business plan and timeline for establishing and implementing an Exchange. The plan must include analysis and recommendations on the array of policy choices and design features for the Exchange, including:

- the governance, operations, and administration;
- the goals and principles;
- the option of a single state-administered exchange serving all geographic areas and serving individuals and small groups;
- whether the state should consider future development of a regional multi-state Exchange;
- the business functions;
- the development of sustainable funding for administration by 2015;
- whether to adopt a federal Basic Health option, who should administer the option, and whether to merge the risk pool with Medicaid;

- whether to merge the individual and small group risk pools in the Exchange and in the private market;
- whether the small group size should increase to 100 prior to 2016; and
- other business recommendations.

The Board must consult with stakeholders including consumers, health insurance carriers, producers and navigators, small businesses, employees, the Office of the Insurance Commissioner, publicly subsidized health care programs, actuaries, and others.

**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:** PRO: We feel this is the best next step in maintaining progress toward development of an Exchange, helping us get it done right and get it done on time. We anticipate this is the first step of a three-step process to design the program and identify the legislative changes to implementation. We endorse the creation of a robust development board that allows different people than we might want for a governance board. The principles captured are the right principles. It is important to maintain local state control of the development of an Exchange. We suggest the Board may need additional representatives of small business, labor and others, and should include a no conflict of interest clause for board members, and the role of stakeholders should be more clearly articulated. The intent should more clearly direct the Exchange to be an active purchaser and it should be more clear that the state should develop one administrative entity to serve both the individual and small group markets. We suggest it should be a governance board not a development board and there should be more discussion about where it is housed. It appears it is housed at the HCA. The bill should indicate where recommendations go and the next steps. We would like the option to purchase a public option through the Exchange. The Board should be subject to the open public meetings act to ensure transparency. The Board appointment process should be modified to allow a model more like the WSHIP Board. We support the offering of the federal Basic Health option and would like it to be administered by the Medicaid agency with similar or identical benefits to ensure seamless transitions.

CON: There is no need to work on this now and we should continue discussions through the Joint Select Committee which offers a bipartisan forum with broader perspectives than can be captured through a board. We should not spend the money now to develop this – let the federal government do it. The federal requirements are not out yet. It is a moving target to chase and we should let the federal government do it.

**Persons Testifying:** PRO: Jonathan Seib, Governor's Office; Molly Voris, Health Care Authority; Karen Merrikin, Group Health; Misha Werschkul, SEIU 775; Jennifer Alan, Healthy Washington Coalition; David Knutson, United Health Care; Molly Moon Neitzel, Molly Moon Ice Cream, Main Street Alliance; Sofia Aragon, Washington State Nurses Association; Mike Tucker, AARP; John Paul, Washington Community Action Network;

Teresa Mosqueda, Washington State Labor Council; Molly Belazer Firth, Community Health Plan, Community Health Network of Washington.

CON: Patrick Connor, National Federation of Independent Business; Gary Smith, Independent Business Association.