SENATE BILL REPORT
SB 5515

As Reported by Senate Committee On:
Health & Long-Term Care, February 17, 2011

Title: An act relating to freestanding emergency rooms.

Brief Description: Providing requirements for freestanding emergency rooms.

Sponsors: Senators Pflug, Keiser, Becker, Kastama, Parlette and Shin.

Brief History:
Committee Activity: Health & Long-Term Care: 2/09/11, 2/17/11 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5515 be substituted therefor, and the substitute bill do pass.
Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline, Murray and Pflug.

Minority Report: Do not pass.
Signed by Senators Carrell and Pridemore.

Minority Report: That it be referred without recommendation.
Signed by Senators Becker, Ranking Minority Member; Parlette.

Staff: Rhoda Donkin (786-7465)

Background: Freestanding emergency rooms (ERs) are not currently defined in statute. These facilities have existed since the early 1970s and were originally created in response to a lack of adequate emergency services in rural and underserved areas. In general, freestanding ERs are separate from an acute care hospital, but may be owned or run by a hospital, located near a hospital but under different management, or fully isolated and not co-located with an acute care hospital and under separate ownership. Services in freestanding ERs typically go beyond services provided in urgent care centers because they provide such procedures as defibrillation, intubation, and conscious sedation. Unlike most urgent care centers, they are open 24 hours a day, seven days a week, and are staffed by experienced and trained emergency physicians and nurses.

Currently Washington State has six freestanding ERs either in operation, under construction, or under review. In 2006 just after the first freestanding ER was opened in our state, the

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Washington State Certificate of Need Task Force included them among the list of health care facilities they recommended be considered for Certificate of Need review.

Summary of Bill (Recommended Substitute): A two-year moratorium on new construction of freestanding ERs is authorized. This applies to any hospital that has not already received approval for construction from the Department of Health as of January 1, 2011.

A freestanding ER is defined as a facility that is advertised or presented to the public as an emergency department, but is not physically connected or adjacent to a hospital licensed under chapter 70.41 RCW.

A freestanding emergency room must notify the patient's primary care provider within eight hours of service at the freestanding ER and if the patient needs transporting to a hospital, the freestanding ER must arrange for the transport and incur full cost to the nearest hospital chosen by the patient either in road miles or in the patient's health plan network.

Hospitals with freestanding ERs must report patient discharge abstracts for all visits to the freestanding ER.

EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Recommended Substitute): A freestanding emergency room must notify the patient's primary care provider within eight hours of service at the freestanding ER. If the patient needs transporting to a hospital, the freestanding ER must arrange for transport and incur full cost to the nearest hospital chosen by the patient either in road miles or in the patient's health plan.

Hospitals must report patient discharge abstracts for all visits to their freestanding ERs.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: These freestanding ERs are not where you want to be if you need primary care, and there is plenty of care going on there that should be primary care. If we are building more emergency rooms, this is not a statement that we're improving health care or bending the cost curve. It's evidence that money is being made at the most expensive entry point to the health care system, and this should not be the goal of our state. We should be exploring the impact of these facilities on primary care because they have an impact. A lot of care that is provided in FSERS is much more expensive and extensive than it would have been in a primary care setting. More tests are done, more treatment rendered because the labs, expertise, and payment is all there. FSERS expansion demonstrates that a lot of people are not getting the care they need at the right time. Patients are going to FSERS because it's convenient. This is going to add waste and cost to our health care system.

CON: The reporting requirements in this bill are very onerous to hospitals. We have queried folks in the rural communities and there is clearly a need for better access to emergency services. These FSERS fill that need and do it without also having to build a whole hospital. FSERS have been extremely well received in the community. About 80 percent of what comes into FSERs is, in fact, emergency level of need. These facilities provide a piece of the overall care needed in a community. The transportation requirements in the bill are unworkable. People shouldn't be forced to go to an inpatient hospital they don't choose.

Persons Testifying: PRO: Senator Pflug, prime sponsor; D.J. Wilson, Northwest Physicians Network; Steve Buckner, Overlake Hospital Medical Center; Dr. Carl Olden, Washington Academy of Family Physicians; Dr. Stewart, Washington Academy of Family Physicians; Dr. Joe Gifford.

CON: Lisa Thatcher, Washington State Hospital Association; Dr. John Milne, Swedish Medical Center; Theresa Boyle, Multicare Health System; Phil Dyer; Jim Berry.