ESHB 1947 - S COMM AMD
By Committee on Ways & Means

NOT CONSIDERED

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.71.010 and 2012 c 87 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. Terms and phrases used in this chapter that are not defined in this section must be defined as consistent with implementation of a state health benefit exchange pursuant to the affordable care act.

(1) "Affordable care act" means the federal patient protection and affordable care act, P.L. 111-148, as amended by the federal health care and education reconciliation act of 2010, P.L. 111-152, or federal regulations or guidance issued under the affordable care act.

(2) "Authority" means the Washington state health care authority, established under chapter 41.05 RCW.

(3) "Board" means the governing board established in RCW 43.71.020.

(4) "Commissioner" means the insurance commissioner, established in Title 48 RCW.

(5) "Exchange" means the Washington health benefit exchange established in RCW 43.71.020.

(6) "Self-sustaining" means capable of operating ((~~without direct state tax subsidy~~)) with revenue attributable to the operations of the exchange. Self-sustaining sources include, but are not limited to, federal grants, federal premium tax subsidies and credits, charges to health carriers, and premiums paid by enrollees.

Sec. 2. RCW 43.71.060 and 2012 c 87 s 5 are each amended to read as follows:

(1) The health benefit exchange account is created in the ((~~custody~~

~~of the state treasurer~~)) state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used to fund the operation of the exchange.

(2) Assessments authorized under section 3 of this act must be deposited in the account.

(3) All receipts from federal grants received under the affordable care act may be deposited into the account. Expenditures from the account may be used only for purposes consistent with the grants((~~. Until March 15, 2012, only the administrator of the health care authority, or his or her designee, may authorize expenditures from the account. Beginning March 15, 2012, only the board of the Washington health benefit exchange or designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.~~

~~(2) This section expires January 1, 2014~~)).

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.71 RCW to read as follows:

(1) Beginning January 1, 2014, the exchange may require each issuer writing premiums for qualified health benefit plans or stand-alone dental plans offered through the exchange to pay an assessment in an amount necessary to fund the operations of the exchange, applicable to operational costs incurred beginning January 1, 2015. The assessment is an exchange user fee as that term is used in 45 C.F.R. 156.80.

(a) Assessments of issuers may be made to fund exchange operations in the following fiscal year at the level authorized by the legislature for that purpose in the omnibus appropriations act.

(b) If the exchange is charging an assessment, the exchange shall set forth the amount of the assessment per member per month on monthly billing statements. A health benefit plan or stand-alone dental plan may identify the amount of the assessment on a monthly billing statement to enrollees, but must not bill the enrollee for the amount of the assessment separately from the premium.

(2) No later than October 1, 2013, the board, in collaboration with the issuers, the health care authority, and the commissioner, must establish a fair and transparent process for calculating the assessment amount. The process must meet the following requirements:

(a) The assessment only applies to issuers that offer coverage in the exchange and only for those market segments offered and must be based on the number of enrollees in qualified health plans and stand-alone dental plans in the exchange for a fiscal year;

(b) The assessment must be established on a flat dollar and cents amount per member per month, and the assessment for dental plans must be proportional to the premiums paid;

(c) Issuers must be notified of the assessment amount by the exchange on a timely basis;

(d) If necessary, an appropriate assessment reconciliation process may be established by the exchange that is administratively efficient;

(e) Issuers must remit the assessment due to the exchange in quarterly installments after receiving notification from the exchange of the due dates of the quarterly installments;

(f) A procedure must be established to allow issuers subject to assessments under this section to have grievances reviewed by an impartial body and reported to the board; and

(g) A procedure for enforcement must be established if an issuer fails to remit its assessment amount to the exchange within ten business days of the quarterly installment due date.

(3) The exchange shall deposit proceeds from the assessments in the health benefit exchange account under RCW 43.71.060.

(4) The assessment described in this section shall be considered a special purpose obligation or assessment in connection with coverage described in this section for the purpose of funding the operations of the exchange, and may not be applied by issuers to vary premium rates at the plan level.

(5) The exchange shall monitor enrollment and provide periodic reports which must be available on its web site.

(6) The board shall offer all qualified health plans through the exchange, and the exchange shall not add or modify qualified health plan criteria beyond those set out in RCW 43.71.065 without specific statutory direction. Nothing shall be construed to limit duties, obligations, and authority otherwise legislatively delegated or granted to the exchange.

(7) By July 1, 2016, the state auditor shall conduct a performance review of the cost of exchange operations and shall make recommendations to the board and the health care committees of the

legislature addressing improvements in cost performance and adoption of best practices. The auditor shall further evaluate the potential cost and customer service benefits through regionalization with other states of some exchange operation functions or through a partnership with the federal government. The cost of the state auditor review must be borne by the exchange.

NEW SECTION. **Sec. 4.** A new section is added to chapter 82.04 RCW to read as follows:

(1) The taxes imposed by this chapter do not apply to amounts received by the Washington health benefit exchange established under chapter 43.71 RCW.

(2) This section expires on July 1, 2023.

NEW SECTION. **Sec. 5.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 6.** Section 4 of this act applies both prospectively and retroactively."

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On page 1, line 3 of the title, after "expenses;" strike the remainder of the title and insert "amending RCW 43.71.010 and 43.71.060; adding a new section to chapter 43.71 RCW; adding a new section to chapter 82.04 RCW; creating a new section; and providing an expiration date."

EFFECT: Removes all references to the premium tax revenue (use of

revenue, appropriation of revenue, dedication of portions of the revenue to the Exchange account, payment for redesign of the premium tax system, and movement of the moneys between accounts. Any appropriation can be made directly from the general fund).

Modifies references in the exchange treasury account for deposit of assessments, and corrects a reference to the federal grant.

Modifies the assessment methodology, removing specific formulas, requiring the Board to establish a fair and transparent process for calculating the assessment amount for the fiscal year no later than October 1, 2013, in collaboration with insurance carriers, the Health Care Authority, and the Office of Insurance Commissioner (calendar year references changed to fiscal year to correspond with the premium tax cycle and the appropriation cycle).

Includes reference to dental plans assessment being proportional to premiums paid.

The Exchange must monitor enrollment and post on its web site.

The Board must offer all qualified health plans to consumers and the Exchange must not add or modify qualified health plan criteria beyond those set in statute without specific statutory direction. Nothing shall be construed to limit the duties, obligations, and authority otherwise legislatively delegated or granted to the Exchange.

Changes "carriers" to "issuers" and inserts references to the stand-alone dental plans.

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