

HOUSE BILL REPORT

ESB 6458

As Reported by House Committee On: Health Care & Wellness

Title: An act relating to the office of the insurance commissioner and matters related to health care insurance.

Brief Description: Addressing the office of the insurance commissioner and matters related to health care insurance.

Sponsors: Senators Becker, Angel, Dammeier, Brown, Tom, Schoesler, Bailey, Braun, Hill, Baumgartner, Litzow, Parlette and Honeyford.

Brief History:

Committee Activity:

Health Care & Wellness: 2/24/14, 2/26/14 [DPA].

Brief Summary of Engrossed Bill (As Amended by Committee)

- Requires the Insurance Commissioner to provide notice of proposed rulemaking on matters relating to health insurance to the health care committees of the Legislature, the Washington Health Benefit Exchange, the Health Care Authority, and the Governor.
- Requires the Governor to convene a meeting of stakeholders when there is a dispute among the state officials and entities implementing the federal Patient Protection and Affordable Care Act.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass as amended. Signed by 13 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Clibborn, Green, Jinkins, Manweller, Moeller, Rodne, Ross, Tharinger and Van De Wege.

Minority Report: Do not pass. Signed by 3 members: Representatives G. Hunt, Morrell and Short.

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.

Staff: Jim Morishima (786-7191).

Background:

The Insurance Commissioner.

The Insurance Commissioner (Commissioner) is a statewide elected official responsible for enforcing the state insurance code. The Commissioner has regulatory authority over many different lines of insurance, including motor vehicle insurance, life insurance, and health insurance. The Commissioner is empowered to make reasonable rules to effectuate any provision of the insurance code (other than provisions relating to his or her election, qualification, or compensation). These rules may not go into effect until they are filed for public inspection in the Commissioner's office. The rules must be adopted under the Administrative Procedures Act (APA).

Notice Requirements Under the APA.

At least 20 days prior to the rulemaking hearing, state agencies, including the Office of the Insurance Commissioner, must file a notice of proposed rulemaking in the State Register. The notice must contain the following information:

- a title, a description of the rule's purpose, and any other information that may be of assistance in identifying the rule or its purpose;
- the statutory authority for adopting the rule and the specific statute the rule is intended to implement;
- a short explanation of the rule, its purpose, and its anticipated effects;
- the agency personnel who are responsible for the drafting, implementation, and enforcement of the rule and their contact information;
- the name of the person or organization proposing the rule;
- agency comments or recommendations regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;
- whether the rule is necessary as a result of federal law or a judicial decision;
- when, where, and how persons may present their views on the proposed rule;
- the date on which the agency intends to adopt the rule;
- a copy of the small business economic impact statement or the school district fiscal impact statement, if any;
- a statement as to whether the rule is subject to the process for significant legislative rulemaking; and
- a preliminary cost-benefit analysis if the process for significant legislative rulemaking applies.

The agency must send copies of the notification of the proposed rulemaking (or a summary of the information in the notification of proposed rulemaking) to persons who have requested such notice. The agency must also send copies of the proposed rule to the Joint Administrative Rules Review Committee (JARRC).

The Governor's Health Leadership Team.

In 2013 the Governor created the Governor's Health Leadership Team (GHLT) to be responsible for actions to implement the federal Patient Protection and Affordable Care Act (PPACA). The GHLT is composed of members from the following state agencies:

- the Health Care Authority (HCA);
- the Department of Health (DOH);
- the Department of Social and Health Services (DSHS);
- the Governor's Legislative Affairs and Policy Office (GLAPO);
- the Office of Financial Management (OFM); and
- other members who will be invited on an as-needed basis, including the Department of Corrections (DOC), the Department of Veterans Affairs (DVA), and the Department of Labor and Industries (L&I).

The Commissioner and the Health Benefit Exchange (HBE) are invited to participate on the GHLT.

The Joint Select Committee on Health Care Oversight.

The Joint Select Committee on Health Care Oversight (JSCHCO) was established by the Legislature in 2013. The JSCHCO consists of the chairs of the health care committees of the Senate and the House of Representatives, who will serve as co-chairs, and four members of the Senate and four members of the House of Representatives, two of each appointed by each of the largest political parties in each body. The Governor may appoint a non-voting member as a liaison to the JSCHCO.

The JSCHCO must provide oversight between the HCA, the HBE, the Commissioner, the DOH, and the DSHS. This oversight must include monitoring of each agency's activities to ensure they are not duplicating their efforts and are working toward a goal of increased quality of service, which will then lead to reduced costs to the health care consumer. The JSCHCO must coordinate with the Research and Analysis Division of the DSHS to monitor health care cost trends. The JSCHCO must also, as necessary, propose legislation and budget recommendations to the Legislature.

Summary of Amended Bill:

The Commissioner must provide notice of proposed rulemaking on matters related to health care insurance to the health care committees of the Legislature, the HBE, the HCA, and the Governor. In the event a dispute arises among the state officials and entities implementing the PPACA, the Governor must convene a meeting of the following entities and officials to resolve the dispute:

- the Commissioner;
- the HCA;
- the DOH;
- the DSHS;
- the GLAPO;
- the OFM;
- the HBE; and

- any other officials or entities the Governor deems appropriate, including the DOC, the DVA, and the L&I.

The Governor may utilize the GHLT as a forum to convene the meeting. The Governor must report the resolution of the meeting to the appropriate committees of the Legislature and to the JSCHCO.

Amended Bill Compared to Engrossed Bill:

The amended bill:

- removes provisions allowing the chairs of the health care committees of the Legislature to notify the JARRC when a party objects to health insurance rules adopted by the Commissioner;
- requires the Governor to convene a meeting in the event a dispute arises regarding the implementation of the PPACA;
- requires the meeting to include the Commissioner, the HCA, the DOH, the DSHS, the GLAPO, the OFM, the HBE, and any other officials or entities the Governor deems appropriate, including the DOC, the DVA, and the L&I;
- allows the Governor to utilize the GHLT as a forum to convene the meeting; and
- requires the Governor to report the resolution of the meeting to the appropriate committees of the Legislature and to the JSCHCO.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) There are big changes happening in health care right now, much of which is happening through administrative rules. This bill makes sure that legislators have the ability to look at proposed rules and provide input. The bill will also help ensure that the rules are meeting the needs of Washington citizens. This bill should be amended to include protections for providers who contract with health carriers.

(In support with amendments) This bill should be used as a vehicle to include protections for providers who contract with health carriers.

(Opposed) Much of this bill is redundant. Legislators and other people already have access to proposed rules by subscribing to bulletins. Legislators can already introduce legislation to amend or overturn rules. This bill creates a conflict in law. The APA has a process to challenge rules; this process requires exhaustion. This bill creates a bypass to the exhaustion requirement and is a clear example of why amendment by reference is not allowed.

Persons Testifying: (In support) Senator Becker, prime sponsor; and Lori Grassi, Washington State Chiropractic Association.

(In support with amendments) Brad Tower, Optometric Physicians of Washington.

(Opposed) Larry Shannon, Washington State Association for Justice.

Persons Signed In To Testify But Not Testifying: None.