

# SENATE BILL REPORT

## SB 5540

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As of February 26, 2013

**Title:** An act relating to expanding opportunities to purchase health care coverage from out-of-state carriers.

**Brief Description:** Expanding opportunities to purchase health care coverage from out-of-state carriers.

**Sponsors:** Senators Parlette, Schlicher, Becker, Bailey, Dammeier, Keiser, Rolfes and Frockt.

**Brief History:**

**Committee Activity:** Health Care: 2/18/13, 2/21/13 [DPS-WM].

**Ways & Means:** 2/27/13.

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** That Substitute Senate Bill No. 5540 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Keiser, Ranking Member; Bailey, Cleveland, Ericksen, Frockt, Parlette and Schlicher.

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

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Steve Jones (786-7440)

**Background:** In order to sell insurance in Washington, a carrier must be licensed by the state and comply with a variety of requirements including rating review, network adequacy, benefit offerings, and various consumer protections. The federal Affordable Care Act (ACA) authorizes states to enter into compacts allowing carriers to sell health insurance across state lines after January 1, 2016. Reciprocity agreements between states may provide opportunities similar to full interstate compacts.

**Summary of Bill (Recommended Substitute):** The Office of the Insurance Commissioner (OIC) may contract with other states to establish and operate a consortium governing the sale of a qualifying reciprocal plan for small groups, by insurers admitted to one of the states in the consortium. OIC must report to the Legislature by January 1, 2014 on states that have

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been identified to participate in a consortium, with a plan for seeking a reciprocity agreement with at least one state. OIC may not enter into an agreement until they have identified a minimum of five states whose regulatory requirements for health benefit plans meet or exceed those of Washington in the areas of network adequacy, consumer protection, marketing requirements, and claim adjudication and processing. The reciprocity consortium may commence with an agreement with just one of the states.

OIC may enter into separate reciprocity agreements or one uniform agreement. Any reciprocity agreement must establish rules for the management of consumer questions and complaints. Reciprocity states must agree to provide a list of approved health benefit plans that meet Washington standards for foreign insurers. The agreement must establish a mechanism for the payment of premium tax, the regulatory surcharge, and collection of any reinsurance or risk adjustment assessments that would otherwise be applicable.

An out-of-state insurance carrier, known as a foreign insurer, must be authorized as a qualifying reciprocal plan if the plan:

- is authorized in a state that is a member of the consortium;
- proposes to sell a health benefit plan in Washington that has benefits substantially equivalent to the essential health benefits designated in Washington, has been approved by a state with a reciprocity agreement, and is not a health savings account or high-deductible health plan;
- follows the insurance market rules on the offering of different actuarial value plans – bronze, silver, and gold; and
- maintains the total adjusted capital required in Washington.

Each health benefit sold in Washington must include a standardized paragraph regarding the benefits and rates not being approved by the state of Washington, and each product must include a comparison of the benefits with any differences noted between Washington law and the law of the approving state. Insurers must offer the plan through producers or agents that comply with Washington laws.

The health benefit plans are not required to include state health benefit mandates that are not included in the qualifying reciprocal plan. The health benefit plan must be filed with OIC for approval of the policy forms. OIC must approve the plan if it meets all the requirements for foreign insurers.

OIC must report to the Legislature annually on the reciprocity consortium's formation, membership, number of health benefit plans offered in Washington through the consortium, effect on the marketplace including the Health Benefits Exchange (Exchange), and whether continuing reciprocity sales serves the public health and welfare.

A health benefit plan offered by a foreign insurer may be certified as a qualified health plan through the Exchange only if it meets the requirements of the Exchange, and it must follow the insurance market rules on the offering of different actuarial value plans –bronze, silver, and gold.

**EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (Recommended Substitute):** The out-of-state insurers must follow the insurance market rules that prevent

the sale of only lower actuarial value plans known as bronze plans. If an insurer offers a bronze plan they must also offer silver and gold-value plans. References to qualifying reciprocal plans are corrected to health benefit plans.

**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 on Original Bill (Health Care):** PRO: This bill is an issue we have worked on for a few years, and this version is starting off where the House Health Care Committee negotiated changes last year. This provides another opportunity for groups to offer different products in Washington. This bill opens up the Washington market where our carriers currently have a lock on the market. The discussion has been a work in process for several years, and it might provide an opportunity for neighboring states to purchase products in Washington or offer additional products for small groups.

CON: We have concerns this approach avoids the requirements the Legislature has imposed on carriers. The market rules passed by the Legislature set up a level playing field where all carriers have to offer the gold and bronze value tiers inside and outside the Exchange. Allowing outside carriers to participate that are not subject to market rules will set up biased risk selection based on the products offered which will result in price differentials that will hurt the Small Business Health Options Program Exchange, making those products more expensive. The bill is moving in the wrong direction at a time when we are setting up the Exchange and getting prepared for broader choice of plans. The bill conflicts with many of the provisions that will ensure the Exchange is robust and healthy. We have concerns about how to implement this since only two states, Wyoming and Maine, have reciprocal agreements in place, and only a handful have compact laws. Georgetown University released a study this summer that indicated the arrangements that states have made to allow out of state products have not been successful attracting new insurance plans to those states.

**Persons Testifying (Health Care):** PRO: Senator Parlette, prime sponsor; Patrick Connor, National Federation of Independent Business.

CON: Scott Plack, Group Health Cooperative; Dekker Dirksen, Community Health Plan of WA; Drew Bouton, OIC.