

# HOUSE BILL REPORT

## HB 2768

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**As Passed House:**  
February 16, 2016

**Title:** An act relating to taxes and service charges on certain qualified stand-alone dental plans offered in the individual or small group markets.

**Brief Description:** Addressing taxes and service charges on certain qualified stand-alone dental plans offered in the individual or small group markets.

**Sponsors:** Representatives Schmick, Cody, Tharinger, Jinkins, Harris and Robinson.

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 2/3/16, 2/5/16 [DP];

Finance: 2/8/16 [DP].

**Floor Activity:**

Passed House: 2/16/16, 91-7.

**Brief Summary of Bill**

- Imposes a premium tax on stand-alone family dental plans.
- Allows the Washington Healthplanfinder to levy an assessment on stand-alone family dental plans to help fund operations.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass. Signed by 13 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Clibborn, DeBolt, Jinkins, Johnson, Moeller, Robinson, Rodne, Tharinger and Van De Wege.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Caldier and Short.

**Staff:** Jim Morishima (786-7191).

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### HOUSE COMMITTEE ON FINANCE

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*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.*

**Majority Report:** Do pass. Signed by 13 members: Representatives Lytton, Chair; Robinson, Vice Chair; Nealey, Ranking Minority Member; Frame, Manweller, Pollet, Reykdal, Ryu, Springer, Stokesbary, Vick, Wilcox and Wylie.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Orcutt, Assistant Ranking Minority Member; Condotta.

**Staff:** Sarah Emmans (786-7288).

**Background:**

Stand-Alone Pediatric Dental Insurance.

Under the federal Patient Protection and Affordable Care Act (PPACA), every state must establish a health benefit exchange through which consumers may compare and purchase individual and small group health coverage, access premium and cost-sharing subsidies, and apply for Medicaid coverage. If a state does not establish a health benefit exchange, the federal government will operate one for the state. Washington established its health benefit exchange, known as the Washington Healthplanfinder, in 2011 as a public-private partnership. The Washington Healthplanfinder is governed by a board (Board) consisting of members with expertise in the health care system and health care coverage.

The PPACA requires health plans to cover 10 categories of essential health benefits. One of these categories is pediatric oral care. The PPACA allows stand-alone pediatric dental coverage to be offered in the exchange. State law requires the Washington Healthplanfinder to allow stand-alone pediatric dental coverage to be offered. To ensure transparency to consumers, pediatric dental benefits offered in the Washington Healthplanfinder must be offered and priced separately.

The Washington Healthplanfinder is funded through a 2 percent premium tax levied on health plans and stand-alone pediatric dental plans sold through the Washington Healthplanfinder. If these funds are insufficient to cover the expenditure level for the Washington Healthplanfinder as determined by the Legislature, the Washington Healthplanfinder may levy an assessment on the health and pediatric dental plans to make up the difference.

The Board, in collaboration with the issuers, the Health Care Authority, and the Insurance Commissioner, must establish a fair and transparent process for calculating the assessment amount. The process must:

- apply the assessment only to issuers that offer coverage in the Washington Healthplanfinder and only for those market segments offered;
- base the assessment on the number of enrollees in qualified health plans and stand-alone dental plans in the Washington Healthplanfinder for a calendar year;
- establish the assessment on a flat dollar and cents amount per member per month—the assessment for dental plans must be proportional to the premiums paid for those plans;
- notify issuers of the assessment amount on a timely basis;
- establish an appropriate assessment reconciliation process that is administratively efficient;
- make the assessment due in quarterly installments;

- establish a procedure to allow issuers to have grievances reviewed by an impartial body and reported to the Board; and
- establish a procedure for enforcement of the assessment.

If the Washington Healthplanfinder charges an assessment, it must display the amount of the assessment per member per month for enrollees. A health or pediatric dental plan may identify the amount of the assessment to enrollees, but may not bill the enrollee separately for the assessment.

#### Business and Occupation Tax.

The business and occupation (B&O) tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the cost of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted. There are multiple exemptions, deductions, and credits to reduce the B&O tax liability for specific taxpayers and business industries. Issuers are subject to a 1.5 percent service and other B&O tax rate, unless they are subject to the insurance premiums tax, in which case the proceeds derived from premiums are exempt from the B&O tax.

#### Insurance Premiums Tax.

The insurance premiums tax is a 2 percent tax applied to the gross proceeds of premiums paid for certain forms of insurance, including health care insurance. When applied, this tax is in lieu of the business and occupation tax, although issuers do pay B&O tax on income derived from other activities.

#### **Summary of Bill:**

Stand-alone family dental plans offered in the small group or individual market are subject to the 2 percent premium tax. Beginning January 1, 2017, the Washington Healthplanfinder may levy an assessment on issuers writing premiums for stand-alone family dental plans if funds from the premium tax are insufficient to cover the operational costs attributable to offering stand-alone family dental plans in the Washington Healthplanfinder, including an allocation of costs to proportionately cover overall annual exchange operational costs plus three months of additional operating costs.

The Board, in collaboration with the issuers of stand-alone family dental plans and the Insurance Commissioner, must establish a fair and transparent process for calculating the assessment amount. The process must:

- apply the assessment only to issuers that offer stand-alone family dental coverage in the Washington Healthplanfinder;
- base the assessment on the number of enrollees in stand-alone family dental plans offered in the Washington Healthplanfinder for a calendar year;
- establish the assessment on a flat dollar and cents amount per member per month;
- notify issuers of the assessment amount on a timely basis;
- establish an appropriate assessment reconciliation process that is administratively efficient;
- make the assessment due in quarterly installments;

- establish a procedure to allow issuers to have grievances reviewed by an impartial body and reported to the Board; and
- establish a procedure for enforcement of the assessment.

If the Washington Healthplanfinder charges an assessment, it must display the amount of the assessment per member per month for enrollees. A stand-alone family dental plan may identify the amount of the assessment to enrollees, but may not bill the enrollee separately for the assessment.

An enrollee of a health plan purchased through the Washington Healthplanfinder is not prohibited from purchasing a plan offering dental benefits outside of the Washington Healthplanfinder. An issuer is not prohibited from offering a plan that does not meet the requirements of a stand-alone family dental plan outside of the Washington Healthplanfinder.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony (Health Care & Wellness):**

(In support) This bill clarifies where premium taxes will go for dental plans sold inside and outside the Washington Healthplanfinder. Pediatric dental benefits have been available inside the Washington Healthplanfinder since the beginning, but adult dental is not available. Washington is the only state that does not offer adult dental coverage in the exchange. The Washington Healthplanfinder would like to begin to implement offering adult dental coverage this year. This bill will allow adult dental coverage in the Washington Healthplanfinder to be self-sustaining through premium taxes and assessments if costs exceed the premium tax amounts.

(Opposed) None.

**Staff Summary of Public Testimony (Finance):**

(In support) Currently, pediatric dental plans are offered on the exchange as part of the essential benefits, but family dental plans are not. We know from our customers, particularly our low-income consumers, that they are interested in purchasing family dental plans on the exchange. Currently this is the only exchange in the country that does not offer family dental because this portion has been delayed, and all stakeholders are eager to proceed with it. There is broad support from consumers and the health professional community for adding dental plans to the exchange. The issue until this point has been financing, because the exchange needs to be self-funded. This bill applies an already existing two percent tax to family dental plans, and would mimic how health plans and pediatric dental plans on the exchange are financed.

(Opposed) None.

**Persons Testifying** (Health Care & Wellness): Representative Schmick, prime sponsor; and Pam MacEwan, Washington Health Benefit Exchange.

**Persons Testifying** (Finance): Representative Schmick, prime sponsor; and Pam McEwen, Washington State Health Benefit Exchange.

**Persons Signed In To Testify But Not Testifying** (Health Care & Wellness): None.

**Persons Signed In To Testify But Not Testifying** (Finance): None.