

# SENATE BILL REPORT

## ESSB 5203

---

---

As Amended by House, April 7, 2021

**Title:** An act relating to the production, distribution, and purchase of generic prescription drugs.

**Brief Description:** Producing, distributing, and purchasing generic prescription drugs and distribution or purchase of insulin.

**Sponsors:** Senate Committee on Health & Long Term Care (originally sponsored by Senators Van De Wege, Carlyle, Frockt, Hasegawa, Keiser, Liias, Nguyen, Randall, Robinson, Salomon, Stanford and Wilson, C.).

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/29/21, 2/05/21 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/19/21, 2/22/21 [DPS (HLTC), DNP, w/oRec].

**Floor Activity:** Passed Senate: 3/4/21, 28-21.

Passed House: 4/7/21, 66-31.

**Brief Summary of Engrossed First Substitute Bill**

- Allows the Health Care Authority (HCA) to enter into partnerships with other states, state agencies, or nonprofit entities to produce, distribute, or purchase generic prescription drugs and purchase and distribute insulin.
- Requires state purchased health care programs to purchase generic drugs and insulin through the partnership and allows other entities to purchase through the partnership voluntarily.

---

### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** That Substitute Senate Bill No. 5203 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Frockt, Vice Chair; Conway, Keiser, Randall,

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Robinson and Van De Wege.

**Minority Report:** Do not pass.

Signed by Senators Muzzall, Ranking Member; Rivers and Wilson, J.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Holy and Padden.

**Staff:** Greg Attanasio (786-7410)

---

## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5203 as recommended by Committee on Health & Long Term Care be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Lias, Mullet, Pedersen, Van De Wege and Wellman.

**Minority Report:** Do not pass.

Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun and Rivers.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Gildon, Muzzall, Wagoner and Warnick.

**Staff:** Sandy Stith (786-7710)

**Background:** Prescription Drug Purchasing Consortium. In 2005, the Legislature directed the Health Care Authority (HCA) to establish a prescription drug purchasing consortium. In addition to state agencies, the consortium may include, on a voluntary basis, local government, private entities, labor organizations, and individuals without insurance, or who are underinsured for prescription drug coverage. State purchased health care services purchased through health carriers and health maintenance organizations are exempt from participating in the consortium. In 2006, Washington and Oregon formed the Northwest Prescription Drug Consortium (Northwest Consortium) to expand their purchasing power. The Northwest Consortium offers access to retail pharmacy discounts, pharmacy benefit management services, rebate management services, and a prescription discount card for uninsured residents.

**Summary of Engrossed First Substitute Bill:** HCA may enter into partnerships with another state, a group of states, a state agency, a nonprofit organization, or any other entity to produce, distribute, or purchase generic prescription drugs and purchase and distribute insulin. HCA may only enter into a partnership with a nongovernmental entity after a competitive bidding process. The generic prescription drugs and insulin must be produced or distributed by a drug company or generic drug manufacturer that is registered with the

United States Food and Drug Administration. The HCA shall only enter into partnerships to produce, distribute, or purchase a generic prescription drug or purchase and distribute insulin at a price that results in savings to public and private purchasers and consumers.

State purchased health care programs must purchase the generic prescription drugs and insulin through the partnership, unless the state purchased health care program can obtain the generic prescription drug or insulin at a cost savings through another purchasing mechanism. Local governments, private entities, health carriers, and others may choose to voluntarily purchase the generic prescription drugs and insulin from the HCA as available quantities allow.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Health & Long Term Care):** *The committee recommended a different version of the bill than what was heard.* PRO: No one should have to worry about how to obtain life savings drugs. This bill is a lifeline for those with chronic diseases. A competitive biosimilar market would drastically reduce the cost of drugs. The bill can go into effect immediately and build on the work the prescription drug consortium already does.

OTHER: The definition of generic drug should be consistent with the federal definition.

**Persons Testifying (Health & Long Term Care):** PRO: Senator Kevin Van De Wege, Prime Sponsor; Madi Johnson, Washington insulin4all; Kevin Wren, #insulin4all Washington; Marcia Stedman, Health Care for All-Washington.

OTHER: Jeff Gombosky, Pharmaceutical Research and Manufacturers of America.

**Persons Signed In To Testify But Not Testifying (Health & Long Term Care):** No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** PRO: This bill is a lifeline for those with chronic diseases. One in four people currently ration insulin. One in ten currently ration medication. People who need insulin are regularly price-gouged. Insulin should be named in the bill. There is a role for government in controlling drug prices. Government can partner with manufacturers to produce, purchase, and distribute generic drugs.

**Persons Testifying (Ways & Means):** PRO: Ronnie Shure, Health Care for All,

Washington; Kevin Wren, Washington #insulin4all.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.

**EFFECT OF HOUSE AMENDMENT(S):**

- Defines "purchase" as the acquisition of generic drugs and insulin, which is to be interpreted broadly and includes entering into contracts with manufacturers on behalf of those dispensing drugs and other innovative purchasing strategies to help increase access for Washington citizens to the best price available for insulin and generic prescription drugs.
- Specifies that partnership agreements with other governmental entities are exempt from competitive solicitation agreements under current law.
- Replaces the requirement that HCA may only enter into partnerships with nongovernmental entities after a competitive bidding process with a requirement that the HCA must comply with state procurement laws when purchasing.