

Eastern Washington Association of Health Underwriters (EWAHU) Legislative Update for Week of March 9, 2020

House Declines to Advance Bill Imposing New Tax on Excessive Surplus of Non-Profit Health Plans

The House failed to take action on SHB 2679, and the measure has been returned to the House Rules Committee from the House Floor Calendar. The bill would impose a new tax on non-profit health plans with over 600% of the carrier's risk-based capital requirements. The bill would impose a 3% tax on risk-based capital that exceeds 600% of the carrier's requirements.

At the hearing for the bill before the House Appropriations Committee, the Association of Washington Health Plans, together with several individual health carriers, expressed opposition to the bill. AHIP also indicated opposition to the measure. Representatives of various disease advocacy groups, local governments, and provider groups testified in support of the measure. The future of the bill appears uncertain.

March 6 Deadline for Approval of Policy Bills in the Opposite House Leaves Many Bills Stranded

Pursuant to the cut-off resolution approved by the House and Senate at the beginning of the 2020 Legislative Session, bills not passed by the opposite House by 5:00 p.m. on Friday, March 6 are ineligible for further consideration this year. Budget bills, and measures necessary to implement the budget, are exempt from the cut-off timelines. With only days remaining in the 2020 Legislative Session, the legislature will now turn its attention to concurrence calendars on the House and Senate floors, where decisions are made to either accept or reject amendments made by the opposite House. Many bills failed to make the final cut-off and will not be considered for the rest of this session. In addition to trying to reconcile bills that have passed both Houses in different forms, the legislature will make a final push to find common ground on a supplemental operating budget. The 2020 Regular Legislative Session will conclude not later than midnight on Thursday, March 12—the 60th and final day of the legislative session.

House Approves Revised Bill Regulating Benefit Managers

On Friday, March 6, the House approved an amended version of 2SSB 5601 and passed the bill on a final vote of 97-0 with one member excused. The bill will go back to the Senate for an up or down concurrence vote with the House amendments to the bill. It is expected that the Senate will concur in the House amendments. This is the version of the bill that was passed by the House, and which is now pending before the Senate on a concurrence vote.

House Approves Revised Prior Authorization Bill

On Thursday, March 5, the House approved a revised version of SSB 6404—a measure that has been introduced by Senator David Frockt (D, 46th District). The bill passed on a final vote of 97-0 with one member excused. The bill will go back to the Senate for a concurrence vote on the House amendments to the measure. The amendments adopted by the House committee remove the prior authorization work group that was included in the Senate-passed version of the bill.

Senate and House Approve Competing Bills Capping Out-of-Pocket Costs for Insulin

On Friday, March 6, the House approved an amended version of SSB 6087—a Senate-passed measure that would cap patient out-of-pocket costs for insulin at \$100 per month. The bill was supported by patient advocacy groups when the measure was considered at a hearing of the measure on February 25. The measure will go back to the Senate for consideration of the House amendments.

House Passes Bill Allowing Group Prescription Drug Benefits for Medicare-Eligible Retirees—Bill Goes to Governor Inslee for Consideration

On Tuesday, March 3 the House passed SSB 6051. The measure was introduced by Senator Annette Cleveland (D, 49th District). SSB 6051 would authorize insurers to provide group policyholders with optional prescription drug benefits that are designed for Medicare-eligible retirees. The bill passed the House on a final margin of 96-0, with two members excused. The measure was previously approved by the Senate on Thursday, February 13 on a final vote of 47-0, with two members excused. Because the House passed the bill without adding any amendments to the Senate-passed version of the bill, the measure will now go directly to Governor Inslee for consideration.

House Approves OIC Request Bill Adding New Health Plan Members to the Washington Life & Disability Insurance Guaranty Association—Senate Refuses to Concur in House Amendments, Sending the Bill Back to the House

On Thursday, March 5, the House approved key amendments, and passed SSB 6050—a measure that has been introduced at the request of the OIC to add HMO's and Health Care Service Contractors to the membership of the Washington Life & Disability Insurance Guaranty Association. The bill passed the House on a bipartisan final vote of 60-37, with one member excused. On Saturday, March 7, the Senate took action and declined to concur in the House amendments to the bill, sending the measure back to the House.

The committee amendments approved by the House return the bill to be consistent with the NAIC model, with a 50/50 division of assessment responsibility between life insurance and health insurance members of the WLDGA, and the new health carrier members added to the membership of the WLDGA. As amended by the House, the bill is now consistent with the NAIC model, which has been enacted by a majority of the states.

House Committee Considers Bill Imposing New Tax on Health Insurance Claims

On Thursday, February 27, the House Finance Committee held a hearing to consider HB 2901—a measure that has been introduced by Representative Marcus Riccelli (D, 3rd District) that would impose a new 1% tax on the amount of health claims paid. The tax would be imposed on health carriers, third party administrators, and self-insured employers. The Association of Washington Health Plans and America's Health Insurance Plans testified against the bill, expressing concern about the adverse impact that the increased taxes would have on the insurance-buying public.

House Committee Considers Health Insurance Tax

On Friday, February 7, the House Finance Committee held a hearing to consider HB 2821—a proposal that would impose a new 2.2% premium tax on health plans for 2021, with the increase being reduced to 1.5% in 2022 and following years. The revenue obtained from the taxes would be directed to help fund health coverage for low income health insurance programs. Health insurers expressed opposition to the proposal when it was considered at a hearing on February 7. The proposed increase in premium taxes would more than double the current premium taxes imposed on health plans—from the current 2% premium tax to 4.2% in 2021. The House Finance Committee has not yet brought the bill to a vote.

Proponents of the tax have argued that the proposed increase would simply replace a tax that has been imposed by the Federal Health Insurance Tax (HIT). The HIT tax was repealed last year, effective in 2021.

House Committee Kills Bill that Would Create a State-Run Retirement Program for Private Employers and Employees

On Monday, March 2, the House Appropriations Committee killed E2SSB 5740—a bill that was introduced in 2019 by Senator Mark Mullet that would create a new state-run program to provide 401k and other retirement programs directly to private employers and their employees. The bill was killed when it was not considered and brought to a vote of the House Appropriations Committee before the deadline for passage on Monday, March 2. The bill will not be considered further during the 2020 Legislative session.

The original bill was passed by the Senate in 2019 but was not brought to a vote on the House floor prior to the adjournment of the 2019 session. The measure was returned to the Senate, where it was eligible for action again in 2020.

**House Approves Bill Authorizing Life Insurers to Provide Incentives for Policyholders to Engage in Activities Designed to Improve Health Status and Reduce the Risk of Death—
Bill Goes to Governor Inslee for Consideration**

On Tuesday, March 3, the House approved SSB 6052 on a final vote of 96-0, with 2 members excused. The bill now goes to Governor Inslee for consideration.

The measure was introduced at the request of John Hancock to amend Washington's inducement and rebating laws to make it clear that life insurers can offer policyholders a program with incentives that are designed to encourage policyholders to do things that improve their health status and reduce the risk of death. SSB 6052 passed the Senate without a dissenting vote on January 31.

At hearings for the measure, John Hancock, the ACLI, and NAIFA, together with the OIC, testified in support of the bill. Proponents and the OIC previously came to agreement on a rulemaking amendment that was adopted in the Senate.

Senate Approves House-Passed Bill Allowing School Districts to Offer Employee-Paid Voluntary Benefits

With only an hour to spare before the 5:00 deadline for passage on Friday, March 6, the Senate approved a slightly amended version of HB 2458. The bill was introduced by Rep. Monica Stonier (D, 49th District) to provide authority for school districts to offer voluntary employee-paid benefits such as accident only, specified disease, and other fixed payment benefit insurance. The bill is supported by the Washington Education Association, the American Council of Life Insurers, America's Health Insurance Plans, and individual companies including AFLAC and American Fidelity. The bill was approved by the Senate on a final vote of 47-1 with one member excused.

The measure now goes back to the House for a concurrence vote with the Senate amendments. The bill was previously approved by the House on February 17 without a dissenting vote. It is expected that the House will concur with the Senate amendments.

House Approves Controversial Consumer Data Bill

On Friday night, March 6, the House approved an amended version of 2SSB 6281—a measure on consumer data privacy that was passed by the Senate on Friday, February 14. The bill was previously considered and amended by the House Innovation, Technology & Economic Development Committee on February 28, and by the House Appropriations Committee on March 2.

House Approves Senate-Passed OIC Request Bill to Adopt NAIC Revisions to the Model Holding Company Act—Bill Goes to Governor Inslee for Consideration

On Tuesday, March 3, the House approved SSB 6048—a measure that was introduced at the request of the OIC to enact the NAIC revisions to the Model Holding Company Act. The bill would amend the Holding Company Act to include group-wide supervision of internationally active insurance groups. The revisions are a standard for maintaining NAIC accreditation. As a result, passage of the proposal is a top priority for the OIC and for the insurance industry. Because the House passed the bill in the same form as it was passed by the Senate on February 12, the measure now goes to Governor Inslee for consideration.

House Committee Considers New Local Option Payroll Excise Tax Plan—Insurers are Exempted; Appears to Replace Prior Controversial Local Option Excise Tax Plan that Included Insurers

On Wednesday, February 27, the House Finance Committee held a hearing to consider HB 2948—a measure that would authorize new local option payroll excise taxes to be imposed on businesses. The bill appears to be a replacement for HB 2907. Unlike HB 2907, however, HB 2948 exempts insurers from the tax. Despite testimony from some large business stakeholders, together with labor groups, and homeless advocates, large segments of the business community testified in opposition to the measure. The bill also remains controversial with many regional city leaders. The measure has been placed on a list of bills that might be brought to a vote of the House Finance Committee on Monday, March 2.

On Tuesday, February 4, the House Finance Committee held a hearing to consider HB 2907—a controversial local option excise tax proposal that is intended to provide funding for low-income housing. The bill would authorize a county with at least 2 million residents to impose an excise payroll tax on businesses, including insurers.

Insurance trade associations testified in opposition to provisions in the bill that would impose the tax on insurers, arguing that insurers pay a 2% premium tax in lieu of all other taxes, and that insurers domiciled in Washington could face retaliatory tax issues in other states in which they do business. Other business and local government stakeholders also expressed concern about various aspects of the bill. The measure is supported by labor and social service groups, and by some large business stakeholders.

House Approves OIC Proposal to Create a Dedicated Account to Fund the OIC's Criminal Investigation Unit—Measure to Go to Governor Inslee for Consideration

On Saturday, March 7, the House passed SB 6049. The measure was introduced at the request of the OIC that would establish a new dedicated account to provide funding for the OIC's Criminal Investigation Unit. The bill passed the House on a final vote of 97-0, with one member excused. The bill was approved by the Senate on February 19 without a dissenting vote.

The new dedicated account would be funded with new assessments imposed on insurers. The assessments would be limited to no more than .01% of premium on each insurer, with the minimum assessment set at \$100.

OIC Prepares Legislative Proposals

Insurance Commissioner Mike Kreidler has prepared a package of legislative proposals that he intends to submit to the 2020 Legislature. A link to the OIC's legislative priorities can be found at <https://www.insurance.wa.gov/legislative-priorities> .

The OIC's request bills include:

-A proposal to establish a dedicated account with new regulatory assessments to fund the OIC's Criminal Investigations Unit (CIU). The separate account would have its own surcharge cap of 1/100th of a percent of premium. See SB 6049;

-A measure to adopt amendments to the NAIC Holding Company Model Act. These standards would be applied for risk retention groups (RRG's) in a holding company that meets the definition of "Internationally Active Insurance Groups (IAIG's). These amendments are necessary to maintain NAIC accreditation. See SB 6048 and HB 2207;

-A measure to reform Washington's Life & Disability Insurance Guaranty Association by adding HMO's and Health Care Service Contractors to the membership of the WLDGA to provide for larger assessment capacity. See SB 6050 and HB 2209;

-A measure to amend legislation that was enacted last year relating to implementation credits. The measure would provide more explicit criteria for the use of implementation credits, and provide the legal framework for the use of performance standards in insurance contracts. Implementation credits are a payment by an insurer to offset document expenses incurred by a group policyholder in changing coverage from one insurer to another. See SB 6144 and HB 2208; and

-A measure to regulate "captive insurers". The measure would create a statutory framework for how captive insurance companies can be formed by Washington state companies, who can form them, and what taxes will be paid by them to Washington state. A "captive insurer" is defined as an insurance company that is wholly owned and controlled by its insureds. See SB 6241 and HB 2291.

Legislature Approves Cut-Off Resolution for the Consideration of Bills

The Senate and House have approved SCR 8411—a cut-off resolution establishing dates for the consideration of bills. The cut-off dates that are established in the resolution are as follows:

March 12—the last day of the 2020 Regular Legislative Session!

Respectfully Submitted,
Annette Hunter, EWAHU State Legislative Chair
Tara MacKay, EWAHU Federal Legislative Chair
As reported by Mel Sorensen, WAHU Lobbyist