
SUBSTITUTE HOUSE BILL 2679

State of Washington

66th Legislature

2020 Regular Session

By House Appropriations (originally sponsored by Representatives Robinson, Macri, Cody, Chopp, Tarleton, Frame, Stonier, Ormsby, Riccelli, Tharinger, Ortiz-Self, Davis, Pollet, and Kloba)

1 AN ACT Relating to funding for individuals who are not eligible
2 for federal insurance subsidies and for foundational public health
3 services; amending RCW 48.14.080; reenacting and amending RCW
4 43.84.092; adding a new section to chapter 48.43 RCW; adding a new
5 section to chapter 43.70 RCW; adding a new chapter to Title 82 RCW;
6 creating a new section; and providing an effective date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that nonprofit
9 health insurance carriers in the state must:

10 (a) Be committed to a nonprofit corporate structure;

11 (b) Provide individuals, businesses, and other groups with
12 affordable and accessible health insurance; and

13 (c) Recognize a responsibility to contribute to the improvement
14 of the overall health status of the residents of the jurisdictions in
15 which they operate.

16 (2) The legislature further finds that access to health insurance
17 and public services play a critical role in improving the health
18 status of Washington residents.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43
20 RCW to read as follows:

1 (1) By July 1, 2021, and annually thereafter, nonprofit health
2 carriers must submit to the commissioner the amount of the carrier's
3 surplus.

4 (2) (a) By October 1, 2021, and annually thereafter, the
5 commissioner must determine whether a nonprofit health carrier's
6 surplus is excessive.

7 (b) The surplus of a nonprofit health carrier must be determined
8 to be excessive if the surplus is greater than six hundred percent of
9 the nonprofit health carrier's RBC requirements, in accordance with
10 the formula set forth in the RBC instructions.

11 (3) Except when a reduction in payment is permitted under
12 subsection (4) of this section, if the commissioner determines the
13 surplus of a nonprofit health carrier to be excessive, within ninety
14 days of the determination the nonprofit health carrier must pay three
15 percent of the excessive surplus to the commissioner's office for
16 deposit into the fund.

17 (4) (a) Within thirty days of a determination by the commissioner
18 that a nonprofit health carrier's surplus is excessive, a nonprofit
19 health carrier may request a hearing by the commissioner to consider
20 a reduction in the required amount of excessive surplus payment to
21 the fund.

22 (b) The commissioner may only reduce a nonprofit health carrier's
23 payment to the fund if the nonprofit health carrier presents clear
24 and compelling evidence to the commissioner that the required amount
25 of excessive surplus payment would render the nonprofit health
26 carrier financially impaired under the laws of this state or any
27 other state in which the nonprofit health carrier is authorized to do
28 business.

29 (c) The hearing must be conducted in accordance with chapter
30 34.05 RCW.

31 (5) The commissioner may adopt rules to implement this section.

32 (6) The definitions in this subsection apply throughout this
33 section and section 9 of this act unless the context clearly requires
34 otherwise.

35 (a) "Excessive surplus" means the amount of a nonprofit health
36 carrier's surplus above six hundred percent of the nonprofit health
37 carrier's RBC requirements, as determined in subsection (2) of this
38 section.

39 (b) "Fund" means the nonprofit health carrier community benefit
40 fund created in section 9 of this act.

1 (c) "RBC" means risk-based capital.

2 (d) "RBC instructions" has the same meaning as in RCW 48.43.300.

3 (e) "Surplus" means the amount by which a nonprofit health
4 carrier's assets exceed its liabilities.

5 NEW SECTION. **Sec. 3.** As used in this chapter, the following
6 terms have the meanings indicated unless the context clearly requires
7 otherwise.

8 (1) "Covered health carrier" means a for-profit health carrier,
9 as defined in RCW 48.43.005.

10 (2) "Depreciation deduction" means depreciation deductions,
11 allocated to Washington pursuant to section 5 of this act, and taken
12 pursuant to Title 26 U.S.C. Sec. 167 or 179 of the internal revenue
13 code, as existed on the effective date of this section or such
14 subsequent date as may be provided by the department by rule,
15 consistent with the purposes of this act.

16 (3) "Tax year" means a twelve-month period from January 1st to
17 December 31st.

18 NEW SECTION. **Sec. 4.** (1) A tax is imposed on depreciation
19 expenses claimed by covered health carriers. The tax is three percent
20 of all depreciation deductions, allocated to Washington pursuant to
21 section 5 of this act, and taken pursuant to Title 26 U.S.C. Sec. 167
22 or 179 of the internal revenue code on the covered health carrier's
23 annual federal tax return for the previous tax year.

24 (2) The tax imposed under this section is due by September 1st
25 for the previous tax year.

26 (3) The tax imposed under this section is in addition to any
27 other tax imposed in Titles 48, 82, and 84 RCW.

28 NEW SECTION. **Sec. 5.** For purposes of the tax imposed under this
29 chapter, depreciation deductions are allocated as follows:

30 (1) Depreciation deductions attributable to real property are
31 allocated to this state if the real property is located in this state
32 or a majority of the fair market value of the real property is
33 located in this state.

34 (2) Depreciation deductions from tangible personal property are
35 allocated to this state if the property was located in this state at
36 the time of the deduction. Depreciation deductions from tangible
37 personal property are also allocated to this state even though the

1 property was not located in this state at the time of the deduction
2 if:

3 (a) The property was located in the state at any time during the
4 taxable year or the immediately preceding taxable year;

5 (b) The taxpayer was a resident at the time of the deduction; and

6 (c) The taxpayer is not subject to the payment of an income or
7 excise tax legally imposed on the depreciation deduction by another
8 taxing jurisdiction.

9 (3) Depreciation deduction derived from intangible personal
10 property are allocated to this state if the taxpayer was domiciled in
11 this state at the time the deduction occurred.

12 NEW SECTION. **Sec. 6.** (1) A credit is allowed against the tax
13 imposed in section 4 of this act equal to the amount of any legally
14 imposed income or excise tax paid by the taxpayer to another taxing
15 jurisdiction on the depreciated assets within the other taxing
16 jurisdiction to the extent depreciated assets are included in the
17 taxpayer's Washington capital gains. The amount of credit under this
18 subsection may not exceed the total amount of tax due under this
19 chapter, and there is no carryback or carryforward of any unused
20 credits.

21 (2) As used in this section, "taxing jurisdiction" means a state
22 of the United States other than the state of Washington, the District
23 of Columbia, the Commonwealth of Puerto Rico, any territory or
24 possession of the United States, or any foreign country or political
25 subdivision of a foreign country.

26 NEW SECTION. **Sec. 7.** All proceeds from this tax must be
27 deposited in the nonprofit health carrier community benefit fund
28 created in section 9 of this act.

29 NEW SECTION. **Sec. 8.** The provisions of chapter 82.32 RCW apply
30 to this chapter.

31 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.70
32 RCW to read as follows:

33 (1) The nonprofit health carrier community benefit fund is
34 created in the state treasury. Moneys in the account may be spent
35 only after appropriation.

1 (2) All receipts from nonprofit health carrier excessive surplus
2 payments collected by the insurance commissioner pursuant to section
3 2 of this act and proceeds of the tax imposed pursuant to section 4
4 of this act and collected by the department of revenue must be
5 deposited in the nonprofit health carrier community benefit fund.

6 (3) Expenditures from the nonprofit health carrier community
7 benefit fund must be used exclusively for:

8 (a) Subsidies for individuals purchasing individual market
9 insurance coverage who are not eligible for federal insurance
10 subsidies; and

11 (b) Foundational public health services pursuant to RCW
12 43.70.515.

13 **Sec. 10.** RCW 43.84.092 and 2019 c 421 s 15, 2019 c 403 s 14,
14 2019 c 365 s 19, 2019 c 287 s 19, and 2019 c 95 s 6 are each
15 reenacted and amended to read as follows:

16 (1) All earnings of investments of surplus balances in the state
17 treasury shall be deposited to the treasury income account, which
18 account is hereby established in the state treasury.

19 (2) The treasury income account shall be utilized to pay or
20 receive funds associated with federal programs as required by the
21 federal cash management improvement act of 1990. The treasury income
22 account is subject in all respects to chapter 43.88 RCW, but no
23 appropriation is required for refunds or allocations of interest
24 earnings required by the cash management improvement act. Refunds of
25 interest to the federal treasury required under the cash management
26 improvement act fall under RCW 43.88.180 and shall not require
27 appropriation. The office of financial management shall determine the
28 amounts due to or from the federal government pursuant to the cash
29 management improvement act. The office of financial management may
30 direct transfers of funds between accounts as deemed necessary to
31 implement the provisions of the cash management improvement act, and
32 this subsection. Refunds or allocations shall occur prior to the
33 distributions of earnings set forth in subsection (4) of this
34 section.

35 (3) Except for the provisions of RCW 43.84.160, the treasury
36 income account may be utilized for the payment of purchased banking
37 services on behalf of treasury funds including, but not limited to,
38 depository, safekeeping, and disbursement functions for the state
39 treasury and affected state agencies. The treasury income account is

1 subject in all respects to chapter 43.88 RCW, but no appropriation is
2 required for payments to financial institutions. Payments shall occur
3 prior to distribution of earnings set forth in subsection (4) of this
4 section.

5 (4) Monthly, the state treasurer shall distribute the earnings
6 credited to the treasury income account. The state treasurer shall
7 credit the general fund with all the earnings credited to the
8 treasury income account except:

9 (a) The following accounts and funds shall receive their
10 proportionate share of earnings based upon each account's and fund's
11 average daily balance for the period: The abandoned recreational
12 vehicle disposal account, the aeronautics account, the aircraft
13 search and rescue account, the Alaskan Way viaduct replacement
14 project account, the brownfield redevelopment trust fund account, the
15 budget stabilization account, the capital vessel replacement account,
16 the capitol building construction account, the Cedar River channel
17 construction and operation account, the Central Washington University
18 capital projects account, the charitable, educational, penal and
19 reformatory institutions account, the Chehalis basin account, the
20 cleanup settlement account, the Columbia river basin water supply
21 development account, the Columbia river basin taxable bond water
22 supply development account, the Columbia river basin water supply
23 revenue recovery account, the common school construction fund, the
24 community forest trust account, the connecting Washington account,
25 the county arterial preservation account, the county criminal justice
26 assistance account, the deferred compensation administrative account,
27 the deferred compensation principal account, the department of
28 licensing services account, the department of licensing tuition
29 recovery trust fund, the department of retirement systems expense
30 account, the developmental disabilities community trust account, the
31 diesel idle reduction account, the drinking water assistance account,
32 the drinking water assistance administrative account, the early
33 learning facilities development account, the early learning
34 facilities revolving account, the Eastern Washington University
35 capital projects account, the education construction fund, the
36 education legacy trust account, the election account, the electric
37 vehicle account, the energy freedom account, the energy recovery act
38 account, the essential rail assistance account, The Evergreen State
39 College capital projects account, the federal forest revolving
40 account, the ferry bond retirement fund, the freight mobility

1 investment account, the freight mobility multimodal account, the
2 grade crossing protective fund, the nonprofit health carrier
3 community benefit fund, the public health services account, the state
4 higher education construction account, the higher education
5 construction account, the highway bond retirement fund, the highway
6 infrastructure account, the highway safety fund, the hospital safety
7 net assessment fund, the industrial insurance premium refund account,
8 the Interstate 405 and state route number 167 express toll lanes
9 account, the judges' retirement account, the judicial retirement
10 administrative account, the judicial retirement principal account,
11 the local leasehold excise tax account, the local real estate excise
12 tax account, the local sales and use tax account, the marine
13 resources stewardship trust account, the medical aid account, the
14 mobile home park relocation fund, the money-purchase retirement
15 savings administrative account, the money-purchase retirement savings
16 principal account, the motor vehicle fund, the motorcycle safety
17 education account, the multimodal transportation account, the
18 multiuse roadway safety account, the municipal criminal justice
19 assistance account, the natural resources deposit account, the oyster
20 reserve land account, the pension funding stabilization account, the
21 perpetual surveillance and maintenance account, the pollution
22 liability insurance agency underground storage tank revolving
23 account, the public employees' retirement system plan 1 account, the
24 public employees' retirement system combined plan 2 and plan 3
25 account, the public facilities construction loan revolving account
26 beginning July 1, 2004, the public health supplemental account, the
27 public works assistance account, the Puget Sound capital construction
28 account, the Puget Sound ferry operations account, the Puget Sound
29 Gateway facility account, the Puget Sound taxpayer accountability
30 account, the real estate appraiser commission account, the
31 recreational vehicle account, the regional mobility grant program
32 account, the resource management cost account, the rural arterial
33 trust account, the rural mobility grant program account, the rural
34 Washington loan fund, the sexual assault prevention and response
35 account, the site closure account, the skilled nursing facility
36 safety net trust fund, the small city pavement and sidewalk account,
37 the special category C account, the special wildlife account, the
38 state employees' insurance account, the state employees' insurance
39 reserve account, the state investment board expense account, the
40 state investment board commingled trust fund accounts, the state

1 patrol highway account, the state route number 520 civil penalties
2 account, the state route number 520 corridor account, the state
3 wildlife account, the statewide broadband account, the statewide
4 tourism marketing account, the student achievement council tuition
5 recovery trust fund, the supplemental pension account, the Tacoma
6 Narrows toll bridge account, the teachers' retirement system plan 1
7 account, the teachers' retirement system combined plan 2 and plan 3
8 account, the tobacco prevention and control account, the tobacco
9 settlement account, the toll facility bond retirement account, the
10 transportation 2003 account (nickel account), the transportation
11 equipment fund, the transportation future funding program account,
12 the transportation improvement account, the transportation
13 improvement board bond retirement account, the transportation
14 infrastructure account, the transportation partnership account, the
15 traumatic brain injury account, the tuition recovery trust fund, the
16 University of Washington bond retirement fund, the University of
17 Washington building account, the voluntary cleanup account, the
18 volunteer firefighters' and reserve officers' relief and pension
19 principal fund, the volunteer firefighters' and reserve officers'
20 administrative fund, the vulnerable roadway user education account,
21 the Washington judicial retirement system account, the Washington law
22 enforcement officers' and firefighters' system plan 1 retirement
23 account, the Washington law enforcement officers' and firefighters'
24 system plan 2 retirement account, the Washington public safety
25 employees' plan 2 retirement account, the Washington school
26 employees' retirement system combined plan 2 and 3 account, the
27 Washington state health insurance pool account, the Washington state
28 patrol retirement account, the Washington State University building
29 account, the Washington State University bond retirement fund, the
30 water pollution control revolving administration account, the water
31 pollution control revolving fund, the Western Washington University
32 capital projects account, the Yakima integrated plan implementation
33 account, the Yakima integrated plan implementation revenue recovery
34 account, and the Yakima integrated plan implementation taxable bond
35 account. Earnings derived from investing balances of the agricultural
36 permanent fund, the normal school permanent fund, the permanent
37 common school fund, the scientific permanent fund, the state
38 university permanent fund, and the state reclamation revolving
39 account shall be allocated to their respective beneficiary accounts.

1 (b) Any state agency that has independent authority over accounts
2 or funds not statutorily required to be held in the state treasury
3 that deposits funds into a fund or account in the state treasury
4 pursuant to an agreement with the office of the state treasurer shall
5 receive its proportionate share of earnings based upon each account's
6 or fund's average daily balance for the period.

7 (5) In conformance with Article II, section 37 of the state
8 Constitution, no treasury accounts or funds shall be allocated
9 earnings without the specific affirmative directive of this section.

10 **Sec. 11.** RCW 48.14.080 and 2010 1st sp.s. c 23 s 520 are each
11 amended to read as follows:

12 (1) As to insurers, other than title insurers and taxpayers under
13 RCW 48.14.0201, the taxes imposed by this title are in lieu of all
14 other taxes, except as otherwise provided in this section.

15 (2) Subsection (1) of this section does not apply with respect
16 to:

17 (a) Taxes on real and tangible personal property;

18 (b) Excise taxes on the sale, purchase, use, or possession of (i)
19 real property; (ii) tangible personal property; (iii) extended
20 warranties; (iv) services, including digital automated services as
21 defined in RCW 82.04.192; and (v) digital goods and digital codes as
22 those terms are defined in RCW 82.04.192; (~~and~~)

23 (c) The tax imposed in section 4 of this act, regarding covered
24 health carriers; and

25 (d) The tax imposed in RCW 82.04.260(~~(+9)~~) (10), regarding
26 public and nonprofit hospitals.

27 (3) For the purposes of this section, the term "taxes" includes
28 taxes imposed by the state or any county, city, town, municipal
29 corporation, quasi-municipal corporation, or other political
30 subdivision.

31 NEW SECTION. **Sec. 12.** Sections 3 through 8 of this act
32 constitute a new chapter in Title 82 RCW.

33 NEW SECTION. **Sec. 13.** The provisions of RCW 82.32.805 and
34 82.32.808 do not apply to this act.

1 NEW SECTION. **Sec. 14.** This act takes effect January 1, 2021.

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