
SUBSTITUTE SENATE BILL 5940

State of Washington 62nd Legislature 2012 1st Special Session

By Senate Ways & Means (originally sponsored by Senators Hobbs, Ericksen, Keiser, Tom, Kastama, and Zarelli)

READ FIRST TIME 04/06/12.

1 AN ACT Relating to public school employees' insurance benefits;
2 amending RCW 28A.400.280, 28A.400.350, 28A.400.275, and 42.56.400;
3 adding new sections to chapter 48.02 RCW; adding a new section to
4 chapter 48.62 RCW; creating new sections; and making appropriations.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) Each year, nearly one billion dollars in public funds are spent
8 on the purchase of employee insurance benefits for more than two
9 hundred thousand public school employees and their dependents; and

10 (b) The legislature needs better information regarding school
11 employee benefits to effectively oversee the use of state funds for
12 employee benefits.

13 (2) The legislature establishes the following goals:

14 (a) Improve the transparency of health benefit plan claims and
15 financial data to assure prudent and efficient use of taxpayers' funds,
16 and to significantly reduce administrative costs;

17 (b) Support greater parity in employee health insurance premiums
18 between classified and certificated employees;

1 (c) Make school district employee premiums more responsive to the
2 need for greater equity and affordability for full family coverage,
3 with a goal that employee premiums for full family coverage are not
4 more than three times the premiums for employee only coverage for the
5 same health benefit plan; and

6 (d) Maintain greater parity in state allocations for state employee
7 and K-12 employee health benefits.

8 (3) The legislature intends to retain current collective bargaining
9 for benefits, and retain state, school district, and employee
10 contributions to benefits.

11 **Sec. 2.** RCW 28A.400.280 and 2011 c 269 s 1 are each amended to
12 read as follows:

13 (1) Except as provided in subsection (2) of this section, school
14 districts may provide employer fringe benefit contributions after
15 October 1, 1990, only for basic benefits. However, school districts
16 may continue payments under contracts with employees or benefit
17 providers in effect on April 13, 1990, until the contract expires.

18 (2) School districts may provide employer contributions after
19 October 1, 1990, for optional benefit plans, in addition to basic
20 benefits, only for employees included in pooling arrangements under
21 this subsection. Optional benefits may include direct agreements as
22 defined in chapter 48.150 RCW, but may not include employee beneficiary
23 accounts that can be liquidated by the employee on termination of
24 employment. Optional benefit plans may be offered only if:

25 (a) The school district pools benefit allocations among employees
26 using a pooling arrangement that includes at least one employee
27 bargaining unit and/or all nonbargaining group employees;

28 (b) Each full-time employee included in the pooling arrangement is
29 offered basic benefits, including coverage for dependents(~~(, without a~~
30 ~~payroll deduction for premium charges))~~);

31 (c) Each employee included in the pooling arrangement who elects
32 medical benefit coverage pays a minimum premium charge subject to
33 collective bargaining under chapter 41.59 or 41.56 RCW;

34 (d) The employee premiums are structured to ensure employees
35 selecting richer benefit plans pay the higher premium;

36 (e) Each full-time employee included in the pooling arrangement,

1 regardless of the number of dependents receiving basic coverage,
2 receives the same additional employer contribution for other coverage
3 or optional benefits; and

4 ~~((d))~~ (f) For part-time employees included in the pooling
5 arrangement, participation in optional benefit plans shall be governed
6 by the same eligibility criteria and/or proration of employer
7 contributions used for allocations for basic benefits.

8 (3) Savings accruing to school districts due to limitations on
9 benefit options under this section shall be pooled and made available
10 by the districts to reduce out-of-pocket premium expenses for employees
11 needing basic coverage for dependents. School districts are not
12 intended to divert state benefit allocations for other purposes.

13 **Sec. 3.** RCW 28A.400.350 and 2011 c 269 s 2 are each amended to
14 read as follows:

15 (1) The board of directors of any of the state's school districts
16 or educational service districts may make available liability, life,
17 health, health care, accident, disability, and salary protection or
18 insurance, direct agreements as defined in chapter 48.150 RCW, or any
19 one of, or a combination of the types of employee benefits enumerated
20 in this subsection, or any other type of insurance or protection, for
21 the members of the boards of directors, the students, and employees of
22 the school district or educational service district, and their
23 dependents. Such coverage may be provided by contracts or agreements
24 with private carriers, with the state health care authority after July
25 1, 1990, pursuant to the approval of the authority administrator, or
26 through self-insurance or self-funding pursuant to chapter 48.62 RCW,
27 or in any other manner authorized by law. Any direct agreement must
28 comply with RCW 48.150.050.

29 (2) Whenever funds are available for these purposes the board of
30 directors of the school district or educational service district may
31 contribute all or a part of the cost of such protection or insurance
32 for the employees of their respective school districts or educational
33 service districts and their dependents. The premiums on such liability
34 insurance shall be borne by the school district or educational service
35 district.

36 After October 1, 1990, school districts may not contribute to any

1 employee protection or insurance other than liability insurance unless
2 the district's employee benefit plan conforms to RCW 28A.400.275 and
3 28A.400.280.

4 (3) For school board members, educational service district board
5 members, and students, the premiums due on such protection or insurance
6 shall be borne by the assenting school board member, educational
7 service district board member, or student. The school district or
8 educational service district may contribute all or part of the costs,
9 including the premiums, of life, health, health care, accident or
10 disability insurance which shall be offered to all students
11 participating in interschool activities on the behalf of or as
12 representative of their school, school district, or educational service
13 district. The school district board of directors and the educational
14 service district board may require any student participating in
15 extracurricular interschool activities to, as a condition of
16 participation, document evidence of insurance or purchase insurance
17 that will provide adequate coverage, as determined by the school
18 district board of directors or the educational service district board,
19 for medical expenses incurred as a result of injury sustained while
20 participating in the extracurricular activity. In establishing such a
21 requirement, the district shall adopt regulations for waiving or
22 reducing the premiums of such coverage as may be offered through the
23 school district or educational service district to students
24 participating in extracurricular activities, for those students whose
25 families, by reason of their low income, would have difficulty paying
26 the entire amount of such insurance premiums. The district board shall
27 adopt regulations for waiving or reducing the insurance coverage
28 requirements for low-income students in order to assure such students
29 are not prohibited from participating in extracurricular interschool
30 activities.

31 (4) All contracts or agreements for insurance or protection written
32 to take advantage of the provisions of this section shall provide that
33 the beneficiaries of such contracts may utilize on an equal
34 participation basis the services of those practitioners licensed
35 pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW.

36 (5) School districts offering medical, vision, and dental benefits
37 shall offer:

1 (a) A high deductible health plan option with a health savings
2 account that conforms to section 223, part VII of subchapter 1 of the
3 internal revenue code of 1986. School districts shall comply with all
4 applicable federal standards related to the establishment of health
5 savings accounts;

6 (b) Employee premiums that are established to ensure that full
7 family coverage premiums are not more than three times the premiums for
8 employees purchasing single coverage for the same coverage plan. This
9 requirement may be phased in, but must be fully in place no later than
10 the fall 2014 school year;

11 (c) Employees at least one health benefit plan that is not a high
12 deductible health plan offered in conjunction with a health savings
13 account in which the employee share of the premium cost for a full-time
14 employee, regardless of whether the employee chooses employee-only
15 coverage or coverage that includes dependents, does not exceed the
16 share of premium cost paid by state employees during the state employee
17 benefits year that started immediately prior to the school year.

18 (6) All contracts or agreements for employee benefits must be held
19 to responsible contracting standards, meaning a fair, prudent, and
20 accountable competitive procedure for procuring services that includes:

21 (a) Accurate cost comparisons to assure cost-effective purchasing;

22 (b) Assuring contractor compliance with workplace, tax, and other
23 laws and consideration of past and pending legal actions concerning the
24 contractor's contractual performance;

25 (c) Sufficient documentation to enable an effective audit trail for
26 subsequent reviews of the contracting process; and

27 (d) An open competitive process, except where an open process would
28 compromise cost-effective purchasing, with documentation justifying the
29 approach.

30 (7) Any school district and their benefit providers offering a
31 benefit plan by contract or agreement must:

32 (a) Significantly reduce administrative costs for school districts;

33 (b) Improve customer service;

34 (c) Reduce differential plan premium rates between employee only
35 and family health benefit premiums;

36 (d) Protect access to coverage for part-time K-12 employees; and

37 (e) Use innovative health plan features designed to reduce health
38 benefit premium growth, reduce utilization of unnecessary health

1 services, and offer evidence-based health care services, which may
2 include, but are not limited to, adoption of state health technology
3 assessment program decisions under chapter 70.14 RCW and participation
4 in efforts such as the Bree collaborative under chapter 70.250 RCW.

5 (8) All contracts or agreements for insurance or protection
6 described in this section shall be in compliance with this act.

7 (9) If the superintendent of public instruction determines that a
8 school district has not complied with the reporting requirements of RCW
9 28A.400.275, and the failure is due to the action or inaction of the
10 school district, the superintendent:

11 (a) Must notify the legislature of the noncompliance; and

12 (b) Is authorized to limit the school district's authority provided
13 in subsection (1) of this section regarding employee health benefits to
14 the provision of health benefit coverage provided by the state health
15 care authority.

16 **Sec. 4.** RCW 28A.400.275 and 1990 1st ex.s. c 11 s 5 are each
17 amended to read as follows:

18 (1) Any contract or agreement for employee benefits executed after
19 April 13, 1990, between a school district and a benefit provider or
20 employee bargaining unit is null and void unless it contains an
21 agreement to abide by state laws relating to school district employee
22 benefits. The term of the contract or agreement may not exceed one
23 year.

24 (2) School districts and their benefit providers shall annually
25 submit the following information and data for the prior calendar year
26 to the ((Washington state health care authority)) office of the
27 insurance commissioner:

28 (a) A summary ((descriptions of all benefits offered under the
29 district's employee benefit plan. The districts shall also submit data
30 to the health care authority specifying)) of each health benefit plan
31 offered to each group of school employees under the district's employee
32 benefit plans.

33 (b) The summary must include the following:

34 (i) The financial plan structure and overall performance of each
35 health plan including:

36 (A) Total premium expenses;

37 (B) Total claims expenses;

1 (C) Claim reserves; and

2 (D) Plan administration expenses, including compensation paid to
3 brokers;

4 (ii) A statement as to whether the plan qualifies as a high
5 deductible health plan under section 223, part VII of subchapter 1 of
6 the internal revenue code of 1986;

7 (iii) A description of the plan's innovative health plan design
8 features, including, but not limited to, the use of enrollee health
9 assessments or health coach services, care management for high-cost or
10 high-risk enrollees, medical or health home payment mechanisms, and
11 plan features designed to create incentives for improved personal
12 health behaviors;

13 (iv) The total number of employees and, for each employee, types of
14 coverage or benefits received including the number(~~s~~) of covered
15 dependents, the number of eligible dependents, the amount of the
16 district's contribution to premium, additional premium costs paid by
17 the employee through payroll deductions, and the age and sex of (~~the~~)
18 each employee and each dependent.

19 (3) The (~~plan descriptions and the~~) information and data shall be
20 submitted in a format and according to a schedule established by the
21 (~~health care authority~~) office of the insurance commissioner under
22 section 5 of this act to enable the commissioner to meet his or her
23 reporting obligations under that section.

24 (~~3~~) (4) Any benefit provider offering a benefit plan by
25 contract or agreement with a school district under subsection (1) of
26 this section shall (~~agree to~~) make available to the school district
27 the benefit plan descriptions and, where available, the demographic
28 information on plan subscribers that the district (~~is~~) and benefit
29 provider are required to report to the (~~Washington state health care~~
30 authority) office of the insurance commissioner under this section.

31 (~~4~~) (5) This section shall not apply to benefit plans offered
32 in the 1989-90 school year.

33 NEW SECTION. Sec. 5. A new section is added to chapter 48.02 RCW
34 to read as follows:

35 (1) For purposes of this section, "benefit provider" has the same
36 meaning as provided in RCW 28A.400.270.

1 (2)(a) By December 1, 2013, and December 1st of each year
2 thereafter, the commissioner shall submit a report to the legislature
3 on school district health insurance benefits. The report shall include
4 each school district's health insurance benefits' aggregated data. The
5 report shall be available on the commissioner's web site. The
6 confidentiality of personally identifiable data shall be safeguarded
7 consistent with the provisions of RCW 42.56.400(21).

8 (b) The report shall include the data and information furnished by
9 school districts and their benefit providers related to their
10 requirements to:

- 11 (i) Significantly reduce administrative costs for school districts;
- 12 (ii) Improve customer service;
- 13 (iii) Reduce differential plan premium rates between employee only
14 and family health benefit premiums;
- 15 (iv) Protect access to coverage for part-time K-12 employees; and
- 16 (v) Use innovative health plan features designed to reduce health
17 benefit premium growth, reduce utilization of unnecessary health
18 services, and offer evidence-based health care services, which may
19 include, but are not limited to, adoption of state health technology
20 assessment program decisions under chapter 70.14 RCW, and participation
21 in efforts such as the Bree collaborative under chapter 70.250 RCW.

22 (c) The report shall include a summary of each health benefit plan
23 offered to school employees by benefit providers. The summary must
24 include the following:

- 25 (i) The financial plan structure and overall performance of each
26 health plan including:
 - 27 (A) Total premium expenses;
 - 28 (B) Total claims expenses;
 - 29 (C) Claim reserves; and
 - 30 (D) Plan administration expenses, including compensation paid to
31 brokers;
- 32 (ii) Whether the plan qualifies as a high deductible health plan
33 under section 223, part VII of subchapter 1 of the internal revenue
34 code of 1986;
- 35 (iii) A description of the plan's innovative health plan design
36 features including, but not limited to, the use of enrollee health
37 assessments or health coach services, care management for high-cost or

1 high-risk enrollees, and medical or health home payment mechanisms and
2 plan features designed to create incentives for improved personal
3 health behaviors;

4 (iv) The total number of enrollees in each type of coverage,
5 including the number of employees and the number of dependents.

6 (3) If adequate progress is not being made in the areas of health
7 benefit equity, transparency, and efficiency, the commissioner may
8 submit recommendations to the legislature regarding additional steps
9 that may be taken by school districts or their benefit providers to
10 achieve greater progress.

11 (4) The commissioner shall:

12 (a) Specifically review the appropriateness of the legislative goal
13 that full family coverage premiums be no more than three times the
14 premiums for employee only coverage for the same health benefit plan;

15 (b) Report to the legislature by December 1, 2013, on the
16 appropriateness of the goal, including recommendations on any
17 alternative goals recommended by the commissioner as a result of the
18 commissioner's review; and

19 (c) Develop a schedule of incremental improvements school districts
20 must make in order to fully achieve the legislative goal in (a) of this
21 subsection by the 2017-18 school year.

22 (5) In completing the report required under subsection (2)(a) of
23 this section, the commissioner shall review and report to the
24 legislature on whether each school district is meeting the requirements
25 established in RCW 28A.400.350 (5) and (6).

26 (6) By December 1, 2015, and annually thereafter, the commissioner
27 must determine which districts have achieved the requirements
28 established in RCW 28A.400.350 (5) and (6). If the commissioner
29 determines that a district has not achieved the requirements, the
30 school district must purchase benefits through the public employees'
31 benefits board program beginning the following school year.

32 (7) The commissioner shall collect data from school districts or
33 their benefit providers to fulfill the requirements of this section.
34 The commissioner may adopt rules necessary to implement the data
35 submission requirements under this section and RCW 28A.400.275,
36 including the format, timing of data reporting, data standards,
37 instructions, definitions, and data sources.

1 (8) Data, information, and documents, other than those described in
2 subsection (2)(c) of this section, that are provided by a school
3 district or an entity providing coverage pursuant to this section are
4 exempt from public inspection and copying under this act and chapters
5 42.17A and 42.56 RCW.

6 (9) If a school district or benefit provider does not comply with
7 the data reporting requirements of this section or RCW 28A.400.275, and
8 the failure is due to the actions of an entity providing coverage
9 authorized under Title 48 RCW, the commissioner may take enforcement
10 actions under this chapter.

11 (10) The commissioner may enter into one or more personal services
12 contracts with third-party contractors to provide services necessary to
13 accomplish the commissioner's responsibilities under this act.

14 (11) In completing the tasks under this section, the commissioner
15 may request the assistance or advice of the school employees' benefits
16 technical working group created in section 6 of this act.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.02 RCW
18 to read as follows:

19 (1) A technical working group, to be known as the school employees'
20 benefits technical working group, is established within the office of
21 the insurance commissioner.

22 (2) By January 30, 2013, the commissioner shall appoint the
23 following members to the school employees' benefits technical working
24 group:

25 (a) One member from an association representing district level
26 administrators;

27 (b) One member from an association representing certificated
28 employees;

29 (c) Two members from associations representing classified
30 employees; and

31 (d) Two representatives of the health care authority, one
32 representative with expertise in health care plan design and
33 administration, and one representative with expertise in the state
34 medicaid program including the apple health for kids program.

35 (3) Initial tasks of the school employees' benefits technical
36 working group are to:

1 (a) Review and analyze the benefits, opportunities, and risks of
2 school employee and dependent enrollment in health benefit plans
3 offered through the Washington health benefit exchange and the apple
4 health for kids program;

5 (b) By December 30, 2013, submit a report to the governor and the
6 legislature of findings and any recommendations on utilization of the
7 exchange and the apple health program to serve K-12 employees and their
8 dependents; and

9 (c) Provide assistance and advice to the insurance commissioner
10 upon request, as provided in section 5 of this act.

11 **Sec. 7.** RCW 42.56.400 and 2012 c 222 s 2 are each amended to read
12 as follows:

13 The following information relating to insurance and financial
14 institutions is exempt from disclosure under this chapter:

15 (1) Records maintained by the board of industrial insurance appeals
16 that are related to appeals of crime victims' compensation claims filed
17 with the board under RCW 7.68.110;

18 (2) Information obtained and exempted or withheld from public
19 inspection by the health care authority under RCW 41.05.026, whether
20 retained by the authority, transferred to another state purchased
21 health care program by the authority, or transferred by the authority
22 to a technical review committee created to facilitate the development,
23 acquisition, or implementation of state purchased health care under
24 chapter 41.05 RCW;

25 (3) The names and individual identification data of either all
26 owners or all insureds, or both, received by the insurance commissioner
27 under chapter 48.102 RCW;

28 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

29 (5) Information provided under RCW 48.05.510 through 48.05.535,
30 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
31 through 48.46.625;

32 (6) Examination reports and information obtained by the department
33 of financial institutions from banks under RCW 30.04.075, from savings
34 banks under RCW 32.04.220, from savings and loan associations under RCW
35 33.04.110, from credit unions under RCW 31.12.565, from check cashers
36 and sellers under RCW 31.45.030(3), and from securities brokers and

1 investment advisers under RCW 21.20.100, all of which is confidential
2 and privileged information;

3 (7) Information provided to the insurance commissioner under RCW
4 48.110.040(3);

5 (8) Documents, materials, or information obtained by the insurance
6 commissioner under RCW 48.02.065, all of which are confidential and
7 privileged;

8 (9) Confidential proprietary and trade secret information provided
9 to the commissioner under RCW 48.31C.020 through 48.31C.050 and
10 48.31C.070;

11 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
12 7.70.140 that, alone or in combination with any other data, may reveal
13 the identity of a claimant, health care provider, health care facility,
14 insuring entity, or self-insurer involved in a particular claim or a
15 collection of claims. For the purposes of this subsection:

16 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).
17 (b) "Health care facility" has the same meaning as in RCW
18 48.140.010(6).
19 (c) "Health care provider" has the same meaning as in RCW
20 48.140.010(7).
21 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).
22 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

23 (11) Documents, materials, or information obtained by the insurance
24 commissioner under RCW 48.135.060;

25 (12) Documents, materials, or information obtained by the insurance
26 commissioner under RCW 48.37.060;

27 (13) Confidential and privileged documents obtained or produced by
28 the insurance commissioner and identified in RCW 48.37.080;

29 (14) Documents, materials, or information obtained by the insurance
30 commissioner under RCW 48.37.140;

31 (15) Documents, materials, or information obtained by the insurance
32 commissioner under RCW 48.17.595;

33 (16) Documents, materials, or information obtained by the insurance
34 commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

35 (17) Documents, materials, or information obtained by the insurance
36 commissioner in the commissioner's capacity as receiver under RCW
37 48.31.025 and 48.99.017, which are records under the jurisdiction and
38 control of the receivership court. The commissioner is not required to

1 search for, log, produce, or otherwise comply with the public records
2 act for any records that the commissioner obtains under chapters 48.31
3 and 48.99 RCW in the commissioner's capacity as a receiver, except as
4 directed by the receivership court;

5 (18) Documents, materials, or information obtained by the insurance
6 commissioner under RCW 48.13.151;

7 (19) Data, information, and documents provided by a carrier
8 pursuant to section 1, chapter 172, Laws of 2010; (~~and~~)

9 (20) Information in a filing of usage-based insurance about the
10 usage-based component of the rate pursuant to RCW 48.19.040(5)(b); and

11 (21) Data, information, and documents, other than those described
12 in section (5)(2)(c) of this act, that are submitted to the office of
13 the insurance commissioner by an entity providing health care coverage
14 pursuant to RCW 28A.400.275 and section 5 of this act.

15 NEW SECTION. Sec. 8. A new section is added to chapter 48.62 RCW
16 to read as follows:

17 If an individual or joint local government self-insured health and
18 welfare benefits program formed by a school district or educational
19 service district does not comply with the data reporting requirements
20 of RCW 28A.400.275 and section 5 of this act, the self-insured health
21 and welfare benefits program is no longer authorized to operate in the
22 state. The state risk manager shall notify the state auditor and the
23 attorney general of the violation and the attorney general, on behalf
24 of the state risk manager, must take all necessary action to terminate
25 the operation of the self-insured health and welfare benefits program.

26 NEW SECTION. Sec. 9. (1) In addition to the classified staff
27 units insurance benefit adjustment factor provided in section
28 502(7)(b), chapter 9, Laws of 2011 2nd sp. sess., for the 2012-13
29 school year, the number of classified staff units determined in section
30 502 (4) and (5), chapter 9, Laws of 2011 2nd sp. sess. is multiplied by
31 an enhanced adjustment factor of 0.038. The adjustment factor provided
32 in section 502 (4) and (5), chapter 9, Laws of 2011 2nd sp. sess. and
33 this section provide a total adjustment factor of 1.190 for the 2012-13
34 school year. The 1.190 factor reflects a weighted average of an
35 adjustment factor of 1.152 per month for the months September through

1 December 2012, and an adjustment factor of 1.209 for the months January
2 through August 2013.

3 (2) The sum of seven million dollars, or as much thereof as may be
4 necessary, is appropriated from the state general fund to the
5 superintendent of public instruction for the fiscal year ending June
6 30, 2013, solely for the purposes of this section.

7 NEW SECTION. **Sec. 10.** (1) In addition to the maintenance rate for
8 insurance benefit allocations of seven hundred sixty-eight dollars per
9 month for the 2012-13 school year provided in section 504(2), chapter
10 9, Laws of 2011 2nd sp. sess., this section provides for a rate
11 increase to seven hundred ninety dollars per month for the 2012-13
12 school year. The rate of seven hundred ninety dollars for the 2012-13
13 school year reflects a weighted average of the legislature's intent to
14 provide a seven hundred sixty-eight dollar monthly rate for the months
15 September through December 2012 and increase to an eight hundred dollar
16 monthly rate for the months January through August 2013.

17 (2) The sum of nineteen million dollars, or as much thereof as may
18 be necessary, is appropriated from the state general fund to the
19 superintendent of public instruction for the fiscal year ending June
20 30, 2013, solely for the purposes of this section.

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