

SENATE BILL REPORT

SB 5869

As Reported by Senate Committee On:
Ways & Means, April 6, 2009

Title: An act relating to clarifying public employees' benefits board eligibility.

Brief Description: Clarifying public employees' benefits board eligibility.

Sponsors: Senators Prentice and Shin; by request of Governor Gregoire.

Brief History:

Committee Activity: Ways & Means: 2/10/09, 4/06/09 [DPS, w/oRec].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5869 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Hobbs, Honeyford, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Pflug, Pridemore, Regala, Rockefeller and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senator Parlette.

Staff: Erik Sund (786-7454)

Background: The Public Employees Benefits Board (PEBB) is an organization within the Health Care Authority (HCA) charged with developing benefits plans, forming benefits contracts, developing participation rules, and approving schedules of rates and premiums for active employee and retired participants. Among the types of benefit plans provided to employees and retirees through the PEBB program are health, dental, life, long-term disability, and long-term care insurance.

The members of the PEBB vote to approve contracts and benefits for the PEBB program. There are nine members of the PEBB, seven of whom are voting members. All of the PEBB members are appointed by the Governor.

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.

Most of the criteria for benefits eligibility are laid out in administrative rules rather than in statute. The PEBB may not adopt eligibility criteria that are substantially different from those that were in place as of January 1, 1993.

State agencies are required to fully cooperate with the HCA to allow the employee benefits offered by the PEBB to be administered effectively, and are required to report all data relating to employee eligibility to participate in a form determined by the HCA.

Summary of Bill (Recommended Substitute): The PEBB is authorized to design benefits and to determine the criteria for eligibility for those benefits, unless those terms are specified in a collective bargaining agreement negotiated under the terms of the Personnel System Reform Act of 2002 (41.80 RCW). The prohibition on the adoption by the PEBB of plan designs or eligibility standards substantially different from those effective as of January 1, 1993, is removed. Alternative restrictions are placed on the eligibility standards that the PEBB may adopt for various types of employees. While detailed requirements vary depending on circumstances of employment, employee eligibility standards may be generalized as follows:

- Faculty members at institutions of higher education who are expected to work half-time over a period of at least nine-months are eligible for benefits for the entire instructional year.
- Seasonal employees who are expected to work 80 or more hours per month in each month of the applicable work season are eligible for the benefits for the season of employment.
- An elected or appointed official of the executive, legislative, or judicial branch of state government is eligible for benefits as of the beginning of his or her term of office or the date that he or she takes the oath of office.
- Most other employees are eligible for benefits if it is anticipated that they will work at least 80 hours per month for more than six consecutive months. If an employee does not work 80 or more hours in each of six consecutive months but averages at 80 or more hours per month over the six-month period and works at least eight hours in each month, then he or she becomes eligible for benefits at the end of the six-month period.
- The HCA may delegate to employing agencies the task of determining individual employees' eligibility for benefits. Any determination as to whether or not an employee is eligible for benefits is subject to periodic review. Provisions are established for revising the eligibility for benefits of employees whose actual hours of employment differ from expected levels.
- The HCA may use eligibility criteria other than those adopted by the PEBB when contracting to provide benefits for employees of a local government entity, school district, educational service district, or tribal government. In addition, the HCA may charge school districts and educational service districts that purchase employee benefits through the PEBB program on a school year basis rather than a fiscal year basis

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute): The substitute requires that most kinds of employees work at least 80 hours per month to qualify for health benefits rather than 70 hours per month. Also,

the substitute removes the statutory requirement that PEBB adopt only benefit plan designs that are substantially equivalent to those in effect on January 1, 1993.

Appropriation: None.

Fiscal Note: Requested on February 5, 2009.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on January 1, 2010.

Staff Summary of Public Testimony on Original Bill: PRO: Existing eligibility standards for employee health benefits are confusing and contradictory. The requirement that eligibility criteria must be substantially equivalent to the standards in place in 1993 is difficult to interpret and administer. The rules are confusing to employees and the state has been sued twice because of the inconsistent application of these standards by various agencies. This bill clarifies the relevant statutes and makes it clear that the HCA has rulemaking authority in this area, making it easier to manage employee eligibility fairly and consistently.

CON: Many of the standards included in this bill are arbitrary and treat some groups of employees better than others. Long-time seasonal employees and part-time community college faculty would lose eligibility for health benefits under this bill, which is inconsistent with other state and national efforts to improve access to health care in these difficult economic times. The proposed standard for part-time faculty would treat these teachers worse than Wal-Mart treats its part-time employees. This bill will result in more lawsuits against the state, not fewer.

OTHER: While the current eligibility standards are in need of improvement, lowering the threshold for benefits eligibility for part-time employees to 70 hours per month would impose significant new costs on colleges and universities at a difficult time.

Persons Testifying: PRO: Greg Devereaux, Washington Federation of State Employees; Steve Hill, Washington State Health Care Authority; John Kvamme, Washington Association of School Administrators and Association of Washington School Principals; Jonathan Seib, Governor's Office.

CON: David West, Center for a Changing Workforce.

OTHER: John Boesenberg, State Board for Community and Technical Colleges; Wendy Rader-Konofalski, Washington Education Association; Terry Teale, Council of Presidents.