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HOUSE BILL 2875

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State of Washington                      61st Legislature                      2010 Regular Session

By Representatives Ericksen, Cody, Condotta, Hinkle, Herrera, Driscoll, Parker, Bailey, Green, Morrell, Kelley, Wallace, Kessler, and Moeller

Read first time 01/15/10. Referred to Committee on Health Care & Wellness.

1            AN ACT Relating to health savings accounts; amending RCW 41.05.065;  
2 and declaring an emergency.

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

4            **Sec. 1.** RCW 41.05.065 and 2009 c 537 s 7 are each amended to read  
5 as follows:

6            (1) The board shall study all matters connected with the provision  
7 of health care coverage, life insurance, liability insurance,  
8 accidental death and dismemberment insurance, and disability income  
9 insurance or any of, or a combination of, the enumerated types of  
10 insurance for employees and their dependents on the best basis possible  
11 with relation both to the welfare of the employees and to the state.  
12 However, liability insurance shall not be made available to dependents.

13            (2) The board shall develop employee benefit plans that include  
14 comprehensive health care benefits for employees. In developing these  
15 plans, the board shall consider the following elements:

16            (a) Methods of maximizing cost containment while ensuring access to  
17 quality health care;

18            (b) Development of provider arrangements that encourage cost

1 containment and ensure access to quality care, including but not  
2 limited to prepaid delivery systems and prospective payment methods;

3 (c) Wellness incentives that focus on proven strategies, such as  
4 smoking cessation, injury and accident prevention, reduction of alcohol  
5 misuse, appropriate weight reduction, exercise, automobile and  
6 motorcycle safety, blood cholesterol reduction, and nutrition  
7 education;

8 (d) Utilization review procedures including, but not limited to a  
9 cost-efficient method for prior authorization of services, hospital  
10 inpatient length of stay review, requirements for use of outpatient  
11 surgeries and second opinions for surgeries, review of invoices or  
12 claims submitted by service providers, and performance audit of  
13 providers;

14 (e) Effective coordination of benefits; and

15 (f) Minimum standards for insuring entities.

16 (3) To maintain the comprehensive nature of employee health care  
17 benefits, benefits provided to employees shall be substantially  
18 equivalent to the state employees' health benefits plan in effect on  
19 January 1, 1993. Nothing in this subsection shall prohibit changes or  
20 increases in employee point-of-service payments or employee premium  
21 payments for benefits or the administration of a high deductible health  
22 plan in conjunction with a health savings account. The board may  
23 establish employee eligibility criteria which are not substantially  
24 equivalent to employee eligibility criteria in effect on January 1,  
25 1993.

26 (4) Except if bargained for under chapter 41.80 RCW, the board  
27 shall design benefits and determine the terms and conditions of  
28 employee and retired employee participation and coverage, including  
29 establishment of eligibility criteria subject to the requirements of  
30 this chapter. Employer groups obtaining benefits through contractual  
31 agreement with the authority for employees defined in RCW 41.05.011(6)  
32 (a) through (d) may contractually agree with the authority to benefits  
33 eligibility criteria which differs from that determined by the board.  
34 The eligibility criteria established by the board shall be no more  
35 restrictive than the following:

36 (a) Except as provided in (b) through (e) of this subsection, an  
37 employee is eligible for benefits from the date of employment if the  
38 employing agency anticipates he or she will work an average of at least

1 eighty hours per month and for at least eight hours in each month for  
2 more than six consecutive months. An employee determined ineligible  
3 for benefits at the beginning of his or her employment shall become  
4 eligible in the following circumstances:

5 (i) An employee who works an average of at least eighty hours per  
6 month and for at least eight hours in each month and whose anticipated  
7 duration of employment is revised from less than or equal to six  
8 consecutive months to more than six consecutive months becomes eligible  
9 when the revision is made.

10 (ii) An employee who works an average of at least eighty hours per  
11 month over a period of six consecutive months and for at least eight  
12 hours in each of those six consecutive months becomes eligible at the  
13 first of the month following the six-month averaging period.

14 (b) A seasonal employee is eligible for benefits from the date of  
15 employment if the employing agency anticipates that he or she will work  
16 an average of at least eighty hours per month and for at least eight  
17 hours in each month of the season. A seasonal employee determined  
18 ineligible at the beginning of his or her employment who works an  
19 average of at least half-time, as defined by the board, per month over  
20 a period of six consecutive months and at least eight hours in each of  
21 those six consecutive months becomes eligible at the first of the month  
22 following the six-month averaging period. A benefits-eligible seasonal  
23 employee who works a season of less than nine months shall not be  
24 eligible for the employer contribution during the off season, but may  
25 continue enrollment in benefits during the off season by self-paying  
26 for the benefits. A benefits-eligible seasonal employee who works a  
27 season of nine months or more is eligible for the employer contribution  
28 through the off season following each season worked.

29 (c) Faculty are eligible as follows:

30 (i) Faculty who the employing agency anticipates will work  
31 half-time or more for the entire instructional year or equivalent nine-  
32 month period are eligible for benefits from the date of employment.  
33 Eligibility shall continue until the beginning of the first full month  
34 of the next instructional year, unless the employment relationship is  
35 terminated, in which case eligibility shall cease the first month  
36 following the notice of termination or the effective date of the  
37 termination, whichever is later.

1 (ii) Faculty who the employing agency anticipates will not work for  
2 the entire instructional year or equivalent nine-month period are  
3 eligible for benefits at the beginning of the second consecutive  
4 quarter or semester of employment in which he or she is anticipated to  
5 work, or has actually worked, half-time or more. Such an employee  
6 shall continue to receive uninterrupted employer contributions for  
7 benefits if the employee works at least half-time in a quarter or  
8 semester. Faculty who the employing agency anticipates will not work  
9 for the entire instructional year or equivalent nine-month period, but  
10 who actually work half-time or more throughout the entire instructional  
11 year, are eligible for summer or off-quarter coverage. Faculty who  
12 have met the criteria of this subsection (4)(c)(ii), who work at least  
13 two quarters of the academic year with an average academic year  
14 workload of half-time or more for three quarters of the academic year,  
15 and who have worked an average of half-time or more in each of the two  
16 preceding academic years shall continue to receive uninterrupted  
17 employer contributions for benefits if he or she works at least half-  
18 time in a quarter or semester or works two quarters of the academic  
19 year with an average academic workload each academic year of half-time  
20 or more for three quarters. Eligibility under this section ceases  
21 immediately if this criteria is not met.

22 (iii) Faculty may establish or maintain eligibility for benefits by  
23 working for more than one institution of higher education. When  
24 faculty work for more than one institution of higher education, those  
25 institutions shall prorate the employer contribution costs, or if  
26 eligibility is reached through one institution, that institution will  
27 pay the full employer contribution. Faculty working for more than one  
28 institution must alert his or her employers to his or her potential  
29 eligibility in order to establish eligibility.

30 (iv) The employing agency must provide written notice to faculty  
31 who are potentially eligible for benefits under this subsection (4)(c)  
32 of their potential eligibility.

33 (v) To be eligible for maintenance of benefits through averaging  
34 under (c)(ii) of this subsection, faculty must provide written  
35 notification to his or her employing agency or agencies of his or her  
36 potential eligibility.

37 (d) A legislator is eligible for benefits on the date his or her  
38 term begins. All other elected and full-time appointed officials of

1 the legislative and executive branches of state government are eligible  
2 for benefits on the date his or her term begins or they take the oath  
3 of office, whichever occurs first.

4 (e) A justice of the supreme court and judges of the court of  
5 appeals and the superior courts become eligible for benefits on the  
6 date he or she takes the oath of office.

7 (f) Except as provided in (c)(i) and (ii) of this subsection,  
8 eligibility ceases for any employee the first of the month following  
9 termination of the employment relationship.

10 (g) In determining eligibility under this section, the employing  
11 agency may disregard training hours, standby hours, or temporary  
12 changes in work hours as determined by the authority under this  
13 section.

14 (h) Insurance coverage for all eligible employees begins on the  
15 first day of the month following the date when eligibility for benefits  
16 is established. If the date eligibility is established is the first  
17 working day of a month, insurance coverage begins on that date.

18 (i) Eligibility for an employee whose work circumstances are  
19 described by more than one of the eligibility categories in (a) through  
20 (e) of this subsection shall be determined solely by the criteria of  
21 the category that most closely describes the employee's work  
22 circumstances.

23 (j) Except for an employee eligible for benefits under (b) or  
24 (c)(ii) of this subsection, an employee who has established eligibility  
25 for benefits under this section shall remain eligible for benefits each  
26 month in which he or she is in pay status for eight or more hours, if  
27 (i) he or she remains in a benefits-eligible position and (ii) leave  
28 from the benefits-eligible position is approved by the employing  
29 agency. A benefits-eligible seasonal employee is eligible for the  
30 employer contribution in any month of his or her season in which he or  
31 she is in pay status eight or more hours during that month.  
32 Eligibility ends if these conditions are not met, the employment  
33 relationship is terminated, or the employee voluntarily transfers to a  
34 noneligible position.

35 (k) For the purposes of this subsection:

36 (i) "Academic year" means summer, fall, winter, and spring quarters  
37 or semesters;

1 (ii) "Half-time" means one-half of the full-time academic workload  
2 as determined by each institution, except that half-time for community  
3 and technical college faculty employees shall have the same meaning as  
4 "part-time" under RCW 28B.50.489;

5 (iii) "Benefits-eligible position" shall be defined by the board.

6 (5) The board may authorize premium contributions for an employee  
7 and the employee's dependents in a manner that encourages the use of  
8 cost-efficient managed health care systems.

9 (6) By July 1, 2010, the board shall develop and approve a health  
10 savings account option for employees that conform to section 223, Part  
11 VII of subchapter B of chapter 1 of the internal revenue code of 1986.  
12 The board shall comply with all applicable federal standards related to  
13 the establishment of health savings accounts. The board is authorized  
14 to approve the transfer of funds to health savings accounts under this  
15 section. If the board determines that the health care authority does  
16 not have the administrative capability to fund health savings accounts  
17 from the participating employees payroll system, the board shall  
18 contract for this administrative capability with a third-party  
19 administrator through a competitive procurement.

20 (7) By July 1, 2010, notwithstanding any other provision of this  
21 chapter, the board shall develop and approve a high deductible health  
22 plan to be offered in conjunction with a health savings account  
23 developed under subsection (6) of this section.

24 (8) Employees shall choose participation in one of the health care  
25 benefit plans developed by the board and may be permitted to waive  
26 coverage under terms and conditions established by the board.

27 (9) The board shall review plans proposed by insuring entities that  
28 desire to offer property insurance and/or accident and casualty  
29 insurance to state employees through payroll deduction. The board may  
30 approve any such plan for payroll deduction by insuring entities  
31 holding a valid certificate of authority in the state of Washington and  
32 which the board determines to be in the best interests of employees and  
33 the state. The board shall adopt rules setting forth criteria by which  
34 it shall evaluate the plans.

35 (10) Before January 1, 1998, the public employees' benefits board  
36 shall make available one or more fully insured long-term care insurance  
37 plans that comply with the requirements of chapter 48.84 RCW. Such  
38 programs shall be made available to eligible employees, retired

1 employees, and retired school employees as well as eligible dependents  
2 which, for the purpose of this section, includes the parents of the  
3 employee or retiree and the parents of the spouse of the employee or  
4 retiree. Employees of local governments, political subdivisions, and  
5 tribal governments not otherwise enrolled in the public employees'  
6 benefits board sponsored medical programs may enroll under terms and  
7 conditions established by the administrator, if it does not jeopardize  
8 the financial viability of the public employees' benefits board's long-  
9 term care offering.

10 (a) Participation of eligible employees or retired employees and  
11 retired school employees in any long-term care insurance plan made  
12 available by the public employees' benefits board is voluntary and  
13 shall not be subject to binding arbitration under chapter 41.56 RCW.  
14 Participation is subject to reasonable underwriting guidelines and  
15 eligibility rules established by the public employees' benefits board  
16 and the health care authority.

17 (b) The employee, retired employee, and retired school employee are  
18 solely responsible for the payment of the premium rates developed by  
19 the health care authority. The health care authority is authorized to  
20 charge a reasonable administrative fee in addition to the premium  
21 charged by the long-term care insurer, which shall include the health  
22 care authority's cost of administration, marketing, and consumer  
23 education materials prepared by the health care authority and the  
24 office of the insurance commissioner.

25 (c) To the extent administratively possible, the state shall  
26 establish an automatic payroll or pension deduction system for the  
27 payment of the long-term care insurance premiums.

28 (d) The public employees' benefits board and the health care  
29 authority shall establish a technical advisory committee to provide  
30 advice in the development of the benefit design and establishment of  
31 underwriting guidelines and eligibility rules. The committee shall  
32 also advise the board and authority on effective and cost-effective  
33 ways to market and distribute the long-term care product. The  
34 technical advisory committee shall be comprised, at a minimum, of  
35 representatives of the office of the insurance commissioner, providers  
36 of long-term care services, licensed insurance agents with expertise in  
37 long-term care insurance, employees, retired employees, retired school

1 employees, and other interested parties determined to be appropriate by  
2 the board.

3 (e) The health care authority shall offer employees, retired  
4 employees, and retired school employees the option of purchasing long-  
5 term care insurance through licensed agents or brokers appointed by the  
6 long-term care insurer. The authority, in consultation with the public  
7 employees' benefits board, shall establish marketing procedures and may  
8 consider all premium components as a part of the contract negotiations  
9 with the long-term care insurer.

10 (f) In developing the long-term care insurance benefit designs, the  
11 public employees' benefits board shall include an alternative plan of  
12 care benefit, including adult day services, as approved by the office  
13 of the insurance commissioner.

14 (g) The health care authority, with the cooperation of the office  
15 of the insurance commissioner, shall develop a consumer education  
16 program for the eligible employees, retired employees, and retired  
17 school employees designed to provide education on the potential need  
18 for long-term care, methods of financing long-term care, and the  
19 availability of long-term care insurance products including the  
20 products offered by the board.

21 (11) The board may establish penalties to be imposed by the  
22 authority when the eligibility determinations of an employing agency  
23 fail to comply with the criteria under this chapter.

24 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of the  
26 state government and its existing public institutions, and takes effect  
27 immediately.

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