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SENATE BILL 5905

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Hill and Hargrove

Read first time 04/10/13. Referred to Committee on Ways & Means.

1 AN ACT Relating to establishing state employee eligibility for  
2 insurance benefits consistent with the employer shared responsibility  
3 provisions of the patient protection and affordable care act; and  
4 amending RCW 41.05.065.

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

6 **Sec. 1.** RCW 41.05.065 and 2011 1st sp.s. c 8 s 1 are each amended  
7 to read as follows:

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

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

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

1 (b) Development of provider arrangements that encourage cost  
2 containment and ensure access to quality care, including but not  
3 limited to prepaid delivery systems and prospective payment methods;

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

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

15 (e) Effective coordination of benefits; and

16 (f) Minimum standards for insuring entities.

17 (3) To maintain the comprehensive nature of employee health care  
18 benefits, benefits provided to employees shall be substantially  
19 equivalent to the state employees' health benefits plan in effect on  
20 January 1, 1993. Nothing in this subsection shall prohibit changes or  
21 increases in employee point-of-service payments or employee premium  
22 payments for benefits or the administration of a high deductible health  
23 plan in conjunction with a health savings account. The board may  
24 establish employee eligibility criteria which are not substantially  
25 equivalent to employee eligibility criteria in effect on January 1,  
26 1993.

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

37 ~~(a) Except as provided in (b) through (e) of this subsection, an~~  
38 ~~employee is eligible for benefits from the date of employment if the~~

1 ~~employing agency anticipates he or she will work an average of at least~~  
2 ~~eighty hours per month and for at least eight hours in each month for~~  
3 ~~more than six consecutive months. An employee determined ineligible~~  
4 ~~for benefits at the beginning of his or her employment shall become~~  
5 ~~eligible in the following circumstances:~~

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

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

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

30 ~~(c) Faculty are eligible as follows:~~

31 ~~(i) Faculty who the employing agency anticipates will work~~  
32 ~~half-time or more for the entire instructional year or equivalent nine-~~  
33 ~~month period are eligible for benefits from the date of employment.~~  
34 ~~Eligibility shall continue until the beginning of the first full month~~  
35 ~~of the next instructional year, unless the employment relationship is~~  
36 ~~terminated, in which case eligibility shall cease the first month~~  
37 ~~following the notice of termination or the effective date of the~~  
38 ~~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)) the criteria established by this section. Beginning January~~  
38 ~~1, 2014, each employee who is a full-time employee as defined by~~

1 section 1513 of the patient protection and affordable care act and  
2 related regulations, as administered by the authority, is eligible for  
3 benefits. Employees who are not full-time employees are not eligible  
4 to participate in health benefit plans provided under this chapter.

5 (a) A legislator is eligible for benefits on the date his or her  
6 term begins. All other elected and full-time appointed officials of  
7 the legislative and executive branches of state government are eligible  
8 for benefits on the date his or her term begins or they take the oath  
9 of office, whichever occurs first.

10 ~~((e))~~ (b) A justice of the supreme court and judges of the court  
11 of appeals and the superior courts become eligible for benefits on the  
12 date he or she takes the oath of office.

13 ~~((f))~~ (c) Except as provided ~~((in (e)(i) and (ii) of this~~  
14 ~~subsection))~~ by section 1513 of the patient protection and affordable  
15 care act and related regulations, as administered by the authority,  
16 eligibility ceases for any employee the first of the month following  
17 termination of the employment relationship.

18 ~~((g) In determining eligibility under this section, the employing~~  
19 ~~agency may disregard training hours, standby hours, or temporary~~  
20 ~~changes in work hours as determined by the authority under this~~  
21 ~~section.~~

22 ~~(h))~~ (d) Insurance coverage for all eligible employees begins on  
23 the first day of the month following the date when eligibility for  
24 benefits is established. If the date eligibility is established is the  
25 first working day of a month, insurance coverage begins on that date.

26 ~~((i) Eligibility for an employee whose work circumstances are~~  
27 ~~described by more than one of the eligibility categories in (a) through~~  
28 ~~(e) of this subsection shall be determined solely by the criteria of~~  
29 ~~the category that most closely describes the employee's work~~  
30 ~~circumstances.~~

31 ~~(j) Except for an employee eligible for benefits under (b) or~~  
32 ~~(c)(ii) of this subsection, an employee who has established eligibility~~  
33 ~~for benefits under this section shall remain eligible for benefits each~~  
34 ~~month in which he or she is in pay status for eight or more hours, if~~  
35 ~~(i) he or she remains in a benefits-eligible position and (ii) leave~~  
36 ~~from the benefits-eligible position is approved by the employing~~  
37 ~~agency. A benefits-eligible seasonal employee is eligible for the~~  
38 ~~employer contribution in any month of his or her season in which he or~~

1 ~~she is in pay status eight or more hours during that month.~~  
2 ~~Eligibility ends if these conditions are not met, the employment~~  
3 ~~relationship is terminated, or the employee voluntarily transfers to a~~  
4 ~~noneligible position.~~

5 ~~(k) For the purposes of this subsection:~~

6 ~~(i) "Academic year" means summer, fall, winter, and spring quarters~~  
7 ~~or semesters;~~

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

12 ~~(iii) "Benefits eligible position" shall be defined by the board.)~~

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

16 (6)(a) For any open enrollment period following August 24, 2011,  
17 the board shall offer a health savings account option for employees  
18 that conforms to section 223, Part VII of subchapter B of chapter 1 of  
19 the internal revenue code of 1986. The board shall comply with all  
20 applicable federal standards related to the establishment of health  
21 savings accounts.

22 (b) By November 30, 2015, and each year thereafter, the authority  
23 shall submit a report to the relevant legislative policy and fiscal  
24 committees that includes the following:

25 (i) Public employees' benefits board health plan cost and service  
26 utilization trends for the previous three years, in total and for each  
27 health plan offered to employees;

28 (ii) For each health plan offered to employees, the number and  
29 percentage of employees and dependents enrolled in the plan, and the  
30 age and gender demographics of enrollees in each plan;

31 (iii) Any impact of enrollment in alternatives to the most  
32 comprehensive plan, including the high deductible health plan with a  
33 health savings account, upon the cost of health benefits for those  
34 employees who have chosen to remain enrolled in the most comprehensive  
35 plan.

36 (7) Notwithstanding any other provision of this chapter, for any  
37 open enrollment period following August 24, 2011, the board shall offer

1 a high deductible health plan in conjunction with a health savings  
2 account developed under subsection (6) of this section.

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

6 (9) The board shall review plans proposed by insuring entities that  
7 desire to offer property insurance and/or accident and casualty  
8 insurance to state employees through payroll deduction. The board may  
9 approve any such plan for payroll deduction by insuring entities  
10 holding a valid certificate of authority in the state of Washington and  
11 which the board determines to be in the best interests of employees and  
12 the state. The board shall adopt rules setting forth criteria by which  
13 it shall evaluate the plans.

14 (10) Before January 1, 1998, the public employees' benefits board  
15 shall make available one or more fully insured long-term care insurance  
16 plans that comply with the requirements of chapter 48.84 RCW. Such  
17 programs shall be made available to eligible employees, retired  
18 employees, and retired school employees as well as eligible dependents  
19 which, for the purpose of this section, includes the parents of the  
20 employee or retiree and the parents of the spouse of the employee or  
21 retiree. Employees of local governments, political subdivisions, and  
22 tribal governments not otherwise enrolled in the public employees'  
23 benefits board sponsored medical programs may enroll under terms and  
24 conditions established by the administrator, if it does not jeopardize  
25 the financial viability of the public employees' benefits board's long-  
26 term care offering.

27 (a) Participation of eligible employees or retired employees and  
28 retired school employees in any long-term care insurance plan made  
29 available by the public employees' benefits board is voluntary and  
30 shall not be subject to binding arbitration under chapter 41.56 RCW.  
31 Participation is subject to reasonable underwriting guidelines and  
32 eligibility rules established by the public employees' benefits board  
33 and the health care authority.

34 (b) The employee, retired employee, and retired school employee are  
35 solely responsible for the payment of the premium rates developed by  
36 the health care authority. The health care authority is authorized to  
37 charge a reasonable administrative fee in addition to the premium  
38 charged by the long-term care insurer, which shall include the health

1 care authority's cost of administration, marketing, and consumer  
2 education materials prepared by the health care authority and the  
3 office of the insurance commissioner.

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

7 (d) The public employees' benefits board and the health care  
8 authority shall establish a technical advisory committee to provide  
9 advice in the development of the benefit design and establishment of  
10 underwriting guidelines and eligibility rules. The committee shall  
11 also advise the board and authority on effective and cost-effective  
12 ways to market and distribute the long-term care product. The  
13 technical advisory committee shall be comprised, at a minimum, of  
14 representatives of the office of the insurance commissioner, providers  
15 of long-term care services, licensed insurance agents with expertise in  
16 long-term care insurance, employees, retired employees, retired school  
17 employees, and other interested parties determined to be appropriate by  
18 the board.

19 (e) The health care authority shall offer employees, retired  
20 employees, and retired school employees the option of purchasing long-  
21 term care insurance through licensed agents or brokers appointed by the  
22 long-term care insurer. The authority, in consultation with the public  
23 employees' benefits board, shall establish marketing procedures and may  
24 consider all premium components as a part of the contract negotiations  
25 with the long-term care insurer.

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

30 (g) The health care authority, with the cooperation of the office  
31 of the insurance commissioner, shall develop a consumer education  
32 program for the eligible employees, retired employees, and retired  
33 school employees designed to provide education on the potential need  
34 for long-term care, methods of financing long-term care, and the  
35 availability of long-term care insurance products including the  
36 products offered by the board.

37 (11) The board may establish penalties to be imposed by the  
38 authority when the eligibility determinations of an employing agency



1 fail to comply with the criteria under (~~this chapter~~) section 1513 of  
2 the patient protection and affordable care act and related regulations,  
3 as administered by the authority.

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