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**SENATE BILL 5562**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Wellman, Mullet, Conway, Lovick, Nobles, and C. Wilson

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1 AN ACT Relating to educational service districts health care for  
2 nonrepresented employees; and amending RCW 41.05.011, 41.05.050,  
3 28A.400.350, 41.05.065, and 44.28.157.

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

5 **Sec. 1.** RCW 41.05.011 and 2019 c 411 s 4 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1) "Authority" means the Washington state health care authority.

10 (2) "Board" means the public employees' benefits board  
11 established under RCW 41.05.055 and the school employees' benefits  
12 board established under RCW 41.05.740.

13 (3) "Dependent care assistance program" means a benefit plan  
14 whereby employees and school employees may pay for certain employment  
15 related dependent care with pretax dollars as provided in the salary  
16 reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or  
17 other sections of the internal revenue code.

18 (4) "Director" means the director of the authority.

19 (5) "Emergency service personnel killed in the line of duty"  
20 means law enforcement officers and firefighters as defined in RCW  
21 41.26.030, members of the Washington state patrol retirement fund as

1 defined in RCW 43.43.120, and reserve officers and firefighters as  
2 defined in RCW 41.24.010 who die as a result of injuries sustained in  
3 the course of employment as determined consistent with Title 51 RCW  
4 by the department of labor and industries.

5 (6) (a) "Employee" for the public employees' benefits board  
6 program includes all employees of the state, whether or not covered  
7 by civil service; elected and appointed officials of the executive  
8 branch of government, including full-time members of boards,  
9 commissions, or committees; justices of the supreme court and judges  
10 of the court of appeals and the superior courts; ~~((and))~~ members of  
11 the state legislature; and starting January 1, 2024, nonrepresented  
12 employees of educational service districts. Pursuant to contractual  
13 agreement with the authority, "employee" may also include: (i)  
14 Employees of a county, municipality, or other political subdivision  
15 of the state and members of the legislative authority of any county,  
16 city, or town who are elected to office after February 20, 1970, if  
17 the legislative authority of the county, municipality, or other  
18 political subdivision of the state submits application materials to  
19 the authority to provide any of its insurance programs by contract  
20 with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g);  
21 (ii) employees of employee organizations representing state civil  
22 service employees, at the option of each such employee organization;  
23 ~~((through December 31, 2019, employees of a school district if~~  
24 ~~the authority agrees to provide any of the school districts'~~  
25 ~~insurance programs by contract with the authority as provided in RCW~~  
26 ~~28A.400.350; ~~(iv))~~)~~ employees of a tribal government, if the  
27 governing body of the tribal government seeks and receives the  
28 approval of the authority to provide any of its insurance programs by  
29 contract with the authority, as provided in RCW 41.05.021(1) (f) and  
30 (g); ~~((+v))~~ (iv) employees of the Washington health benefit exchange  
31 if the governing board of the exchange established in RCW 43.71.020  
32 seeks and receives approval of the authority to provide any of its  
33 insurance programs by contract with the authority, as provided in RCW  
34 41.05.021(1) (g) and (n); and ~~((+vi))~~ (v) through December 31,  
35 ~~((2019))~~ 2023, nonrepresented employees of ~~((a charter school~~  
36 ~~established under chapter 28A.710 RCW))~~ educational service  
37 districts. "Employee" does not include: Adult family home providers;  
38 unpaid volunteers; patients of state hospitals; inmates; employees of  
39 the Washington state convention and trade center as provided in RCW  
40 41.05.110; students of institutions of higher education as determined

1 by their institution; and any others not expressly defined as  
2 employees under this chapter or by the authority under this chapter.

3 (b) Effective January 1, 2020, "school employee" for the school  
4 employees' benefits board program includes:

5 (i) All employees of school districts and charter schools  
6 established under chapter 28A.710 RCW;

7 (ii) Represented employees of educational service districts; and

8 (iii) Effective January 1, 2024, all employees of educational  
9 service districts.

10 (7) (~~"Employee group" means employees of a similar employment~~  
11 ~~type, such as administrative, represented classified, nonrepresented~~  
12 ~~classified excluding such employees in educational service districts~~  
13 ~~until December 31, 2023, confidential, represented certificated, or~~  
14 ~~nonrepresented certificated excluding such employees in educational~~  
15 ~~service districts until December 31, 2023, within a school employees'~~  
16 ~~benefits board organization.~~

17 ~~(8))~~ (a) "Employer" for the public employees' benefits board  
18 program means the state of Washington.

19 (b) "Employer" for the school employees' benefits board program  
20 means school districts and educational service districts and charter  
21 schools established under chapter 28A.710 RCW.

22 ~~((9))~~ (8) "Employer group" means ~~((those))~~ employers as defined  
23 by subsection (7)(a) of this section that obtain employee benefits  
24 through a contractual agreement with the authority to participate in  
25 benefit plans developed by the public employees' benefits board,  
26 including counties, municipalities, political subdivisions, the  
27 Washington health benefit exchange, tribal governments, employee  
28 organizations representing state civil service employees, ~~((and~~  
29 ~~through December 31, 2019, school districts, charter schools,))~~ and  
30 through December 31, 2023, educational service districts ~~((obtaining~~  
31 ~~employee benefits through a contractual agreement with the authority~~  
32 ~~to participate in benefit plans developed by the public employees'~~  
33 ~~benefits board))~~.

34 ~~((10))~~ (9)(a) "Employing agency" for the public employees'  
35 benefits board program means a division, department, or separate  
36 agency of state government, including an institution of higher  
37 education; educational service districts; a county, municipality, or  
38 other political subdivision; and a tribal government covered by this  
39 chapter.

1 (b) "Employing agency" for the school employees' benefits board  
2 program means school districts, educational service districts, and  
3 charter schools.

4 (~~(11)~~) (10) "Faculty" means an academic employee of an  
5 institution of higher education whose workload is not defined by work  
6 hours but whose appointment, workload, and duties directly serve the  
7 institution's academic mission, as determined under the authority of  
8 its enabling statutes, its governing body, and any applicable  
9 collective bargaining agreement.

10 (~~(12)~~) (11) "Flexible benefit plan" means a benefit plan that  
11 allows employees and school employees to choose the level of health  
12 care coverage provided and the amount of employee or school employee  
13 contributions from among a range of choices offered by the authority.

14 (~~(13)~~) (12) "Insuring entity" means an insurer as defined in  
15 chapter 48.01 RCW, a health care service contractor as defined in  
16 chapter 48.44 RCW, or a health maintenance organization as defined in  
17 chapter 48.46 RCW.

18 (~~(14)~~) (13) "Medical flexible spending arrangement" means a  
19 benefit plan whereby state and school employees may reduce their  
20 salary before taxes to pay for medical expenses not reimbursed by  
21 insurance as provided in the salary reduction plan under this chapter  
22 pursuant to 26 U.S.C. Sec. 125 or other sections of the internal  
23 revenue code.

24 (~~(15)~~) (14) "Participant" means an individual who fulfills the  
25 eligibility and enrollment requirements under the salary reduction  
26 plan.

27 (~~(16)~~) (15) "Plan year" means the time period established by  
28 the authority.

29 (~~(17)~~) (16) "Premium payment plan" means a benefit plan whereby  
30 public employees may pay their share of group health plan premiums  
31 with pretax dollars as provided in the salary reduction plan under  
32 this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the  
33 internal revenue code.

34 (~~(18)~~) (17) "Public employee" has the same meaning as employee  
35 and school employee.

36 (~~(19)~~) (18) "Retired or disabled school employee" means:

37 (a) Persons who separated from employment with a school district  
38 or educational service district and are receiving a retirement  
39 allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

1 (b) Persons who separate from employment with a school district,  
2 educational service district, or charter school on or after October  
3 1, 1993, and immediately upon separation receive a retirement  
4 allowance under chapter 41.32, 41.35, or 41.40 RCW;

5 (c) Persons who separate from employment with a school district,  
6 educational service district, or charter school due to a total and  
7 permanent disability, and are eligible to receive a deferred  
8 retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

9 ~~((20))~~ (19) "Salary" means a state or school employee's monthly  
10 salary or wages.

11 ~~((21))~~ (20) "Salary reduction plan" means a benefit plan  
12 whereby public employees may agree to a reduction of salary on a  
13 pretax basis to participate in the dependent care assistance program,  
14 medical flexible spending arrangement, or premium payment plan  
15 offered pursuant to 26 U.S.C. Sec. 125 or other sections of the  
16 internal revenue code.

17 ~~((22))~~ (21) "School employees' benefits board organization"  
18 means a public school district or educational service district or  
19 charter school established under chapter 28A.710 RCW that is required  
20 to participate in benefit plans provided by the school employees'  
21 benefits board.

22 ~~((23))~~ (22) "School year" means school year as defined in RCW  
23 28A.150.203(11).

24 ~~((24))~~ (23) "Seasonal employee" means a state employee hired to  
25 work during a recurring, annual season with a duration of three  
26 months or more, and anticipated to return each season to perform  
27 similar work.

28 ~~((25))~~ (24) "Separated employees" means persons who separate  
29 from employment with an employer as defined in:

30 (a) RCW 41.32.010(17) on or after July 1, 1996; or

31 (b) RCW 41.35.010 on or after September 1, 2000; or

32 (c) RCW 41.40.010 on or after March 1, 2002;

33 and who are at least age fifty-five and have at least ten years of  
34 service under the teachers' retirement system plan 3 as defined in  
35 RCW 41.32.010(33), the Washington school employees' retirement system  
36 plan 3 as defined in RCW 41.35.010, or the public employees'  
37 retirement system plan 3 as defined in RCW 41.40.010.

38 ~~((26))~~ (25) "State purchased health care" or "health care"  
39 means medical and health care, pharmaceuticals, and medical equipment  
40 purchased with state and federal funds by the department of social

1 and health services, the department of health, the basic health plan,  
2 the state health care authority, the department of labor and  
3 industries, the department of corrections, the department of veterans  
4 affairs, and local school districts.

5 ~~((27))~~ (26) "Tribal government" means an Indian tribal  
6 government as defined in section 3(32) of the employee retirement  
7 income security act of 1974, as amended, or an agency or  
8 instrumentality of the tribal government, that has government offices  
9 principally located in this state.

10 **Sec. 2.** RCW 41.05.050 and 2019 c 411 s 5 are each amended to  
11 read as follows:

12 (1) Every: (a) Department, division, or separate agency of state  
13 government; (b) county, municipal, school district, educational  
14 service district, or other political subdivisions; and (c) tribal  
15 governments as are covered by this chapter, shall provide  
16 contributions to insurance and health care plans for its employees  
17 and their dependents, the content of such plans to be determined by  
18 the authority. Contributions, paid by the county, the municipality,  
19 other political subdivision, or a tribal government for their  
20 employees, shall include an amount determined by the authority to pay  
21 such administrative expenses of the authority as are necessary to  
22 administer the plans for employees of those groups, except as  
23 provided in subsection (4) of this section.

24 (2) To account for increased cost of benefits for the state and  
25 for state employees, the authority may develop a rate surcharge  
26 applicable to participating counties, municipalities, other political  
27 subdivisions, and tribal governments.

28 (3) The contributions of any: (a) Department, division, or  
29 separate agency of the state government; (b) county, municipal, or  
30 other political subdivisions; (c) any tribal government as are  
31 covered by this chapter; and (d) school districts, educational  
32 service districts, and charter schools, shall be set by the  
33 authority, subject to the approval of the governor for availability  
34 of funds as specifically appropriated by the legislature for that  
35 purpose. Insurance and health care contributions for ferry employees  
36 shall be governed by RCW 47.64.270.

37 (4) (a) Until January 1, ~~((2020))~~ 2024, the authority shall  
38 collect from each ~~((participating school district and))~~ educational  
39 service district participating by contract with the authority an

1 amount equal to the composite rate charged to state agencies, plus an  
2 amount equal to the employee premiums by plan and family size as  
3 would be charged to employees, for groups of ~~((school district and))~~  
4 educational service district employees enrolled in authority plans.  
5 The authority may collect these amounts in accordance with the  
6 ~~((school district or))~~ educational service district fiscal year, as  
7 described in RCW 28A.505.030.

8 (b) ~~((i) For))~~ Until January 1, 2024, for all groups of ~~((school~~  
9 ~~district or))~~ educational service district employees enrolling in  
10 authority plans for the first time after September 1, 2003, ~~((and~~  
11 ~~until January 1, 2020,))~~ the authority shall collect from each  
12 participating ~~((school district or))~~ educational service district an  
13 amount equal to the composite rate charged to state agencies, plus an  
14 amount equal to the employee premiums by plan and by family size as  
15 would be charged to employees, only if the authority determines that  
16 this method of billing the ~~((school districts and))~~ educational  
17 service districts will not result in a material difference between  
18 revenues from ~~((school districts and))~~ educational service districts  
19 and expenditures made by the authority on behalf of ~~((school~~  
20 ~~districts and))~~ educational service districts and their employees.  
21 The authority may collect these amounts in accordance with the  
22 ~~((school district or))~~ educational service district fiscal year, as  
23 described in RCW 28A.505.030.

24 ~~((ii) For all groups of educational service district employees~~  
25 ~~enrolling in plans developed by the public employees' benefits board~~  
26 ~~after January 1, 2020, and until January 1, 2024, the authority shall~~  
27 ~~collect from each participating educational service district an~~  
28 ~~amount equal to the composite rate charged to state agencies, plus an~~  
29 ~~amount equal to the employee premiums by plan and by family size as~~  
30 ~~would be charged to employees, only if the authority determines that~~  
31 ~~this method of billing the educational service districts will not~~  
32 ~~result in a material difference between revenues from educational~~  
33 ~~service districts and expenditures made by the authority on behalf of~~  
34 ~~educational service districts and their employees. The authority may~~  
35 ~~collect these amounts in accordance with the educational service~~  
36 ~~district fiscal year, as described in RCW 28A.505.030.))~~

37 (c) Until January 1, ~~((2020))~~ 2024, if the authority determines  
38 at any time that the conditions in (b) of this subsection cannot be  
39 met, the authority shall offer enrollment to additional groups of  
40 ~~((school and))~~ educational service district employees on a tiered

1 rate structure until such time as the authority determines there  
2 would be no material difference between revenues and expenditures  
3 under a composite rate structure for all (~~school and~~) educational  
4 service district employees enrolled in authority plans.

5 (d) (~~(i)~~) Beginning January 1, 2020, all school districts,  
6 represented employees of educational service districts, and charter  
7 schools shall commence participation in the school employees'  
8 benefits board program established under RCW 41.05.740. (~~All school  
9 districts, represented employees of educational service districts,  
10 charter schools, and all school district employee groups  
11 participating in the public employees' benefits board plans before  
12 January 1, 2020, shall thereafter participate in the school  
13 employees' benefits board program administered by the authority.~~)

14 All school districts, educational service districts with represented  
15 employees (~~of educational service districts~~), and charter schools  
16 shall provide contributions to the authority for insurance and health  
17 care plans for school employees and their dependents. These  
18 contributions must be provided to the authority for all eligible  
19 school employees eligible for benefits under RCW 41.05.740(6)(d),  
20 including school employees who have waived their coverage;  
21 contributions to the authority are not required for individuals  
22 eligible for benefits under RCW 41.05.740(6)(e) who waive their  
23 coverage.

24 (~~(ii) Beginning January 1, 2024, all educational service  
25 districts shall participate in the school employees' benefits board  
26 program.~~)

27 (e) For the purposes of this subsection, "tiered rates" means the  
28 amounts the authority must pay to insuring entities by plan and by  
29 family size.

30 (f) Notwithstanding this subsection and RCW 41.05.065(4), the  
31 authority may allow (~~school districts and~~) educational service  
32 districts enrolled on a tiered rate structure prior to September 1,  
33 2002, and until January 1, (~~2020~~) 2024, to continue participation  
34 based on the same rate structure and under the same conditions and  
35 eligibility criteria.

36 (5) The authority shall transmit a recommendation for the amount  
37 of the employer contributions to the governor and the director of  
38 financial management for inclusion in the proposed budgets submitted  
39 to the legislature.



1       **Sec. 3.** RCW 28A.400.350 and 2020 c 231 s 2 are each amended to  
2 read as follows:

3       (1) The board of directors of any of the state's school districts  
4 or educational service districts may make available medical, dental,  
5 vision, liability, life, accident, disability, and salary protection  
6 or insurance, direct agreements as defined in chapter 48.150 RCW, or  
7 any one of, or a combination of the types of employee benefits  
8 enumerated in this subsection, or any other type of insurance or  
9 protection, for the members of the boards of directors, the students,  
10 and employees of the school district or educational service district,  
11 and their dependents. Except as provided in subsection (~~((+6))~~) (5) of  
12 this section, such coverage may be provided by contracts or  
13 agreements with private carriers, with the state health care  
14 authority, or through self-insurance or self-funding pursuant to  
15 chapter 48.62 RCW, or in any other manner authorized by law. Any  
16 direct agreement must comply with RCW 48.150.050.

17       (2) (a) Whenever funds are available for these purposes the board  
18 of directors of the school district or educational service district  
19 may contribute all or a part of the cost of such protection or  
20 insurance for the employees of their respective school districts or  
21 educational service districts and their dependents. The premiums on  
22 such liability insurance shall be borne by the school district or  
23 educational service district.

24       (b) After October 1, 1990, school districts may not contribute to  
25 any employee protection or insurance other than liability insurance  
26 unless the district's employee benefit plan conforms to RCW  
27 28A.400.275 and 28A.400.280.

28       (c) After December 31, 2019, school district contributions to any  
29 employee insurance that is purchased through the health care  
30 authority must conform to the requirements established by chapter  
31 41.05 RCW and the school employees' benefits board.

32       (3) For school board members, educational service district board  
33 members, and students, the premiums due on such protection or  
34 insurance shall be borne by the assenting school board member,  
35 educational service district board member, or student. The school  
36 district or educational service district may contribute all or part  
37 of the costs, including the premiums, of life, health, health care,  
38 accident or disability insurance which shall be offered to all  
39 students participating in interschool activities on the behalf of or  
40 as representative of their school, school district, or educational

1 service district. The school district board of directors and the  
2 educational service district board may require any student  
3 participating in extracurricular interschool activities to, as a  
4 condition of participation, document evidence of insurance or  
5 purchase insurance that will provide adequate coverage, as determined  
6 by the school district board of directors or the educational service  
7 district board, for medical expenses incurred as a result of injury  
8 sustained while participating in the extracurricular activity. In  
9 establishing such a requirement, the district shall adopt regulations  
10 for waiving or reducing the premiums of such coverage as may be  
11 offered through the school district or educational service district  
12 to students participating in extracurricular activities, for those  
13 students whose families, by reason of their low income, would have  
14 difficulty paying the entire amount of such insurance premiums. The  
15 district board shall adopt regulations for waiving or reducing the  
16 insurance coverage requirements for low-income students in order to  
17 assure such students are not prohibited from participating in  
18 extracurricular interschool activities.

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

25 ~~(5) ((a) Until the creation of the school employees' benefits~~  
26 ~~board under RCW 41.05.740, school districts offering medical, vision,~~  
27 ~~and dental benefits shall:~~

28 ~~(i) Offer a high deductible health plan option with a health~~  
29 ~~savings account that conforms to section 223, part VII of subchapter~~  
30 ~~1 of the internal revenue code of 1986. School districts shall comply~~  
31 ~~with all applicable federal standards related to the establishment of~~  
32 ~~health savings accounts;~~

33 ~~(ii) Make progress toward employee premiums that are established~~  
34 ~~to ensure that full family coverage premiums are not more than three~~  
35 ~~times the premiums for employees purchasing single coverage for the~~  
36 ~~same coverage plan, unless a subsequent premium differential target~~  
37 ~~is defined as a result of the review and subsequent actions described~~  
38 ~~in RCW 41.05.655;~~

39 ~~(iii) Offer employees at least one health benefit plan that is~~  
40 ~~not a high deductible health plan offered in conjunction with a~~

1 health savings account in which the employee share of the premium  
2 cost for a full-time employee, regardless of whether the employee  
3 chooses employee-only coverage or coverage that includes dependents,  
4 does not exceed the share of premium cost paid by state employees  
5 during the state employee benefits year that started immediately  
6 prior to the school year.

7 ~~(b) All contracts or agreements for employee benefits must be~~  
8 ~~held to responsible contracting standards, meaning a fair, prudent,~~  
9 ~~and accountable competitive procedure for procuring services that~~  
10 ~~includes an open competitive process, except where an open process~~  
11 ~~would compromise cost-effective purchasing, with documentation~~  
12 ~~justifying the approach.~~

13 ~~(c) School districts offering medical, vision, and dental~~  
14 ~~benefits shall also make progress on promoting health care~~  
15 ~~innovations and cost savings and significantly reduce administrative~~  
16 ~~costs.~~

17 ~~(d) All contracts or agreements for insurance or protection~~  
18 ~~described in this section shall be in compliance with chapter 3, Laws~~  
19 ~~of 2012 2nd sp. sess.~~

20 ~~(6))~~ The authority to make available basic and optional benefits  
21 to school employees under this section expires December 31, 2019,  
22 except (a) for nonrepresented employees of educational service  
23 districts for which the authority expires December 31, 2023, and (b)  
24 as authorized under RCW 28A.400.280. Beginning January 1, 2020,  
25 school districts, for all school employees, and educational service  
26 districts, for represented employees, shall make available basic and  
27 optional benefits through plans offered by the health care authority  
28 and the school employees' benefits board. Beginning January 1, 2024,  
29 educational service districts, for nonrepresented employees, shall  
30 make available basic and optional benefits through plans offered by  
31 the health care authority and the ~~((school))~~ public employees'  
32 benefits board.

33 **Sec. 4.** RCW 41.05.065 and 2018 c 260 s 12 are each amended to  
34 read as follows:

35 (1) The public employees' benefits board shall study all matters  
36 connected with the provision of health care coverage, life insurance,  
37 liability insurance, accidental death and dismemberment insurance,  
38 and disability income insurance or any of, or a combination of, the  
39 enumerated types of insurance for employees and their dependents on

1 the best basis possible with relation both to the welfare of the  
2 employees and to the state. However, liability insurance shall not be  
3 made available to dependents.

4 (2) The public employees' benefits board shall develop employee  
5 benefit plans that include comprehensive health care benefits for  
6 employees. In developing these plans, the public employees' benefits  
7 board shall consider the following elements:

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

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

13 (c) Wellness incentives that focus on proven strategies, such as  
14 smoking cessation, injury and accident prevention, reduction of  
15 alcohol misuse, appropriate weight reduction, exercise, automobile  
16 and motorcycle safety, blood cholesterol reduction, and nutrition  
17 education;

18 (d) Utilization review procedures including, but not limited to a  
19 cost-efficient method for prior authorization of services, hospital  
20 inpatient length of stay review, requirements for use of outpatient  
21 surgeries and second opinions for surgeries, review of invoices or  
22 claims submitted by service providers, and performance audit of  
23 providers;

24 (e) Effective coordination of benefits; and

25 (f) Minimum standards for insuring entities.

26 (3) To maintain the comprehensive nature of employee health care  
27 benefits, benefits provided to employees shall be substantially  
28 equivalent to the state employees' health benefit plan in effect on  
29 January 1, 1993. Nothing in this subsection shall prohibit changes or  
30 increases in employee point-of-service payments or employee premium  
31 payments for benefits or the administration of a high deductible  
32 health plan in conjunction with a health savings account. The public  
33 employees' benefits board may establish employee eligibility criteria  
34 which are not substantially equivalent to employee eligibility  
35 criteria in effect on January 1, 1993.

36 (4) Except if bargained for under chapter 41.80 RCW, the public  
37 employees' benefits board shall design benefits and determine the  
38 terms and conditions of employee and retired or disabled school  
39 employee participation and coverage, including establishment of  
40 eligibility criteria subject to the requirements of this chapter.

1 Employer groups obtaining benefits through contractual agreement with  
2 the authority for employees defined in RCW 41.05.011(6)(a) (i)  
3 through (~~(vi)~~) (v) may contractually agree with the authority to  
4 benefits eligibility criteria which differs from that determined by  
5 the public employees' benefits board. The eligibility criteria  
6 established by the public employees' benefits board shall be no more  
7 restrictive than the following:

8 (a) Except as provided in (b) through (e) of this subsection, an  
9 employee is eligible for benefits from the date of employment if the  
10 employing agency anticipates he or she will work an average of at  
11 least eighty hours per month and for at least eight hours in each  
12 month for more than six consecutive months. An employee determined  
13 ineligible for benefits at the beginning of his or her employment  
14 shall become eligible in the following circumstances:

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

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

24 (b) A seasonal employee is eligible for benefits from the date of  
25 employment if the employing agency anticipates that he or she will  
26 work an average of at least eighty hours per month and for at least  
27 eight hours in each month of the season. A seasonal employee  
28 determined ineligible at the beginning of his or her employment who  
29 works an average of at least eighty hours per month over a period of  
30 six consecutive months and at least eight hours in each of those six  
31 consecutive months becomes eligible at the first of the month  
32 following the six-month averaging period. A benefits-eligible  
33 seasonal employee who works a season of less than nine months shall  
34 not be eligible for the employer contribution during the off season,  
35 but may continue enrollment in benefits during the off season by  
36 self-paying for the benefits. A benefits-eligible seasonal employee  
37 who works a season of nine months or more is eligible for the  
38 employer contribution through the off season following each season  
39 worked.

40 (c) Faculty are eligible as follows:

1 (i) Faculty who the employing agency anticipates will work half-  
2 time or more for the entire instructional year or equivalent nine-  
3 month period are eligible for benefits from the date of employment.  
4 Eligibility shall continue until the beginning of the first full  
5 month of the next instructional year, unless the employment  
6 relationship is terminated, in which case eligibility shall cease the  
7 first month following the notice of termination or the effective date  
8 of the termination, whichever is later.

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

32 (iii) Faculty may establish or maintain eligibility for benefits  
33 by working for more than one institution of higher education. When  
34 faculty work for more than one institution of higher education, those  
35 institutions shall prorate the employer contribution costs, or if  
36 eligibility is reached through one institution, that institution will  
37 pay the full employer contribution. Faculty working for more than one  
38 institution must alert his or her employers to his or her potential  
39 eligibility in order to establish eligibility.

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

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

8 (vi) For the purposes of this subsection (4)(c):

9 (A) "Academic year" means summer, fall, winter, and spring  
10 quarters or summer, fall, and spring semesters;

11 (B) "Half-time" means one-half of the full-time academic workload  
12 as determined by each institution; except that for community and  
13 technical college faculty, half-time academic workload is calculated  
14 according to RCW 28B.50.489.

15 (d) A legislator is eligible for benefits on the date his or her  
16 term begins. All other elected and full-time appointed officials of  
17 the legislative and executive branches of state government are  
18 eligible for benefits on the date his or her term begins or they take  
19 the oath of office, whichever occurs first.

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

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

26 (g) In determining eligibility under this section, the employing  
27 agency may disregard training hours, standby hours, or temporary  
28 changes in work hours as determined by the authority under this  
29 section.

30 (h) Insurance coverage for all eligible employees begins on the  
31 first day of the month following the date when eligibility for  
32 benefits is established. If the date eligibility is established is  
33 the first working day of a month, insurance coverage begins on that  
34 date.

35 (i) Eligibility for an employee whose work circumstances are  
36 described by more than one of the eligibility categories in (a)  
37 through (e) of this subsection shall be determined solely by the  
38 criteria of the category that most closely describes the employee's  
39 work circumstances.

1 (j) Except for an employee eligible for benefits under (b) or  
2 (c)(ii) of this subsection, an employee who has established  
3 eligibility for benefits under this section shall remain eligible for  
4 benefits each month in which he or she is in pay status for eight or  
5 more hours, if (i) he or she remains in a benefits-eligible position  
6 and (ii) leave from the benefits-eligible position is approved by the  
7 employing agency. A benefits-eligible seasonal employee is eligible  
8 for the employer contribution in any month of his or her season in  
9 which he or she is in pay status eight or more hours during that  
10 month. Eligibility ends if these conditions are not met, the  
11 employment relationship is terminated, or the employee voluntarily  
12 transfers to a noneligible position.

13 (k) For the purposes of this subsection, the public employees'  
14 benefits board shall define "benefits-eligible position."

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

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

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

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

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

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



1 (7) Notwithstanding any other provision of this chapter, for any  
2 open enrollment period following August 24, 2011, the public  
3 employees' benefits board shall offer a high deductible health plan  
4 in conjunction with a health savings account developed under  
5 subsection (6) of this section.

6 (8) Employees shall choose participation in one of the health  
7 care benefit plans developed by the public employees' benefits board  
8 and may be permitted to waive coverage under terms and conditions  
9 established by the public employees' benefits board.

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

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

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

1 (b) The employee, retired employee, and retired school employee  
2 are solely responsible for the payment of the premium rates developed  
3 by the health care authority. The health care authority is authorized  
4 to charge a reasonable administrative fee in addition to the premium  
5 charged by the long-term care insurer, which shall include the health  
6 care authority's cost of administration, marketing, and consumer  
7 education materials prepared by the health care authority and the  
8 office of the insurance commissioner.

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

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

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

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

36 (g) The health care authority, with the cooperation of the office  
37 of the insurance commissioner, shall develop a consumer education  
38 program for the eligible employees, retired employees, and retired  
39 school employees designed to provide education on the potential need  
40 for long-term care, methods of financing long-term care, and the

1 availability of long-term care insurance products including the  
2 products offered by the public employees' benefits board.

3 (11) The public employees' benefits board may establish penalties  
4 to be imposed by the authority when the eligibility determinations of  
5 an employing agency fail to comply with the criteria under this  
6 chapter.

7 **Sec. 5.** RCW 44.28.157 and 2012 2nd sp.s. c 3 s 7 are each  
8 amended to read as follows:

9 (1) By December 31, 2015, the joint committee must review the  
10 reports on school district health benefits submitted to it by the  
11 office of the insurance commissioner and the health care authority  
12 and report to the legislature on the progress by school districts and  
13 their benefit providers in meeting the following legislative goals  
14 to:

15 (a) Improve the transparency of health benefit plan claims and  
16 financial data to assure prudent and efficient use of taxpayers'  
17 funds at the state and local levels;

18 (b) Create greater affordability for full family coverage and  
19 greater equity between premium costs for full family coverage and  
20 employee only coverage for the same health benefit plan;

21 (c) Promote health care innovations and cost savings and  
22 significantly reduce administrative costs.

23 (2) The joint committee shall also make a recommendation  
24 regarding a specific target to realize the goal in subsection (1)(b)  
25 of this section.

26 (3) The joint committee shall report on the status of individual  
27 school districts' progress in achieving the goals in subsection (1)  
28 of this section.

29 ~~(4) ((a) In the 2015-2016 school year, the joint committee shall~~  
30 ~~determine which school districts have met the requirements of RCW~~  
31 ~~28A.400.350 (5) and (6), and shall rank order these districts from~~  
32 ~~highest to lowest in term of their performance in meeting the~~  
33 ~~requirements.~~

34 ~~(b) The joint committee shall then allocate performance grants to~~  
35 ~~the highest performing districts from a performance fund of five~~  
36 ~~million dollars appropriated by the legislature for this purpose.~~  
37 ~~Performance grants shall be used by school districts only to reduce~~  
38 ~~employee health insurance copayments and deductibles. In determining~~  
39 ~~the number of school districts to receive awards, the joint committee~~

1 ~~must consider the impact of the award on district employee copayments~~  
2 ~~and deductibles in such a manner that the award amounts have a~~  
3 ~~meaningful impact.~~

4 ~~(5))~~ If the joint committee determines that districts and their  
5 benefit providers have not made adequate progress, in the judgment of  
6 the joint committee, in achieving one or more of the legislative  
7 goals in subsection (1) of this section, the joint committee report  
8 to the legislature must contain advantages, disadvantages, and  
9 recommendations on the following:

10 (a) Why adequate progress has not been made, to the extent the  
11 joint committee is able to determine the reason or reasons for the  
12 insufficient progress;

13 (b) What legislative or agency actions would help remove barriers  
14 to improvement;

15 (c) Whether school district health insurance purchasing should be  
16 accomplished through a single consolidated school employee health  
17 benefits purchasing plan;

18 (d) Whether school district health insurance purchasing should be  
19 accomplished through the public employees' benefits board program,  
20 and whether consolidation into the public employees' benefits board  
21 program would be preferable to the creation of a consolidated school  
22 employee health benefits purchasing plan; and

23 (e) Whether certificated or classified employees, as separate  
24 groups, would be better served by purchasing health insurance through  
25 a single consolidated school employee health benefits purchasing plan  
26 or through participation in the public employees' benefits board  
27 program.

28 ~~((6))~~ (5) The report shall contain any legislation necessary to  
29 implement the recommendations of the joint committee.

30 ~~((7))~~ (6) The legislature shall take all steps necessary to  
31 implement the recommendations of the joint committee unless the  
32 legislature adopts alternative strategies to meet its goals during  
33 the 2016 session.

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