5940-S AMS CONW SUND 010

**SSB 5940** - S AMD **312**

By Senators Conway, McAuliffe, Nelson, Ranker, Kohl-Welles, Pridemore

**NOT ADOPTED 04/07/2012**

Strike everything after the enacting clause and insert the following:

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

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

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

(2) Therefore, the legislature intends to:

(a) Improve the transparency of health benefit plan claims and financial data to assure prudent and efficient use of taxpayers' funds, and to support equity in access to health benefits for all eligible school district employees and their eligible dependents;

(b) Make school district employee premiums more responsive to the need for greater affordability for full family coverage, with a goal of reducing the disparity in employee premiums for family coverage to no more than three times the cost of employee only coverage; and

(c) Retain current collective bargaining for benefits, and retain state, school district, and employee contributions to benefits.

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

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

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

(a) The school district pools benefit allocations among employees using a financial pooling arrangement that includes no more than two pools that combine at least one employee bargaining unit ((~~and/or~~)) with all nonbargaining group employees and combines all other employees in another pool if a separate pool is chosen;

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

(c) Each employee included in the pooling arrangement who elects medical benefit coverage pays a minimum premium charge subject to collective bargaining under chapter 41.59 or 41.56 RCW;  
 (d) The employee premiums are structured to ensure employees selecting richer benefit plans pay the higher premium;  
 (e) Each full-time employee included in the pooling arrangement, regardless of the number of dependents receiving basic coverage, receives the same additional employer contribution for other coverage or optional benefits; and

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

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

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

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

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

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

(3) For school board members, educational service district board members, and students, the premiums due on such protection or insurance shall be borne by the assenting school board member, educational service district board member, or student. The school district or educational service district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school, school district, or educational service district. The school district board of directors and the educational service district board may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors or the educational service district board, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district or educational service district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

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

(5) Any school district and their benefit provider offering a benefit plan by contract or agreement must demonstrate a commitment to:  
 (a) Significantly reduce administrative costs for school districts;  
 (b) Improve customer service;  
 (c) Reduce differential plan premium rates between employee only and family health benefit premiums, with a goal of reducing the family premiums to no more than three times the employee only premiums;  
 (d) Protect access to coverage for part-time K-12 employees; and  
 (e) Use innovative health plan features designed to reduce utilization of unnecessary health services and offer evidence-based health care services, which may include, but is not limited to, adoption of state health technology assessment program decisions under chapter 70.14 RCW and participation in efforts such as the Bree collaborative under chapter 70.250 RCW.  
 (6) All contracts or agreements for insurance or protection shall be in compliance with this act.

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

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

(2) School districts and their benefit providers shall annually submit the following information and data for the prior calendar year to the ((~~Washington state health care authority~~)) office of the insurance commissioner;  
 (a) A summary ((~~descriptions of all benefits offered under the district's employee benefit plan. The districts shall also submit data to the health care authority specifying~~)) of each health benefit plan offered to each group of school employees under the districts employee benefit plans. The summary must include the following:  
 (i) The financial plan structure and overall performance of each health plan including:  
 (A) Total premium expenses;  
 (B) Total claims expenses;  
 (C) Claim reserves; and  
 (D) Plan administration expenses, including compensation paid to brokers;  
 (b) The total number of employees and, for each employee, types of coverage or benefits received including the number((~~s~~)) of covered dependents, the number of eligible dependents, the amount of the district's contribution to premium, additional premium costs paid by the employee through payroll deductions, and the age and sex of ((~~the~~)) each employee and each dependent.

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

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

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

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

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

(2)(a) Beginning in 2013, the commissioner shall annually submit a report to the legislature on school district health insurance benefits. The report shall include each school district's health insurance benefits' aggregated data. The report shall be available on the commissioner's web site. The confidentiality of personally identifiable data shall be safeguarded consistent with the provisions of RCW 42.56.400(17).

(b) The report shall include information furnished by school districts and their benefit providers to demonstrate progress to:

(i) Significantly reduce administrative costs for school districts;

(ii) Improve customer service;

(iii) Reduce differential plan premium rates between employee only and family health benefit premiums, and progress towards the goal of reducing the family premiums to no more than three times the cost of employee only premiums;

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

(v) Use innovative health plan features designed to reduce utilization of unnecessary health services and offer evidence-based health care services, which may include, but is not limited to, adoption of state health technology assessment program decisions under chapter 70.14 RCW, and participation in efforts such as the Bree collaborative under chapter 70.250 RCW.

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

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

(A) Total premium expenses;

(B) Total claims expenses;

(C) Claim reserves; and

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

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

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

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

(5) Data, information, and documents provided by a school district or an entity providing coverage pursuant to this section are exempt from public inspection and copying under RCW 48.02.120 and chapters 42.17A and 42.56 RCW.

(6) If a school district or benefit provider does not comply with the data reporting requirements of this section or RCW 28A.400.275, and the failure is due to the actions of an entity providing coverage authorized under Title 48 RCW, the commissioner may take enforcement actions under this chapter, and the district or benefit provider is subject to the market oversight authority of the commissioner as set forth in chapter 48.37 RCW.

**Sec.** RCW 42.56.400 and 2012 c ... (ESHB 2361) s 2 are each amended to read as follows:

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

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

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

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

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

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

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

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

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

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

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

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

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

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

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

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

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

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

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

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

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

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b); and  
 (21) Data, information, and documents for reporting to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and section 5 of this act.

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

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

**SSB 5940** S AMD

By Senator Conway

On page 1, line 2 of the title, after "amending", strike everything through "appropriations" on line 4 of the title and insert "RCW 28A.400.280, 28A.400.350, 28A.400.275, and 42.56.400; adding a new section to chapter 48.02 RCW; adding a new section to chapter 48.62 RCW; and creating a new section"

|  |  |
| --- | --- |
|  | EFFECT:   Replaces the contents of the original bill with the contents of HB 2829.  School districts are limited to forming no more than two financial pooling arrangements for grouping employees for the purchase of insurance benefits. Instead of reporting to the Health Care Authority (HCA) on the operations of school district employee health benefit programs, school districts and school district employee health benefit providers are required to annually submit specified information on the health benefit plans operated for district employees to the Office of the Insurance Commissioner (OIC).  School districts or school district employee benefit providers that do not comply with the data reporting requirements are subject to the market oversight authority of the OIC. The authority to operate in the state is removed from any individual or joint local government self-insured health and welfare benefits plan formed by a school district that does not comply with the data reporting requirements contained in the bill.  The Attorney General must take all necessary action to terminate the operation of an out-of-compliance self-insured health and welfare benefits program. The OIC is required to submit an annual report to the Legislature containing specific information about school district health benefit plans including: district and provider administrative costs; health plan customer service data; part-time employee coverage information; use of innovative plan design features; and progress towards a goal of reducing the difference in premium rates between single employee and family coverage towards a 3:1 ratio.  The types of insurance and financial institution information that is exempt from public disclosure is expanded to include information provided by school districts and benefit providers to the OIC for the annual report required in the bill. |

**--- END ---**