5940-S AMS HOBB NEED 001

**SSB 5940** - S AMD **331**

By Senators Hobbs, Keiser, Litzow

**ADOPTED 04/11/2012**

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;

(b) The legislature and school districts and their employees need better information to improve current practices and inform future decisions with regard to health insurance benefits;

(c) Recent work by the state auditor's office and the state health care authority have advanced discussions throughout the state on opportunities to improve the current system; and

(d) Two major themes have emerged: (i) The state, school districts, and employees need better information and data to make better health insurance purchasing decisions within the K-12 system; (ii) affordability is a significant concern for all employees, especially for employees seeking full family insurance coverage and for the lowest-paid and part-time employees.

(2) The legislature establishes the following goals:

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

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

(c) Promote health care innovations and cost savings, and significantly reduce administrative costs; and

(d) Provide greater parity in state allocations for state employee and K-12 employee health benefits.

(3) The legislature intends to 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 pooling arrangement that includes at least one employee bargaining unit and/or all nonbargaining group employees;

(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) School districts offering medical, vision, and dental benefits shall:  
 (a) Offer a high deductible health plan option with a health savings account that conforms to section 223, part VII of subchapter 1 of the internal revenue code of 1986. School districts shall comply with all applicable federal standards related to the establishment of health savings accounts;  
 (b) Make progress toward employee premiums that are established to ensure that full family coverage premiums are not more than three times the premiums for employees purchasing single coverage for the same coverage plan, unless a subsequent premium differential target is defined as a result of the review and subsequent actions described in section 6 of this act;  
 (c) Offer employees at least one health benefit plan that is not a high deductible health plan offered in conjunction with a health savings account in which the employee share of the premium cost for a full-time employee, regardless of whether the employee chooses employee-only coverage or coverage that includes dependents, does not exceed the share of premium cost paid by state employees during the state employee benefits year that started immediately prior to the school year.  
 (6) All contracts or agreements for employee benefits must be held to responsible contracting standards, meaning a fair, prudent, and accountable competitive procedure for procuring services that includes an open competitive process, except where an open process would compromise cost-effective purchasing, with documentation justifying the approach.  
 (7) School districts offering medical, vision, and dental benefits shall also make progress on promoting health care innovations and cost savings and significantly reduce administrative costs.  
 (8) All contracts or agreements for insurance or protection described in this section shall be in compliance with this act.  
 (9) Upon notification from the office of the insurance commissioner of a school district's substantial noncompliance with the data reporting requirements of RCW 28A.400.275, and the failure is due to the action or inaction of the school district, and if the noncompliance has occurred for two reporting periods, the superintendent is authorized and required to limit the school district's authority provided in subsection (1) of this section regarding employee health benefits to the provision of health benefit coverage provided by the state health care authority.

**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, by a date determined by the office of the insurance commissioner, the following information and data for the prior calendar year to the ((~~Washington state health care authority 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 the total number of employees and, for each employee, types of coverage or benefits received including numbers of covered dependents, the number of eligible dependents, the amount of the district's contribution, additional premium costs paid by the employee through payroll deductions, and the age and sex of the employee and each dependent.~~))

office of the insurance commissioner:  
 (a) Progress by the district and its benefit providers toward greater affordability for full family coverage, health care cost savings, and significantly reduced administrative costs;  
 (b) Compliance with the requirement to provide a high deductible health plan option with a health savings account;  
 (c) An overall plan summary including the following:  
 (i) The financial plan structure and overall performance of each health plan including:  
 (A) Total premium expenses;  
 (B) Total claims expenses;  
 (C) Claims reserves; and  
 (D) Plan administration expenses, including compensation paid to brokers;  
 (ii) A description of the plan's use of innovative health plan features designed to reduce health benefit premium growth and reduce utilization of unnecessary health services including but not limited to the use of enrollee health assessments or health coach services, care management for high cost or high-risk enrollees, medical or health home payment mechanisms, and plan features designed to create incentives for improved personal health behaviors;  
 (iii) Data to provide an understanding of employee health benefit plan coverage and costs, including: The total number of employees and, for each employee, the employee's full-time equivalent status, types of coverage or benefits received including numbers 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 employee and each dependent;  
 (iv) Data necessary for school districts to more effectively and competitively manage and procure health insurance plans for employees. The data must include, but not be limited to, the following:  
 (A) A summary of the benefit packages offered to each group of district employees, including covered benefits, employee deductibles, coinsurance and copayments, and the number of employees and their dependents in each benefit package;  
 (B) Aggregated employee and dependent demographic information, including age band and gender, by insurance tier and by benefit package;  
 (C) Total claim payments by benefit package, including premiums paid, inpatient facility claims paid, outpatient facility claims paid, physician claims paid, pharmacy claims paid, capitation amounts paid, and other claims paid;  
 (D) Total premiums paid by benefit package;  
 (E) A listing of large claims defined as annual amounts paid in excess of one hundred thousand dollars including the amount paid, the member enrollment status, and the primary diagnosis.  
 (3) Annually, school districts and their benefit providers shall jointly report to the office of the insurance commissioner on their health insurance-related efforts and achievements 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;  
 (d) Protect access to coverage for part-time K-12 employees~~;~~.  
 (4) 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 the reporting obligations under that section.

((~~(3)~~)) (5) 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 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)~~)) (6) 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) By December 1, 2013, and December 1st of each year thereafter, the commissioner shall submit a report to the governor, the health care authority, and the legislature on school district health insurance benefits. The report shall be available to the public on the commissioner's web site. The confidentiality of personally identifiable district employee data shall be safeguarded consistent with the provisions of RCW 42.56.400(21).

(b) The report shall include a summary of each school district's health insurance benefit plans and each district's aggregated financial data and other information as required in RCW 28A.400.275.

(3) 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, but not limited to, the format, timing of data reporting, data elements, data standards, instructions, definitions, and data sources.

(4) In fulfilling the duties under this act, the commissioner shall consult with school district representatives to ensure that the data and reports from benefit providers will give individual school districts sufficient information to enhance districts' ability to understand, manage, and seek competitive alternatives for health insurance coverage for their employees.

(5) If the commissioner determines that a school district has not substantially complied with the reporting requirements of RCW 28A.400.275, and the failure is due to the action or inaction of the school district, the commissioner will inform the superintendent of public instruction of the noncompliance.

(6) Data, information, and documents, other than those described in subsection (2) of this section, that are provided by a school district or an entity providing coverage pursuant to this section are exempt from public inspection and copying under this act and chapters 42.17A and 42.56 RCW.

(7) 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.

(8) The commissioner may enter into one or more personal services contracts with third-party contractors to provide services necessary to accomplish the commissioner's responsibilities under this act.

NEW SECTION. **Sec.** A new section is added to chapter 41.05 RCW to read as follows:

By June 1, 2015, the health care authority must report to the governor, legislature, and joint legislative audit and review committee the following duties and analyses, based on two years of reports on school district health benefits submitted to it by the office of the insurance commissioner:

(1) The director shall establish a specific target to realize the goal of greater equity between premium costs for full family coverage and employee only coverage for the same health benefit plan. In developing this target, the director shall consider the appropriateness of the three-to-one ratio of employee premium costs between full family coverage and employee only coverage, and consider alternatives based on the data and information received from the office of the insurance commissioner.

(2) The director shall also study and report the advantages and disadvantages to the state, local school districts, and district employees:

(a) Whether better progress on the legislative goals could be achieved through consolidation of school district health insurance purchasing through a single consolidated school employee health benefits purchasing plan;

(b) Whether better progress on the legislative goals could be achieved by consolidating K-12 health insurance purchasing through the public employees' benefits board program, and whether consolidation into the public employees' benefits board program would be preferable to the creation of a consolidated school employee health benefits purchasing plan;

(c) Whether certificated or classified employees, as separate groups, would be better served by purchasing health insurance through a single consolidated school employee health benefits purchasing plan or through participation in the public employees' benefits board program; and

(d) Analyses shall include implications of taking any of the actions described in (a) through (c) of this subsection to include, at a minimum, the following: The costs for the state and school employees, impacts for existing purchasing programs, a proposed timeline for the implementation of any recommended actions.

NEW SECTION. **Sec.** A new section is added to chapter 44.28 RCW to read as follows:

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

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

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

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

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

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

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

(b)The joint committee shall then allocate performance grants to the highest performing districts from a performance fund of five million dollars appropriated by the legislature for this purpose. Performance grants shall be used by school districts only to reduce employee health insurance co-payments and deductibles. In determining the number of school districts to receive awards, the joint committee must consider the impact of the award on district employee co-payments and deductibles in such a manner that the award amounts have a meaningful impact.

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

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

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

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

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

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

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

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

**Sec.** RCW 42.56.400 and 2012 c 222 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, other than those described in section 5(2) of this act, that are submitted 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

On page 1, line 1 of the title, after "benefits;" strike the remainder of the title and insert "amending 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 41.05 RCW; adding a new section to chapter 44.28 RCW; adding a new section to chapter 48.62 RCW; and creating a new section."

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|  | EFFECT:   * Modifies some of the reporting and contract requirements * Removes a school employees' benefit technical working group, * Adds a review by the Joint Legislative Audit and Review Committee (JLARC) due December 2015, to review the data collected by OIC, assess progress in meeting the requirements and goals and provide recommendations on advantages, disadvantages, and other recommendations on the progress made * Adds a review by the Health Care Authority establishing targets to realize greater equity, assess whether progress on legislative goals could be achieved through consolidation * Removes additional appropriations for school employee benefit |

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