

SSB 5940 - S AMD 312

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

NOT ADOPTED 04/07/2012

1 Strike everything after the enacting clause and insert the
2 following:

3
4 "NEW SECTION. **Sec. 1.** (1) The legislature finds that:

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

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

11 (2) Therefore, the legislature intends to:

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

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

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

22
23 **Sec. 2.** RCW 28A.400.280 and 2011 c 269 s 1 are each amended to
24 read as follows:

25 (1) Except as provided in subsection (2) of this section, school
26 districts may provide employer fringe benefit contributions after
27 October 1, 1990, only for basic benefits. However, school districts

1 may continue payments under contracts with employees or benefit
2 providers in effect on April 13, 1990, until the contract expires.

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

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

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

19 (c) Each employee included in the pooling arrangement who elects
20 medical benefit coverage pays a minimum premium charge subject to
21 collective bargaining under chapter 41.59 or 41.56 RCW;

22 (d) The employee premiums are structured to ensure employees
23 selecting richer benefit plans pay the higher premium;

24 (e) Each full-time employee included in the pooling arrangement,
25 regardless of the number of dependents receiving basic coverage,
26 receives the same additional employer contribution for other coverage
27 or optional benefits; and

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

32 (3) Savings accruing to school districts due to limitations on
33 benefit options under this section shall be pooled and made available
34 by the districts to reduce out-of-pocket premium expenses for

1 employees needing basic coverage for dependents. School districts are
2 not intended to divert state benefit allocations for other purposes.

3
4 **Sec. 3.** RCW 28A.400.350 and 2011 c 269 s 2 are each amended to
5 read as follows:

6 (1) The board of directors of any of the state's school districts
7 or educational service districts may make available liability, life,
8 health, health care, accident, disability, and salary protection or
9 insurance, direct agreements as defined in chapter 48.150 RCW, or any
10 one of, or a combination of the types of employee benefits enumerated
11 in this subsection, or any other type of insurance or protection, for
12 the members of the boards of directors, the students, and employees of
13 the school district or educational service district, and their
14 dependents. Such coverage may be provided by contracts or agreements
15 with private carriers, with the state health care authority after July
16 1, 1990, pursuant to the approval of the authority administrator, or
17 through self-insurance or self-funding pursuant to chapter 48.62 RCW,
18 or in any other manner authorized by law. Any direct agreement must
19 comply with RCW 48.150.050.

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

27 After October 1, 1990, school districts may not contribute to any
28 employee protection or insurance other than liability insurance unless
29 the district's employee benefit plan conforms to RCW 28A.400.275 and
30 28A.400.280.

31 (3) For school board members, educational service district board
32 members, and students, the premiums due on such protection or
33 insurance shall be borne by the assenting school board member,
34 educational service district board member, or student. The school

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

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

29 (5) Any school district and their benefit provider offering a benefit
30 plan by contract or agreement must demonstrate a commitment to:

31 (a) Significantly reduce administrative costs for school
32 districts;

33 (b) Improve customer service;

34 (c) Reduce differential plan premium rates between employee only

1 and family health benefit premiums, with a goal of reducing the family
2 premiums to no more than three times the employee only premiums;

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

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

10 (6) All contracts or agreements for insurance or protection shall
11 be in compliance with this act.

12

13 **Sec. 4.** RCW 28A.400.275 and 1990 1st ex.s. c 11 s 5 are each
14 amended to read as follows:

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

21 (2) School districts and their benefit providers shall annually
22 submit the following information and data for the prior calendar year
23 to the ~~((Washington state health care authority))~~ office of the
24 insurance commissioner;

25 (a) A summary ~~((descriptions of all benefits offered under the~~
26 ~~district's employee benefit plan. The districts shall also submit~~
27 ~~data to the health care authority specifying))~~ of each health benefit
28 plan offered to each group of school employees under the districts
29 employee benefit plans. The summary must include the following:

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

32 (A) Total premium expenses;

33 (B) Total claims expenses;

34 (C) Claim reserves; and

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

3 (b) The total number of employees and, for each employee, types of
4 coverage or benefits received including the number(~~s~~) of covered
5 dependents, the number of eligible dependents, the amount of the
6 district's contribution to premium, additional premium costs paid by
7 the employee through payroll deductions, and the age and sex of
8 (~~the~~) each employee and each dependent.

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

14 (~~3~~) (4) Any benefit provider offering a benefit plan by
15 contract or agreement with a school district under subsection (1) of
16 this section shall (~~agree to~~) make available to the school district
17 the benefit plan descriptions and(~~, where available, the demographic~~
18 information on plan subscribers)) data and information that the
19 district (~~is~~) and benefit provider are required to report to the
20 (~~Washington state health care authority~~) office of the insurance
21 commissioner under this section.

22 (~~4~~) (5) This section shall not apply to benefit plans offered
23 in the 1989-90 school year.

24
25 NEW SECTION. Sec. 5. A new section is added to chapter 48.02 RCW
26 to read as follows:

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

29 (2)(a) Beginning in 2013, the commissioner shall annually submit a
30 report to the legislature on school district health insurance
31 benefits. The report shall include each school district's health
32 insurance benefits' aggregated data. The report shall be available on
33 the commissioner's web site. The confidentiality of personally
34

1 identifiable data shall be safeguarded consistent with the provisions
2 of RCW 42.56.400(17).

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

5 (i) Significantly reduce administrative costs for school
6 districts;

7 (ii) Improve customer service;

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

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

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

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

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

24 (A) Total premium expenses;

25 (B) Total claims expenses;

26 (C) Claim reserves; and

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

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

31 (3) If adequate progress is not being made in the areas of health
32 benefit equity, transparency, and efficiency, the commissioner may
33 submit recommendations to the legislature regarding additional steps
34

1 that may be taken by school districts or their benefit providers to
2 achieve greater progress.

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

9 (5) Data, information, and documents provided by a school district
10 or an entity providing coverage pursuant to this section are exempt
11 from public inspection and copying under RCW 48.02.120 and chapters
12 42.17A and 42.56 RCW.

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

20
21 **Sec. 6.** RCW 42.56.400 and 2012 c ... (ESHB 2361) s 2 are each
22 amended to read as follows:

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

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

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

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

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

5 (5) Information provided under RCW 48.05.510 through 48.05.535,
6 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and
7 48.46.600 through 48.46.625;

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

15 (7) Information provided to the insurance commissioner under RCW
16 48.110.040(3);

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

20 (9) Confidential proprietary and trade secret information provided
21 to the commissioner under RCW 48.31C.020 through 48.31C.050 and
22 48.31C.070;

23 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
24 7.70.140 that, alone or in combination with any other data, may reveal
25 the identity of a claimant, health care provider, health care
26 facility, insuring entity, or self-insurer involved in a particular
27 claim or a collection of claims. For the purposes of this subsection:

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

29 (b) "Health care facility" has the same meaning as in RCW
30 48.140.010(6).

31 (c) "Health care provider" has the same meaning as in RCW
32 48.140.010(7).

33 (d) "Insuring entity" has the same meaning as in RCW
34 48.140.010(8).

1 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);
2 (11) Documents, materials, or information obtained by the
3 insurance commissioner under RCW 48.135.060;
4 (12) Documents, materials, or information obtained by the
5 insurance commissioner under RCW 48.37.060;
6 (13) Confidential and privileged documents obtained or produced by
7 the insurance commissioner and identified in RCW 48.37.080;
8 (14) Documents, materials, or information obtained by the
9 insurance commissioner under RCW 48.37.140;
10 (15) Documents, materials, or information obtained by the
11 insurance commissioner under RCW 48.17.595;
12 (16) Documents, materials, or information obtained by the
13 insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and
14 (7)(a)(ii);
15 (17) Documents, materials, or information obtained by the
16 insurance commissioner in the commissioner's capacity as receiver
17 under RCW 48.31.025 and 48.99.017, which are records under the
18 jurisdiction and control of the receivership court. The commissioner
19 is not required to search for, log, produce, or otherwise comply with
20 the public records act for any records that the commissioner obtains
21 under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a
22 receiver, except as directed by the receivership court;
23 (18) Documents, materials, or information obtained by the
24 insurance commissioner under RCW 48.13.151;
25 (19) Data, information, and documents provided by a carrier
26 pursuant to section 1, chapter 172, Laws of 2010; (~~and~~)
27 (20) Information in a filing of usage-based insurance about the
28 usage-based component of the rate pursuant to RCW 48.19.040(5)(b); and
29 (21) Data, information, and documents for reporting to the office
30 of the insurance commissioner by an entity providing health care
31 coverage pursuant to RCW 28A.400.275 and section 5 of this act.
32

33 NEW SECTION. Sec. 7. A new section is added to chapter 48.62 RCW
34 to read as follows:

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

11
12 **SSB 5940** S AMD

13 By Senator Conway

14 On page 1, line 2 of the title, after "amending", strike
15 everything through "appropriations" on line 4 of the title and insert
16 "RCW 28A.400.280, 28A.400.350, 28A.400.275, and 42.56.400; adding a
17 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.

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