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HOUSE BILL 2869

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State of Washington                      65th Legislature                      2018 Regular Session

By Representatives Chandler, Taylor, and Haler

Read first time 01/18/18. Referred to Committee on Appropriations.

1            AN ACT Relating to the maximum share of public employee health  
2 benefit premiums to be paid by employers participating in the public  
3 employees' benefits board; and amending RCW 41.05.065 and 41.80.020.

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

5            **Sec. 1.** RCW 41.05.065 and 2015 c 116 s 3 are each amended to  
6 read as follows:

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

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

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

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

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

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

15 (e) Effective coordination of benefits; and

16 (f) Minimum standards for insuring entities.

17 (3) To maintain the comprehensive nature of employee health care  
18 benefits, benefits provided to employees shall be substantially  
19 equivalent to the state employees' health ~~((benefits))~~ benefit plan  
20 in effect on January 1, 1993. Nothing in this subsection shall  
21 prohibit changes or increases in employee point-of-service payments  
22 or employee premium payments for benefits ~~((or))~~, provided that  
23 employee premium payments represent on average no less than twenty  
24 percent of the premiums paid by employers and employees, and the  
25 employer premium payments represent on average no more than eighty  
26 percent. In addition, this subsection does not prohibit the  
27 administration of a high deductible health plan in conjunction with a  
28 health savings account. The board may establish employee eligibility  
29 criteria which are not substantially equivalent to employee  
30 eligibility criteria in effect on January 1, 1993.

31 (4) Except if bargained for under chapter 41.80 RCW, the board  
32 shall design benefits and determine the terms and conditions of  
33 employee and retired employee participation and coverage, including  
34 establishment of eligibility criteria subject to the requirements of  
35 this chapter. Employer groups obtaining benefits through contractual  
36 agreement with the authority for employees defined in RCW  
37 41.05.011(6)(a) (i) through ~~((d))~~ (iv) may contractually agree with  
38 the authority to benefits eligibility criteria which differs from  
39 that determined by the board. The eligibility criteria established by  
40 the board shall be no more restrictive than the following:

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

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

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

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

33 (c) Faculty are eligible as follows:

34 (i) Faculty who the employing agency anticipates will work half-  
35 time or more for the entire instructional year or equivalent nine-  
36 month period are eligible for benefits from the date of employment.  
37 Eligibility shall continue until the beginning of the first full  
38 month of the next instructional year, unless the employment  
39 relationship is terminated, in which case eligibility shall cease the

1 first month following the notice of termination or the effective date  
2 of the termination, whichever is later.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (k) For the purposes of this subsection, the board shall define  
6 "benefits-eligible position."

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

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

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

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

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

25 (iii) Any impact of enrollment in alternatives to the most  
26 comprehensive plan, including the high deductible health plan with a  
27 health savings account, upon the cost of health benefits for those  
28 employees who have chosen to remain enrolled in the most  
29 comprehensive plan.

30 (7) Notwithstanding any other provision of this chapter, for any  
31 open enrollment period following August 24, 2011, the board shall  
32 offer a high deductible health plan in conjunction with a health  
33 savings account developed under subsection (6) of this section.

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

37 (9) The board shall review plans proposed by insuring entities  
38 that desire to offer property insurance and/or accident and casualty  
39 insurance to state employees through payroll deduction. The board may  
40 approve any such plan for payroll deduction by insuring entities

1 holding a valid certificate of authority in the state of Washington  
2 and which the board determines to be in the best interests of  
3 employees and the state. The board shall adopt rules setting forth  
4 criteria by which it shall evaluate the plans.

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

18 (a) Participation of eligible employees or retired employees and  
19 retired school employees in any long-term care insurance plan made  
20 available by the public employees' benefits board is voluntary and  
21 shall not be subject to binding arbitration under chapter 41.56 RCW.  
22 Participation is subject to reasonable underwriting guidelines and  
23 eligibility rules established by the public employees' benefits board  
24 and the health care authority.

25 (b) The employee, retired employee, and retired school employee  
26 are solely responsible for the payment of the premium rates developed  
27 by the health care authority. The health care authority is authorized  
28 to charge a reasonable administrative fee in addition to the premium  
29 charged by the long-term care insurer, which shall include the health  
30 care authority's cost of administration, marketing, and consumer  
31 education materials prepared by the health care authority and the  
32 office of the insurance commissioner.

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

36 (d) The public employees' benefits board and the health care  
37 authority shall establish a technical advisory committee to provide  
38 advice in the development of the benefit design and establishment of  
39 underwriting guidelines and eligibility rules. The committee shall  
40 also advise the board and authority on effective and cost-effective

1 ways to market and distribute the long-term care product. The  
2 technical advisory committee shall be comprised, at a minimum, of  
3 representatives of the office of the insurance commissioner,  
4 providers of long-term care services, licensed insurance agents with  
5 expertise in long-term care insurance, employees, retired employees,  
6 retired school employees, and other interested parties determined to  
7 be appropriate by the board.

8 (e) The health care authority shall offer employees, retired  
9 employees, and retired school employees the option of purchasing  
10 long-term care insurance through licensed agents or brokers appointed  
11 by the long-term care insurer. The authority, in consultation with  
12 the public employees' benefits board, shall establish marketing  
13 procedures and may consider all premium components as a part of the  
14 contract negotiations with the long-term care insurer.

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

19 (g) The health care authority, with the cooperation of the office  
20 of the insurance commissioner, shall develop a consumer education  
21 program for the eligible employees, retired employees, and retired  
22 school employees designed to provide education on the potential need  
23 for long-term care, methods of financing long-term care, and the  
24 availability of long-term care insurance products including the  
25 products offered by the board.

26 (11) The board may establish penalties to be imposed by the  
27 authority when the eligibility determinations of an employing agency  
28 fail to comply with the criteria under this chapter.

29 **Sec. 2.** RCW 41.80.020 and 2015 3rd sp.s. c 1 s 318 are each  
30 amended to read as follows:

31 (1) Except as otherwise provided in this chapter, the matters  
32 subject to bargaining include wages, hours, and other terms and  
33 conditions of employment, and the negotiation of any question arising  
34 under a collective bargaining agreement.

35 (2) The employer is not required to bargain over matters  
36 pertaining to:

37 (a) Health care benefits or other employee insurance benefits,  
38 except as required in subsection (3) of this section;

39 (b) Any retirement system or retirement benefit; or



1 (c) Rules of the director of financial management, the director  
2 of enterprise services, or the Washington personnel resources board  
3 adopted under RCW 41.06.157.

4 (3) Matters subject to bargaining include the number of names to  
5 be certified for vacancies, promotional preferences, and the dollar  
6 amount expended on behalf of each employee for health care benefits.  
7 However, except as provided otherwise in this subsection for  
8 institutions of higher education, negotiations regarding the number  
9 of names to be certified for vacancies, promotional preferences, and  
10 the dollar amount expended on behalf of each employee for health care  
11 benefits shall be conducted between the employer and one coalition of  
12 all the exclusive bargaining representatives subject to this chapter.  
13 The exclusive bargaining representatives for employees that are  
14 subject to chapter 47.64 RCW shall bargain the dollar amount expended  
15 on behalf of each employee for health care benefits with the employer  
16 as part of the coalition under this subsection. Any such provision  
17 agreed to by the employer and the coalition shall be included in all  
18 master collective bargaining agreements negotiated by the parties.  
19 For institutions of higher education, promotional preferences and the  
20 number of names to be certified for vacancies shall be bargained  
21 under the provisions of RCW 41.80.010(4). For agreements covering the  
22 ~~((2013-2015 fiscal biennium, any agreement between the employer and  
23 the coalition regarding the dollar amount expended on behalf of each  
24 employee for health care benefits is a separate agreement and shall  
25 not be included in the master collective bargaining agreements  
26 negotiated by the parties))~~ 2019-2021 fiscal biennium, and each  
27 biennium thereafter, any agreement between the employer and the  
28 coalition regarding health benefits regarding the amount expended on  
29 behalf of each employee for health benefits must ensure that the  
30 share of premiums paid by the employer does not exceed eighty percent  
31 of the total premiums paid by the employer and employee.

32 (4) The employer and the exclusive bargaining representative  
33 shall not agree to any proposal that would prevent the implementation  
34 of approved affirmative action plans or that would be inconsistent  
35 with the comparable worth agreement that provided the basis for the  
36 salary changes implemented beginning with the 1983-1985 biennium to  
37 achieve comparable worth.

38 (5) The employer and the exclusive bargaining representative  
39 shall not bargain over matters pertaining to management rights  
40 established in RCW 41.80.040.

1       (6) Except as otherwise provided in this chapter, if a conflict  
2 exists between an executive order, administrative rule, or agency  
3 policy relating to wages, hours, and terms and conditions of  
4 employment and a collective bargaining agreement negotiated under  
5 this chapter, the collective bargaining agreement shall prevail. A  
6 provision of a collective bargaining agreement that conflicts with  
7 the terms of a statute is invalid and unenforceable.

8       (7) This section does not prohibit bargaining that affects  
9 contracts authorized by RCW 41.06.142.

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