

---

SENATE BILL 6756

---

State of Washington

61st Legislature

2010 Regular Session

By Senators Tom and Kline

Read first time 01/25/10. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to requiring insurance benefits with wellness  
2 incentives for public employees; amending RCW 41.05.065 and  
3 28A.400.350; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes the value of  
6 strategies that improve employee health and encourage long-term cost  
7 containment. Employee wellness projects in state agencies and with  
8 private employers have demonstrated use of health assessments to  
9 identify and monitor health improvement opportunities, improvements in  
10 employee productivity, weight reduction, and cholesterol and blood  
11 pressure management. It is the intent of the legislature that the  
12 wellness demonstrations move to a more population-based approach with  
13 implementation, incorporating worksite efforts with further expansion  
14 of high value services encouraged through the health benefit design to  
15 improve the health of all state, higher education, and school district  
16 employees.

17 **Sec. 2.** RCW 41.05.065 and 2009 c 537 s 7 are each amended to read  
18 as follows:

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

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

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

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

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

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

27 ~~((e))~~ (d) Effective coordination of benefits; and

28 ~~((f))~~ (e) Minimum standards for insuring entities.

29 (3) The employee benefit design shall incorporate wellness  
30 incentives that encourage health-focused activities such as better  
31 nutrition and physical activity, use of health screening services, and  
32 routine completion of health assessments.

33 (a) Incentives must include, but are not limited to, copayment or  
34 coinsurance adjustments, or other rebates established to meet defined  
35 health indicators such as body mass index, blood pressure, cholesterol  
36 levels, and smoking cessation;

37 (b) Whenever possible, incentives must be actuarially based and

1 reflect the true costs associated with obesity, smoking, and high blood  
2 pressure;

3 (c) In addition to the health indicator for body mass index, the  
4 program should include an alternative measure for some individuals  
5 using a percentage of body fat test. The cost of the test will be  
6 waived if the alternative measure indicates the enrollee is not obese.

7 (4) To maintain the comprehensive nature of employee health care  
8 benefits, benefits provided to employees shall be substantially  
9 equivalent to the state employees' health benefits plan in effect on  
10 January 1, 1993. Nothing in this subsection shall prohibit changes or  
11 increases in employee point-of-service payments or employee premium  
12 payments for benefits or the administration of a high deductible health  
13 plan in conjunction with a health savings account. The board may  
14 establish employee eligibility criteria which are not substantially  
15 equivalent to employee eligibility criteria in effect on January 1,  
16 1993.

17 ((+4)) (5) Except if bargained for under chapter 41.80 RCW, the  
18 board shall design benefits and determine the terms and conditions of  
19 employee and retired employee participation and coverage, including  
20 establishment of eligibility criteria subject to the requirements of  
21 this chapter. Employer groups obtaining benefits through contractual  
22 agreement with the authority for employees defined in RCW 41.05.011(6)  
23 (a) through (d) may contractually agree with the authority to benefits  
24 eligibility criteria which differs from that determined by the board.  
25 The eligibility criteria established by the board shall be no more  
26 restrictive than the following:

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

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

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

5 (b) A seasonal employee is eligible for benefits from the date of  
6 employment if the employing agency anticipates that he or she will work  
7 an average of at least eighty hours per month and for at least eight  
8 hours in each month of the season. A seasonal employee determined  
9 ineligible at the beginning of his or her employment who works an  
10 average of at least half-time, as defined by the board, per month over  
11 a period of six consecutive months and at least eight hours in each of  
12 those six consecutive months becomes eligible at the first of the month  
13 following the six-month averaging period. A benefits-eligible seasonal  
14 employee who works a season of less than nine months shall not be  
15 eligible for the employer contribution during the off season, but may  
16 continue enrollment in benefits during the off season by self-paying  
17 for the benefits. A benefits-eligible seasonal employee who works a  
18 season of nine months or more is eligible for the employer contribution  
19 through the off season following each season worked.

20 (c) Faculty are eligible as follows:

21 (i) Faculty who the employing agency anticipates will work  
22 half-time or more for the entire instructional year or equivalent nine-  
23 month period are eligible for benefits from the date of employment.  
24 Eligibility shall continue until the beginning of the first full month  
25 of the next instructional year, unless the employment relationship is  
26 terminated, in which case eligibility shall cease the first month  
27 following the notice of termination or the effective date of the  
28 termination, whichever is later.

29 (ii) Faculty who the employing agency anticipates will not work for  
30 the entire instructional year or equivalent nine-month period are  
31 eligible for benefits at the beginning of the second consecutive  
32 quarter or semester of employment in which he or she is anticipated to  
33 work, or has actually worked, half-time or more. Such an employee  
34 shall continue to receive uninterrupted employer contributions for  
35 benefits if the employee works at least half-time in a quarter or  
36 semester. Faculty who the employing agency anticipates will not work  
37 for the entire instructional year or equivalent nine-month period, but  
38 who actually work half-time or more throughout the entire instructional

1 year, are eligible for summer or off-quarter coverage. Faculty who  
2 have met the criteria of this subsection (~~((4))~~) (5)(c)(ii), who work  
3 at least two quarters of the academic year with an average academic  
4 year workload of half-time or more for three quarters of the academic  
5 year, and who have worked an average of half-time or more in each of  
6 the two preceding academic years shall continue to receive  
7 uninterrupted employer contributions for benefits if he or she works at  
8 least half-time in a quarter or semester or works two quarters of the  
9 academic year with an average academic workload each academic year of  
10 half-time or more for three quarters. Eligibility under this section  
11 ceases immediately if this criteria is not met.

12 (iii) Faculty may establish or maintain eligibility for benefits by  
13 working for more than one institution of higher education. When  
14 faculty work for more than one institution of higher education, those  
15 institutions shall prorate the employer contribution costs, or if  
16 eligibility is reached through one institution, that institution will  
17 pay the full employer contribution. Faculty working for more than one  
18 institution must alert his or her employers to his or her potential  
19 eligibility in order to establish eligibility.

20 (iv) The employing agency must provide written notice to faculty  
21 who are potentially eligible for benefits under this subsection (~~((4))~~)  
22 (5)(c) of their potential eligibility.

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

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

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

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

1 (g) In determining eligibility under this section, the employing  
2 agency may disregard training hours, standby hours, or temporary  
3 changes in work hours as determined by the authority under this  
4 section.

5 (h) Insurance coverage for all eligible employees begins on the  
6 first day of the month following the date when eligibility for benefits  
7 is established. If the date eligibility is established is the first  
8 working day of a month, insurance coverage begins on that date.

9 (i) Eligibility for an employee whose work circumstances are  
10 described by more than one of the eligibility categories in (a) through  
11 (e) of this subsection shall be determined solely by the criteria of  
12 the category that most closely describes the employee's work  
13 circumstances.

14 (j) Except for an employee eligible for benefits under (b) or  
15 (c)(ii) of this subsection, an employee who has established eligibility  
16 for benefits under this section shall remain eligible for benefits each  
17 month in which he or she is in pay status for eight or more hours, if  
18 (i) he or she remains in a benefits-eligible position and (ii) leave  
19 from the benefits-eligible position is approved by the employing  
20 agency. A benefits-eligible seasonal employee is eligible for the  
21 employer contribution in any month of his or her season in which he or  
22 she is in pay status eight or more hours during that month.  
23 Eligibility ends if these conditions are not met, the employment  
24 relationship is terminated, or the employee voluntarily transfers to a  
25 noneligible position.

26 (k) For the purposes of this subsection:

27 (i) "Academic year" means summer, fall, winter, and spring quarters  
28 or semesters;

29 (ii) "Half-time" means one-half of the full-time academic workload  
30 as determined by each institution, except that half-time for community  
31 and technical college faculty employees shall have the same meaning as  
32 "part-time" under RCW 28B.50.489;

33 (iii) "Benefits-eligible position" shall be defined by the board.

34 ~~((+5))~~ (6) The board may authorize premium contributions for an  
35 employee and the employee's dependents in a manner that encourages the  
36 use of cost-efficient managed health care systems.

37 ~~((+6))~~ (7) The board shall develop a health savings account option  
38 for employees that conform to section 223, Part VII of subchapter B of

1 chapter 1 of the internal revenue code of 1986. The board shall comply  
2 with all applicable federal standards related to the establishment of  
3 health savings accounts.

4 ~~((+7))~~ (8) Notwithstanding any other provision of this chapter,  
5 the board shall develop a high deductible health plan to be offered in  
6 conjunction with a health savings account developed under subsection  
7 ~~((+6))~~ (7) of this section.

8 ~~((+8))~~ (9) Employees shall choose participation in one of the  
9 health care benefit plans developed by the board and may be permitted  
10 to waive coverage under terms and conditions established by the board.

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

19 ~~((+10))~~ (11) Before January 1, 1998, the public employees'  
20 benefits board shall make available one or more fully insured long-term  
21 care insurance plans that comply with the requirements of chapter 48.84  
22 RCW. Such programs shall be made available to eligible employees,  
23 retired employees, and retired school employees as well as eligible  
24 dependents which, for the purpose of this section, includes the parents  
25 of the employee or retiree and the parents of the spouse of the  
26 employee or retiree. Employees of local governments, political  
27 subdivisions, and tribal governments not otherwise enrolled in the  
28 public employees' benefits board sponsored medical programs may enroll  
29 under terms and conditions established by the administrator, if it does  
30 not jeopardize the financial viability of the public employees'  
31 benefits board's long-term care offering.

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

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

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

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

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

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

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



1 for long-term care, methods of financing long-term care, and the  
2 availability of long-term care insurance products including the  
3 products offered by the board.

4 ~~((11))~~ (12) The board may establish penalties to be imposed by  
5 the authority when the eligibility determinations of an employing  
6 agency fail to comply with the criteria under this chapter.

7 **Sec. 3.** RCW 28A.400.350 and 2001 c 266 s 2 are each amended to  
8 read as follows:

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

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

28 After October 1, 1990, school districts may not contribute to any  
29 employee protection or insurance other than liability insurance unless  
30 the district's employee benefit plan conforms to RCW 28A.400.275 and  
31 28A.400.280.

32 (3) For school board members, educational service district board  
33 members, and students, the premiums due on such protection or insurance  
34 shall be borne by the assenting school board member, educational  
35 service district board member, or student. The school district or  
36 educational service district may contribute all or part of the costs,  
37 including the premiums, of life, health, health care, accident or

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

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

27 (5) All contracts for employee health benefits shall incorporate  
28 wellness incentives that encourage health-focused activities such as  
29 better nutrition and physical activity, use of health screening  
30 services, and routine completion of health assessments.

31 (a) Incentives must include, but are not limited to, copayment or  
32 coinsurance adjustments, or other rebates established to meet defined  
33 health indicators such as body mass index, blood pressure, cholesterol  
34 levels, and smoking cessation;

35 (b) Whenever possible, incentives must be actuarially based and  
36 reflect the true costs associated with obesity, smoking, and high blood  
37 pressure;

1       (c) In addition to the health indicator for body mass index, the  
2 program should include an alternative measure for some individuals  
3 using a percentage of body fat test. The cost of the test will be  
4 waived if the alternative measure indicates the enrollee is not obese.

--- END ---