

SENATE BILL REPORT

ESSB 5940

As Passed Senate, April 11, 2012

Title: An act relating to public school employees' insurance benefits.

Brief Description: Concerning public school employees' insurance benefits.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hobbs, Ericksen, Keiser, Tom, Kastama and Zarelli).

Brief History:

Committee Activity: Ways & Means: 4/06/12 [DPS, DNP, w/oRec].

First Special Session: Passed Senate: 4/07/12, 29-17.

Second Special Session: Passed Senate: 4/11/12, 25-20.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5940 be substituted therefor, and the substitute bill do pass.

Signed by Senators Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Baumgartner, Hatfield, Holmquist Newbry, Honeyford, Kastama, Keiser, Padden, Pflug, Schoesler and Tom.

Minority Report: Do not pass.

Signed by Senators Conway, Kohl-Welles and Pridemore.

Minority Report: That it be referred without recommendation.

Signed by Senators Kilmer, Vice Chair, Capital Budget Chair; Harper and Regala.

Staff: Mich'l Needham (786-7442) and Erik Sund (786-7454)

Background: In 2010 the State Auditor's Office conducted a performance review of the public school employees' health benefits purchased by 295 school districts. The report became available to legislators during the 2011 legislative session, and included three main recommendations: streamline the benefits array of school employees to improve efficiency, transparency, and stability; standardize coverage levels for more affordable and equitable health care benefits; and reduce costs by restructuring the health benefits array. Legislation passed in the 2011 special session (section 213 of the state budget) directed the Health Care Authority (HCA) to develop a proposal for consolidating the purchase of school district benefits to improve administrative efficiency, transparency, and equity. The HCA report

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

delivered in December identified that over \$1 billion in public funds is spent each year on school employee benefits for 109,000 employees and the additional 94,000 dependents that are enrolled in benefits.

The state provides funding to school districts to support the purchase of health benefits for employees. For the 2011-13 fiscal biennium, the state provides \$768 per full-time equivalent employee (FTE). The amount of the school funding rate is commonly passed through as an allocation to each school district employee through bargaining agreements. In addition, some school districts have, in some instances, bargained local funds that are added to the state allocation.

At the district level, the actual distribution of the health benefit allocation is determined through collective bargaining. There are no state mandated maximum or minimum amounts that a district must spend per employee or FTE. In many districts, the amount provided for health benefits is pro-rated based on the amount of time an employee works; in some districts employees may be eligible for benefits beginning at 10 percent of full-time employment. In other districts, employees working at least half-time are provided the same benefit as a full-time employee.

School district employee contributions vary by district, and often by bargaining unit within districts. Similarly, benefits may be purchased by bargaining unit or other groups of employees, and each bargaining unit or group of bargaining units may receive funding in separate funding pools. Recent studies indicate that significantly more than 1,000 funding pools are operated in Washington's 295 school districts. Employee premiums may vary significantly between districts and funding pools. There is also substantial variation in the share of the costs employees pay between those insuring only themselves, and those insuring families. Full-time school district employees that are insuring only themselves on average pay about 4 percent of the cost of benefits, while those full-time school district employees that insure their families on average pay about 43 percent of the cost.

During study of the school district health benefit system in 2011, the HCA stated that it was unable to collect some of the needed demographic, payroll, and benefits data. The HCA identified a number of the obstacles to data collection that it found and would need to be dealt with to enable analysis of the effectiveness of the administration and purchasing systems employed by districts. Among the obstacles to data transparency identified were (1) variations in district budget practices; (2) contracts with third party administrators that made it difficult to assess administrative costs; and (3) contracts with benefits carriers which allow the carriers to withhold information about the make-up of premiums, including components of administrative fees, and claims information at the school district, employee bargaining group, or individual member level.

The Office of the Insurance Commissioner oversees Washington's insurance industry, ensuring that companies, agents, and brokers follow state law.

Summary of Engrossed Substitute Bill: School districts must modify their benefits for employees to require every employee to pay a minimum premium for the medical benefit coverage, subject to collective bargaining, and ensure that employees selecting a richer benefit plan pay a higher premium. School districts offering medical, vision, and dental

benefits must (1) offer a high deductible health plan option with a health savings account similar to that required for state employees; (2) make progress toward employee premiums for full family coverage that are not more than three times the premiums for employees purchasing single coverage, unless a different target is developed in future reports; and (3) offer employees at least one comprehensive health benefit plan in which the employee share of the premium for a full-time employee does not exceed the share of premiums paid by state employees (approximately 15 percent). All school district contracts must be held to responsible procurement or contracting standards, and school districts must make progress on promoting health care innovations, cost savings, and reduced administrative costs.

School districts and school district employee health benefit providers are required to annually submit specified financial and enrollment information on the health benefit plans operated for district employees to the Office of the Insurance Commissioner (OIC), on a schedule determined by the OIC. The information is protected from public disclosure, with all other similarly reported data. If a school district does not comply with the reporting requirements for two reporting periods, the Superintendent of Public Instruction is required to limit the school district's authority to offer employee benefits to those offered through the state HCA.

School district benefit providers that do not comply with the data reporting requirements are subject to the enforcement actions of the OIC. Similarly, 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 act. The Attorney General must take all necessary action to terminate the operation of an out-of-compliance self-insured health and welfare benefits program.

Beginning December 1, 2013, the OIC must submit an annual report to the Legislature containing specific information and analysis on school district health benefit plans. The report must include information on detailed financial and performance data such as premium expenses, claims expenses, claim reserves, and administrative expenses including compensation paid to brokers, detailed enrollment data. The OIC may adopt rules for the data submission requirements, and may contract with a consultant to complete the analysis and reporting responsibilities. The commissioner must consult with school district representatives to ensure the data and reports from the benefit providers will give school districts sufficient information to enhance the district's ability to manage their benefit program and seek competitive alternatives for health insurance coverage.

By June 1, 2015, the HCA must submit a report to the Governor, Legislature, and the Joint Legislative Audit and Review Committee (JLARC), with analysis of the OIC reports, including the development of a specific target to realize the goal of greater equity between premium costs for full-family coverage and employee only coverage, and review of the appropriateness of the three-to-one ratio of employee premium costs. The HCA must also review the advantages and disadvantages to the state, school districts, and school employees of various approaches to consolidated purchasing of school employee health benefits, and options to achieve the legislative goals, with analysis of the costs for the state and school employees, impacts for existing purchasing programs, and a proposed timeline for any recommended actions.

By December 31, 2015, JLARC must submit a report to the Legislature indicating the progress by school districts and their benefit providers in achieving a list of established goals and performance expectations. The report must include a recommendation on the specific target to realize the goal for greater affordability for full family coverage and greater equity in premium costs, and the status of each school districts' progress in achieving the established goals. In the 2015-2016 school year, JLARC must determine which districts have met the requirements for the benefit offerings, premiums and competitive contracting standards, and must rank order the performance, and then provide performance grants to the highest performing districts to reduce employee health insurance co-payments and deductibles, from a future \$5 million appropriation to be made by the Legislature.

If JLARC determines districts and their benefit providers have not made adequate progress on the established goals, JLARC must report to the Legislature with advantages, disadvantages, and recommendations on why progress has not been made and any reasons for insufficient progress; what remedies would help remove barriers to improvement; and whether purchasing of school district benefits should be consolidated through various approaches. The report must include recommendations for any Legislative action necessary for implementation, and the Legislature must take all steps necessary to implement the recommendations unless an alternative strategy is adopted during the 2016 Legislative session.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: CON: This is a massive piece of legislation that has just now been given to us and has not had meaningful vetting. The Office of the Insurance Commission does not have the subject matter expertise necessary to address K-12 benefits. The data collection and reporting functions and specific grants of authority in the bill will require the OIC to add staff and would have a significant fiscal impact on the OIC. The OIC is exclusively funded by a dedicated account and through regulatory assessments. Many insurers have no interest in K-12 benefits and yet their assessments would go toward the substantial fiscal impacts by the unrelated functions in this bill. This will erode support of using the dedicated account for such regulation. The committee should look for a general fund appropriation to the OIC to preserve the dedicated account. The OIC does not have excess staff or capacity to administer this program. Triggers need to be added to ensure equity and greater transparency. This needs a larger pool, a procurement process, and savings in brokers' fees and puts too much pressure on school districts. There is no timeline on when this needs to happen. The bill will produce a greater patchwork in the system. The OIC would have a difficult time measuring all the things they are expected to measure. Some data is exempted from disclosure. The money spent by the Auditor's office and the Health Care Authority is ignored. The teachers union has had 20 years to improve equity but has monopolized the system with one carrier and no transparency in its use of public funds.

OTHER: We received this bill just moments ago and cannot give you a complete analysis. We are thrilled to see bargaining rights are intact at the local level, but are disappointed not to see consolidation of funding tools at the district level. We oppose health savings accounts which are not an adequate substitute for health care coverage. We are grateful for the inclusion of funding equity. Two hundred thousand people will be affected by this proposal which was just crafted today. State and local dollars go into this program, a decision of this magnitude cannot be made without a full analysis of this bill and an examination of its consequences. We ask that the bill be put aside, as it will impact many educators and their children. We support the transparency and equity goals in the bill. However, we are concerned that the OIC has little or no expertise in a wide range of matters they will be required to report on under the bill. They will be expected to measure data against an unspecified mandate in the bill. We believe that the customers speak to those standards themselves and customer service surveys could be included. We have had concerns about consolidation, transparency, and data. The data requests included in the bill include information that is not available to school districts; we have no information on claims data or insurance reserves. There are potential benefits to consolidation in relation to the risk pool and spreading the risk. We have little influence in purchasing power. This version does not have the benefits of consolidation that we saw in earlier versions of the bill. This does not reflect the work of the stakeholders so far. There is a lack of availability of experienced data from the insurance carriers; we need this to assess the cost savings. We suggest the workgroup work with the HCA to explore opportunities for districts to move into the SEBB earlier than in the bill. We are concerned about school districts being held accountable without the ability to access the data requested by the bill. A technical working group is a good idea and school directors should be a part of it. We believe in consolidation of K-12 health insurance and this bill misses out in the opportunities that consolidation provides. We want school districts to report how many school employees do not have insurance and why. We recommend that the OIC identify school districts that are not making progress and those districts be placed in PEBB. We want half-time or more employees to be funded.

Persons Testifying: CON: Mel Sorensen, Washington Association of Health Underwriters; John Kuamme, Washington Association of School Administrators, Association of Washington School Principals.

OTHER: Lani Todd, SEIU 925; Lucinda Young, Washington Education Association; Len Sorrin, Premera; Carolyn Webb, Mukilteo School District; Mitch Denning, Alliance of Education Association; Doug Nelson, Public School Employees; Maria Sullivan, Washington State School Directors' Association.