

# HOUSE BILL REPORT

## ESSB 6241

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### As Passed House - Amended:

March 2, 2018

**Title:** An act relating to the January 1, 2020, implementation of the school employees' benefits board program.

**Brief Description:** Concerning the January 1, 2020, implementation of the school employees' benefits board program.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hobbs, Fain, Mullet and Keiser; by request of Health Care Authority).

### Brief History:

#### Committee Activity:

Appropriations: 2/24/18, 2/26/18 [DP].

#### Floor Activity:

Passed House - Amended: 3/2/18, 50-48.

### Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Makes clarifying changes to distinguish the Public Employees' Benefits Board (PEBB) from the School Employees' Benefits Board (SEBB) and PEBB-participating or SEBB-participating employees within Health Care Authority (HCA) laws.
- Provides the HCA with authority to pay school districts for the cost of substitute employees, if needed, for periods when school district employees are serving as members of the SEBB.
- Clarifies eligibility for SEBB benefits is based on the hours an employee is anticipated to work in a school year.
- Permits employees to waive SEBB coverage.
- Specifies that school districts must contribute to the SEBB program for all eligible school employees.
- Clarifies that charter schools are SEBB participants, unless the HCA receives guidance from the federal government that their employees are not eligible to participate in a governmental employee benefits plan.

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*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.*

- Creates and amends administrative accounts to enable implementation of the SEBB program.
- Permits local bargaining for optional benefits and expanded eligibility as an enhancement or enrichment to the program of basic education.
- Requires funding to be allocated to school districts at the same or greater level than what is provided to state agencies for public employee benefits.
- Eliminates SEBB provision of optional benefits to school employees, and permits school districts to offer optional benefits as an enhancement to basic education after January 1, 2020.
- Requires a health carrier in an insurance company holding system offering a plan in the PEBB or SEBB to offer at least one silver and one gold plan in the Washington Health Benefit Exchange in any county where the PEBB or SEBB plan is offered.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 19 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Haler, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

**Minority Report:** Do not pass. Signed by 14 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Graves, Harris, Manweller, Schmick, Taylor, Vick, Volz and Wilcox.

**Staff:** David Pringle (786-7310).

### **Background:**

In 2017 the Legislature created the nine-member School Employees' Benefits Board (SEBB) with the enactment of Engrossed House Bill (EHB) 2242. Under this bill, beginning January 1, 2020, all public schools must provide health care and related benefits to employees through the SEBB program, administered by the Health Care Authority (HCA).

The state allocates funding to each school district for employee fringe benefits such as health care and for the cost to districts of covering retiree health care for state-funded kindergarten through grade 12 (K-12) staff units. Although the state allocates the funding, prior to EHB 2242 and until January 1, 2020, each district purchases health benefits separately and bargains locally with its employees regarding the specific benefits package. Employee and employer contributions vary by district, and by bargaining units within districts.

A legislatively mandated study by the Joint Legislative Audit and Review Committee (JLARC) completed in 2016 indicated that the share of the costs of coverage paid by school district employees who insure only themselves was typically much lower than for those who also insure their family members. The JLARC study also concluded that while slight

improvement was made toward goals set by the Legislature in 2012 to achieve greater equity between individual and family premiums, targets set by the Legislature were unmet.

The SEBB's membership consists of:

- two members representing classified employees;
- two members representing certificated employees;
- four members with expertise in employee health benefits policy and administration, including one member that is nominated by the Washington Association of School Board Officials; and
- the Director of the HCA.

The SEBB's responsibilities include:

- developing school employee benefit plans that include comprehensive, evidence-based health care benefits;
- authorizing premium contributions, including employee share of the cost for family coverage that does not exceed the required employee share of the cost for employee-only coverage;
- determining the terms of employee and dependent eligibility criteria and enrollment policies, subject to the condition that employees must work at least 630 hours per year to qualify for coverage;
- determining the terms for participation in the SEBB plans, and the penalties for failing to comply with participation criteria;
- participating with the HCA and in coordination with the Public Employees' Benefits Board (PEBB) in the selection of carriers to provide health and dental plans; and
- reporting to legislative policy and fiscal committees by November 30, 2021, regarding whether the provisions of the act have resulted in cost savings to the state.

In addition to consolidating health care purchasing for school district employees, EHB 2242 also removed medical, dental, vision, and other basic and optional insurance benefits from the scope of local school district bargaining. Similarly to how state employees bargain for health care, health benefit provisions will be bargained between the Governor or the Governor's designee and one coalition of all the exclusive bargaining representatives impacted by benefit purchasing with the SEBB. Bargaining must be initiated after July 1, 2018.

Engrossed House Bill 2242 also provided limitations on the use of local school district levy funds. Beginning with the 2019-20 school year, districts may spend enrichment levies (including transportation vehicle enrichment levies), local effort assistance, and other local revenues only for documented and demonstrated enrichment of the state's program of basic education. To constitute enrichment, a school district expenditure must supplement state minimum instructional offerings, staffing ratios, program components, or professional learning allocations. Permitted forms of enrichment consist of extracurricular activities, extended school days or school years, additional course offerings, early learning, administration of enrichment activities, and additional activities approved by the Superintendent of Public Instruction (SPI) through the pre-ballot review process. The SPI may report to the Legislature on expanding the list of specifically permitted enrichment activities.

## Summary of Bill:

The following changes are made, which relate to the administration of the SEBB by the HCA:

- The HCA may provide funding for substitute teachers to back fill for a SEBB member while they are carrying out their board duties.
- Health care premiums for full-family coverage may not exceed three times the premiums for an employee purchasing single coverage.
- A school employee must be anticipated to work at least 630 hours per school year in order to be eligible for coverage.
- School employees must choose a health care plan developed by the SEBB or waive coverage under conditions set by the SEBB.
- School employees are eligible to participate in the pre-tax deduction plans, including flexible spending accounts and the dependent care assistance program.
- Public school employers must make contributions for employee health care even when the employee has waived coverage.
- Various accounts are created in the custody of the State Treasurer to allow for the administration of the benefits.
- Existing health care contracts are exempted from the one-year limit on health care contracts, but only to the extent that is needed to ensure that coverage is provided through December 31, 2019.
- The date that information must be submitted to the HCA for initial benefits plan procurement is moved forward from January 1, 2019, to April 1, 2018.
- Charter schools are subject to the requirement to provide health care through the SEBB unless the HCA receives guidance from the Internal Revenue Service that this jeopardizes the pre-tax status of the plan.
- Charter schools are directed to provide the same data as is required by other public schools.
- Provisions that allow a public school employer to opt in to the PEBB coverage are limited to December 31, 2019.
- Optional benefits may be locally bargained as an enhancement to the program of basic education when the same benefit is not offered by the SEBB.
- Prohibits the SEBB from offering optional benefits, allowing those benefits to be provided by school districts after January 1, 2020.
- School employers may locally determine to offer benefits to employees that are expected to work less than 630 hours per year as an enrichment to basic education.
- The state intends to review the funding assumptions and consider assumptions that are related to the proportion of people that work 630 hours or more when allocating funding to school districts. Funding must be allocated to school districts at the same or greater level than what is provided to state agencies for the Public Employee Benefits program.
- The Office of the Insurance Commissioner (OIC) must provide the HCA with K-12 health care benefit information and that this information is exempt from public disclosure.
- At least one health carrier in an insurance holding company offering benefits in the PEBB or SEBB must, in the same counties, offer at least one silver and one gold qualified health plan on the Washington Health Benefit Exchange.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available. New fiscal note requested on March 5, 2018.

**Effective Date:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 12, 22, 23, 31, and 32, relating to providing data and contracts associated with startup of the Employees' Benefits Board, which contain an emergency clause and take effect immediately.

**Staff Summary of Public Testimony:**

(In support) This bill incorporates related ideas from other bills. The difficult questions around the 630-hour eligibility threshold are addressed by allowing a district to provide benefit eligibility as an enhancement, and provide additional benefits as well. This bill began as agency-request legislation, and contains many important clarifications and corrections. The data component is very important, allowing the OIC data collected between 2012 and 2017 to be shared with the HCA, while protecting the confidentiality of the data. The stakeholders have worked hard to craft these changes and it maintains the original policies.

(Opposed) None.

**Persons Testifying:** Julie Salvi, Washington Education Association; David Iseminger, Employees and Retirees Benefits Division, Washington Health Care Authority; Doug Nelson, Public School Employees–Service Employees International 1948; and Jessica Vavrus, Washington State School Directors' Association.

**Persons Signed In To Testify But Not Testifying:** None.