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SENATE BILL 5773

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Zarelli, Baumgartner, Hill, Parlette, Schoesler, Ericksen,  
and Holmquist Newbry

Read first time 02/11/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to making a health savings account option and high  
2 deductible health plan available to public employees; and amending RCW  
3 41.05.065.

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

5 **Sec. 1.** RCW 41.05.065 and 2009 c 537 s 7 are each amended to read  
6 as follows:

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

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

17 (a) Methods of maximizing cost containment while ensuring access to  
18 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 alcohol  
6 misuse, appropriate weight reduction, exercise, automobile and  
7 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 plan in effect on  
20 January 1, 1993. Nothing in this subsection shall prohibit changes or  
21 increases in employee point-of-service payments or employee premium  
22 payments for benefits or the administration of a high deductible health  
23 plan in conjunction with a health savings account. The board may  
24 establish employee eligibility criteria which are not substantially  
25 equivalent to employee eligibility criteria in effect on January 1,  
26 1993.

27 (4) Except if bargained for under chapter 41.80 RCW, the board  
28 shall design benefits and determine the terms and conditions of  
29 employee and retired employee participation and coverage, including  
30 establishment of eligibility criteria subject to the requirements of  
31 this chapter. Employer groups obtaining benefits through contractual  
32 agreement with the authority for employees defined in RCW 41.05.011(6)

33 (a) through (d) may contractually agree with the authority to benefits  
34 eligibility criteria which differs from that determined by the board.  
35 The eligibility criteria established by the board shall be no more  
36 restrictive than the following:

37 (a) Except as provided in (b) through (e) of this subsection, an  
38 employee is eligible for benefits from the date of employment if the

1 employing agency anticipates he or she will work an average of at least  
2 eighty hours per month and for at least eight hours in each month for  
3 more than six consecutive months. An employee determined ineligible  
4 for benefits at the beginning of his or her employment shall become  
5 eligible in the following circumstances:

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

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

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

30 (c) Faculty are eligible as follows:

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

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

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

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

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

37 (d) A legislator is eligible for benefits on the date his or her  
38 term begins. All other elected and full-time appointed officials of

1 the legislative and executive branches of state government are eligible  
2 for benefits on the date his or her term begins or they take the oath  
3 of office, whichever occurs first.

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

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

10 (g) In determining eligibility under this section, the employing  
11 agency may disregard training hours, standby hours, or temporary  
12 changes in work hours as determined by the authority under this  
13 section.

14 (h) Insurance coverage for all eligible employees begins on the  
15 first day of the month following the date when eligibility for benefits  
16 is established. If the date eligibility is established is the first  
17 working day of a month, insurance coverage begins on that date.

18 (i) Eligibility for an employee whose work circumstances are  
19 described by more than one of the eligibility categories in (a) through  
20 (e) of this subsection shall be determined solely by the criteria of  
21 the category that most closely describes the employee's work  
22 circumstances.

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

35 (k) For the purposes of this subsection:

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

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

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

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

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

15 (7) Notwithstanding any other provision of this chapter, for the  
16 open enrollment period beginning November 1, 2011, the board shall  
17 ~~((develop))~~ offer a high deductible health plan ~~((to be offered))~~ in  
18 conjunction with a health savings account developed under subsection  
19 (6) of this section.

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

23 (9) The board shall review plans proposed by insuring entities that  
24 desire to offer property insurance and/or accident and casualty  
25 insurance to state employees through payroll deduction. The board may  
26 approve any such plan for payroll deduction by insuring entities  
27 holding a valid certificate of authority in the state of Washington and  
28 which the board determines to be in the best interests of employees and  
29 the state. The board shall adopt rules setting forth criteria by which  
30 it shall evaluate the plans.

31 (10) Before January 1, 1998, the public employees' benefits board  
32 shall make available one or more fully insured long-term care insurance  
33 plans that comply with the requirements of chapter 48.84 RCW. Such  
34 programs shall be made available to eligible employees, retired  
35 employees, and retired school employees as well as eligible dependents  
36 which, for the purpose of this section, includes the parents of the  
37 employee or retiree and the parents of the spouse of the employee or  
38 retiree. Employees of local governments, political subdivisions, and

1 tribal governments not otherwise enrolled in the public employees'  
2 benefits board sponsored medical programs may enroll under terms and  
3 conditions established by the administrator, if it does not jeopardize  
4 the financial viability of the public employees' benefits board's long-  
5 term care offering.

6 (a) Participation of eligible employees or retired employees and  
7 retired school employees in any long-term care insurance plan made  
8 available by the public employees' benefits board is voluntary and  
9 shall not be subject to binding arbitration under chapter 41.56 RCW.  
10 Participation is subject to reasonable underwriting guidelines and  
11 eligibility rules established by the public employees' benefits board  
12 and the health care authority.

13 (b) The employee, retired employee, and retired school employee are  
14 solely responsible for the payment of the premium rates developed by  
15 the health care authority. The health care authority is authorized to  
16 charge a reasonable administrative fee in addition to the premium  
17 charged by the long-term care insurer, which shall include the health  
18 care authority's cost of administration, marketing, and consumer  
19 education materials prepared by the health care authority and the  
20 office of the insurance commissioner.

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

24 (d) The public employees' benefits board and the health care  
25 authority shall establish a technical advisory committee to provide  
26 advice in the development of the benefit design and establishment of  
27 underwriting guidelines and eligibility rules. The committee shall  
28 also advise the board and authority on effective and cost-effective  
29 ways to market and distribute the long-term care product. The  
30 technical advisory committee shall be comprised, at a minimum, of  
31 representatives of the office of the insurance commissioner, providers  
32 of long-term care services, licensed insurance agents with expertise in  
33 long-term care insurance, employees, retired employees, retired school  
34 employees, and other interested parties determined to be appropriate by  
35 the board.

36 (e) The health care authority shall offer employees, retired  
37 employees, and retired school employees the option of purchasing long-  
38 term care insurance through licensed agents or brokers appointed by the

1 long-term care insurer. The authority, in consultation with the public  
2 employees' benefits board, shall establish marketing procedures and may  
3 consider all premium components as a part of the contract negotiations  
4 with the long-term care insurer.

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

9 (g) The health care authority, with the cooperation of the office  
10 of the insurance commissioner, shall develop a consumer education  
11 program for the eligible employees, retired employees, and retired  
12 school employees designed to provide education on the potential need  
13 for long-term care, methods of financing long-term care, and the  
14 availability of long-term care insurance products including the  
15 products offered by the board.

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

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