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**ENGROSSED SUBSTITUTE SENATE BILL 5811**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Tom, Fain, Hill, Rivers, Baumgartner, and Shin)

READ FIRST TIME 03/01/13.

1       AN ACT Relating to employee wellness programs; amending RCW  
2 47.64.270 and 41.05.540; reenacting and amending RCW 41.80.020; and  
3 adding a new section to chapter 41.05 RCW.

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

5       **Sec. 1.** RCW 41.80.020 and 2011 1st sp.s. c 50 s 939 and 2011 1st  
6 sp.s. c 43 s 445 are each reenacted and amended to read as follows:

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

11       (2) The employer is not required to bargain over matters pertaining  
12 to:

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

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

16       (c) Rules of the human resources director, the director of  
17 enterprise services, or the Washington personnel resources board  
18 adopted under RCW 41.06.157.

1 (3) Matters subject to bargaining include the number of names to be  
2 certified for vacancies, promotional preferences, and ~~((the-dollar  
3 amount expended on behalf of each employee for health care benefits))~~  
4 the employer's percentage contribution of the total weighted average of  
5 the projected health care premium for each employee eligible for  
6 insurance. The projected health care premium is the weighted average  
7 across all health care benefit plans and tiers. However, except as  
8 provided otherwise in this subsection for institutions of higher  
9 education, negotiations regarding the number of names to be certified  
10 for vacancies, promotional preferences, and the ~~((dollar-amount  
11 expended-on-behalf-of-each-employee-for-health-care-benefits))~~  
12 employer's percentage contribution of the total weighted average of the  
13 projected health care premium for each employee eligible for insurance  
14 shall be conducted between the employer and one coalition of all the  
15 exclusive bargaining representatives subject to this chapter. The  
16 exclusive bargaining representatives for employees that are subject to  
17 chapter 47.64 RCW shall bargain the ~~((dollar-amount expended on behalf  
18 of-each-employee-for-health-care-benefits))~~ employer's percentage  
19 contribution of the total weighted average of the projected health care  
20 premium for each employee eligible for insurance with the employer as  
21 part of the coalition under this subsection. Any such provision agreed  
22 to by the employer and the coalition shall be included in all master  
23 collective bargaining agreements negotiated by the parties. For  
24 institutions of higher education, promotional preferences and the  
25 number of names to be certified for vacancies shall be bargained under  
26 the provisions of RCW 41.80.010(4). For agreements covering the  
27 ~~((2011-2013))~~ 2013-2015 fiscal biennium, any agreement between the  
28 employer and the coalition regarding ~~((the-dollar-amount expended on  
29 behalf-of-each-employee-for))~~ health care benefits is a separate  
30 agreement and shall not be included in the master collective bargaining  
31 agreements negotiated by the parties.

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

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

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

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

13 **Sec. 2.** RCW 47.64.270 and 2011 c 367 s 713 are each amended to  
14 read as follows:

15 (1) The employer and one coalition of all the exclusive bargaining  
16 representatives subject to this chapter and chapter 41.80 RCW shall  
17 conduct negotiations regarding the ~~((dollar amount expended on behalf  
18 of each employee for health care benefits))~~ employer's percentage  
19 contribution of the total weighted average of the projected health care  
20 premium for each employee eligible for insurance.

21 (2) Absent a collective bargaining agreement to the contrary, the  
22 department of transportation shall provide contributions to insurance  
23 and health care plans for ferry system employees and dependents, as  
24 determined by the state health care authority, under chapter 41.05 RCW.

25 (3) The employer and employee organizations may collectively  
26 bargain for insurance plans other than health care benefits, and  
27 employer contributions may exceed that of other state agencies as  
28 provided in RCW 41.05.050.

29 (4) For the ~~((2011-2013))~~ 2013-2015 fiscal biennium, a collective  
30 bargaining agreement related to employee health care benefits  
31 negotiated between the employer and coalition pursuant to RCW  
32 41.80.020(3) ~~((regarding the dollar amount expended on behalf of each  
33 employee))~~ must be a separate agreement for which the governor may  
34 request funds necessary to implement the agreement. ~~((If such an  
35 agreement is negotiated and funded by the legislature, this agreement  
36 will supersede any terms and conditions of an expired 2009-2011~~

1 ~~biennial collective bargaining agreement under this chapter regarding~~  
2 ~~health care benefits.))~~

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05 RCW  
4 to read as follows:

5 (1) Beginning no later than January 1, 2014, all state employee  
6 health care benefit plans under this chapter must be offered in  
7 conjunction with an employee wellness program developed pursuant to RCW  
8 41.05.540. The program must include premium reductions, premium  
9 increases, or other financial incentives to promote employee  
10 achievement of identified wellness targets or goals.

11 (2) The governor shall appoint an eight member health and wellness  
12 advisory committee to consult with and advise the director regarding  
13 the employee wellness program. Three members must be representatives  
14 of state employee labor organizations, one member must be a  
15 nonrepresented state employee, and four members must be representatives  
16 of state agencies or higher education institutions. The members shall  
17 serve at the pleasure of the governor. The director shall convene the  
18 advisory committee not less than four times a year to discuss the  
19 employee wellness program design and experience, and to solicit  
20 recommendations from the committee.

21 (3) For employees covered by collective bargaining agreements for  
22 the period of July 1, 2011, through June 30, 2013, the employee  
23 wellness program must be offered at the end of the time period  
24 established in RCW 41.80.010(7).

25 **Sec. 4.** RCW 41.05.540 and 2007 c 259 s 40 are each amended to read  
26 as follows:

27 (1) The health care authority, in coordination with the  
28 ~~((department of health,))~~ health plans participating in public  
29 employees' benefits board programs~~((,))~~ and the ~~((University of~~  
30 ~~Washington's center for health promotion, shall establish))~~ state  
31 agencies shall expand and maintain a state employee health and wellness  
32 program focused on reducing the health risks and improving the health  
33 status of state employees~~((,))~~ and dependents~~(( and retirees))~~  
34 enrolled in the public employees' benefits board. The program shall  
35 use public and private sector best practices to achieve goals of  
36 measurable health outcomes, measurable productivity improvements,

1 positive impact on the cost of medical care, and positive return on  
2 investment. The program shall establish standards for health promotion  
3 and disease prevention activities, and develop a mechanism to update  
4 standards as evidence-based research brings new information and best  
5 practices forward.

6 (2) The state employee health and wellness program shall:

7 (a) Provide technical assistance and other services as needed to  
8 wellness staff in all state agencies and institutions of higher  
9 education by; building on the success with the worksite wellness  
10 demonstrations and expanding the Washington worksite wellness program;

11 (b) Develop effective communication tools and ongoing training for  
12 wellness staff;

13 (c) (~~Contract~~) Complete consolidated contracting with outside  
14 vendors for (~~evaluation of program goals;~~

15 ~~(d) Strongly encourage the widespread completion of online health~~  
16 ~~assessment tools for all state employees, dependents, and retirees.~~  
17 ~~The health assessment tool must be voluntary and confidential. Health~~  
18 ~~assessment data and claims data shall be used to:~~

19 ~~(i) Engage state agencies and institutions of higher education in~~  
20 ~~providing evidence-based programs targeted at reducing identified~~  
21 ~~health risks;~~

22 ~~(ii) Guide contracting with third party vendors to implement~~  
23 ~~behavior change tools for targeted high risk populations; and~~

24 ~~(iii) Guide the benefit structure for state employees, dependents,~~  
25 ~~and retirees to include covered services and medications known to~~  
26 ~~manage and reduce health risks)) worksite wellness activities such as,  
27 but not limited to, on-site flu vaccination clinics, mobile  
28 mammography, healthy weight control programs, chronic disease  
29 management courses, and other evidence-based programs that support  
30 employee health and wellness;~~

31 (d) Develop and refine common core data elements for health plans  
32 and agency worksites to assist with comparable measurement and  
33 assessment of outcomes;

34 (e) Gather and monitor data from agencies on the worksite wellness  
35 activities and outcomes including impacts on productivity and employee  
36 wellness, and complete an analysis and summary of the outcomes  
37 annually;

1 (f) Coordinate with the public employees benefits board to design  
2 a benefit package that more strongly encourages the use of high-value  
3 services and member engagement in health assessment and wellness  
4 programs. A benefit design must incorporate a financial incentive for  
5 completing a health assessment and participating in health activities  
6 as an integral structural component in the benefit design rather than  
7 as a freestanding assessment tool;

8 (g) Ensure the design of the health and wellness program and  
9 benefit structure complement the development of chronic care management  
10 and medical home models consistent with the requirements of RCW  
11 41.05.023 and 41.05.670.

12 ~~(3) ((The health care authority shall report to the legislature in~~  
13 ~~December 2008 and December 2010 on outcome goals for the employee~~  
14 ~~health program.))~~ To expand the employee health and wellness program  
15 and build a strategic link with the benefit design and worksite  
16 supports, the health care authority must engage in collaborative  
17 discussions with enrollees in the public employees benefits board  
18 program, the various employee unions representing employees, and state  
19 agencies. Consolidated recommendations from all participants on the  
20 benefit design and incentive structure must be shared with the board  
21 for consideration.

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