House Bill 3228

Sponsored by Representative BARRETO, Senator HANSELL

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Establishes Task Force on Educator Health Benefits to review benefit plans provided through Oregon Educators Benefit Board, analyze benefits and administration of benefit plans and determine whether provisions related to board have resulted in cost savings.

Allows school districts, education service districts and community college districts to contract for benefit plans other than benefit plans provided and administered by board.

Allows certain public bodies to jointly insure for health insurance coverage if self-insured health insurance program has at least 500 covered employees and dependents and retired employees and dependents.

Requires board to provide claims data to districts.

A BILL FOR AN ACT

Relating to health insurance offered by public bodies; creating new provisions; and amending ORS 243.252, 243.868, 243.886 and 731.036.

Be It Enacted by the People of the State of Oregon:

TASK FORCE ON EDUCATOR HEALTH BENEFITS

SECTION 1. (1) The Task Force on Educator Health Benefits is established.

(2) The task force consists of 10 members appointed as follows:

(a) The President of the Senate shall appoint one member from among members of the Senate.

(b) The Speaker of the House of Representatives shall appoint one member from among members of the House of Representatives.

(c) The Governor shall appoint eight members with consideration of the different geographic regions of the state, as follows:

(A) One member who is a nonmanagement district employee from a district participating in a benefit plan offered by the Oregon Educators Benefit Board;

(B) One member who is a nonmanagement district employee from a district not participating in a benefit plan offered by the board;

(C) Two members who are not eligible to participate in a benefit plan offered by the board and who have expertise in health insurance, actuarial analysis of claim and benefit data or employee benefit plan design or administration;

(D) One member who is a district management employee from a district participating in a benefit plan offered by the board;

(E) One member who is a district management employee from a district not participating in a benefit plan offered by the board;

(F) One member of the Oregon Educators Benefit Board, who shall serve as a nonvoting member.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.

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member of the task force; and

(G) One public member.

(3) The task force shall review the benefit plans provided through the board, benefit plans
provided by districts not participating in benefit plans offered by the board and other avail-
able options for benefit plans, analyze the benefits provided by and the administration of each
type of benefit plan and determine whether the enactment of ORS 243.860 to 243.886 has re-
sulted in cost savings to the state.

(4) A majority of the voting members of the task force constitutes a quorum for the
transaction of business.

(5) Official action by the task force requires the approval of a majority of the voting
members of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appoint-
ment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson
or of a majority of the voting members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) The task force shall submit a report in the manner provided by ORS 192.245, which
must include recommendations for legislation, to an interim committee related to education
or public employment, as appropriate, no later than September 15, 2020.

(11) The Legislative Policy and Research Director shall provide staff support to the task
force.

(12) Members of the task force who are not members of the Legislative Assembly are not
entitled to compensation, but may be reimbursed for actual and necessary travel and other
expenses incurred by them in the performance of their official duties in the manner and
amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions
of the task force shall be paid out of funds appropriated to the Legislative Assembly for that
purpose.

(13) All agencies of state government, as defined in ORS 174.111, are directed to assist
the task force in the performance of the duties of the task force and, to the extent permitted
by laws relating to confidentiality, to furnish information and advice the members of the task
force consider necessary to perform their duties.

(14) As used in this section, “district” has the meaning given that term in ORS 243.860.

BENEFIT PLANS PROVIDED OR CONTRACTED FOR BY DISTRICTS

SECTION 2. ORS 243.886 is amended to read:

243.886. [(1) Except as provided in subsections (2), (3) and (4) of this section, a district may not
provide or contract for a benefit plan and eligible employees of districts may not participate in a benefit
plan unless the benefit plan:

[(a) Is provided and administered by the Oregon Educators Benefit Board under ORS 243.860 to
243.886; or]

[(b) Is offered through the health insurance exchange under ORS 741.310 (1)(b)(B).]

[(2)(a) Except for community college districts, a district that was self-insured before January 1,
2007, or a district that had an independent health insurance trust established and functioning before

[2]
January 1, 2007, may provide or contract for benefit plans other than benefit plans provided and administered by the board if the premiums for the benefit plans provided or contracted for by the district are equal to or less than the premiums for comparable benefit plans provided and administered by the board.)

(b) A community college district may provide or contract for benefit plans other than benefit plans provided and administered by the board.)

(c) In accordance with procedures adopted by the board to extend benefit plan coverage under ORS 243.864 to 243.874 to eligible employees of a self-insured district, a district with an independent health insurance trust or a community college district, these districts may choose to offer benefit plans that are provided and administered by the board. Once employees of a district participate in benefit plans provided and administered by the board, the district may not thereafter provide or contract for benefit plans other than those provided and administered by the board.)

(3)(a) A district, other than a district claiming the exception in subsection (2)(a) of this section, that has not offered benefit plans provided and administered by the board before June 23, 2009, may provide or contract for benefit plans other than benefit plans provided and administered by the board if the premiums for the benefit plans provided or contracted for by the district are equal to or less than the premiums for comparable benefit plans provided and administered by the board. Once employees of a district or an employee group within a district participates in benefit plans provided and administered by the board, the district may not thereafter provide or contract for benefit plans for those employees or employee groups other than those provided and administered by the board.)

(b) If requested by the district or a labor organization representing eligible employees of the district, the board shall perform an actuarial analysis of the district.)

(c) As used in this subsection, “district” does not include a community college district.)

(1) A district may provide or contract for benefit plans provided and administered by the Oregon Educators Benefit Board or the district may provide or contract for benefit plans other than benefit plans provided and administered by the board, including but not limited to a benefit plan offered through the health insurance exchange under ORS 741.310 (1)(b)(B).

(2) Eligible employees may participate in benefit plans provided and administered by the board or benefit plans provided or contracted for by a district, including but not limited to a benefit plan offered through the health insurance exchange under ORS 741.310 (1)(b)(B).

(3) Nothing in ORS 243.860 to 243.886 may be construed to expand or contract collective bargaining rights or collective bargaining obligations.

SECTION 3. ORS 243.868 is amended to read:

243.868. (1) In addition to contracting for health and dental benefit plans, the Oregon Educators Benefit Board may contract with carriers to provide other benefit plans including, but not limited to, insurance or other benefits based on life, supplemental medical, supplemental dental, supplemental vision, accidental death or disability insurance plans.

(2) The premium for each eligible employee for coverage under a benefit plan other than a health or dental benefit plan described in subsection (1) of this section shall be the total cost per month of the coverage afforded the employee under the plan for which the employee exercises an option, including the cost of enrollment and administrative expenses for the plan.

(3) The board may withdraw approval of any additional benefit plan in the same manner as it withdraws approval of a health or dental benefit plan as described and authorized by ORS 243.878.

(4) [If the board does not contract for a benefit plan described in subsection (1) of this section,] A district or a local government may contract for [the] a benefit plan described in subsection (1) of
this section on behalf of any district or local government employees. The administrative expenses
of the plan shall be paid in accordance with the negotiated agreement between the employees and
the district or local government. [Benefit plans entered into by a district or local government are
subject to approval by the board before they become operative. The board may withdraw approval of
any such benefit plan in the same manner as it withdraws approval of a benefit plan under ORS
243.878.]

SECTION 4. A district that offers a benefit plan provided and administered by the Oregon
Educators Benefit Board under ORS 243.868 or 243.886 on the effective date of this 2019 Act
may not offer its own benefit plan under ORS 243.868 or 243.886 until the expiration of the
benefit plan provided and administered by the board.

SECTION 5. ORS 243.252 is amended to read:

243.252. (1) The state may pay none of the cost of making health benefit plan coverage available
to a retired state employee who is an eligible employee and to family members or may agree, by
collective bargaining agreement or otherwise, to pay part or all of that cost.

(2) Nothing in subsection (1) of this section or other law[, except ORS 243.886,] prohibits a col-
lective bargaining unit from agreeing with an employer that is a public body, as defined in ORS
174.109, to establish a retiree medical trust, voluntary employees' beneficiary association, health
reimbursement arrangement or other agreement for health care expenses of employees or retirees
if the provisions of the trust, association, arrangement or other agreement comply with the re-
quirements of the Insurance Code.

SELF-INSURED HEALTH INSURANCE PROGRAMS

SECTION 6. ORS 731.036 is amended to read:

731.036. Except as provided in ORS 743.029 or as specifically provided by law, the Insurance
Code does not apply to any of the following to the extent of the subject matter of the exemption:

(1) A bail bondsman, other than a corporate surety and its agents.

(2) A fraternal benefit society that has maintained lodges in this state and other states for 50
years prior to January 1, 1961, and for which a certificate of authority was not required on that
date.

(3) A religious organization providing insurance benefits only to its employees, if the organiza-
tion is in existence and exempt from taxation under section 501(c)(3) of the federal Internal Revenue
Code on September 13, 1975.

(4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-
insurance program for tort liability in accordance with ORS 30.282.

(5) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-
insurance program for property damage in accordance with ORS 30.282.

(6) Cities, counties, school districts, community college districts, community college service dis-
tricts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure
for health insurance coverage, excluding disability insurance, their employees or retired employees,
or their dependents, or students engaged in school activities, or combination of employees and de-
pendents, with or without employee or student contributions, if all of the following conditions are
met:

[(a) The individual or jointly self-insured program meets the following minimum requirements:]  
[(A) In the case of a school district, community college district or community college service district,
the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals;

[(B) In the case of an individual public body program other than a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals; and]

[(C) In the case of a joint program of two or more public bodies, the number of covered employees and dependents and retired employees and dependents aggregates at least 1,000 individuals;]

(a) The individual or jointly self-insured program must have at least 500 covered employees and dependents and retired employees and dependents, in the aggregate;

(b) The individual or jointly self-insured health insurance program includes all coverages and benefits required of group health insurance policies under ORS chapters 743, 743A and 743B;

(c) The individual or jointly self-insured program must have program documents that define program benefits and administration;

(d) Enrollees must be provided copies of summary plan descriptions including:

(A) Written general information about services provided, access to services, charges and scheduling applicable to each enrollee's coverage;

(B) The program's grievance and appeal process; and

(C) Other group health plan enrollee rights, disclosure or written procedure requirements established under ORS chapters 743, 743A and 743B;

(e) The financial administration of an individual or jointly self-insured program must include the following requirements:

(A) Program contributions and reserves must be held in separate accounts and used for the exclusive benefit of the program;

(B) The program must maintain adequate reserves. Reserves may be invested in accordance with the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper actuarial calculations including the following:

(i) Known claims, paid and outstanding;

(ii) A history of incurred but not reported claims;

(iii) Claims handling expenses;

(iv) Unearned contributions; and

(v) A claims trend factor; and

(C) The program must maintain adequate reinsurance against the risk of economic loss in accordance with the provisions of ORS 742.065 unless the program has received written approval for an alternative arrangement for protection against economic loss from the Director of the Department of Consumer and Business Services;

(f) The individual or jointly self-insured program must have sufficient personnel to service the employee benefit program or must contract with a third party administrator licensed under ORS chapter 744 as a third party administrator to provide such services;

(g) The public body, or the program administrator in the case of a joint insurance program of two or more public bodies, files with the Director of the Department of Consumer and Business Services copies of all documents creating and governing the program, all forms used to communicate the coverage to beneficiaries, the schedule of payments established to support the program and, annually, a financial report showing the total incurred cost of the program for the preceding year. A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing requirement; and
(h) Each public body in a joint insurance program is liable only to its own employees and no
others for benefits under the program in the event, and to the extent, that no further funds, in-
cluding funds from insurance policies obtained by the pool, are available in the joint insurance pool.

(7) All ambulance services.

(8) A person providing any of the services described in this subsection. The exemption under this
subsection does not apply to an authorized insurer providing such services under an insurance pol-
icy. This subsection applies to the following services:

(a) Towing service.

(b) Emergency road service, which means adjustment, repair or replacement of the equipment,
tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated
under its own power.

(c) Transportation and arrangements for the transportation of human remains, including all
necessary and appropriate preparations for and actual transportation provided to return a
decedent’s remains from the decedent’s place of death to a location designated by a person with
valid legal authority under ORS 97.130.

(9)(a) A person described in this subsection who, in an agreement to lease or to finance the
purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in par-
agraph (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft
or other occurrence, as specified in the agreement. The exemption established in this subsection
applies to the following persons:

(A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail in-
stallment contract.

(B) The lessor of the motor vehicle.

(C) The lender who finances the purchase of the motor vehicle.

(D) The assignee of a person described in this paragraph.

(b) The amount waived pursuant to the agreement shall be the difference, or portion thereof,
between the amount received by the seller, lessor, lender or assignee, as applicable, that represents
the actual cash value of the motor vehicle at the date of loss, and the amount owed under the
agreement.

(10) A self-insurance program for tort liability or property damage that is established by two or
more affordable housing entities and that complies with the same requirements that public bodies
must meet under ORS 30.282 (6). As used in this subsection:

(a) “Affordable housing” means housing projects in which some of the dwelling units may be
purchased or rented, with or without government assistance, on a basis that is affordable to indi-
viduals of low income.

(b) “Affordable housing entity” means any of the following:

(A) A housing authority created under the laws of this state or another jurisdiction and any
agency or instrumentality of a housing authority, including but not limited to a legal entity created
to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

(B) A nonprofit corporation that is engaged in providing affordable housing.

(C) A partnership or limited liability company that is engaged in providing affordable housing
and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or
a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or
nonprofit corporation:

(i) Has, or has the right to acquire, a financial or ownership interest in the partnership or lim-
(ii) Has the power to direct the management or policies of the partnership or limited liability company;
(iii) Has entered into a contract to lease, manage or operate the affordable housing owned by the partnership or limited liability company; or
(iv) Has any other material relationship with the partnership or limited liability company.
(11) Except as provided in ORS 735.500 and 735.510, a person certified by the Department of Consumer and Business Services to operate a retainer medical practice.

CLAIMS DATA

SECTION 7. Section 8 of this 2019 Act is added to and made a part of ORS 243.860 to 243.886.

SECTION 8. Within 60 days after the expiration of a benefit plan for medical care, the Oregon Educators Benefit Board shall provide each district participating in the benefit plan with claims data about the district’s use of the benefit plan.

SUNSET

SECTION 9. Section 1 of this 2019 Act is repealed on December 31, 2020.

CAPTIONS

SECTION 10. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.