

# 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**

**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.

1 member of the task force; and

2 (G) One public member.

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

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

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

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

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

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

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

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

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

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

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

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

34  
35 **BENEFIT PLANS PROVIDED OR CONTRACTED FOR BY DISTRICTS**

36  
37 **SECTION 2.** ORS 243.886 is amended to read:

38 243.886. [(1) Except as provided in subsections (2), (3) and (4) of this section, a district may not  
39 provide or contract for a benefit plan and eligible employees of districts may not participate in a benefit  
40 plan unless the benefit plan:]

41 [(a) Is provided and administered by the Oregon Educators Benefit Board under ORS 243.860 to  
42 243.886; or]

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

44 [(2)(a) Except for community college districts, a district that was self-insured before January 1,  
45 2007, or a district that had an independent health insurance trust established and functioning before

1 *January 1, 2007, may provide or contract for benefit plans other than benefit plans provided and ad-*  
 2 *ministered by the board if the premiums for the benefit plans provided or contracted for by the district*  
 3 *are equal to or less than the premiums for comparable benefit plans provided and administered by the*  
 4 *board.]*

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

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

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

21 *[(b) If requested by the district or a labor organization representing eligible employees of the dis-*  
 22 *trict, the board shall perform an actuarial analysis of the district.]*

23 *[(c) As used in this subsection, "district" does not include a community college district.]*

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

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

31 **[(4)] (3) Nothing in ORS 243.860 to 243.886 may be construed to expand or contract collective**  
 32 **bargaining rights or collective bargaining obligations.**

33 **SECTION 3.** ORS 243.868 is amended to read:

34 243.868. (1) In addition to contracting for health and dental benefit plans, the Oregon Educators  
 35 Benefit Board may contract with carriers to provide other benefit plans including, but not limited  
 36 to, insurance or other benefits based on life, supplemental medical, supplemental dental, supple-  
 37 mental vision, accidental death or disability insurance plans.

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

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

44 (4) *[If the board does not contract for a benefit plan described in subsection (1) of this section,]* A  
 45 district or a local government may contract for *[the]* a benefit plan **described in subsection (1) of**

1 **this section** on behalf of any district or local government employees. The administrative expenses  
 2 of the plan shall be paid in accordance with the negotiated agreement between the employees and  
 3 the district or local government. [*Benefit plans entered into by a district or local government are*  
 4 *subject to approval by the board before they become operative. The board may withdraw approval of*  
 5 *any such benefit plan in the same manner as it withdraws approval of a benefit plan under ORS*  
 6 *243.878.*]

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

11 **SECTION 5.** ORS 243.252 is amended to read:

12 243.252. (1) The state may pay none of the cost of making health benefit plan coverage available  
 13 to a retired state employee who is an eligible employee and to family members or may agree, by  
 14 collective bargaining agreement or otherwise, to pay part or all of that cost.

15 (2) Nothing in subsection (1) of this section or other law[, *except ORS 243.886,*] prohibits a col-  
 16 lective bargaining unit from agreeing with an employer that is a public body, as defined in ORS  
 17 174.109, to establish a retiree medical trust, voluntary employees' beneficiary association, health  
 18 reimbursement arrangement or other agreement for health care expenses of employees or retirees  
 19 if the provisions of the trust, association, arrangement or other agreement comply with the re-  
 20 quirements of the Insurance Code.

21  
 22 **SELF-INSURED HEALTH INSURANCE PROGRAMS**

23  
 24 **SECTION 6.** ORS 731.036 is amended to read:

25 731.036. Except as provided in ORS 743.029 or as specifically provided by law, the Insurance  
 26 Code does not apply to any of the following to the extent of the subject matter of the exemption:

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

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

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

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

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

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

44 [(a) *The individual or jointly self-insured program meets the following minimum requirements:*]

45 [(A) *In the case of a school district, community college district or community college service district,*

1 *the number of covered employees and dependents and retired employees and dependents aggregates at*  
2 *least 500 individuals;]*

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

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

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

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

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

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

15 (A) Written general information about services provided, access to services, charges and sched-  
16 uling applicable to each enrollee's coverage;

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

18 (C) Other group health plan enrollee rights, disclosure or written procedure requirements es-  
19 tablished under ORS chapters 743, 743A and 743B;

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

22 (A) Program contributions and reserves must be held in separate accounts and used for the ex-  
23 clusive benefit of the program;

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

27 (i) Known claims, paid and outstanding;

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

29 (iii) Claims handling expenses;

30 (iv) Unearned contributions; and

31 (v) A claims trend factor; and

32 (C) The program must maintain adequate reinsurance against the risk of economic loss in ac-  
33 cordance with the provisions of ORS 742.065 unless the program has received written approval for  
34 an alternative arrangement for protection against economic loss from the Director of the Depart-  
35 ment of Consumer and Business Services;

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

39 (g) The public body, or the program administrator in the case of a joint insurance program of  
40 two or more public bodies, files with the Director of the Department of Consumer and Business  
41 Services copies of all documents creating and governing the program, all forms used to communicate  
42 the coverage to beneficiaries, the schedule of payments established to support the program and,  
43 annually, a financial report showing the total incurred cost of the program for the preceding year.  
44 A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing  
45 requirement; and

1 (h) Each public body in a joint insurance program is liable only to its own employees and no  
 2 others for benefits under the program in the event, and to the extent, that no further funds, in-  
 3 cluding funds from insurance policies obtained by the pool, are available in the joint insurance pool.

4 (7) All ambulance services.

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

8 (a) Towing service.

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

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

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

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

23 (B) The lessor of the motor vehicle.

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

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

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

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

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

36 (b) "Affordable housing entity" means any of the following:

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

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

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

45 (i) Has, or has the right to acquire, a financial or ownership interest in the partnership or lim-

1 ited liability company;

2 (ii) Has the power to direct the management or policies of the partnership or limited liability  
3 company;

4 (iii) Has entered into a contract to lease, manage or operate the affordable housing owned by  
5 the partnership or limited liability company; or

6 (iv) Has any other material relationship with the partnership or limited liability company.

7 (11) Except as provided in ORS 735.500 and 735.510, a person certified by the Department of  
8 Consumer and Business Services to operate a retainer medical practice.

9  
10 **CLAIMS DATA**

11  
12 **SECTION 7. Section 8 of this 2019 Act is added to and made a part of ORS 243.860 to**  
13 **243.886.**

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

17  
18 **SUNSET**

19  
20 **SECTION 9. Section 1 of this 2019 Act is repealed on December 31, 2020.**

21  
22 **CAPTIONS**

23  
24 **SECTION 10. The unit captions used in this 2019 Act are provided only for the conven-**  
25 **ience of the reader and do not become part of the statutory law of this state or express any**  
26 **legislative intent in the enactment of this 2019 Act.**