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Modify 2015 Opt-Out Stipend Exclusion (Employee Trust Funds)

[LFB 2019-21 Budget Summary: Page 54, #1 and Page 120, #4]

CURRENT LAW

In general, a state employee is eligible to receive a $2,000 stipend payment each year in lieu of health care coverage ("opt-out stipend") if the employee was eligible for an employer contribution to health care premium payments and elected not to receive health care coverage. If either of the following two conditions apply, an individual is ineligible to receive the opt-out stipend: (a) the employee was eligible for an employer contribution and elected not to receive health care coverage in 2015; or (b) the employee's spouse is receiving health care coverage through the state employee health program.

With regard to employees who elected not to receive health care coverage in 2015, individuals in this group are not eligible to receive the opt-out stipend at any time. If an individual in this group elected to receive health care coverage in 2016 or any succeeding year, they would not become eligible to receive the stipend payment if they later chose to elect not to receive coverage.

GOVERNOR

Specify that a state employee is not eligible to receive an opt-out stipend if the employee was eligible for an employer contribution to health care premium payments and elected not to receive health care coverage in 2015 or any succeeding calendar year. Reduce compensation reserves by $102,600 GPR ($234,300 all funds) in 2019-20 and $205,000 GPR ($468,200 all funds) in 2020-21 associated with estimated savings. Under the bill, an individual who opted out in 2015 could receive the opt-out stipend if: (a) they had elected to receive coverage in 2016 or any succeeding year; and (b) they again elected not to receive coverage in the year for which they apply for the stipend under this provision. The proposal would not provide for retrospective payments for previous years.

DISCUSSION POINTS

Background

1. Under 2013 Act 20, the Legislature directed the Secretary of the Department of Employee Trust Funds (ETF) and the Director of the Office of State Employment Relations (OSER), now the Division of Personnel Management within the Department of Administration) to study the feasibility of offering a $2,000 annual incentive payment to any state employee who is eligible to receive health care coverage under the state employee plans and elects not to receive coverage. In June, 2014, ETF and OSER submitted a report from Deloitte (a consulting actuary) to the Governor and the Legislature addressing the issue. Deloitte found that an estimated 3,286 state employees eligible for health insurance coverage in 2014 had foregone state coverage and were, presumably, covered elsewhere. This figure did not include state employees who were ineligible to elect to receive state health coverage because their spouse was also a state employee and covered under the state health program.

2. A key assumption underlying Deloitte's report regarding the possible costs or savings associated with annual opt-out payments was the percentage of additional state employees who might elect to opt-out. Deloitte indicated that if only an additional 1% of state employees opt-out of receiving state health insurance, the proposal would increase state costs between $1.6 million and $3.3 million annually (all funds), due to the greater cost to provide stipend payments to employees who already opt out of coverage. If, however, an additional 5% of state employees would opt-out of receiving state health insurance annually, it was estimated that the proposal could save the state from $9.7 million to $18.4 million annually (all funds).

3. In a 2015-17 biennial budget recommendation, the Governor proposed offering $2,000 opt-out stipend payments to state employees who were eligible to receive an employer contribution to health care premium payments and who elected not to receive health care coverage. As initially recommended, the stipend payments would have been available to any state employee who chose not to receive health care coverage. While the proposal was intended to generate state employer savings, as noted above, the proposal could have increased state employer costs overall, especially given that state employees would be eligible to receive the stipend if they were covered under the state health program through a spouse or domestic partner. Whether the cost to the employer would increase or decrease would depend on the relative number of individuals who would newly choose to opt out based on the incentive, compared to the number of individuals who had already opted out of coverage for other reasons. Because state employers do not incur health care premium costs for employees who do not elect to receive health care coverage, paying each individual who had already opted out a $2,000 stipend would represent a new, increased cost to the employer. On the other hand, if a sufficient number of employees who previously elected health care coverage could be incentivized to decline coverage, the net cost to the employer could potentially be reduced.

4. The Legislature approved a modification by the Joint Committee on Finance to the Governor's proposal to specify two exclusions. First, employees would be ineligible to receive a

stipend payment if they were already opting out in 2015. Second, an employee would be ineligible to receive a payment if their spouse or domestic partner were a participant in the state employee health program. [As of January 1, 2018, health care coverage is no longer provided for domestic partners of employees who participate in a health plan administered by ETF.] The proposal was enacted with the two exclusions under 2015 Act 55.

Policy Issues and Cost

5. Subsequent to the enactment of Act 55, employees who elected not to receive health care coverage in 2015 have raised concerns about the fairness of the opt-out stipend exclusion that applies to this group. For example, an employee who was newly hired in 2016 and who has never elected to receive state employer-provided health care coverage is eligible for the opt-out stipend. It is unclear in this example whether the employee who was hired in 2016 would have ever elected to receive health care coverage, even if the opt-out stipend were not available as an incentive. Therefore, a perception exists that two employees who may be similarly situated are not treated in the same manner.

6. Another concern has been raised with regard to individuals in the 2015 opt-out group who have subsequently elected to receive state employer-provided health care coverage. Among the group of individuals who opted out in 2015, some have since chosen to participate in the state employee health program, the cost of which is supported by state employers. While an incentive exists for other employees who participate in the state health program to choose to decline coverage (due to the availability of the $2,000 opt-out stipend), the same incentive does not exist for those individuals who currently elect to receive coverage and had opted out in 2015. For this sub-group of individuals, there is a potential opportunity to reduce state employer costs by making this incentive available to them. This would require a statutory change, as these individuals are currently ineligible to receive the opt-out stipend at any point in time.

Proposal

7. The bill would modify statute to allow an individual who opted out in 2015 to qualify for the opt-out stipend if they had elected to receive health care coverage in 2016 or any subsequent year. The administration estimated savings from additional health insurance opt-outs that could result from the bill proposal at $102,600 GPR in 2019-20 and $205,000 GPR in 2020-21. As a result, amounts allocated in the bill to compensation reserves include funding reductions of $102,600 GPR ($234,300 all funds) in 2019-20 and $205,000 GPR ($468,200 all funds) in 2020-21. These and other funding reductions offset increases that are provided to compensation reserves for other provisions associated with salaries and fringe benefits. [Other components of compensation reserves are addressed in separate budget papers under "Budget Management and Compensation Reserves."]

8. The administration's estimates of savings are based on the following: (a) historic rates of state agency position separations, to determine how many employees who opted out in 2015 may still be employed with the state; (b) Deloitte's count of 3,286 employees who opted out of coverage in 2014; (c) an assumption that 25% of remaining 2015 opt-out employees have reelected coverage, with equal numbers of state employees and UW System employees affected; (d) an assumption that 10% of employees who reelected coverage would decline coverage for calendar year 2020 under the

proposal; (e) a split of approximately 43% single plans and 57% family plans based on actual participation overall; (f) employer costs of approximately $623 per month for a single plan and $1,547 per month for a family plan; and (g) an allocation of 49.11% of position funding to GPR for the state and 38.45% of position funding to GPR for the UW System.

9. Based on more recent data relating to health program participation and opt-out stipends paid to other employees in calendar year 2017, several of the above assumptions could be modified to reestimate potential savings under the proposal. First, ETF indicates that the number of people who opted out in 2015 was 7,300. In 2017, the number of people in this group who were still employed in authorized state positions was 3,913. Of those, the proportion of employees who had elected to receive coverage through the state health program as a subscriber (as opposed to a dependent) was just over 25%. In addition, approximately 3.5% of eligible employees applied for an opt-out stipend in 2017. Using historical rates of state agency position separations, the number of individuals still employed in 2017, the percentage of employees who applied for opt-out stipends in 2017, and maintaining the covered rate at 25%, it is estimated that approximately 2,527 individuals in the 2015 group are still employed at state agencies (1,895 employees not covered and 632 employees covered by the state health program as subscribers), and approximately 22 employees would opt out if the stipend were made available to them. These figures would yield reestimated savings of $57,100 GPR in 2019-20 and $114,300 GPR in 2020-21 (a reduction in savings estimates from the bill of $45,500 GPR in 2019-20 and $90,700 GPR in 2020-21).

10. It should be noted that reestimated savings, above, would be approximately equal to the estimates in the bill if the 2015 opt-out individuals who are currently covered by the state health program were to newly opt out a rate of around 6.2%, which would be nearly twice the rate of other employees. While it is unknown how many covered employees in the 2015 group would opt out under this proposal, one could reasonably assume that this group may have a higher likelihood of opting out of health insurance than other employees generally, given that these employees previously declined coverage.

11. The change proposed under the bill would provide an incentive for individuals in the 2015 opt-out group who subsequently elected to participate in the health program to discontinue coverage, which could result in state employer savings. Therefore, the Committee could approve the Governor's recommendation to allow such participants to apply for a $2,000 opt-out stipend based on participation in the state health program in calendar year 2016 or any subsequent year. [Alternative 1] Given the availability of more recent data, the Committee could approve the statutory modification and additionally reestimate savings at $56,800 GPR in 2019-20 and $113,600 GPR in 2020-21 (a reduction in savings estimates from the bill of $45,800 GPR in 2019-20 and $91,400 GPR in 2020-21). [Alternative 2]

Other Considerations

12. As noted previously, under this proposed modification the perception that two similarly situated employees are treated differently would remain for those in the 2015 opt-out group who have not subsequently elected to receive health coverage. Any employee who began employment in 2016 or later years and who never elected to receive health coverage would nevertheless be eligible to apply for a $2,000 opt-out stipend payment.

13. In addition, it could be argued that the continued exclusion of many of the individuals in the 2015 opt-out group under the proposal constitutes an ongoing administrative inefficiency. Opt-out stipend payments are administered by payroll staff, while the list of individuals who opted out in 2015 is maintained by ETF. To verify eligibility for the stipend payments, each of the state payroll centers (central payroll for most executive branch agencies, the UW System, and the Legislature) and UW Health must annually submit to ETF a list of applicants for comparison with the list of individuals who opted out in 2015 due to health privacy protections that prohibit ETF from distributing this information to the payroll centers directly. Further, modifying the exclusion utilizing other, more sophisticated rules about who would qualify or how much they would be paid would be even more complex and administratively burdensome.

14. Given concerns about fair treatment of similarly situated employees as well as concerns about administrative efficiency, the Committee could consider eliminating the exclusion of individuals who opted out in 2015 entirely. Under this alternative, it is estimated that providing $2,000 stipend payments to an additional 1,895 individuals in the 2015 group who are still employed at state agencies and have not elected to receive health care coverage would increase state employer costs by $829,600 GPR in 2019-20 and $1,659,200 GPR in 2020-21. Therefore, the Committee could eliminate the 2015 opt-out exclusion entirely and provide funding to compensation reserves that reflects the net cost increase (accounting for savings estimates from a subset of the group opting out) based on: (a) the estimates under the bill, $727,000 GPR in 2019-20 and $1,454,200 GPR in 2020-21 [Alternative 3a]; or (b) reestimated savings, $772,900 GPR in 2019-20 and $1,545,700 GPR in 2020-21 [Alternative 3b].

15. If the Governor's proposed modification to current law were not adopted, individuals who opted out in 2015 and subsequently elected to receive health care coverage would continue to be ineligible for an opt-out stipend. Such employees would continue to decide whether to receive health care coverage without the availability of a monetary incentive to discontinue coverage. Given that the amount of additional savings is expected to be relatively modest and that an exclusion without exceptions would be relatively easier to administer, the Committee could choose to take no action. [Alternative 4]

ALTERNATIVES

1. Approve the Governor's recommendation to specify that a state employee is not eligible to receive an opt-out stipend if the employee was eligible for an employer contribution to health care premium payments and elected not to receive health care coverage in 2015 or any succeeding calendar year. Utilize the administration's savings estimates to reduce funding to compensation reserves by $102,600 GPR ($234,300 all funds) in 2019-20 and $205,000 GPR ($468,200 all funds) in 2020-21. [The proposal would have the effect of making individuals who opted out in 2015 eligible to receive the stipend if they had elected to receive coverage in 2016 or any succeeding calendar year and later chose to decline coverage.]

ALT 1	Change to	
	Base	**Bill**
GPR	- $307,600	$0

2. In addition to approving the Governor's proposal to modify the 2015 opt-out exclusion, using more recent data about the 2015 opt-out group and applications for the opt-out stipend among other employees, reestimate savings at $56,800 GPR ($129,700 all funds) in 2019-20 and $113,600 GPR ($259,400 all funds) in 2020-21.

ALT 2	Change to	
	Base	**Bill**
GPR	- $170,400	$137,200

3. Eliminate the 2015 opt-out exclusion entirely and provide funding to compensation reserves that reflects the net cost increase:

a. Based on savings estimates under the bill, $727,000 GPR ($1,660,700 all funds) in 2019-20 and $1,454,200 GPR ($3,322,000 all funds) in 2020-21.

ALT 3a	Change to	
	Base	**Bill**
GPR	$2,181,200	$2,488,800

b. Based on reestimated savings, $772,800 GPR ($1,765,300 all funds) in 2019-20 and $1,545,600 GPR ($3,530,600 all funds) in 2020-21.

ALT 3b	Change to	
	Base	**Bill**
GPR	$2,318,400	$2,626,000

4. Take no action.

ALT 4	Change to	
	Base	**Bill**
GPR	$0	$307,600

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