

**School Employees Benefits Board**  
**Meeting Minutes**

October 23, 2017  
Health Care Authority  
Sue Crystal Rooms A & B  
Olympia, Washington  
1:00 p.m. – 5:00 p.m.

TVW: School Employees Benefits (SEB) Board October 23, 1:00pm  
<http://dev.tvw.org/watch/?eventID=2017101065>

**Members Present:**

Lou McDermott  
Sean Corry  
Pete Cutler  
Alison Carl White  
Wayne Leonard  
Patty Estes  
Dan Gossett  
Katy Henry  
Terri House

**SEB Board Counsel:**

Katy Hatfield

**Call to Order**

**Lou McDermott, Chair**, called the first meeting of the School Employees Benefits Board (SEBB) to order at 1:00 p.m. Sufficient members were present to allow a quorum. Board and audience self-introductions followed.

**Katy Hatfield:** I am an Assistant Attorney General. I work at the Attorney General's Office, not at the Health Care Authority, and I am your assigned SEBB counsel.

**Patty Estes:** I am representing Classified Employees. I live in Eatonville. The reason I got onto this Board is that it's really important for everyone to have quality and cost effective health care, but especially for the people taking care of our children. It's very, very important.

**Wayne Leonard:** I'm the Assistant Superintendent for Business and Finance at Mead School District over in the Spokane area. I'm a representative of Washington Association of School Business Officials. From that standpoint I represent the business officials and people that work on the budgets and try and figure out how to pay for this. I think in a larger context, I don't view the business officials as just my constituency. I

think all of our school employees are my constituents and I look forward to working with other members on the Board to try to figure out what's best for everyone.

**Pete Cutler:** I'm retired after 32 years of working with employee benefit issues primarily with the state of Washington. For the last four years of my career, up until the end of 2015, a big part of that was dealing with the school employee health benefits. A bit before that I had stints dealing with pension benefits and working with the Health Care Authority and the Insurance Commissioner's Office. I think I represent policy wonks.

**Alison Carl White:** I'm the Executive Director of Better Health Together which serves as the Spokane region's accountable community of health. We're working to promote health in all policies.

**Lou McDermott:** I'm the Acting Director of the Health Care Authority, which puts me as the Chair of the SEB Board.

**Katy Henry:** I am a special education teacher from Spokane Public Schools. I'm currently on leave as the local union president. I'm interested in representing our classified and certificated staff.

**Sean Corry:** I am an insurance broker in Seattle. My firm is Sprague Israel Giles. I lead the employed benefits staff and we serve many large school districts as our clients, the largest being Seattle Public Schools which we've worked with for more than forty years. I'm glad to be here.

**Terri House:** I am here representing classified employees and I am from the Marysville School District in Marysville, Washington.

**Dan Gossett:** I'm representing certificated staff. I'm currently a Library Information Specialist in the Edmonds School District where I also went to school, so I didn't roam far. I've been on the Washington Education Association's Benefits Services Advisory Board for the past ten years. I have a little bit of knowledge when it comes to health care.

**Lou McDermott:** TVW is here taping and also doing a live webcast of today's meeting.

### **Meeting Overview**

**Dave Iseminger,** Acting Director, Employees and Retirees Benefits (ERB) Division, provided an overview of the agenda.

**Lou McDermott:** I do have one question. Is the Vice Chair's responsibility to run the meeting?

**Dave Iseminger:** The statutory obligation is to simply run the meeting if the Director is not present.

**Lou McDermott:** No delegation is allowed?

**Dave Iseminger:** No.

### **Values, Goals, and Vision**

**Kari Karch**, Director, Planning and Performance Division, facilitated a conversation with the Board about their values, goals, and vision for the SEB Board. A multi-part conversation will occur over the next couple of meetings to help think about your work as a collective, your behaviors, your thought processes all in compliance and guidance with all of the activities that you have as responsibility of the SEB Board. There are three questions for today. I will write down your responses and make sure we get those back to you as part of the transcript.

As you think about your work as the Board, the first question to you is, “What values of the Board does the Board need to demonstrate in order to be successful in its work?” Thinking about values from our important beliefs that influence our behavior; thinking about our culture, how do you as a SEB Board, what’s your culture and how you think about the work that you are going to be doing?

**Lou McDermott**, are you articulating what the values are as operating as a Board or what are our values behind what we will produce?

**Kari Karch:** Operating as a Board.

**Lou McDermott:** I think we should feel free to have open and honest dialogue. There’s a reason why the Board is spread around different areas, different people, because they bring a different lens to this topic. I think we’re all interested in each other’s opinion because there will be many decision points along the way and we’ll have to make them as a group. But it will be good to get individual perspective as we move forward.

**Wayne Leonard:** I would say we also have respect for other’s opinions and have a willingness to work toward a common solution. Since we all come from different backgrounds, it’s not likely we will all agree on every issue. But, having respect for other people’s viewpoints, working together positively, and to solve the problems.

**Alison White:** I would add that I would hope we could keep the big picture of this. There’s a mechanical part of what we are deciding, but, at the end of the day, this is about how do we promote healthy communities.

**Kari Karch:** You may have started to answer the second question, that’s okay. We’ll make sure to put it all together for you when we get back to you. The question is, “What principles does the Board need in order to guide its work in order to be successful?” So guiding principles around our mind set in how we think about the work that are longer lasting than just the initial activity or decision at hand. Thinking about how we organize our work and our mindset going into it. I think, Alison, I had heard from you, which may fit more in this area around keeping the big picture in mind.

**Lou McDermott:** I would think that we would try to keep in mind those members that we are going to serve, the products we're going to put together for them, and the amounts they are going to pay for them with limited resources. There's always give and take and trying to always consider the member when we're making the decisions.

**Alison White:** That's right. One of the things I feel is really important is thinking about improving health and how we make investments in prevention, not just after people are sick, but how do we encourage good healthy behaviors.

**Patty Estes:** Along that same line, making sure that we are taking care of the whole person versus just the medical, dental and vision; but adding in those services they like mental health or any of those referrals they might need. How is that going to work out? It's the whole person and the whole family that matters.

**Katy Henry:** I think along those same lines. This is going to be a big transition for a lot of our people. So, keeping that in mind will be really important because that will be something to help them understand as we're going along.

**Kari Karch:** Excellent. I have one more for you and then I'll frame back. I'll restate back to you what I've heard from you. My last question for you is, "When your Board efforts are successful, in three years, what will you have achieved as a Board? What do you hope to see?"

**Lou McDermott:** My hope is we'll have a comprehensive benefit package to offer our members. That we will have a well-developed communication plan so they understand what they need to do and when they need to do it. That they're best informed, we have an extremely high quality benefit to offer, and that we execute well. I think it's going to be very important. With benefits, sometimes it's easy to forget them until you really need them; and so if you don't really need them, this whole time period could pass you by and you could find out at the end that there's going to be a big change. How's it going to affect my family? And having to do that research and understand the implications of this plan versus that plan will be really important.

**Pete Cutler:** I would say that the next presentation on this SEBB legislation lists various statutory goals for the program and for the Board. I'm hoping that we can, as ambitious as it may be, meet all of those statutory goals. Specifically one that's near and dear to my heart is the leveraging efficient purchasing by coordinating with the PEBB Program.

**Kari Karch:** I'm just going to state back what I think I've heard from you guys today. This information will get back to you in your packets.

The values that the Board needs to demonstrate in order to be successful in its work, I heard:

- Open, honest dialogue, respect for other’s opinions, working together on this work and keeping the big picture in mind, making sure that we are promoting prevention and healthy lives.

The second question around what principles does the Board need to guide its work to be successful, I heard:

- Keeping the members we serve in mind, the products that we put together, and investments in prevention. Keeping whole person and the whole family in mind and the big picture of the people we serve.

The last question I had for you, “When your Board efforts are successful, in three years, what will you have achieved?” I heard:

- Information or thoughts back on making sure we have a comprehensive benefit package, we’ve had a communication plan, we’ve offered a high quality benefit and we’ve executed it well, and that members are prepared and we meet the statutory goals, including leveraging effective purchasing.

**Lou McDermott:** Thanks, Kari. For the next agenda item, John Bowden will share information on the School Employees Benefits Board. John’s materials are behind Tab 3.

### **School Employees Benefits**

**John Bowden,** Manager, School Employees Benefits Section, Employees and Retirees Benefits (ERB) Division: I am going to be talking primarily about Engrossed House Bill 2242, specifically the section of the bill that creates the School Employees Benefit Board and Program at the Health Care Authority. We’ll go through at a high level so you know what is ahead of you. The full bill is behind Tab 6 in your Briefing Book.

**Dave Iseminger:** You’re only going to get a copy once, so just make sure you have it with you. We wanted to make sure everybody had a copy, but we’re not going to print it out every meeting.

**John Bowden:** Today I will go through the key points of my presentation: 1) what was the legislative vision behind creating the SEBB?; 2) who is going to be covered by the SEBB Program?; 3) what is the statutory role of this Board; and 4) focus on seven primary duties that are contained within the statute. We will discuss considerations that were found in the statute for what this Board should think about in putting together benefit packages. There is a timeline with key discussions and activities. We’ll finish with a recap of the SEB Board’s responsibilities and roles.

There are about 250,000 school employees and dependents in this state that would be part of the SEBB Program. Currently those employees serve in school districts, ESDs, and charter schools. There are probably at least 450 health plans employees can choose from at an annual cost of around 1.2 billion dollars. The first thing the Legislature was looking for was to bring all of those individuals into a single risk pool. The School Employees Benefits Board was given two very specific overarching goals:

1) to design and approve insurance benefits plans, and 2) to establish the criteria. There are seven overarching ones. The third main part of the Legislation was the bill named the Health Care Authority to administer the SEBB Program as a single state agency for purchasing health care services.

Again, those eligible for the SEBB Program are the employees of the 295 school districts, nine Educational Service Districts, and ten charter schools. Two more charter schools will be coming online in the fall and statute allows up to 40 charter schools in the state. Employees in these various entities must work at least 630 hours per year to be eligible. This Board has some authority to add other eligibility criteria. Specifically, those eligible are dependents of school employees, to include legal spouses, state registered domestic partners, children up to age 26, and children of any age that have physical disabilities, mental illnesses, or intellectual or other cognitive developmental disabilities.

For the current retired public school employees currently in the PEBB Program, statute has them and disabled employees remaining in PEBB until the Legislature makes a future determination. The Health Care Authority will conduct a study as to the most appropriate risk pool for these subscribers and submit a report to the Legislature by December 15, 2018. This study will be done in consultation with this Board, as well as the Public Employees Benefits Board.

**Lou McDermott:** John, what I'm hearing is that all actives and their dependents will be in the new pool.

**John Bowden:** Correct.

**Lou McDermott:** No retirees.

**John Bowden:** Correct. No retirees until that determination is made by the Legislature.

Slides 7 – 10 introduce the seven statutory roles of this Board.

**Statutory Role 1:** Study matters connected with health care coverage and other types of insurance such as disability, life, accidental death and dismemberment, and liability.

At our next meeting, we will present information about health care trends and types of coverage. Last week a survey was sent to school districts, ESDs, and charter schools asking about the current array of benefits offered to employees. On December 11 we'll bring that information back to you on the types of insurance coverage employees currently have.

**Lou McDermott:** John, is there a statutory requirement of what the Board will provide? Is there a minimum and a maximum?

**John Bowden:** Yes. There are some listed that are considered basic benefits, such as health care coverage, life insurance, dental, and vision, in case you differentiate between medical, dental, and vision under health care. Life insurance and some of the other ones will be up to this Board in terms of liability.

**Lou McDermott:** My experience is on the PEBB side, but on the PEBB side for life insurance you have a component of life insurance that's paid by the state and you have a component of life insurance that is paid by the member, the optional insurance. Is there any contemplation on state paid benefits versus optional benefits in SEBB?

**Dave Iseminger:** The Legislation describes that the Board would have a benefit design for life insurance and does not get into the granularity of employer paid versus employee optional. The Board would have some discretion within the funding structure for the various benefits to describe optional benefits that could be paid for by employees and set that premium, as well as the benefit design for those optional pieces.

**Patty Estes:** You said that there was a survey that went out?

**John Bowden:** Yes. It went to all school districts, ESDs, and charter schools.

**Patty Estes:** Whether they're in PEBB or not?

**John Bowden:** Correct, because even if the school district or ESD are in PEBB right now, the full array of benefits might not be within PEBB. Some of the questions that we need to know answers to go beyond the Health Care. We're getting responses already.

**Patty Estes:** I haven't seen it yet, I haven't gotten mine.

**Dave Iseminger:** The survey went to business officials and the administrators to describe the benefit offerings. It didn't go to school employees. It's a survey that asks if you offer short-term disability, do you have a cafeteria plan? What is in your cafeteria plan? It's the benefit structure pieces because although the Health Care Authority has produced a variety of reports over the years about different options the Legislature had for school benefits consolidation, the vast majority of those studies centered specifically on medical insurance. This survey is designed to capture the other benefit offerings to inform the Board about what's out there and the different impacts that would have for transition for the consolidation efforts for all of the benefits.

**Patty Estes:** Okay. Thank you.

**John Bowden: Statutory Role 2:** Develop plans that include comprehensive, evidence-based health care benefits.

**Lou McDermott:** I have a question. When it says develop plans, is there an assumption there is more than one? Is there any requirement in the statute to plural?

**John Bowden:** There is currently a statute based on Senate Bill 5940 that passed a few years back laying out different types of plans for school employees like one with a high deductible and others; but once the SEBB Program goes live on January 1, 2020, I don't know if that would stay in effect.

**Dave Iseminger:** The legislation also says there can be a variety of offerings from self-insured to fully-insured so there's discretion for the Board as to exactly how to fulfill that requirement, whether the array of benefits would include self-insured and fully-insured or just a subset of those offerings.

**Pete Cutler:** The language that requires the PEBB Program to offer the high-deductible plan, is that language similar to what is included in the requirements for the SEBB plans?

**Dave Iseminger:** The offering of a high-deductible health plan is not in the current legislation that was passed in House Bill 2242. Our understanding is that was the intent, but the words didn't appear in the legislation that was passed. We may see that cleaned up in the future from the legislative side. There is a requirement that the Health Care Authority and the Public Employees Benefits Board have a high-deductible health plan, and the language in the PEBB statute mirrored that which was in the school districts. So that's why the intent. Although it's not stated for SEBB, it is understood that would likely be a required plan offering.

**Pete Cutler:** And it is, as far as you can tell at least a permitted option from this statute should the Board want to go in that direction?

**Dave Iseminger:** Correct. There is definitely that discretion.

**Wayne Leonard:** Question on the study matters connected with some of the types of insurance that you've indicated that there currently would be optional benefits in a school district. Are you suggesting that the optional benefits could be purchased with the state allocated health insurance money?

**Dave Iseminger:** I think it depends a little bit about how we are each using the word optional. Traditionally at the Health Care Authority, when we talk about an optional benefit we refer to that as something that is paid by the employee. For example, we have a life insurance that has a basic plan, that is state paid, and then an optional add-on plan that employees can pay. But technically, many of our benefits can be waived. From that perspective, one might call them all optional. It depends on exactly how you are using optional. But, we've used it traditionally in the sense for what's employer paid versus what's employee paid. Did that answer your question, Wayne?

**Wayne Leonard:** I think so. Currently, at least in my district, we have group life, which is a relatively nominal amount, a group disability, dental, vision, medical, then auto and home insurance would not be something that the district would currently provide even as an optional benefit. An employee could purchase additional life insurance or



additional other type of insurances, but they wouldn't be considered part of the basic five benefits or the basic benefits package.

**Dave Iseminger:** Correct. I think that does hit the different ways that one can use the word optional in this context. The Board could make the decision that you don't want to offer an auto and home policy, but rather access a discount with the purchasing power as a consolidated pool and offer a discount as an entity. There's a full range of ways to do those, whether a benefit is offered and then the payment mechanisms as to whether it is employee paid or employer paid.

**John Bowden: Statutory Role 3:** Authorize premium contributions that encourage cost efficient health care systems.

**Sean Corry:** John, what does it mean to encourage cost efficient health care systems with respect to premium sharing contributions?

**John Bowden:** Again, going back to Senate Bill 5940, there's a statute currently that says all employees must pay something for the cost of their health coverage and pay more for the richer of the plans. The idea is that every employee would have something in the way of either their portion of the premium, co-pays, deductibles, etc., that would have them think about what types of care they were going to receive and to make sure they didn't just get health care because it was available at no charge. There might be other aspects of encouraging cost efficiency as well. I think some of them had to do with preventative type wellness programs, not just premiums.

**Statutory Role 4:** Determine terms and conditions of eligibility criteria, enrollment policies, and scope of coverage.

**Wayne Leonard:** John, on number 4 you talk about determine terms and conditions of eligibility. On the previous slide you said eligibility was already in the statute at 630 hours. What I'm gathering is that doesn't necessarily determine what you're eligible for?

**Dave Iseminger:** I'll field this one. The eligibility requirements that are in statute, the only parts of the eligibility are the 630 hours per year requirement, as well as certain dependents must be included within the benefit offerings. That is a very foundational aspect of eligibility. Our experience at the Health Care Authority is that there are many permeations of employees and ways to count hours, ways to combine hours, and who counts as part time. We have pages upon pages of eligibility rules within the Public Employees Benefits Board Program and we imagine that there are similarly complex situations to talk about with SEBB. There are different types of employees and this Board has the authority to add scaffolding to that foundation and define the exact, specific granular nature of the eligibility and the various permeations that exist within the employee world. The eligibility framework will probably take a very long time to build and we'll get to where that is on the timeline. It will be an ever-changing process. The Health Care Authority has robust experience with being able to try to describe different types of eligibility. Some of which the legislature may ultimately codify in statute. That's

what happened in the Public Employees Benefits Board Program; it started with a very minimal framework. The Board developed the scaffolding of eligibility rules, some lawsuits happened, and then more robust eligibility rules were put in statute. There may be some proactive pieces to put in statute after this Board does its work and has the expertise in refining those eligibility rules. Some of us describe it as a floor on which to build and others say there is a ceiling and you have discretion below that ceiling. There's a framework and then you build from it.

**Sean Corry:** John, Dave, in the survey that was just sent out to districts, is there a question or set of questions that ask about employees who currently have benefits who are below 630? Are we going to be able to see, at some point reasonably soon, whether that cut affects employees of districts?

**John Bowden:** The survey that just went out did not include a question about numbers of hours. It's looking at just what are the different types of benefits currently offered to employees. We have another data collection piece that we'll be doing early in November, most likely, that will get to some employee specific information and the number of hours that each current employee is working as part of that. The survey that I was just talking about didn't contain hours.

**Statutory Role 5:** Determine terms and conditions of participation for employers and individual employees.

**Statutory Role 6:** Establish penalties when an employer fails to comply with established participation criteria.

**Pete Cutler:** Can I clarify? Is that, in other words, saying that establish penalties if an employer doesn't actually administer the eligibility criteria that are adopted by the Board?

**Dave Iseminger:** Very articulate way, yes. This may have been born from some of said litigation I referenced a few minutes ago, but it is a mechanism by which the Board has the power to help ensure that eligibility is administered correctly by school districts in this instance, or the employer.

**Pete Cutler:** I can say my past experience with retirement systems and with this agency, the difference with one from the beginning, retirement systems had the authority to tell employers these are the rules, you will follow them. It was not quite so clear cut with this agency for many years. So it would be nice to get that real clear from the get go. Thanks.

**Dave Iseminger:** The other piece, just to level set for everyone, this agency doesn't administer the eligibility determination for every employee in the state system, nor will it be the entity that does the actual eligibility determination on a person-by- person basis for each school district employee. This agency provides support to the home agencies, HR staff, and benefits officers to be able to train them about the eligibility requirements.

But the requirement to actually administer the eligibility rules and offer the benefits lies with the home school district in this instance. That's why this piece comes into play to be able to ensure there is a mechanism by which if a school district or an employer is not administering rules as foreseen by the Board, there is a mechanism by which to ensure that they are following those rules.

**Wayne Leonard:** I had a quick question on the eligibility of individual employees. Would School Board Members be covered under the SEBB plans? I thought I saw something about that in the statute.

**Dave Iseminger:** We'll follow up with you on that one, Wayne. I'm not comfortable answering that one sitting right here today. This is just one of the many pieces of eligibility that starts to get complicated pretty quickly. We'll follow-up and make sure as we build the eligibility framework that we can answer that question about School Board Members.

**Wayne Leonard:** Okay, because for most of our School Board Members they probably wouldn't meet the 630 hour requirement.

**Dave Iseminger:** Right.

**John Bowden: Statutory Role 7:** Participate with the Health Care Authority in approving plan specifications and carrier selection leveraging efficient purchasing by coordinating with the PEB Board. The PEBB Program has over 300,000 covered lives and SEBB is likely to have 250,000. Between the two of them, quite a lot of opportunity for leveraging. There will be lengthy conversations when it comes time to go out for our procurements and select the plans.

**Dave Iseminger:** I will provide clarity about the approving plan and carrier selections. The agency will administer the procurements for benefits, do the scoring and evaluation process. We'll bring you the results and you'll make decisions about what plans to offer. That's the consultation part with the Board. The Board wouldn't be able to start the process by saying what carriers to select plans from. The Health Care Authority will make sure we have an open procurement that follows state procurement laws.

**Patty Estes:** Would that be similar to what PEBB is doing currently?

**Dave Iseminger:** Yes.

**Lou McDermott:** John, I have a question. The school districts that are currently in PEBB, will they need to switch on January 1, 2020? And actives?

**John Bowden:** That is correct for both.

**Patty Estes:** Just to be clear about what this is, all schools in all school districts in this state will now have to switch to whatever we decide on January 1, 2020.

**John Bowden:** Correct.

**Dave Iseminger:** Benefits authorized by the Board and administered by the Health Care Authority.

**Patty Estes:** Perfect, thank you.

**John Bowden:** Slide 11 shares some considerations that this Board is asked to make in terms of developing health care plans that are contained within statute. They are: maximize cost containment, ensure access to quality health care, offer wellness preventative care and chronic disease management services, effectively coordinate benefits, and leverage efficient purchasing by coordinating with the Public Employees Benefits Board.

**Pete Cutler:** Can you elaborate a little bit on the effective coordination of benefits, what's that intended/referred to?

**John Bowden:** An example would be coordinating benefits between an employee and spouse if they are both state employees. There might be more to effective coordination, but nothing specific contained in statute at this time.

**Lou McDermott:** It might be referring, as well, to other insurance, Medicare, things like that. Coordination of benefits.

**Patty Estes:** Are we talking outside of SEBB, as well?

**Lou McDermott:** Yes, you have to. Basically if you're within an insurance product and you have another insurance product, than the person is dually covered. You're Medicare, but you're buying a supplemental. There needs to be a coordination between those two plans. That's basically what it means.

**Patty Estes:** Okay, thank you.

**Pete Cutler:** Stated in other ways, coordination between different sources of benefit coverage or funding as opposed to saying coordination of services, which is a different type of dynamic.

**Lou McDermott:** Correct.

**Sean Corry:** One point to note is that coordination rules with insured plans are different and more robust than coordination that the state uses. For example, for self-funded plans we need to pay attention to that because it is not necessarily the case that the SEBB benefits and the coordination of benefits related to SEBB benefits have to be just like the states. It could be more generous to participants who could choose to at least move in that direction.

**John Bowden:** Slide 12 lays out a timeline of things this Board will be considering and work that the Health Care Authority will be doing. It walks you through starting with our meeting today to January 1, 2020 when benefits are to be available to employees. First, there's the Board's groundwork, discussing health care trends and different types of coverage. Next there will be a discussion around benefit options. This is where the information from the survey I mentioned will come back and you'll know what employees currently have available to them. You could make decisions about different types of benefit options for us to look into further.

We then have a time period to talk about eligibility and make some determinations about who is going to be eligible for what types of things and who can participate – employers and individual employee participation. At the same time, HCA staff will bring back the results from the procurement and contracting process. Then you'll be making decisions about premium contributions employees would make for their coverage. Then negotiations start and we learn from the Legislature what appropriations were made to help pay for the benefits. The open enrollment period is in the fourth quarter of 2019. Employees will make selections about what types of benefits and coverages they would like for themselves and their families.

Underneath all of this is the constant communication process. We have an active website now for the School Employees Benefits Board Program. There's not a lot of content yet. We'll be adding more content to make sure employees and those people within school districts, ESDs, and charter schools that assist the employees know what's coming and make the decision that's right for them.

Then a quick reminder on the timeline, in terms of the retiree study that's due December 15, 2018, we'll be starting that soon.

**Dave Iseminger:** The one piece that isn't on Slide 12 that impacts this Board's decisions is the collective bargaining process. Collective bargaining is slated to begin sometime after July 1, 2018. That's in the legislation in the appendix, Section 8.17 & 8.18. That pervades some of these pieces. I want to acknowledge that part of the legislation and the impacts of the collective bargaining process. As more information comes available, we'll be presenting that to you.

**Lou McDermott:** Dave, it looks like there are two key components that are going to be coming into play: 1) this current legislative cycle. I would imagine there's going to be more work done on the bill to try to fill in some of the blanks, and 2) the collective bargaining process to inform for premium setting, wellness programs, and whatever else gets bargained.

**Dave Iseminger:** That's correct. There are a variety of different pieces that different stakeholders have noticed need some addressing during the short session. One piece is whether the intent is that a high deductible health plan be part of the SEBB offerings. We will brief the Board during the short session about any pending legislation that could implicate your work, your authority, and your decisions.

**Sean Corry:** Dave, do you think there are some things in your mind that you haven't articulated other than the high deductible health plan aspect of this that we should consider before the legislative session because there are changes on the table that we might not hear about, but things that we might need to deal with before the session. Is there anything in that category?

**Dave Iseminger:** As we lay the groundwork over the next couple of months, that's when pre-filed bills would come from the Legislature. We would know if there were implications to the SEB Board before you start making general decisions.

In the January timeline we would have an idea of what's being considered in the legislative process. But part of the reality of this program is there's a lot of work and a lot of dependencies on different timelines to get to the end. We'll just keep presenting you with the best information we have at that time and we're all going to have to feel comfortable with the ambiguity. Today is to level set what your authority is, what the relationship is with the agency, and keep you informed of what we know as we go through that process.

**Pete Cutler:** Dave, just to clarify two points about collective bargaining. Are we talking about the statewide collective bargaining with the Governor's Office?

**Dave Iseminger:** Correct.

**Pete Cutler:** And so it's a statewide coalition. Did the legislation end up with a provision parallel to state employees where the bargaining can only be for the dollar amount to be contributed and cannot go into benefit design, or eligibility, or other criteria?

**Dave Iseminger:** The requirement is a statewide collective bargaining process, that is the other part of this consolidation effort related to your first question. As to your second question, the language used for the SEBB collective bargaining mirrors that which is in the PEBB statute.

**John Bowden:** To recap or discussion, first we'll study all insurance matters, health care being the major one, but others as well. HCA staff will put together a process for procuring, but we'll have conversations with you about design and approving the final set of plans. We'll discuss eligibility criteria and enrollment policies, encourage cost efficient care systems, authorize premium contributions that the employee makes, determine the terms and conditions of participation for both the employer and the individual employee; and lastly, leverage benefits and coordinate with the Public Employee Benefit Board.

**Lou McDermott:** John, I have a question on the premium contributions. If the Board authorizes a particular premium contribution, can the school district then off-set that

premium contribution for their employees if they wanted to, or is it prohibited by the Legislature?

**John Bowden:** I think given this was part of Engrossed House Bill 2242 that dealt with school funding overall, I'd say no. The school districts were not to be adding additional pieces in.

**Dave Iseminger:** We'll keep exploring. A lot of these questions are interrelated to the funding mechanisms and there are many pieces that still need to be fully understood. We'll be able to answer those questions and all of the other ones that you come up with in the next months and years.

**Lou McDermott:** I was thinking about the challenge of communicating. We sent the premiums and they could get changed throughout the state. That'll be interesting.

**Patty Estes:** Will that be something we could set? That once we set them they cannot be changed?

**Lou McDermott:** I don't know. We'd have to discuss with our attorneys and determine what the statute is saying, what is the Board authority, and what is the HCA authority, and what is the authority of each of the school districts? I don't really know the answer. We'd have to look at that one.

**Dave Iseminger:** I'll be a broken record on this, but as we move forward there are a lot of complicated questions that we'll explore. As we hear these things from you, it will help us put future presentations together for you. It sounds like that is one of the specific areas you want to understand - your Board authority and the agency's authority, the prohibitions or what the full lay of the land is on optional add-ons.

**Terri House:** We talked about certain districts that are already covered by PEBB, like the University of Washington. Would it be possible to see a breakdown of their plans to get a better idea of what they look like and what our formulation might be?

**Dave Iseminger:** That is on the horizon for the December meeting I believe, the same time that we present survey results about what the districts are offering and what that range looks like. We'll also be describing the general PEBB benefits that could be leveraged by the Board for some of the benefit offerings, provide a breakdown of who's in PEBB so that you have a little bit more of an understanding of what that framework is and who the agency has served before.

**Patty Estes:** It was helpful for my school district when looking at benefits to know who's enrolled in what? I know the survey asked what is offered, but what are they taking?

**John Bowden:** That will be results from the second piece, the profile information about each employee, so we can do some aggregations of different plan selections and things of that nature.

**Dave Iseminger:** This first survey is what's offered. We'll do a two-tiered survey in November. One of which is asking the school districts to describe the things you are asking about, as well as the eligibility framework that's been applied, and what types of employees are eligible for benefits or not eligible for benefits and what the contributions are and the tiered structure of premiums based on single subscriber and full family. All of that level of detail is in the second survey. At the same time we'll also be asking for carrier data, about different plan enrollment for the major benefit offerings.

**Lou McDermott:** Let's take a 15 minute break.

Our next presentation is an overview of the Health Care Authority. Materials are behind Tab 4.

### **Overview of the Health Care Authority**

**Dave Iseminger**, Acting Director, ERB Division, **Scott Palafox**, Acting Deputy Director, ERB Division: Scott and I are here to talk about the relationship between the agency and the Board. What does the agency do, its experience, and then Scott will describe the nuts and bolts of what the Division handles on behalf of the agency and what our charge is. The Health Care Authority is the state's largest health care purchaser. At this point, between Apple Health, Medicaid Programs, and other medical assistance programs on that side of the house, and the Public Employees Benefits Board Program, we have roughly 2.2 million lives. That means we purchase care for approximately 1 in 3 non-Medicare Washington residents. Through this purchasing power, we hope to create reliability in what has been a very unpredictable and complex health care environment in the past and try to provide a little more predictability there.

We lead state efforts to adopt new sustainable advancements in health care, and then we work on transformation efforts to modernize the efficiency of our health care delivery system. Our agency, in general, has a mission called Healthier Washington. We have a vision of a healthier Washington with a more sustainable system, stronger communities, healthier people, and strong access to various health care options.

As we move on, I want to describe this agency from a financial perspective. The numbers on Slides 3 and 4 are from the last biennium, and for those of you not familiar with the concept of biennium, our state operates on a two-year budget cycle. The 2015-17 biennium represents July of 2015 through June of 2017. When you look at our agency, the vast majority of the expenditure is on the benefits side. We have a 3% administrative budget, and our two largest programs represent, with the benefits payments, the vast majority of the expenditures that go through this agency. As of the last biennium, we had approximately 1,200 FTEs, or roughly the employee count of the agency. I wanted to give you a relative comparison for what you might expect, roughly the lay of the landscape. These aren't the exact same numbers, but just to proxy by



comparing what the budget, size, and scope of the Public Employees Benefits Board is, the budget for the last biennium was approximately \$4.3 billion, 95% of that again being benefits. That's the claims pay-out for medical, dental, life insurance, long-term disability. All of those benefit payments are represented in that \$4.1 billion. The administrative budget of \$200 million includes the staff in the Health Care Authority and the third-party administrator (TPA) fees that we pay to our TPAs for our self-insured medical and dental plan. Of that \$200 million somewhere between 15-20% of that budget, or around \$15-20 million, on an annual basis for the PEBB Program has been appropriated for the administrative function in the Health Care Authority.

I want to highlight what the administrative budget looks like for your program. It's not on a slide, just a talking point. During the last budget cycle, the Legislature appropriated \$8 million for the current biennium for the SEBB Program. That is the full biennial appropriation, which for the Public Employees Benefits Board Program for the next biennium, an annual appropriation is about \$17 million. We expect some efficiencies from leveraging Health Care Authority staff. The fiscal note for House Bill 2242, which is out on the Legislative website, describes that on an annual basis the agency estimates approximately \$10 million is needed for administrative work at the Health Care Authority. The biennial appropriation that is described in the fiscal note is about \$20 million, the appropriation from the Legislature was \$8 million. We've already been working on presenting the decision packages and the funding requests for this upcoming supplemental budget process to be able to address that difference. I just want you to be aware of where the administrative appropriation was this last budget cycle in comparison to what the agency projected are the needs for the program.

I will provide a high level preview about our Clinical Quality Care Transformation Office which is led by our Chief Medical Officer, Dr. Dan Lessler. Dr. Lessler will be here at the November 6, 2017 meeting to give more detail about the vision of the clinical purchase for the agency. I'm going to do a preview of that.

The agency's approach to Clinical Quality is we're working toward single evidence-based informed standard of care that guides clinical decisions across the agency's programs and would be adopted as clinical policies within the benefit offerings within those programs. Those three major programs for the agency being Apple Health for Medicaid, the Public Employees Benefits Board Program, and the School Employees Benefits Board Program. The idea being although the populations have unique aspects, clinical decisions are really driven by outcomes and using those clinical decisions across the benefits programs HCA administers, regardless of population. What this really looks like again is using evidence, science-based standards adopting those that provide the most effective health care, creating pilot projects within one of our programs, testing that out, seeing what worked, what didn't work, and then leveraging that back into the other programs that the agency administers; and then working overall to standardize methods to improve and increase access to quality health care.

How does this agency measure clinical quality (Slide 7)? We have a lot of different contract mechanisms that we use. Those performance-based contracts incorporate

national and state measurements that have been agreed to by various parts of the health community in Washington State. They are evaluated by medical staff here that help administer our major programs, they're often reviewed by our Executive Management Team, and then we talk about how to incorporate and implement them in our various contracts. For the past several years, the agency has been sprinkling rather vigorously in our contracts with Apple Health and the Public Employees Benefits Board Program some of these clinical measurements. We set very high expectations and our contracts generally find a way to reward performance on that journey knowing that moving the needle takes time. We want to reward performance along that journey getting to those high standards that the agency has set.

**Pete Cutler:** I'd just like to confirm we'll be having a much deeper dive into these materials, these issues. Is that the November meeting?

**Dave Iseminger:** Yes, at the November 6 meeting Dr. Lessler will talk more about these areas. This is a high level, non-Chief Medical Officer, talking to you.

The Health Care Authority has administered employer-based benefits since its inception, which stems back into the late 70s or early 80s. There have been various iterations. Employer-based benefits this agency has experience with is major medical coverage for public employees, the state employees, and higher education, with vision and prescription drug coverage embedded in that medical benefit, as well as separate, stand alone, dental coverage. For both the medical and dental coverage, we have experience with both self-insured and fully-insured products. The difference of those being self-insured is where the state takes on the ultimate claims liability for all of the benefits; whereas for fully insured the carrier we procure benefits from is taking on that liability if the premiums don't cover the ultimate cost for that annual time period.

We also have an employee wellness program called SmartHealth that we launched January 2015. The current iteration of an online, web-based portal was from 2015. Our other benefits include life and accidental death and dismemberment insurance, long-term disability insurance, and then as an agency, we administer a salary reduction or cafeteria plan which includes a medical flexible spending arrangement, a dependent care assistance program, and a health savings account that is coupled with those high deductible health plans. The cafeteria plan also allows employees to use pre-tax payroll deductions to pay for their medical and dental or vision premiums. We have not, as a state, allowed the premiums for life insurance and disability insurance to be administered through the cafeteria plan because if they were pre-tax deductions on the premiums, then the beneficiary payout on the back end would be taxed. We ensure premiums are subject to tax so the payout on the back end isn't.

We also have a Voluntary Employee Benefit Association Medical Expense Plan (VEBA MEP). There are two VEBA MEPs in the state. There is the one that the K-12 system has experienced over time; and we have a separate, different VEBA MEP for higher-ed and state employees. We'll get into that more at a future date, but I did want to make

sure you know that when you see VEBA MEP that it is a different VEBA MEP than the one you may have already experienced.

We also have auto and home insurance. For the benefits that we've administered at HCA, it's been access to a group policy discount versus an actual insured product that is offered by the agency.

I want to highlight that the Health Care Authority also has experience with managing large benefit portfolios. This is just a snapshot about the scope and size of the Public Employees Benefits Board Program which you heard John reference several times as an area with which this Board is supposed to coordinate and leverage purchasing. As of September, the Public Employees Benefits Board Program has just over 370,000 covered lives in it. That includes the left-hand side employees and their dependents, as well as those on COBRA and members who are on approved leave, as well as all retiree members, which is on the right. That's both non-Medicare retirees who are those individuals that are too young to qualify for Medicare, as well as our Medicare retirees. What I want to highlight on this page (Slide 9) in particular is that bottom left-hand side in that yellow box. It says K-12: 7,232. That's the covered lives in medical benefits with those school districts that are currently participating in the PEBB Program.

Now people have the right, as Wayne and I described earlier, all benefits are technically optional because you can waive them. If you add in people who have waived medical benefits, but are enrolled in our other benefits, it's about 8,500 covered lives that are totaled from the K-12 system that are within PEBB benefits. The other piece I want to highlight on Slide 9 is on the right side in that yellow box that is the K-12 50,000 retirees. All K-12 retiree eligibility is in the Public Employees Benefits Board Program. As John highlighted, that did not change in this current legislation. That's the scope and jurisdiction of the Public Employees Benefits Board, but we do think that by having both of these programs within this agency the bridge to PEBB retiree coverage will be very accessible and known very widely throughout the K-12 system. We may see increased K-12 retiree enrollment when they transition benefits or if subsequent legislation changes the risk pools to whatever benefits they go to.

Slide 10 is a visual representation of those 70 school districts that are currently in the Public Employees Benefits Board Program. We have 70 school districts, five of the nine ESDs, and no charter schools have opted into the PEBB Program. Because of the framework that has existed for many years and what exists today, that PEBB benefits are an option to school districts on a district by district basis, along with all of their local authority related to benefits, they have the option of pursuing Public Employees Benefits Board Program coverage. The 70 participating school districts represent roughly 25% of the school districts, somewhere between 3-5% of the population.

School districts have a variety of bargaining units. Some of our districts have joined the PEBB Program with all of their bargaining units, and others have joined with just a subset of those employees. It takes roughly 60 days to be able to enroll in PEBB coverage so this is what's essentially locked in for this November. After this last

legislative cycle, but before this November, we did have five new school districts join the PEBB Program.

Slide 11 describes a bit about the Employees and Retirees Benefits Division. We have a variety of functions. Some aren't relevant for this presentation, or for the SEB Board, or for the PEB Board. I want you to be aware of the services and staffing functions here to support the SEBB Program. First of all, we have a Benefit Strategy and Design Section that really helps us with a long-term strategy and benefit design, exactly what it says. We have a group that helps with procuring benefits on an annual basis and managing those performance-based contracts to be able to work with the delivery systems, for example, to transform the health delivery system and also to be able to work on member escalation issues on an individual case-by-case basis. We have a centralized team of wellness folks who work on helping agency, or home agency staff. In this instance it would be school district employers, with being able to promote wellness activities and some of those preventative pieces that some of you have mentioned earlier in this meeting.

This agency also does the full account administration for retirees, the COBRA population, and any individual who qualifies for continuing coverage under the approved leave without pay rules. We design member communications specifically trying to target them so they get the level of information they need. We coordinate an annual open enrollment which starts November 1 for the Public Employees Benefits Board Program. We will work with you later on to determine exactly when in late 2019 the SEBB Program open enrollment should be. We have many years of experience with coordinating that open enrollment process. We train and support the home school districts or agency staff that are dealing directly with employees on doing eligibility determinations and offering benefits. And we onboard school districts, as well as other political subdivisions, into our benefits structure. And just as a reminder, until 2020 school districts will still have the option to join PEBB along with their other benefits. But as of January 1, 2020, they will have to transition to the SEBB Program benefits portfolio.

The agency or the division also monitors state law compliance and will bring things to you from time to time that say the benefits structure needs to change because of this legislation. We monitor and advise you of that. We have staff that do bill analysis and implementation. I'm keenly aware that last year we did approximately 268 separate analyses on bills and we had eleven people working on them. That's a very robust process, but we make sure to inform you of pending possible changes and their impacts to your program. We also work on rule making and policy and rule development that we've eluded to several times.

**Pete Cutler:** I have a question about the federal compliance. Back when I was working the area, the Affordable Care Act and I can't even remember what the term was, but with the employer mandated coverage requirements, I knew there were a lot of questions about how they would be applied, especially in the K-12 context with people

working various hours. Do you anticipate a discussion of that aspect of federal law as part of the eligibility discussion process?

**Dave Iseminger:** The short answer is yes, Pete. I'll just leave it there for now.

**Scott Palafox, Acting Deputy Director, ERB Division:** I want to spend time focusing on Slide 12, the benefit planning and procurement cycle. This is the heart and soul of what we do. This slide was created to formalize our process. It helps us answer questions for folks that come to us throughout the year with ideas. We can explain to them, depending on what time of the year it is, why we can't do something at that time. On the outside of the circle there's a chain of processes that occur for a calendar year. Then we dive into the circle for six more months in order for us to launch benefits. We commonly refer to this as our 18-month cycle, and there's good reason for that.

**Dave Iseminger:** I like to say that every 12 months, we have an 18-month cycle. It helps frame it for everybody.

**Scott Palafox:** To give you an understanding of that, right now it's October 2017 and we're actually in the phase of looking at benefit offerings that we'll be launching for January 1, 2019. That gives you some idea of how this works. We begin our voyage in July, August, and September when we start compiling some of these new ideas, or some that have been in the parking lot from the year before. Our Benefit Strategy and Design staff, which is led by Marcia Peterson, start compiling these ideas. We get into some deep analysis looking at impacts to our members, impacts to stakeholders, start looking at what our budget might need to look like. About August or September of each year, if we have budgetary needs, we send decision packages to our authorizing environment in hopes that we see that supported as the Governor's budget gets released in December.

So we're in October now. We've taken a real deep dive into some of the ideas that we plan to look at for 2019. We've done some analysis and prioritization of ideas. We'll check the Governor's budget in December to see if our decision packages were included. That gives us an idea of the support we'll get before we get into legislative session.

Around January or February each year we have a Board Retreat to talk about the list we created, get feedback, listen to the Board's thoughts and ideas, and then try to hone in on some of the more pressing priorities that we're going to push forward. March, April, May the Portfolio Management and Monitoring Section staff start working with the counterparts in our existing carrier side. They start discussing the new ideas we have, listen to their proposed changes, and then get into discussions through our Requests for Renewal process in what we refer to as our annual procurement cycle. Around May and June we start finalizing those things because we need to get our actuaries involved in our rate setting for premiums. All anticipating the completion of the legislative cycle so we can see what kind of funding is in store for us.

As you know, some of these cycles for legislative session have taken us all the way to the end of the day and so we're patiently waiting for them to complete their job and get us in a balanced budget. Once we have an idea of how supported we are by the Legislature and the budget, we have sessions with the Board to start prepping the Board for a final vote. In July we expect to have a Board vote on the new benefits and initiatives for the coming year.

Now we get inside the circle. This is the planning and implementation that needs to occur. Communications are prepared to get our members up to speed and we work with our employer partners in the agencies to help them understand the changes and initiatives that are coming all in anticipation of the November open enrollment period. January 1 we launch our new benefits. I want to caveat this model just to say this is the typical process. Obviously there are mandates and requirements that come that are outside of this cycle that we have to address. We try to fit it in as best we can, but being today is October 23, 2017, if somebody came in the door today asking us to put something forth for January 1, 2018, we would kindly say not at this time and probably consider it for 2019 or 2020. We're at the part of our cycle now that we're just getting ready for open enrollment.

**Dave Iseminger:** You might be trying to compare and contrast this with the timeline that John set forth in his prior presentation. John was describing the on ramp. Scott is giving an illustrative example of what a general cycle would need to take into account once we are in a steady state. The importance of Scott's slide is to show all the various steps of the authorizing process, their interrelatedness, and the specific times of the year. This is an illustration of what the future could look like. Each of these aspects would need to be taken into account in any ultimate cycle for benefits for the SEBB Program.

**Scott Palafox:** Slide 13 represents a summary of what I just talked about put into four different buckets: 1) the planning period, the idea generation, prioritization, start research and analysis of those ideas, and stakeholder what needs to happen; 2) Request for Renewal, what needs to move forward; 3) Negotiate with the plans and get involved in rate setting for our members to prepare for the July Board vote; 4) then to implementation and communications for open enrollment.

Slide 14, Rule Making and Policy Development. Barb Scott is our manager for our Policy and Rules Section. Her team is very experienced at ensuring we stay compliant with rules. They are experts when it comes to eligibility and enrollment policies and procedures. They will put forth resolutions that you may be asked to take action on at future meetings when policy resolutions are brought before the Board for consideration. These resolutions create the framework for the support we provide to the administrator of our employee benefits. Throughout the year, they conduct analyses of state and federal legislation to ensure there's no impact to our benefits. They help us review documents to ensure we are in compliance with state and federal laws and regulations.

**Dave Iseminger:** Barb has her team's first question, which is related to Wayne's, which is, "Where do school board members fit in that?" So, we'll get right on that.

**Scott Palafox:** I want to introduce Renee Bourbeau. She is the Manager for the Benefits Accounts Section. Her team manages the operations units within our Division. One of them is our Outreach and Training Unit. They provide training to the over 500 employer groups from state agencies to higher education, public colleges and universities, political subdivisions, and the K-12 folks we have. Renee's staff are responsible for ensuring that the Benefits Office and the HR and Payroll Offices in those agencies understand the changes so they can provide accurate eligibility and enrollment decisions. Our Outreach and Training staff provide support through the toll-free lines, emails, dedicated emails for employers to get ahold of them, documents, and presentations. On Slide 15, the last bullet says, "employers are equipped to help their employees understand plan options and the eligibility and enrollment processes." The intent and goal of that bullet is to provide employers with the information and tools needed so they can help their employees understand the options, eligibility and enrollment process.

Slide 17 discusses our member communications. We are fortunate to have our own communication team. This is the information on the SEB Board web page. This page will grow as time goes on. Our communications team is responsible for a lot of things we do. Throughout the year, there are several benefit newsletters that are sent to our members informing them of new initiatives, federal laws, or legislative proposals. They also help with communications for other types of letters that we send out and have to review those letters. They have to review those letters on an annual cycle to ensure they are still in compliance with some of the changes that have been made. They coordinate with our agency-wide team for any postings of information that needs to be shared. They help respond to media inquiries or help draft responses to our member correspondence as well. Our Outreach and Training staff are out in the field providing training materials for the employer groups; our communications team helps with the messaging, whether it's through FAQs or other benefits fairs information. They are the experts for us in communication.

**Dave Iseminger:** For anyone watching this on television or live-webbing now, or on the phone, we are really working on building up our web content. It currently has the Board materials, the Board schedule, a brief article that was conveyed in the newsletter that the agency sent to existing participating school districts. It explains that nothing changes for November 2017 and we'll tell you more soon. We really are beefing up that content. We're working on FAQs because we get a lot of similar questions. One of our survey questions was, "What are the top two questions you've been asked so that we can help build up our FAQs?"

We really hope that people will go to these websites. The structure will be built so that as content expands they're able to learn from whatever information we have available.

**Scott Palafox:** Our Call Center Customer Service staff deal with supporting our retirees, COBRA folks, or other types of continuing coverage such as approved leave of absence. They deal with escalating complex complaints. We also have an option for subscribers to come into our lobby and have a face-to-face visit with our staff, we have a toll-free line, and account web sites. When these subscribers have changes to their account, they will contact our Call Center staff to make these changes. This is different than our Outreach and Training staff who work with the employers. The employers are responsible for dealing with their employees' changes. We have two distinct processes for how changes are made. Call Center staff also review member's applications and other documentation again to make sure we are aligning with federal laws, rules, and other legislative mandates for enrollment and processes.

**Dave Iseminger:** While we provide customer service here for retirees and the COBRA population, the first line for any questions for employees is their home benefits officer or HR department. That's why we have the Outreach and Training unit to be able to answer those questions and train that staff to be able to engage in the original account-level questions. Just as an employee at the University of Washington would go to the University of Washington Benefits Office for their initial questions when they are an employee, that's what we would envision would also happen with school district employees they would first start with their HR department. If their HR department had questions, they would be learning the ropes from the Outreach and Training unit here. We would not expect the Customer Service call line to be used as the first line for questions on accounts from employees.

**Scott Palafox:** In closing, I want to provide you with a different perspective for what we do, with how we will support you. We are a relatively small division within this agency. There are about 1,200 staff in HCA and we are a division of about 60. Put together along with our shared services staff in other divisions, we accomplish a lot and we're very successful at the initiatives we put forth because we are very effective and efficient in how we approach these initiatives. Our staff are very dedicated and caring, and they're very passionate about what they do; and for good reason. Because it's personal. We have families, members, we have friends, colleagues we see in the hallway every day, as well as ourselves, and we're all members. When we think about decisions, we think about decisions that are going to impact a lot of folks that we know. If something doesn't make sense to us, we have to make sure to get it right. We sit down and make sure it is clear to us so that when we get out there and talk to our families, friends, and colleagues, we can easily explain what's changing and how it's going to impact them. This isn't just a job for us. We certainly have some skin in this game. We're a good sounding board for ourselves when it comes to making things right for everyone. Otherwise we have a lot of explaining to do when we get home.

**Dave Iseminger:** Or at Thanksgiving during open enrollment!

**Scott Palafox:** Or at Thanksgiving! If your family gatherings are anything like mine, everything is on the table. You try not to be the topic of that discussion. But, truly, we do serve our members well and we're actually very proud and honored that the



Legislature has given this agency the ability to administer the benefits for the K-12 program. Just so you know, when we get complaints, our complaints aren't generally about our service; it's about outcomes that we have very little control over. It doesn't stop us from looking at ways of minimizing those impacts to our members on a very systematic basis. When I think about the service we provide, I like to use the analogy of buying car tires. For most people this isn't one of those expenses that you truly want to spend your hard-earned money on. But if you want to drive your car and drive it safely on the roads, it's something you have to pay for. There are many companies that provide that service; but for me, I stick with one particular company that has always provided me with great customer service. I may walk away with a bill in hand that I'm not quite fond of, but it's no reflection of the service they provide. When we talk about customer service, it's really along those lines. My message to the Board, to the member's listening in on this presentation, or watching this presentation today, is that the Health Care Authority and the Employees and Retirees Benefits Division is a very dedicated group that looks after your best interests. We do great work. We enjoy what we do. We focus on good outcomes and we provide a genuine service that keeps the interest of our members in mind. Thank you for your time today and welcome to the Health Care Authority.

**Lou McDermott:** Thank you, Scott, Dave. Before our next agenda item, is there anyone that wants to provide public testimony?

Our next agenda item is training on the Open Public Meetings Act which is very exciting. I'm just kidding.

### **Open Public Meetings Act (OPMA) Training**

**Katy Hatfield**, Assistant Attorney General and Board Counsel: I want to start by saying that obviously we are in a public meeting right now. I'm not going into depth about legal advice for specific things, but that doesn't mean that you don't have access to me at other times; you do. If you have a specific question about any area of law including the Open Public Meetings Act, you are welcome to contact me. My information is in the materials. Or you can send a question to Dave and I do have the ability to communicate with you in a way where attorney-client privilege is preserved. I can send email to you over email and I also can, if there are questions that are appropriate to be answered in a public setting, I can take those questions and figure out how to present that to you in an open public meeting. So I just wanted to preface my statements with that.

The Washington's Open Public Meetings Act was passed in 1971 as a part of a nationwide effort. It is codified in the Revised Code of Washington in chapter 42.30. You have a full copy of the Open Public Meetings Act in your materials. It requires that meetings be open to the public, gavel to gavel. So that's very important for Lou to make sure he does the gavel at the beginning. It really is so that meetings, government affairs, are more open, accessible, and responsive to the public. It was modeled after a California law, that's known as the Brown Act. There is also a Florida statute that it's modeled after.

Sometimes there are situations where there is not case law in Washington that is applicable, but we can find case law in other states like California and Florida to help guide us if there's a tricky question that comes up. I really like this image where you can see the vampire being ruined by the sunshine coming in through the window. But, really, the Open Public Meetings Act and the Public Records Act are often times known as the Transparency Laws or the Sunshine Laws on the idea that they shine light on government. That it is the best disinfectant for government. And I did want to read to you the purpose of the Open Public Meetings Act which is in the RCW because the words are very strong. "The Legislature finds and declares that all public commissions, boards, councils, sub-committees, departments, divisions, offices, and all other public agencies of this state and sub-divisions thereof assist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly, and that their deliberations be conducted openly. The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."

When you look at case law in Washington State it also has interpreted the Open Public Meetings Act very broadly. The act is to be liberally construed in all circumstances except for the exceptions to the openness requirement which there are some of; there are opportunities for the Board to go into Executive Session, which is private. But the grounds for Executive Session are to be narrowly construed. And the Supreme Court has stated, "The purpose of the Act is to allow the public to view the decision making process at all stages."

When you look at who the Open Public Meetings Act applies to, it applies to multi-member public and state agencies, such as boards, commissions, committees, education institutions, counties, cities, school districts. However, it does not apply to an agency governed by a single individual. You might be wondering why not every single meeting that the Health Care Authority has is subject to the Open Public Meetings Act, and that's why because the Health Care Authority is led by a single man, Chair McDermott right there. So the Health Care Authority is not subject to the Open Public Meetings Act, but this board is a multi-member board and is subject to the Open Public Meetings Act. The Open Public Meetings Act also does not apply to the courts, the Legislature, conveniently, or private organizations. You might be curious as to what meetings are subject to the Open Public Meetings Act? All meetings of the governing body of a public agency shall be open; and what that typically means is any meeting of a quorum, which would typically be a majority of the governing body. When those persons are gathering with a collective intent to transact the agency's business regardless of whether or not it was an advertised meeting. For example, you do not need to have a contemporaneous physical presence. An exchange of emails or a process of individually polling board members with the concept of saying, "Oh so and so was going to vote this way. How are you going to vote? Let's figure it all out in advance."

That would be considered a violation of the Open Public Meetings Act. So what is the governing body? It can be two things: Usually it's a quorum of the multi-member board or any sub-committee of the board if the committee is acting on the behalf of the governing body. They have to have authority to be acting as, or on behalf of, the body, or any time that you have a committee that is meeting to take public testimony or public comment, or to conduct any sort of hearings. That would also be subject to the Open Public Meetings Act.

**Dave Iseminger:** Katy, can I ask you for an example? So for example, if this board created a by-laws committee and trusted that subset to enact by-laws on behalf of the board, those meetings would be subject to the Open Public Meetings Act.

**Katy Hatfield:** That is correct. But, if this board decided to have a by-laws committee that was just going to gather ideas, generate concepts, and bring it back to the board to make a final decision, then it would not.

One thing about the Open Public Meetings Act is that the term "meeting" is extremely broad. It means any gathering of the governing body at which an action is taken. An "action" is more broad than you could possibly imagine. It means anything. It means deliberations, discussion, considerations, evaluations, receipt of testimony, as well as the taking of a vote, which is defined in the Open Public Meetings Act as a final action as opposed to an action. The Open Public Meetings Act also applies to "meetings" that are not called meetings. For instance, if there is a workshop, or a retreat, or a study session, or a dinner, that also could be considered a meeting for purposes for an Open Public Meetings Act if the governing body is meeting for the purpose of discussing the board's business. So, one tip is not to "reply all" if there is an email that is sent out, for instance, there will be plenty of times when you'll get your materials for the next meeting. You'll get them several days in advance; you'll have a chance to look at them. Don't "reply all" to that email with comments about, "Oh hey, I don't like this idea." Save that for the meetings so that that discussion can be had in public. There also was a case that came out in 2015 called Citizen's Alliance for Property Rights versus San Juan County, which you'll never have to remember that again, but it was a big case from the Washington State Supreme Court where there was discussion about the concept of a serialized email or telephone exchange and the court left open the possibility that that could constitute a meeting if the majority of the governing body was having that serialized email or telephone exchange for the intent of transacting the governing body's official business.

**Dave Iseminger:** Katy, can you maybe discuss if say four of our board members are driving across the state together to come to our meeting. What they could or couldn't talk about in that car ride?

**Katy Hatfield:** Sure. That's Slide 9, Travel and Gathering. So the Open Public Meetings Act does expressly take into account that it is permissible to travel together, you can dine together, you can do anything you want together as long as you're talking

about your kids and grandkids, your vacation plans, and not talking about the business of this Board. And it is also important to keep in mind that action is defined very broadly. It includes any discussion about the agency's business.

**Pete Cutler:** If you have three or four members, but you don't have a majority, you don't have a quorum, do you?

**Katy Hatfield:** That's true.

**Pete Cutler:** So it would be that fifth member?

**Katy Hatfield:** True.

**Pete Cutler:** So, we could be rude and just say sorry you can't come out.

**Katy Hatfield:** Right, and the Open Public Meetings Act does not prohibit communications between the two of you or the three of you talking together; as long as you don't have a quorum that's discussing the agency's business.

**Dave Iseminger:** Or serializing it. We couldn't have the three of you talk together and then Pete could go talk to two more people and then Katy go talk to three more people. That's the serialized issue.

**Katy Hatfield:** That's riskier. So, a regular meeting is a recurring meeting that takes place on a periodic schedule. You guys are very fortunate that you have Connie who publishes the meeting schedule with the Washington State Register for you. I think she just takes care of all that for you so you don't have to worry about that.

The Open Public Meetings Act also requires that the agenda for the meeting be placed online no later than 24-hours in advance of the meeting. However, it does not restrict the Board from later modifying the agenda. It also does not restrict the Board from taking action on an agenda item that was not posted in advance. And, it does not invalidate actions that were taken even if they weren't advertised in advance.

A special meeting is one that is not regular (Slide 12). It is called by the presiding officer or majority of the members. A special meeting has to be advertised in advance 24-hours to each of the members of the governing body, as well as to any local newspapers of general circulation, radio or TV station that have put on file a request to receive such notice. It also has to be posted on the agency's website and displayed at the main entrance of the agency's principal location. The notice has to discuss the time, place, and business to be transacted. And unlike a regular meeting, at a special meeting you are not allowed to take a final action on any topic that wasn't advertised on the agenda. And again, Connie will do all of the work to make that happen if there is a special meeting.

**Dave Iseminger:** I don't think we have time for special meetings; we have too many regular meetings on schedule.

**Katy Hatfield:** The only time when a situation arises where you do not have to give 24-hour notice is for an emergency meeting if there is a situation where there is injury or damage to persons or property and the likelihood of such injury or damage would take place if you didn't have the meeting. It's hard for me to imagine that would come up for this Board, but it is possible if there was some kind of a major catastrophe or major earthquake or something. It is conceivable that there is something that this Board would need to address.

So, Open Public Meetings Act requires that the public be authorized to attend the meeting. The agency cannot place conditions on the public to attend the meeting. You cannot require that people register their names. You cannot require that they complete a questionnaire, pay a fee or anything like that that would be a condition precedent to their attendance. However, you are authorized to set reasonable rules of conduct. There's an Attorney General's opinion that came out almost 20 years ago now that found that cameras and tape recorders are permitted, so we have that today, unless they are disruptive; in which case they do not need to be allowed. Also the Open Public Meetings Act does not require public comment, which is unusual or interesting, I guess. But, most boards as a matter of practicality do allow public comment. You are authorized to limit that in terms of the numbers as well as the time. There is a provision in the Open Public Meetings Act that we can deal with if it ever comes up, where if there's somebody in the audience or even a Board member that is so disruptive that the meeting cannot continue, and hopefully that won't happen, but if it does we have options.

**Dave Iseminger:** I have been part of a board that had that happen before. So if anyone wants a war story another time. They chained themselves to the dais and wouldn't leave. So, that's why we have a table.

**Katy Hatfield:** So in terms of my role as your attorney, the most common question that's likely to come up that you might want legal advice about, or that Mr. McDermott might ask me legal advice about, is whether or not this Board can go into Executive Session where the public is excluded from the meeting. An Executive Session is limited to very specific purposes that are listed out in the Open Public Meetings Act. The purpose of the Executive Session and the reason why the public is excluded, as well as the time the Executive Session must end, has to be announced by the presiding officer before it begins. So if you have set a one hour Executive Session from 12-1, the public meeting is supposed to begin at 1:00. Let's say you need more time, you need another hour. That's fine, you just need to come in and announce to the public that it will be another hour so that the public can be here when the public meeting starts. No minutes need to be kept as a part of Executive Session. This is an interesting point because some Boards do keep minutes of Executive Sessions and then they want to know how to keep them confidential. That's very difficult under the Public Records Act. So that's something to consider.

**Dave Iseminger:** Although we have very robust ways of having transcripts of these meetings, at least unless this Board has other guidance, the plan would be to not have minutes taken of Executive Sessions.

**Katy Hatfield:** And then also, no votes can be taken in Executive Session. You can have all of your deliberations in Executive Session, but the vote itself has to take place during the regular open public meeting portion. There are specific reasons that a Board can go into Executive Session. The two most likely reasons that this Board might go into Executive Session is: 1) to meet with me regarding litigation or potential litigation if certain conditions are met and 2) to consider the proprietary or confidential, non-published information relating to the development, acquisition, or implementation of state purchased health care. So details of contracts that bidders have deemed as proprietary, or trade secrets, or something like that.

**Lou McDermott:** Or national security, right?

**Katy Hatfield:** Or national security. Yes, it's less likely, but also conceivable. That would also apply, for instance, if there was any form of actuarial formulas or cost and utilization data that was deemed proprietary. In August of 2017, just two months ago, there was a new formal Attorney General opinion that was issued that concluded that participants in an Executive Session, the Board Members themselves, have a duty under the Open Public Meetings Act to hold in confidence information that they have obtained in the course of a properly convened Executive Session. You can't come to an Executive Session, learn all of the attorney-client privileged information about the litigation that's ongoing, and then go back and communicate that with your school district who may be a plaintiff in the lawsuit. If you want to read that Attorney General's Opinion, they're all located on the Attorney General's website, [www.ATG.wa.gov](http://www.ATG.wa.gov). It's easy to find and they have them broken out by topic. But, this is the most recent one.

**Dave Iseminger:** Or if you're having trouble remembering that or finding it, ask Connie and we'll send it out.

**Katy Hatfield:** Yes. So again a final action is a collective positive or negative decision, a vote by a majority of the governing body or a committee thereof that has authority to make decisions for the Board. Votes have to be taken in public, even if deliberations were in closed session. Secret ballots are not allowed. Your vote is attributed to you as a person.

Minutes have to be taken for all regular and special public meetings, but not for Executive Session and there's no format required in the law. The Health Care Authority's tradition, at least for the PEB Board, is to have very robust minutes. I assume that will continue unless the Board says otherwise. Slide 21 identifies the actual penalties under the Open Public Meetings Act. A court could impose a \$500 civil penalty against each member personally for the first violation and \$1,000 for a subsequent violation, as well as can nullify the decision that was made

by the Board in a non-Open Public Meetings Act compliant meeting. The court can also award cost of attorney's fees to any person who challenges it. That's the actual penalties for an actual violation. If you look at Slide 22, these are headlines, and these do not actually mean that a violation took place. Some of these are just allegations about violations. So when you're thinking about having the Board all go out for lunch and just talking about your kids or grandkids, there could potentially be a perception of a violation even if one did not occur. It's just something to be aware of, and to have in the back of your mind. Not all of these headlines were because there was a violation, but there was merely an allegation of a violation.

**Sean Corry:** Katy, I have two questions. One, for other members of this Board related to something you said. If there's information disclosed in Executive Session, say information from a vendor, some of these Board members are employees of school districts. Are they precluded from telling their superiors information that they heard here?

**Katy Hatfield:** If it was during Executive Session, yes.

**Sean Corry:** Yes, that's what I meant.

**Katy Hatfield:** Yes, unless we decided otherwise.

**Sean Corry:** Then secondly, from my insurance broker's perspective, many of our clients, non-profits for example, have insurance that indemnifies or at least provides some defense coverage in cases of claims that might be violations of alleged violations, of practice, or policy. Is there indemnification for this Board and members of the Board if we get accused of violating the Open Public Meetings Act?

**Katy Hatfield:** We'd have to look into that to know whether there is indemnification or not in terms of the defense. I do know that the penalties, if imposed, are personal. But, I don't know whether or not the Attorney General's office would defend the case on your behalf. We would have to look at that on an individual case-by-case basis.

**Sean Corry:** That's the reason why Boards generally buy this coverage is to get legal defense. I can't imagine anybody here, or us as Board or individuals, getting into trouble in this way. I'm just curious about legal defense.

**Katy Hatfield:** We can look into that for you if you like.

**Sean Corry:** All right, thank you.

**Katy Hatfield:** So, in terms of risk management tips, I encourage you to establish a culture of compliance with the Open Public Meetings Act, to receive training on the Open Public Meetings Act which you now have done. There's also training available online. We'll get to it in a little bit, but there is training available on the Attorney General's Office website that's very comprehensive. I encourage you to review

resources that are available to you and institute best practices, and keep updated on current developments in the Open Public Meetings Act. It can be amended by not only legislation, but if there is a new case. If anything major happens I will let you know. Also please remember that you can contact me if you have specific questions. I can do legal research. You can ask Dave, and depending on the question, it might be appropriate for me to contact you individually or to send an email to the whole Board or to address it in the public meeting just depending on what the question is.

All members of governing bodies of public agencies are required to take training. This counts, so you are now current. You need to take it every four years. Connie is going to keep track of it for you. Slides 24 through 26 have web site information where you can get access to the Attorney General's Office, manuals about the Public Records Act, as well as the Open Public Meetings Act. It is very comprehensive and helpful and it's updated at least annually after the legislative cycle is done. If you have a specific question, you may want to look there first, and then ask me second. There is also a lot of materials available on the Municipal Research and Service Center's web site, the MRSC. They have practice tips, check lists, all kinds of useful information. If you have a question, I know that quite a few of you are coming from schools and so you might be familiar with the Open Public Meetings Act. Some of you are coming from the private sector where you might not have had to deal with it before. It's a good place to get baseline information.

**Lou McDermott:** Any questions for Katy? Are you going to get the response back to share at the next Board meeting regarding indemnification?

**Katy Hatfield:** Possibly, or I might send it out in an attorney-client privileged manner to the Board. I'm not certain yet of what it will be. We will get it back to the Board and it might be at the next meeting.

**Lou McDermott:** Okay. Does anyone want to provide public testimony? Anyone on the phone? Seeing none, Dave any last minute thoughts?

**Dave Iseminger:** This was the first in a series of transparency laws that we'll go over with the Board. The Open Public Meetings Act was a priority because of the potential for carpooling. It is also statutorily required within 90 days. We'll bring Katy back to provide information about the Public Records Act, and the Executive Ethics Laws. We'll try and space these out for you over time to make sure you are aware of your obligations as Board Members under various state laws, in addition to the various pieces you have as part of the gubernatorial appointment process to sign off that you've done. We are going to continue going through a series of laws that impact your membership as a Board Member.

**Katy Hatfield:** And if you want any particular training, let Dave know.

**Lou McDermott:** Our next Board meeting in November 6 from 1 p.m. to 5 p.m. I want to thank everyone for coming. Thank the Board and staff for all of the presentations. I know there is a lot of work that goes into a meeting.



**Pete Cutler:** Could we get a little sneak preview on the topics that you're expecting to cover at the November 6 meeting?

**Dave Iseminger:** At the November 6 meeting, we'll discuss by-laws, Dr. Lessler will talk about health care trends and what value-based purchasing is, the change from fee for service to outcome-based payment models. We'll discuss different plan structures of benefits, level set on what a PPO is versus an HMO, how a high deductible health plan works. We'll be going through some of the nuts and bolts to level set on various parts of the insurance framework.

**Pete Cutler:** That sounds like a lot. Can we hope to get materials in advance like we did for this meeting?

**Dave Iseminger:** Yes, you will always get the materials in advance. They're usually about the same timeframe as what we did for this meeting. We make them available to the public by posting to our web site once the Board Members have received their Briefing Books.

**Pete Cutler:** Great, thank you.

**Lou McDermott:** This meeting is adjourned.