

Submitted by District 1 for the March 3, 2015 Addendum, Item No. 3

Verbatim – Motions for Addendum Items 3 and 4
Board of Supervisors Meeting of February 17, 2015

SB: Chair Bronson
RC: Supervisor Carroll
RE: Supervisor Elías
AM: Supervisor Miller
RV: Supervisor Valadez
CH: Chuck Huckelberry, County Administrator
AB: Allyn Bulzomi, Human Resources Director

Pima County Nicotine/Tobacco-Free Healthy Workforce Initiative

Staff recommends selection of one of the following options for Fiscal Year 2015/16:

Option 1 - Approval of the tobacco hiring policy requiring all job applicants to certify they have been nicotine/tobacco-free for the previous 12 months in order to be considered for employment, as well as a biweekly medical insurance surcharge of 30 percent of the Employee-only premium amount for tobacco users.

Option 2 - Approval of only the tobacco hiring policy.

Option 3 - Approval of only the tobacco surcharge.

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RV: Let me try this...I'm going to go ahead on Item No 3, move that we approve Option 3 with the following provisions. First of all, I am pulling out all enforcement provisions of this particular policy until such a time as HIBWAC reviews and comes out with recommendations, and that's at future time for this Board to adopt, so there will be no enforcement provisions at the beginning of the program, it will be strict honor system, and that the enforcement provisions have to be developed by HIBWAC committee. Also...well, I'll do the other part of that later, that's my motion Madam Chair.

SB: Second

AM: Madam Chair

SB: Supervisor Miller

AM: Supervisor....I guess the contribution comes in a later vote...the \$500 dollars that you recommended.

RV: Correct, that's the next....

SB: Yes, that would be in 4.

AM: Ok, thank you.

SB: Ok, we have a motion on the floor.

RC: Madam Chair

SB: Roll call

RE: Madam Chair

SB: The question has been called. Go ahead.

RE: I don't want to break any rules.

SB: No go ahead.

RE: I was incorrect, I was handed a note, it's actually the surcharge that is illegal in 29 states, and the hiring ban is actually legal. So I made a mistake, I apologize.

SB: Ok, let's address that, is the.....yes, Supervisor Carroll.....is the surcharge illegal in 29 states? Mr. Bulzomi?

AB: Under the ACA, the surcharge is legal in every state. The difference in the 21 states and 29 states...in 29 states they have laws that prohibit any discrimination based on lifestyle choices ...so smoking is a lifestyle choice...so in 29 states it would be illegal to discriminate against those people that smoke. But under the new Affordable Care Act, the federal law allows you to charge a surcharge to smokers up to 50% of the total premium.

SB: Thank you for the clarification.....Supervisor Carroll

RC: Madam Chair...that was my question regarding the 29 states....the 60%....how do we know that Arizona is not going to...in this or next session, produce a similar law that would remove the availability of a surcharge to employees...making it illegal. Do you have any comments? How many years has this been an issue and how long ago have other states enacted their law? Any idea or we don't know?

AB: Chair Bronson, Supervisor Carroll, I don't have any information exactly on that...when we were doing our research, the first cases I could find going back to the early 80s in the courts on the east coast....but I couldn't find any, actually to be honest with you, in the 9th circuit. But I knowin the east coast, state of Florida has been doing this and has gone through the courts on it as far back as '85 and '87.

RC: Ok, thank you very much.

SB: And just to the motion on the floor...I understand Supervisor Valadez's reasoning...I guess what I would like to see happen, whether we call it a surcharge or...I would like to see somehow that all employees who do smoke register for some kind of cessation program, and I know that's not quite what's happening in your motion... but I would like to require them to at least try the cessation program....I don't know how we get there but....it seems to me that that's the least.....

RE: I would find that to be acceptable quite honestly, because I really think people should try not to smoke, myself included.....and that's not what this issue is about for me, but it's about fairness and our civil liberties, but I'll tell you what, I would agree with that because Supervisor Valadez's motion of putting something in place with no enforcement behind it makes me feel very uncomfortable about what we are doing with rule making. In all candor, if I could make a suggestion, it would be to work with all of our employees who do smoke to see that they attend some kind of cessation class to help them.

SB: Attend and complete

RE: Over the course of the next year and complete it and then ifwe take a look at it again next year, maybe then we have some enforcement rules ready to put in place so that we are not putting something in place with no kind of enforcement behind it and then putting a committee in a position where they have to come up with something that's problematic.....you know.....

RV: So for clarity sake you're asking if instead of the enforcement provisions that I've already taken out...that we enforce...no not enforce...that we require that they enroll in a smoking cessation program of their choice...

RE: Of their choice.....

SB: Enroll and complete.....

RV: Ok, I accept that....

SB: Ok, so we are amending the motion to now be that we require employees that smoke...we require that they attend and complete a smoking cessation program of their choice. Is that...is that my...Supervisor Valadez...ok....so the motion on the floor has been amended so...as so indicated.

SB: Roll Call

RC: No
RE: Aye
AM: Aye
RV: Aye
SB: Aye

SB: Motion carries 4-1 with Supervisor Carroll voting Nay.

Medical Insurance for County Employees - Fiscal Year 2015/16

Staff recommends approval of the medical rates for FY 15/16, along with the continuation of the current County Health Savings Account funding strategy and Healthy Lifestyle Premium Discounts.

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RV: This one is a difficult choice because of what we've heard in terms of concern for our employees which is why I have asked the questions in the discussions that I have had in terms of the effect on our employees. Let me try this...I move that we approve Item No. 4 at the alternative proposed rates of Mr. Huckelberry's memo of February 12, 2015 with two additions. First of all, for those that transferred from the PPO to the HDHP that upfront they receive \$500, so that their starting point is not zero, that obviously, that staff figure out how that needs to be done....and that all departments be required to allow employees to go to informational sessions on their healthcare.....ah...because that's simply...if that's happening that unacceptable...and that direction has to come from this board.

SB: What about requiring staff go to the employee...to the department and host.....or..

RV: I don't understand your point.

SB: I just....getting them to come....its not always easy...it's access....just access issues....if they work out....

RV: I think Mr. Bulzomi has a comment.

AB: To avoid enforcement, we could make it mandatory for PPO members to come to mandatory meeting at openin order to go to open enrollment to get enrolled next year.

SB: Yea, I understand....it's like where do they work and when you say you're going to host a program.... are they going to be able to get there.

AB: Our programs go on the road, we go all over the county...there shouldn't be a logistics problem getting to one.

RV: They both.... be required to attend and their supervisors be required to allow them the time to attend also.

SB: Paid

RV: Paid....that's my motion.

RE: And the tobacco surcharges are off the table because of our last vote, just so everybody understands.

RV: inaudible....(mic off)

SB: That's correct.

RV: What was the question Madam Chair....

SB: Oh so.....Mr. Huckelberry, we did.....not on the tobacco surcharge issue...we did not vote for a tobacco surcharge.

RV: Yes we did....for the record, Option No. 3.

SB: But provided if they complete a smoking cessation....ok...that's what....that they wouldn't have to be subject to the surcharge.

RE: (mic off) But we said ...(inaudible)... we going to do that, but this year were not going to.

RV: No, we're not enforcing...remember if they go through the smoking cessation program, they don't have a surcharge.

RE: Because the whole problem with the surcharges frankly, is how you enforce it. And that's where the problem really lies for me.

SB: Yea, but we've said that they have to attend a mandatoryso the surcharge is essentially off the table.

RE: Ok, I just wanted....ok because Mr. Huckelberry looks dubious at best and that means he's going to go do whatever he wantsso maybe we need to make this clearer....this motion...yea....it's not, that's why I'm saying we need to make it clear so Mr. Huckelberry understands what the will of the Board is.

RV: We did put Option 3 into place, however with the amendment, that everyone would be required to do the smoking cessation program, it essentially goes away.

SB: We're requiring that they do it and mandating that they do it and complete it, and if they do it, there is no surcharge. Mr. Huckelberry....

CH: Yes madam chair, I'm fine with that....it's because...what your saying is...everyone has to actually attend and get certified that they complete it and at that point then these surcharges that are in Option 3, which are bigger than the surcharges in my later memorandum, will not apply.

RE: (Mic off) That's not quite what I understood when we voted, but okay.

SB: Alright, Supervisor Valadez.

RV: I believe I have a motion

SB: You have a motion...

AM: I seconded it.

SB: And it's been...yea you did second it...and just repeat it so we know what we are voting on.

RV: The motion was to approve Item No. 4 and the rate alternative for proposed rates on Mr. Huckelberry's memo of February 12, 2015 along with the \$500 upfront on July 1 for those employees who are switching over from the PPO to the HDHP and a requirement that all employees that are enrolled in a PPO both be required to attend and that supervisors ...on paid time...allow those employees to attend those sessions.

SB: Ok there is a motion and a second...roll call.

RC: Aye

RE: Aye

AM: Aye

RV: Aye

SB: Aye

SB: Motion carries unanimously.