
HOUSE BILL 2305

State of Washington

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By Representatives Schual-Berke, Alexander, Green, Cody, Appleton, Morrell and Moeller

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1 AN ACT Relating to retired local government employees; amending RCW
2 41.05.011, 41.04.208, 41.05.022, and 41.05.080; reenacting and amending
3 RCW 41.05.120; adding a new section to chapter 41.04 RCW; and providing
4 an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 41.05.011 and 2005 c 143 s 1 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section shall apply throughout this chapter.

10 (1) "Administrator" means the administrator of the authority.

11 (2) "State purchased health care" or "health care" means medical
12 and health care, pharmaceuticals, and medical equipment purchased with
13 state and federal funds by the department of social and health
14 services, the department of health, the basic health plan, the state
15 health care authority, the department of labor and industries, the
16 department of corrections, the department of veterans affairs, and
17 local school districts.

18 (3) "Authority" means the Washington state health care authority.

1 (4) "Insuring entity" means an insurer as defined in chapter 48.01
2 RCW, a health care service contractor as defined in chapter 48.44 RCW,
3 or a health maintenance organization as defined in chapter 48.46 RCW.

4 (5) "Flexible benefit plan" means a benefit plan that allows
5 employees to choose the level of health care coverage provided and the
6 amount of employee contributions from among a range of choices offered
7 by the authority.

8 (6) "Employee" includes all full-time and career seasonal employees
9 of the state, whether or not covered by civil service; elected and
10 appointed officials of the executive branch of government, including
11 full-time members of boards, commissions, or committees; and includes
12 any or all part-time and temporary employees under the terms and
13 conditions established under this chapter by the authority; justices of
14 the supreme court and judges of the court of appeals and the superior
15 courts; and members of the state legislature or of the legislative
16 authority of any county, city, or town who are elected to office after
17 February 20, 1970. "Employee" also includes: (a) Employees of a
18 county, municipality, or other political subdivision of the state if
19 the legislative authority of the county, municipality, or other
20 political subdivision of the state seeks and receives the approval of
21 the authority to provide any of its insurance programs by contract with
22 the authority, as provided in RCW 41.04.205; (b) employees of employee
23 organizations representing state civil service employees, at the option
24 of each such employee organization, and, effective October 1, 1995,
25 employees of employee organizations currently pooled with employees of
26 school districts for the purpose of purchasing insurance benefits, at
27 the option of each such employee organization; and (c) employees of a
28 school district if the authority agrees to provide any of the school
29 districts' insurance programs by contract with the authority as
30 provided in RCW 28A.400.350.

31 (7) "Board" means the public employees' benefits board established
32 under RCW 41.05.055.

33 (8) "Retired or disabled school employee" means:

34 (a) Persons who separated from employment with a school district or
35 educational service district and are receiving a retirement allowance
36 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

37 (b) Persons who separate from employment with a school district or

1 educational service district on or after October 1, 1993, and
2 immediately upon separation receive a retirement allowance under
3 chapter 41.32, 41.35, or 41.40 RCW;

4 (c) Persons who separate from employment with a school district or
5 educational service district due to a total and permanent disability,
6 and are eligible to receive a deferred retirement allowance under
7 chapter 41.32, 41.35, or 41.40 RCW.

8 (9) "Benefits contribution plan" means a premium only contribution
9 plan, a medical flexible spending arrangement, or a cafeteria plan
10 whereby state and public employees may agree to a contribution to
11 benefit costs which will allow the employee to participate in benefits
12 offered pursuant to 26 U.S.C. Sec. 125 or other sections of the
13 internal revenue code.

14 (10) "Salary" means a state employee's monthly salary or wages.

15 (11) "Participant" means an individual who fulfills the eligibility
16 and enrollment requirements under the benefits contribution plan.

17 (12) "Plan year" means the time period established by the
18 authority.

19 (13) "Separated employees" means persons who separate from
20 employment with an employer as defined in:

- 21 (a) RCW 41.32.010(11) on or after July 1, 1996; or
- 22 (b) RCW 41.35.010 on or after September 1, 2000; or
- 23 (c) RCW 41.40.010 on or after March 1, 2002;

24 and who are at least age fifty-five and have at least ten years of
25 service under the teachers' retirement system plan 3 as defined in RCW
26 41.32.010(40), the Washington school employees' retirement system plan
27 3 as defined in RCW 41.35.010, or the public employees' retirement
28 system plan 3 as defined in RCW 41.40.010.

29 (14) "Emergency service personnel killed in the line of duty" means
30 law enforcement officers and fire fighters as defined in RCW 41.26.030,
31 and reserve officers and fire fighters as defined in RCW 41.24.010 who
32 die as a result of injuries sustained in the course of employment as
33 determined consistent with Title 51 RCW by the department of labor and
34 industries.

35 (15) "Employer" means the state of Washington.

36 (16) "Employing agency" means a division, department, or separate
37 agency of state government and a county, municipality, school district,

1 educational service district, or other political subdivision, covered
2 by this chapter.

3 (17) "Retired local government employee" means:

4 (a) Persons who separated from employment with a county,
5 municipality, or other political subdivision of the state and are
6 receiving a retirement allowance under chapter 41.40 RCW as of July 1,
7 2007;

8 (b) Persons who separate from employment with a county,
9 municipality, or other political subdivision of the state on or after
10 July 1, 2007, and immediately upon separation receive a retirement
11 allowance under chapter 41.40 RCW; or

12 (c) Members of the public employees' retirement system plan 3 as
13 defined in chapter 41.40 RCW who are at least fifty-five years of age
14 and who have at least ten years of service credit in the public
15 employees' retirement system and who separate from employment with a
16 county, municipality, or other political subdivision of the state on or
17 after July 1, 2007, and immediately upon separation elect to continue
18 health insurance coverage with their employer or coverage provided by
19 the public employees' benefits board.

20 **Sec. 2.** RCW 41.04.208 and 2004 c 173 s 1 are each amended to read
21 as follows:

22 (1) Unless the context clearly requires otherwise, the definitions
23 in this subsection apply throughout this section.

24 (a) "Disabled employee" means a person eligible to receive a
25 disability retirement allowance from the Washington law enforcement
26 officers' and fire fighters' retirement system plan 2 and the public
27 employees' retirement system.

28 (b) "Health plan" means a contract, policy, fund, trust, or other
29 program established jointly or individually by a county, municipality,
30 or other political subdivision of the state that provides for all or a
31 part of hospitalization or medical aid for its employees and their
32 dependents under RCW 41.04.180.

33 (c) "Retired employee" means a public employee meeting the
34 retirement eligibility, years of service requirements, and other
35 criteria of the Washington law enforcement officers' and fire fighters'
36 retirement system plan 2 and the public employees' retirement system,
37 except that "retired local government employee" means:

1 (i) Persons who separated from employment with a county,
2 municipality, or other political subdivision of the state and are
3 receiving a retirement allowance under chapter 41.40 RCW as of July 1,
4 2007;

5 (ii) Persons who separate from employment with a county,
6 municipality, or other political subdivision of the state on or after
7 July 1, 2007, and immediately upon separation receive a retirement
8 allowance under chapter 41.40 RCW;

9 (iii) Members of the public employees' retirement system plan 3 as
10 defined in chapter 41.40 RCW who are at least fifty-five years of age
11 and who have at least ten years of service credit in the public
12 employees' retirement system and who separate from employment with a
13 county, municipality, or other political subdivision of the state on or
14 after July 1, 2007, and immediately upon separation elect to continue
15 health insurance coverage with their employer or coverage provided by
16 the public employees' benefits board.

17 (2) A county, municipality, or other political subdivision that
18 provides a health plan for its employees shall permit retired and
19 disabled employees and their dependents to continue participation in a
20 plan subject to the exceptions, limitations, and conditions set forth
21 in this section. However, this section does not apply to a county,
22 municipality, or other political subdivision participating in an
23 insurance program administered under chapter 41.05 RCW if retired and
24 disabled employees and their dependents of the participating county,
25 municipality, or other political subdivision are covered under an
26 insurance program administered under chapter 41.05 RCW. Nothing in
27 this subsection or chapter 319, Laws of 2002 precludes the local
28 government employer from offering retired or disabled employees a
29 health plan with a benefit structure, copayment, deductible,
30 coinsurance, lifetime benefit maximum, and other plan features which
31 differ from those offered through a health plan provided to active
32 employees. Further, nothing in this subsection precludes a local
33 government employer from joining with other public agency employers,
34 including interjurisdictional benefit pools and multi-employer
35 associations or consortiums, to fulfill its obligations under chapter
36 319, Laws of 2002.

37 (3) A county, municipality, or other political subdivision has full
38 authority to require a person who requests continued participation in

1 a health plan under subsection (2) of this section to pay the full cost
2 of such participation, including any amounts necessary for
3 administration. However, this subsection does not require an employer
4 who is currently paying for all or part of a health plan for its
5 retired and disabled employees to discontinue those payments.

6 (4) Payments for continued participation in a former employer's
7 health plan may be assigned to the underwriter of the health plan from
8 public pension benefits or may be paid to the former employer, as
9 determined by the former employer, so that an underwriter of the health
10 plan that is an insurance company, health care service contractor, or
11 health maintenance organization is not required to accept individual
12 payments from persons continuing participation in the employer's health
13 plan.

14 (5) After an initial open enrollment period of ninety days after
15 January 1, 2003, an employer may not be required to permit a person to
16 continue participation in the health plan if the person is responsible
17 for a lapse in coverage under the plan. In addition, an employer may
18 not be required to permit a person to continue participation in the
19 employer's health plan if the employer offered continued participation
20 in a health plan that meets the requirements of chapter 319, Laws of
21 2002.

22 (6) If a person continuing participation in the former employer's
23 health plan has medical coverage available through another employer,
24 the medical coverage of the other employer is the primary coverage for
25 purposes of coordination of benefits as provided for in the former
26 employer's health plan.

27 (7) If a person's continued participation in a health plan was
28 permitted because of the person's relationship to a retired or disabled
29 employee of the employer providing the health plan and the retired or
30 disabled employee dies, then that person is permitted to continue
31 participation in the health plan for a period of not more than six
32 months after the death of the retired or disabled employee. However,
33 the employer providing the health plan may permit continued
34 participation beyond that time period.

35 (8) An employer may offer one or more health plans different from
36 that provided for active employees and designed to meet the needs of
37 persons requesting continued participation in the employer's health
38 plan. An employer, in designing or offering continued participation in

1 a health plan, may utilize terms or conditions necessary to administer
2 the plan to the extent the terms and conditions do not conflict with
3 this section.

4 (9) If an employer changes the underwriter of a health plan, the
5 replaced underwriter has no further responsibility or obligation to
6 persons who continued participation in a health plan of the replaced
7 underwriter. However, the employer shall permit those persons to
8 participate in any new health plan.

9 (10) The benefits granted under this section are not considered a
10 matter of contractual right. Should the legislature, a county,
11 municipality, or other political subdivision of the state revoke or
12 change any benefits granted under this section, an affected person is
13 not entitled to receive the benefits as a matter of contractual right.

14 (11) This section does not affect any health plan contained in a
15 collective bargaining agreement in existence as of January 1, 2003.
16 However, any plan contained in future collective bargaining agreements
17 shall conform to this section. In addition, this section does not
18 affect any health plan contract or policy in existence as of January 1,
19 2003. However, any renewal of the contract or policy shall conform to
20 this section.

21 (12) Counties, municipalities, and other political subdivisions
22 that make a documented good faith effort to comply with the provisions
23 of subsections (2) through (11) of this section and are unable to
24 provide access to a fully insured group health benefit plan are
25 discharged from any obligations under subsections (2) through (11) of
26 this section but shall assist disabled employees and retired employees
27 in applying for health insurance. Assistance may include developing
28 and distributing standardized information on the availability and cost
29 of individual health benefit plans, application packages, and health
30 benefit fairs.

31 (13) The office of the insurance commissioner shall make available
32 to counties, municipalities, and other political subdivisions
33 information regarding individual health benefit plans, including a list
34 of carriers offering individual coverage, the rates charged, and how to
35 apply for coverage.

36 **Sec. 3.** RCW 41.05.022 and 1995 1st sp.s. c 6 s 3 are each amended
37 to read as follows:

1 (1) The health care authority is hereby designated as the single
2 state agent for purchasing health services.

3 (2) On and after January 1, 1995, at least the following state-
4 purchased health services programs shall be merged into a single,
5 community-rated risk pool: Health benefits for groups of employees of
6 school districts and educational service districts that voluntarily
7 purchase health benefits as provided in RCW 41.05.011; health benefits
8 for state employees; health benefits for eligible retired or disabled
9 school employees not eligible for parts A and B of medicare; health
10 benefits for eligible retired local government employees not eligible
11 for parts A and B of medicare; and health benefits for eligible state
12 retirees not eligible for parts A and B of medicare.

13 (3) At a minimum, and regardless of other legislative enactments,
14 the state health services purchasing agent shall:

15 (a) Require that a public agency that provides subsidies for a
16 substantial portion of services now covered under the basic health plan
17 use uniform eligibility processes, insofar as may be possible, and
18 ensure that multiple eligibility determinations are not required;

19 (b) Require that a health care provider or a health care facility
20 that receives funds from a public program provide care to state
21 residents receiving a state subsidy who may wish to receive care from
22 them, and that an insuring entity that receives funds from a public
23 program accept enrollment from state residents receiving a state
24 subsidy who may wish to enroll with them;

25 (c) Strive to integrate purchasing for all publicly sponsored
26 health services in order to maximize the cost control potential and
27 promote the most efficient methods of financing and coordinating
28 services;

29 (d) Consult regularly with the governor, the legislature, and state
30 agency directors whose operations are affected by the implementation of
31 this section; and

32 (e) Ensure the control of benefit costs under managed competition
33 by adopting rules to prevent employers from entering into an agreement
34 with employees or employee organizations when the agreement would
35 result in increased utilization in public employees' benefits board
36 plans or reduce the expected savings of managed competition.

1 **Sec. 4.** RCW 41.05.080 and 2001 c 165 s 3 are each amended to read
2 as follows:

3 (1) Under the qualifications, terms, conditions, and benefits set
4 by the board:

5 (a) Retired or disabled state employees, retired or disabled school
6 employees, or employees of county, municipal, or other political
7 subdivisions (~~covered by this chapter~~) who are retired may continue
8 their participation in insurance plans and contracts after retirement
9 or disablement; retired employees of county, municipal, or other
10 political subdivisions who selected participation in insurance plans
11 provided by their employers immediately upon retirement may elect to
12 move to coverage provided by the public employees' benefits board
13 during the open enrollment period of each year, provided that no lapse
14 in coverage results;

15 (b) Separated employees may continue their participation in
16 insurance plans and contracts if participation is selected immediately
17 upon separation from employment; separated employees of county,
18 municipal, or other political subdivisions who selected participation
19 in insurance plans provided by their employers immediately upon
20 separation of employment may elect to move to coverage provided by the
21 public employees' benefits board during the open enrollment period of
22 each year, provided that no lapse in coverage results;

23 (c) Surviving spouses and dependent children of emergency service
24 personnel killed in the line of duty may participate in insurance plans
25 and contracts.

26 (2) Rates charged surviving spouses of emergency service personnel
27 killed in the line of duty, retired or disabled employees, separated
28 employees, spouses, or dependent children who are not eligible for
29 parts A and B of medicare shall be based on the experience of the
30 community rated risk pool established under RCW 41.05.022.

31 (3) Rates charged to surviving spouses of emergency service
32 personnel killed in the line of duty, retired or disabled employees,
33 separated employees, spouses, or children who are eligible for parts A
34 and B of medicare shall be calculated from a separate experience risk
35 pool comprised only of individuals eligible for parts A and B of
36 medicare; however, the premiums charged to medicare-eligible retirees
37 and disabled employees shall be reduced by the amount of the subsidy
38 provided under RCW 41.05.085.

1 (4) Surviving spouses and dependent children of emergency service
2 personnel killed in the line of duty and retired or disabled and
3 separated employees shall be responsible for payment of premium rates
4 developed by the authority which shall include the cost to the
5 authority of providing insurance coverage including any amounts
6 necessary for reserves and administration in accordance with this
7 chapter. These self pay rates will be established based on a separate
8 rate for the employee, the spouse, and the children.

9 (5) The term "retired state employees" for the purpose of this
10 section shall include but not be limited to members of the legislature
11 whether voluntarily or involuntarily leaving state office.

12 **Sec. 5.** RCW 41.05.120 and 2005 c 518 s 921 and 2005 c 143 s 3 are
13 each reenacted and amended to read as follows:

14 (1) The public employees' and retirees' insurance account is hereby
15 established in the custody of the state treasurer, to be used by the
16 administrator for the deposit of contributions, the remittance paid by
17 school districts and educational service districts under RCW
18 28A.400.410, the remittance paid by county, municipality, or other
19 political subdivisions under section 6 of this act, reserves,
20 dividends, and refunds, for payment of premiums for employee and
21 retiree insurance benefit contracts and subsidy amounts provided under
22 RCW 41.05.085, and transfers from the medical flexible spending account
23 as authorized in RCW 41.05.123. Moneys from the account shall be
24 disbursed by the state treasurer by warrants on vouchers duly
25 authorized by the administrator. Moneys from the account may be
26 transferred to the medical flexible spending account to provide
27 reserves and start-up costs for the operation of the medical flexible
28 spending account program.

29 (2) The state treasurer and the state investment board may invest
30 moneys in the public employees' and retirees' insurance account. All
31 such investments shall be in accordance with RCW 43.84.080 or
32 43.84.150, whichever is applicable. The administrator shall determine
33 whether the state treasurer or the state investment board or both shall
34 invest moneys in the public employees' insurance account.

35 (3) During the 2005-07 fiscal biennium, the legislature may
36 transfer from the public employees' and retirees' insurance account
37 such amounts as reflect the excess fund balance of the fund.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.04 RCW
2 to read as follows:

3 (1) In a manner prescribed by the state health care authority,
4 counties, municipalities, and other political subdivisions shall remit
5 to the health care authority for deposit in the public employees' and
6 retirees' insurance account established in RCW 41.05.120 an amount
7 established by the public employees' benefits board.

8 (2) The remittance requirements specified in this section shall not
9 apply to employees of a county, municipality, or other political
10 subdivision who receive insurance benefits through contracts with the
11 health care authority.

12 (3) The health care authority has the authority to establish a
13 remittance amount that will cover the cost of premium subsidies for
14 nonmedicare and medicare retirees and administrative costs related to
15 their coverage.

16 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2008.

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