
SENATE BILL 5565

State of Washington

62nd Legislature

2011 Regular Session

By Senator Fraser

Read first time 01/31/11. Referred to Committee on Ways & Means.

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

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

6 **Sec. 1.** RCW 41.05.011 and 2009 c 537 s 3 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

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 employees of the state, whether or not
9 covered by civil service; elected and appointed officials of the
10 executive branch of government, including full-time members of boards,
11 commissions, or committees; justices of the supreme court and judges of
12 the court of appeals and the superior courts; and members of the state
13 legislature. Pursuant to contractual agreement with the authority,
14 "employee" may also include: (a) Employees of a county, municipality,
15 or other political subdivision of the state and members of the
16 legislative authority of any county, city, or town who are elected to
17 office after February 20, 1970, if the legislative authority of the
18 county, municipality, or other political subdivision of the state seeks
19 and receives the approval of the authority to provide any of its
20 insurance programs by contract with the authority, as provided in RCW
21 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations
22 representing state civil service employees, at the option of each such
23 employee organization, and, effective October 1, 1995, employees of
24 employee organizations currently pooled with employees of school
25 districts for the purpose of purchasing insurance benefits, at the
26 option of each such employee organization; (c) employees of a school
27 district if the authority agrees to provide any of the school
28 districts' insurance programs by contract with the authority as
29 provided in RCW 28A.400.350; and (d) employees of a tribal government,
30 if the governing body of the tribal government seeks and receives the
31 approval of the authority to provide any of its insurance programs by
32 contract with the authority, as provided in RCW 41.05.021(1) (f) and
33 (g). "Employee" does not include: Adult family homeowners; unpaid
34 volunteers; patients of state hospitals; inmates; employees of the
35 Washington state convention and trade center as provided in RCW
36 41.05.110; students of institutions of higher education as determined
37 by their institution; and any others not expressly defined as employees
38 under this chapter or by the authority under this chapter.

1 (7) "Seasonal employee" means an employee hired to work during a
2 recurring, annual season with a duration of three months or more, and
3 anticipated to return each season to perform similar work.

4 (8) "Faculty" means an academic employee of an institution of
5 higher education whose workload is not defined by work hours but whose
6 appointment, workload, and duties directly serve the institution's
7 academic mission, as determined under the authority of its enabling
8 statutes, its governing body, and any applicable collective bargaining
9 agreement.

10 (9) "Board" means the public employees' benefits board established
11 under RCW 41.05.055.

12 (10) "Retired or disabled school employee" means:

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

16 (b) Persons who separate from employment with a school district or
17 educational service district on or after October 1, 1993, and
18 immediately upon separation receive a retirement allowance under
19 chapter 41.32, 41.35, or 41.40 RCW;

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

24 (11) "Premium payment plan" means a benefit plan whereby state and
25 public employees may pay their share of group health plan premiums with
26 pretax dollars as provided in the salary reduction plan under this
27 chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the
28 internal revenue code.

29 (12) "Salary" means a state employee's monthly salary or wages.

30 (13) "Participant" means an individual who fulfills the eligibility
31 and enrollment requirements under the salary reduction plan.

32 (14) "Plan year" means the time period established by the
33 authority.

34 (15) "Separated employees" means persons who separate from
35 employment with an employer as defined in:

36 (a) RCW 41.32.010(~~((+11))~~) (17) on or after July 1, 1996; or

37 (b) RCW 41.35.010 on or after September 1, 2000; or

38 (c) RCW 41.40.010 on or after March 1, 2002;

1 and who are at least age fifty-five and have at least ten years of
2 service under the teachers' retirement system plan 3 as defined in RCW
3 41.32.010(~~(+40+)~~) (33), the Washington school employees' retirement
4 system plan 3 as defined in RCW 41.35.010, or the public employees'
5 retirement system plan 3 as defined in RCW 41.40.010.

6 (16) "Emergency service personnel killed in the line of duty" means
7 law enforcement officers and firefighters as defined in RCW 41.26.030,
8 members of the Washington state patrol retirement fund as defined in
9 RCW 43.43.120, and reserve officers and firefighters as defined in RCW
10 41.24.010 who die as a result of injuries sustained in the course of
11 employment as determined consistent with Title 51 RCW by the department
12 of labor and industries.

13 (17) "Employer" means the state of Washington.

14 (18) "Employing agency" means a division, department, or separate
15 agency of state government, including an institution of higher
16 education; a county, municipality, school district, educational service
17 district, or other political subdivision; and a tribal government
18 covered by this chapter.

19 (19) "Tribal government" means an Indian tribal government as
20 defined in section 3(32) of the employee retirement income security act
21 of 1974, as amended, or an agency or instrumentality of the tribal
22 government, that has government offices principally located in this
23 state.

24 (20) "Dependent care assistance program" means a benefit plan
25 whereby state and public employees may pay for certain employment
26 related dependent care with pretax dollars as provided in the salary
27 reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or
28 other sections of the internal revenue code.

29 (21) "Salary reduction plan" means a benefit plan whereby state and
30 public employees may agree to a reduction of salary on a pretax basis
31 to participate in the dependent care assistance program, medical
32 flexible spending arrangement, or premium payment plan offered pursuant
33 to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

34 (22) "Medical flexible spending arrangement" means a benefit plan
35 whereby state and public employees may reduce their salary before taxes
36 to pay for medical expenses not reimbursed by insurance as provided in
37 the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec.
38 125 or other sections of the internal revenue code.

1 (23) "Retired local government employee" means:

2 (a) Persons who separated from employment with a county,
3 municipality, or other political subdivision of the state and are
4 receiving a retirement allowance under chapter 41.40 RCW as of July 1,
5 2011;

6 (b) Persons who separate from employment with a county,
7 municipality, or other political subdivision of the state on or after
8 July 1, 2011, and immediately upon separation receive a retirement
9 allowance under chapter 41.40 RCW; or

10 (c) Members of the public employees' retirement system plan 3 as
11 defined in chapter 41.40 RCW who are at least fifty-five years of age
12 and who have at least ten years of service credit in the public
13 employees' retirement system and who separate from employment with a
14 county, municipality, or other political subdivision of the state on or
15 after July 1, 2011, and immediately upon separation elect to continue
16 health insurance coverage with their employer or coverage provided by
17 the public employees' benefits board.

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

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

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

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

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

36 (i) Persons who separated from employment with a county,

1 municipality, or other political subdivision of the state and are
2 receiving a retirement allowance under chapter 41.40 RCW as of July 1,
3 2011;

4 (ii) Persons who separate from employment with a county,
5 municipality, or other political subdivision of the state on or after
6 July 1, 2011, and immediately upon separation receive a retirement
7 allowance under chapter 41.40 RCW;

8 (iii) Members of the public employees' retirement system plan 3 as
9 defined in chapter 41.40 RCW who are at least fifty-five years of age
10 and who have at least ten years of service credit in the public
11 employees' retirement system and who separate from employment with a
12 county, municipality, or other political subdivision of the state on or
13 after July 1, 2011, and immediately upon separation elect to continue
14 health insurance coverage with their employer or coverage provided by
15 the public employees' benefits board.

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

36 (3) A county, municipality, or other political subdivision has full
37 authority to require a person who requests continued participation in
38 a health plan under subsection (2) of this section to pay the full cost

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

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

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

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

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

34 (8) An employer may offer one or more health plans different from
35 that provided for active employees and designed to meet the needs of
36 persons requesting continued participation in the employer's health
37 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 2009 c 523 s 1 and 2009 c 522 s 9 are
2 each reenacted and amended to read 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, retired or disabled employees of county, municipal, or other
7 political subdivisions, or retired or disabled employees of tribal
8 governments (~~covered by this chapter~~) may continue their
9 participation in insurance plans and contracts after retirement or
10 disablement; retired employees of county, municipal, or other political
11 subdivisions who selected participation in insurance plans provided by
12 their employers immediately upon retirement may elect to move to
13 coverage provided by the public employees' benefits board during the
14 open enrollment period of each year, provided that no lapse in coverage
15 results;

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

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

27 (2) Rates charged surviving spouses and domestic partners of
28 emergency service personnel killed in the line of duty, retired or
29 disabled employees, separated employees, spouses, or dependent children
30 who are not eligible for parts A and B of medicare shall be based on
31 the experience of the community rated risk pool established under RCW
32 41.05.022.

33 (3) Rates charged to surviving spouses and domestic partners of
34 emergency service personnel killed in the line of duty, retired or
35 disabled employees, separated employees, spouses, or children who are
36 eligible for parts A and B of medicare shall be calculated from a
37 separate experience risk pool comprised only of individuals eligible

1 for parts A and B of medicare; however, the premiums charged to
2 medicare-eligible retirees and disabled employees shall be reduced by
3 the amount of the subsidy provided under RCW 41.05.085.

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

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

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

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

32 (2) The state treasurer and the state investment board may invest
33 moneys in the public employees' and retirees' insurance account. All
34 such investments shall be in accordance with RCW 43.84.080 or
35 43.84.150, whichever is applicable. The administrator shall determine
36 whether the state treasurer or the state investment board or both shall
37 invest moneys in the public employees' insurance account.

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

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

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

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

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

19 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2012.

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