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**SENATE BILL 6071**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Hobbs and Conway

AN ACT Relating to authorizing benefit funding accounts for members of the law enforcement officers' and firefighters' retirement system plan 2; amending RCW 41.04.208 and 41.26.740; adding a new section to chapter 41.26 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) Public safety employees, such as firefighters, police officers, and corrections officers, participate in the law enforcement officers' and firefighters' retirement system plan 2 and have the opportunity to retire at age fifty-three or take an early retirement at age fifty. Many members of the law enforcement officers' and firefighters' retirement system plan 2 have access to the retiree medical plans sponsored by the public employees' benefits board, however many local employers do not participate in the medical program, and retiree medical coverage can be hard to find and expensive especially before reaching medicare eligibility generally at age sixty-five.

(2) It is the intent of the legislature to help ensure access to retiree medical coverage for the public safety employees listed in subsection (1) of this section, especially for the nonmedicare retirees, and to assist employees in planning for their retirement and future medical benefit needs through the use of appropriate tax-authorized spending accounts that will allow employees to voluntarily contribute to their benefit accounts to help pay for their future medical premiums. As allowed by the internal revenue service, the accounts may also allow employer contributions as bargained locally.

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

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

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

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

(c) "Retired employee" means a public employee meeting the retirement eligibility, years of service requirements, and other criteria of the Washington law enforcement officers' and firefighters' retirement system plan 2 and the public employees' retirement system.

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

(3) A county, municipality, or other political subdivision has full authority to require a person who requests continued participation in a health plan under subsection (2) of this section to pay the full cost of such participation, including any amounts necessary for administration. However, this subsection does not require an employer who is currently paying for all or part of a health plan for its retired and disabled employees to discontinue those payments.

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

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

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

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

(8) An employer may offer one or more health plans different from that provided for active employees and designed to meet the needs of persons requesting continued participation in the employer's health plan. An employer, in designing or offering continued participation in a health plan, may utilize terms or conditions necessary to administer the plan to the extent the terms and conditions do not conflict with this section.

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

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

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

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

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

(14) Counties, municipalities, and other political subdivisions that employ public safety employees participating in the law enforcement officers' and firefighters' system plan 2 must set up tax appropriate flexible spending accounts or voluntary employee benefit accounts that allow employees to contribute and accrue savings for retiree medical premiums. The tax accounts must be consistent with existing state law, the internal revenue code, and the regulations adopted by the internal revenue service. To the extent allowed by the internal revenue code, accounts may be authorized to accept contributions from employers.

NEW SECTION. **Sec.**  A new section is added to chapter 41.26 RCW to read as follows:

(1) The department, in consultation with the law enforcement officers' and firefighters' retirement system plan 2 board, shall assist employers of law enforcement officers and firefighters in the formulation and adoption of a plan, policies, and procedures designed to guide, direct, and administer the voluntary employee benefit account established in RCW 41.04.208 for public safety employees. The program and plan documents must be developed in consultation with the employers of law enforcement officers and firefighters.

(2) A plan document describing the requirements shall be adopted and administered by the department and be available as a template for local employers. The department shall represent the state in all matters concerning the administration of the plan. The state may engage the services of a professional consultant or administrator on a contractual basis to serve as an agent to assist or perform the administrative functions necessary in carrying out the purposes necessary to establish the voluntary employee benefit account or alternative internal revenue service authorized spending account.

**Sec.**  RCW 41.26.740 and 2003 c 92 s 7 are each amended to read as follows:

(1) All expenses of the department and the office of the state actuary related to the implementation of chapter 2, Laws of 2003 shall be reimbursed from the law enforcement officers' and firefighters' retirement system expense fund under RCW 39.34.130.

(2) All expenses of the department and the office of the state actuary related to the implementation of the accounts required in sections 2 and 3 of this act shall be reimbursed from the law enforcement officers' and firefighters' retirement system expense fund under RCW 39.34.130.

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