

Chapter 41.04 RCW
GENERAL PROVISIONS

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*Payroll deductions authorized for school district employees: RCW
28A.405.400 and 28A.405.410.*

RCW 41.04.003 Title application—Health benefit exchange.

Except for chapters 41.05 and 41.40 RCW, this title does not apply to

any position in or employee of the Washington health benefit exchange established in chapter 43.71 RCW. [2012 c 87 § 19.]

Effective date—2012 c 87 §§ 4, 16, 18, and 19-23: See note following RCW 43.71.030.

Spiritual care services—2012 c 87: See RCW 43.71.901.

RCW 41.04.005 "Veteran" defined for certain purposes. (1) As used in this section and RCW 41.16.220, 41.20.050, and 41.40.170 "veteran" includes every person, who at the time he or she seeks the benefits of this section and RCW 41.16.220, 41.20.050, or 41.40.170 has received an honorable discharge, is actively serving honorably, or received a discharge for physical reasons with an honorable record and who meets at least one of the following criteria:

(a) The person has served between World War I and World War II or during any period of war, as defined in subsection (2) of this section, as either:

(i) A member in any branch of the armed forces of the United States;

(ii) A member of the women's air forces service pilots;

(iii) A U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration, the office of defense transportation, or their agents, from December 7, 1941, through December 31, 1946; or

(iv) A civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946; or

(b) The person has received the armed forces expeditionary medal, or marine corps and navy expeditionary medal, for opposed action on foreign soil, for service:

(i) In any branch of the armed forces of the United States; or

(ii) As a member of the women's air forces service pilots.

(2) A "period of war" includes:

(a) World War I;

(b) World War II;

(c) The Korean conflict;

(d) The Vietnam era, which means:

(i) The period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period;

(ii) The period beginning August 5, 1964, and ending on May 7, 1975;

(e) The Persian Gulf War, which was the period beginning August 2, 1990, and ending on February 28, 1991, or ending on November 30, 1995, if the participant was awarded a campaign badge or medal for such period;

(f) The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress; and

(g) Any armed conflicts, if the participant was awarded the respective campaign or expeditionary badge or medal, or if the service was such that a campaign or expeditionary badge or medal would have been awarded, except that the member already received a campaign or

expeditionary badge or medal for a prior deployment during that same conflict. [2023 c 18 § 1; 2020 c 178 § 1; 2018 c 61 § 1. Prior: 2005 c 255 § 1; 2005 c 247 § 1; prior: 2002 c 292 § 1; 2002 c 27 § 1; 1999 c 65 § 1; 1996 c 300 § 1; 1991 c 240 § 1; 1984 c 36 § 1; 1983 c 230 § 1; 1982 1st ex.s. c 37 § 20; 1969 ex.s. c 269 § 1.]

Retroactive application—2023 c 18 § 1: "The definition of veteran in section 1 of this act is retroactive for purposes of the retirement systems listed in RCW 41.50.030. Members who retired prior to July 23, 2023, with eligible military service must have retirement benefits recalculated and contributions adjusted consistent with the terms of this act." [2023 c 18 § 2.]

Severability—2005 c 247: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2005 c 247 § 3.]

Effective date—2005 c 247: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 3, 2005]." [2005 c 247 § 4.]

Effective date—1983 c 230: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983." [1983 c 230 § 3.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

RCW 41.04.007 "Veteran" defined for certain purposes. "Veteran" includes every person who, at the time he or she seeks the benefits of RCW 46.18.212, 46.18.235, 72.36.030, 41.04.010, 73.04.090, or 43.180.250, has received an honorable discharge, received a discharge for medical reasons with an honorable record, where applicable, or is in receipt of a United States department of defense discharge document DD form 214, NGB form 22, or their equivalent or successor discharge paperwork, that characterizes his or her service as honorable, and who has served in at least one of the following capacities:

(1) As a member in any branch of the armed forces of the United States, including the national guard and armed forces reserves, and has fulfilled his or her initial military service obligation;

(2) As a member of the women's air forces service pilots;

(3) As a member of the armed forces reserves, national guard, or coast guard, and has been called into federal service by a presidential select reserve call up for at least one hundred eighty cumulative days;

(4) As a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946;

(5) As a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or

(6) A United States documented merchant mariner with service aboard an oceangoing vessel operated by the department of defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation. [2017 c 97 § 1; 2013 c 42 § 1; 2010 c 161 § 1105; 2007 c 448 § 1; 2006 c 252 § 2. Prior: 2005 c 251 § 1; 2005 c 216 § 7; 2002 c 292 § 2.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

RCW 41.04.010 Veterans' scoring criteria status in examinations.

In all competitive examinations, unless otherwise provided in this section, to determine the qualifications of applicants for public offices, positions, or employment, either the state, and all of its political subdivisions and all municipal corporations, or private companies or agencies contracted with by the state to give the competitive examinations shall give a scoring criteria status to all veterans as defined in RCW 41.04.007, by adding to the passing mark, grade or rating only, based upon a possible rating of one hundred points as perfect a percentage in accordance with the following:

(1) Ten percent to a veteran who served during a period of war or in an armed conflict as defined in RCW 41.04.005 and does not receive military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(2) Five percent to a veteran who did not serve during a period of war or in an armed conflict as defined in RCW 41.04.005 or is receiving military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(3) Five percent to a veteran who was called to active military service from employment with the state or any of its political subdivisions or municipal corporations. The percentage shall be added to promotional examinations until the first promotion only;

(4) All veterans' scoring criteria may be claimed:

(a) Upon release from active military service with an honorable discharge or a discharge for medical reasons with an honorable record, where applicable; or

(b) Upon receipt of a United States department of defense discharge document DD form 214, NGB form 22, or their equivalent or successor discharge paperwork, that characterizes his or her service as honorable. [2017 c 97 § 2; 2013 c 83 § 1; 2009 c 248 § 1; 2007 c 449 § 1; 2003 c 45 § 1; 2002 c 292 § 4; 2000 c 140 § 1; 1974 ex.s. c 170 § 1; 1969 ex.s. c 269 § 2; 1953 ex.s. c 9 § 1; 1949 c 134 § 1; 1947 c 119 § 1; 1945 c 189 § 1; Rem. Supp. 1949 § 9963-5.]

Veterans and veterans' affairs: Title 73 RCW.

RCW 41.04.015 Public employment—Evidence of educational competence. A Washington high school equivalency certificate as

awarded by the Washington state superintendent of public instruction or a high school equivalency certificate as provided in RCW 28B.50.536 shall be accepted in lieu of a high school diploma by the state and any local political subdivision when considering applicants for employment or promotion. [2013 c 39 § 19; 1971 c 43 § 1.]

RCW 41.04.017 Death benefit—Course of employment—Occupational disease or infection. A one hundred fifty thousand dollar death benefit shall be paid as a sundry claim to the estate of an employee of any state agency, the common school system of the state, or institution of higher education who dies as a result of (1) injuries sustained in the course of employment; or (2) an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter, and is not otherwise provided a death benefit through coverage under their enrolled retirement system under chapter 402, Laws of 2003. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the director of the department of enterprise services by order under RCW 51.52.050. [2015 c 225 § 51; 2007 c 487 § 1; 2003 c 402 § 4.]

RCW 41.04.020 Public employees—Payroll deductions authorized. Any employee or group of employees of the state of Washington or any of its political subdivisions, or of any institution supported, in whole or in part, by the state or any of its political subdivisions, may authorize the deduction from his or her salaries or wages and payment to another, the amount or amounts of his or her subscription payments or contributions to any person, firm, or corporation administering, furnishing, or providing (1) medical, surgical, and hospital care or either of them, or (2) life insurance or accident and health disability insurance, or (3) any individual retirement account selected by the employee or the employee's spouse established under applicable state or federal law: PROVIDED, That such authorization by said employee or group of employees, shall be first approved by the head of the department, division office or institution of the state or any political subdivision thereof, employing such person or group of persons, and filed with the department of enterprise services; or in the case of political subdivisions of the state of Washington, with the auditor of such political subdivision or the person authorized by law to draw warrants against the funds of said political subdivision. [2011 1st sp.s. c 43 § 471; 1998 c 116 § 1; 1982 c 107 § 1; 1973 c 106 § 15; 1947 c 70 § 1; Rem. Supp. 1947 § 9963-10.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Group insurance
disability: Chapter 48.21 RCW.
for employees of
cities and towns: RCW 35.23.460.
counties: RCW 36.32.400.
life: Chapter 48.24 RCW.

RCW 41.04.030 Payroll deductions—Duty of auditing officer.

Upon being authorized by any employee or group of employees so to do under the provisions of RCW 41.04.020, the auditor or other person authorized to draw warrants against the funds involved is authorized, and if such medical, surgical, and hospital care or either of them, or life insurance or accident and health disability insurance is to be provided on a group basis for groups each of not less than twenty-five individuals such auditor or other person is hereby required, to draw and issue a proper warrant or warrants directly to and in favor of the person, firm, or corporation, or organization named in the authorization for the total amount authorized to be deducted from the payroll of any such office, department, division, or institution. [1953 c 260 § 1; 1947 c 70 § 2; Rem. Supp. 1947 § 9963-11.]

RCW 41.04.033 Operation of the Washington state combined fund drive—Secretary of state—Rules. The secretary of state is authorized to adopt rules, after consultation with state agencies, institutions of higher education, and employee organizations for the operation of the Washington state combined fund drive. [2010 1st sp.s. c 7 § 9; 2010 c 101 § 1; 2003 c 205 § 1; 2002 c 61 § 4.]

Reviser's note: This section was amended by 2010 c 101 § 1 and by 2010 1st sp.s. c 7 § 9, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

RCW 41.04.0331 State combined fund drive program—Powers and duties of secretary of state. To operate the Washington state combined fund drive program, the secretary of state or the secretary's designee may, but is not limited to the following:

(1) Raise money for charity, and reducing [reduce] the disruption to government caused by multiple fund drives;

(2) Establish criteria by which a public or private nonprofit organization may participate in the combined fund drive;

(3) Engage in or encouraging [encourage] fund-raising activities including the solicitation and acceptance of charitable gifts, grants, and donations from state employees, retired public employees, corporations, foundations, and other individuals for the benefit of the beneficiaries of the Washington state combined fund drive;

(4) Request the appointment of employees from state agencies and institutions of higher education to lead and manage workplace charitable giving campaigns within state government;

(5) Engage in educational activities, including classes, exhibits, seminars, workshops, and conferences, related to the basic purpose of the combined fund drive;

(6) Engage in appropriate fund-raising and advertising activities for the support of the administrative duties of the Washington state combined fund drive; and

(7) Charge an administrative fee to the beneficiaries of the Washington state combined fund drive to fund the administrative duties of the Washington state combined fund drive.

Activities of the Washington state combined fund drive shall not result in direct commercial solicitation of state employees, or a benefit or advantage that would violate one or more provisions of chapter 42.52 RCW. This section does not authorize individual state agencies to enter into contracts or partnerships unless otherwise authorized by law. [2010 1st sp.s. c 7 § 10; 2010 c 101 § 2; 2003 c 205 § 2.]

Reviser's note: This section was amended by 2010 c 101 § 2 and by 2010 1st sp.s. c 7 § 10, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

RCW 41.04.0332 State combined fund drive—Secretary of state—Contracts and partnerships. The secretary of state may enter into contracts and partnerships with private institutions, persons, firms, or corporations for the benefit of the beneficiaries of the Washington state combined fund drive. Activities of the Washington state combined fund drive shall not result in direct commercial solicitation of state employees, or a benefit or advantage that would violate one or more provisions of chapter 42.52 RCW. This section does not authorize individual state agencies to enter into contracts or partnerships unless otherwise authorized by law. [2010 1st sp.s. c 7 § 11; 2010 c 101 § 3; 2003 c 205 § 3.]

Reviser's note: This section was amended by 2010 c 101 § 3 and by 2010 1st sp.s. c 7 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

RCW 41.04.035 Salary and wage deductions for contributions to charitable agencies—"United Fund" defined—Includes Washington state combined fund drive. For the purpose of RCW 41.04.035 and 41.04.036 "United Fund" means the organization conducting the single, annual, consolidated effort to secure funds for distribution to agencies engaged in charitable and public health, welfare and service purposes, which is commonly known as the United Fund or the Washington state combined fund drive. [2002 c 61 § 1; 1957 c 208 § 1.]

RCW 41.04.036 Salary and wage deductions for contributions to charitable agencies—Deduction and payment to United Fund or Washington state combined fund drive—Rules, procedures. Any official of the state or of any of its political subdivisions authorized to disburse funds in payment of salaries or wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct from the salary or wages of the officer or employee the amount of money designated by the officer or employee for

payment to the United Fund or the Washington state combined fund drive.

The moneys so deducted shall be paid over promptly to the United Fund or the Washington state combined fund drive designated by the officer or employee. Subject to any rules adopted by the office of financial management, the official authorized to disburse the funds in payment of salaries or wages may prescribe any procedures necessary to carry out RCW 41.04.035 and 41.04.036. [2002 c 61 § 2; 1983 1st ex.s. c 28 § 2; 1979 c 151 § 53; 1973 c 106 § 16; 1957 c 208 § 2.]

Application—1983 1st ex.s. c 28: See note following RCW 42.16.010.

RCW 41.04.039 Washington state combined fund drive account—Created. The Washington state combined fund drive account is created in the custody of the state treasurer. All receipts from the combined fund drive must be deposited into the account. Expenditures from the account may be used only for the beneficiaries of the Washington state combined fund drive. Only the secretary of state or the secretary's designee may authorize expenditures from the account. The account is not subject to allotment procedures under chapter 43.88 RCW, and an appropriation is not required for expenditures. [2010 c 101 § 4; 2002 c 61 § 3.]

RCW 41.04.045 Public service loan forgiveness program—Awareness materials—Employment certification process. (1) As soon as available, a state agency shall provide the materials described in RCW 28B.77.009 in written or electronic form to:

- (a) All employees annually;
- (b) Newly hired employees within 30 days of the employee's first day of employment.

(2) A state agency must certify employment for the purposes of the public service loan forgiveness program in accordance with the program established in RCW 43.41.425 beginning July 1, 2023.

(a) If a state agency does not directly certify employment with the United States department of education, the state agency must annually provide notice of renewal and a copy of the public service loan forgiveness form with employer information and employment certification sections of the form already completed reflecting at least the last 12 months of employment to:

- (i) An employee who requests a public service loan forgiveness form;
- (ii) Any current employee for whom the state agency has previously certified employment, unless the employee has opted out; and
- (iii) An employee upon separation from service or employment, unless the employee has opted out. The notice of renewal and completed employer sections of the public service loan forgiveness form provided to a separated employee must be sent within 60 days of separation and are exempted from the annual requirement set forth in subsection (2)(a) of this section.

(b) A state agency shall not unreasonably delay in certifying employment.

(c) A state agency must seek permission from its employees prior to certifying their employment.

(d) Institutions of higher education must use the calculation established in RCW 41.04.055 and may apply it retroactively to determine whether a part-time academic employee is considered full time for the public service loan forgiveness program.

(e) A state agency may send the information necessary for public service loan forgiveness employment certification to the United States department of education, or its agents, if the United States department of education permits public service employers to certify employment for past or present individual employees or groups of employees directly, notwithstanding other provisions of law.

(f) The office of financial management is authorized to adopt rules for the purpose of this section.

(3) An employee of a state agency may opt out of the employment certification process established in RCW 43.41.425 at any time.

(4) For purposes of this section, the definitions in this subsection apply:

(a) "Certifying employment" means either completing the employer sections of the public service loan forgiveness form or sharing data directly with the United States department of education that corresponds to the information required for the public service loan forgiveness form.

(b) "Full time" has the same meaning as set forth in 34 C.F.R. Sec. 685.219.

(c) "Public service employer" includes the following:

(i) Any governmental entity including state, county, city, or other local government entity including political subdivisions, such as office, department, independent agency, school district, public college or university system, public library system, authority, or other body including the legislature and the judiciary;

(ii) Any employer that has received designation as a tax-exempt organization pursuant to Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended;

(iii) Any other entities identified as a public service job in Title 20 U.S.C. Sec. 1087e(m).

(d) "Public service loan forgiveness program" means the federal loan forgiveness program established pursuant to Title 20 U.S.C. Sec. 1087e(m) and 34 C.F.R. Sec. 685.219.

(e) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts. [2022 c 248 § 4.]

Intent—Effective date—2022 c 248: See notes following RCW 28B.77.009.

RCW 41.04.055 Public service loan forgiveness program—Part-time academic employees. For the purpose of determining whether a part-time academic employee at an institution of higher education is considered full time for certifying employment for the public service loan forgiveness program, duties performed in support of, or in addition to, contractually assigned in-class teaching hours must be included. To calculate this, each hour of in-class teaching time shall be multiplied by 3.35 hours. This section shall not supersede any

calculation or adjustment established by a collective bargaining agreement or employer policy for additional work done outside of in-class teaching. An institution of higher education shall not treat any adjusted total hours worked differently from hours worked without an adjustment when determining whether an employee is full time. "Institution of higher education" has the same meaning as "institutions of higher education" in RCW 28B.10.016. [2022 c 248 § 5.]

Intent—Effective date—2022 c 248: See notes following RCW 28B.77.009.

RCW 41.04.110 Persons employed by more than one agency—Joint operation—May provide membership in single system. When there exists a joint operation of a public service, the authorities may make provision for membership of all new employees in one designated retirement system by agreement with the proper authorities. [1951 c 98 § 5.]

RCW 41.04.120 Civil service and retirement rights preserved when elective office assumed. Any civil service employee of the state of Washington or of any political subdivision thereof who is on leave of absence by reason of having been elected or appointed to an elective office shall be preserved in his or her civil service status, his or her seniority, rank and retirement rights so long as he or she regularly continues to make the usual contribution incident to the retention of such beneficial rights as if he or she were not on leave of absence: PROVIDED, That such contributions being made shall be based on the rank at the time of taking such leave of absence. [2012 c 117 § 5; 1957 c 164 § 1.]

RCW 41.04.130 Extension of provisions of retirement and pension systems by cities of the first class to nonincluded personnel. Any city of the first class may, by ordinance, extend, upon conditions deemed proper, the provisions of retirement and pension systems for superannuated and disabled officers and employees to officers and employees with five years of continuous service and acting in capacities in which they would otherwise not be entitled to participation in such systems: PROVIDED, That the following shall be specifically exempted from the provisions of this section.

(1) Members of the police departments who are entitled to the benefits of the police relief and pension fund as established by state law.

(2) Members of the fire department who are entitled to the benefits of the firefighters' relief and pension fund as established by state law. [2013 c 23 § 68; 1945 c 52 § 1; 1941 c 192 § 1; Rem. Supp. 1945 § 9592-129. Formerly codified as RCW 41.28.250.]

RCW 41.04.140 Interchange of personnel between federal and state agencies—"State agency" defined. "State agency" means a board, department, commission or institution of the state or its political subdivisions. [1959 c 102 § 1.]

RCW 41.04.150 Interchange of personnel between federal and state agencies—Agreements—Provisions. A state agency may enter into agreements with departments or other subdivisions of the federal government for the interchange of personnel on projects which are of mutual benefit to the state and federal government.

An interchange agreement shall specify the fiscal arrangements to be made, including compensations, rights, benefits and obligations of the employees concerned, travel and transportation of employees, their immediate families and household goods, and the duties and supervision of employees while on assignment. [1959 c 102 § 2.]

RCW 41.04.160 Interchange of personnel between federal and state agencies—Employment status of state employees participating—Retirement—Civil service. State agency employees participating in an interchange may be carried on detail or in a leave of absence status.

(1) Wherever practicable, employees should be carried on detail. While on detail under an interchange agreement, employees shall remain employees of the state agency for all fiscal purposes, but shall receive no reimbursement for travel or other expenses except as provided in RCW 41.04.150.

(2) State agency employees who receive temporary appointments with federal agencies shall be carried by the state agency in a leave of absence status. Participation in an interchange shall be considered as service under any retirement system of which the employees are members. Arrangements for payment of employees' contributions to a retirement system may be by the interchange agreement or otherwise. Employees participating in an interchange shall be entitled to credit the full period toward promotion or salary increase as provided by any applicable civil service laws or regulations. [1959 c 102 § 3.]

RCW 41.04.170 Interchange of personnel between federal and state agencies—Employment status of federal employees participating—Retirement—Civil service. Federal employees participating in an interchange may receive appointment by the state agency, or may be considered to be on detail with the state agency.

(1) Appointments of federal employees shall be made without regard to civil service laws or regulations. Compensation shall be in accordance with the usual rates paid by the state agency for similar positions.

An appropriate percentage of compensation shall be deducted and transmitted to the federal agency for retirement and insurance where the interchange agreement so provides.

(2) Federal employees on detail with a state agency remain employees of and shall continue to receive their compensation from the federal agency, subject to the terms of the interchange agreement. [1959 c 102 § 4.]

RCW 41.04.180 Hospitalization and medical aid for county, municipal and other political subdivision employees—Governmental contributions authorized. Any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body may, whenever funds shall be available for that purpose provide for all or a part of

hospitalization and medical aid for its employees and their dependents through contracts with regularly constituted insurance carriers or with health care service contractors as defined in chapter 48.44 RCW or self-insurers as provided for in chapter 48.62 RCW, for group hospitalization and medical aid policies or plans: PROVIDED, That any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body shall provide the employees thereof a choice of policies or plans through contracts with not less than two regularly constituted insurance carriers or health care service contractors or other health care plans, including but not limited to, trusts of self-insurance as provided for in chapter 48.62 RCW: AND PROVIDED FURTHER, That any county may provide such hospitalization and medical aid to county elected officials and their dependents on the same basis as such hospitalization and medical aid is provided to other county employees and their dependents: PROVIDED FURTHER, That provision for school district personnel shall not be made under this section but shall be as provided for in RCW 28A.400.350. [1991 sp.s. c 30 § 18; 1974 ex.s. c 82 § 1; 1973 1st ex.s. c 147 § 6; 1970 ex.s. c 39 § 10; 1969 ex.s. c 237 § 1; 1967 c 135 § 1; 1965 c 57 § 1; 1963 c 75 § 1.]

Effective date, implementation, application—1991 sp.s. c 30: See RCW 48.62.900.

Effective date—Effect of veto—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability—1970 ex.s. c 39: See note following RCW 41.05.050.

Effective date—1969 ex.s. c 237: "The effective date of this 1969 amendatory act shall be July 1, 1969: PROVIDED, That health benefit contracts awarded under the provisions of RCW 41.04.180 which expire after July 1, 1969 may be extended up to one year with the approval of the state employees' insurance and health care advisory committee as established under the provisions of section 8 of this act." [1969 ex.s. c 237 § 10.]

Retirement allowance deductions for health care benefit plans: RCW 41.04.235.

State health care authority: Chapter 41.05 RCW.

RCW 41.04.190 Hospitalization and medical aid for county, municipal and other political subdivision employees or elected officials—Cost not additional compensation—Disbursement. The cost of a policy or plan to a public agency or body is not additional compensation to the employees or elected officials covered thereby. The elected officials to whom this section applies include but are not limited to commissioners elected under chapters 28A.315, 52.14, 53.12, 54.12, 57.12, 70.44, and 87.03 RCW, as well as any county elected officials who are provided insurance coverage under RCW 41.04.180, and city officials elected under chapters 35.17, 35.22, 35.23, 35.27, 35A.12, and 35A.13 RCW. Any officer authorized to disburse such funds may pay in whole or in part to an insurance carrier or health care service contractor the amount of the premiums due under the contract.

[2007 c 42 § 1; 1996 c 230 § 1610; 1992 c 146 § 13; 1983 1st ex.s. c 37 § 1; 1965 c 57 § 2; 1963 c 75 § 2.]

Part headings not law—Effective date—1996 c 230: See notes following RCW 57.02.001.

Action disqualifying legislators proscribed—Severability—1965 c 57: "No board of county commissioners shall take any action under this 1965 amendatory act which shall disqualify members of the present legislature, under Article II, section 13, of the Constitution, from being candidates for or being elected or appointed to county elected offices.

If any provision of the action of a board of county commissioners is held invalid under the preceding paragraph of this section, the remainder of the action or the application of the provision to other persons or circumstances shall not be affected." [1965 c 57 § 3.]

RCW 41.04.205 Participation of county, municipal, and other political subdivision employees in state employees' insurance or self-insurance and health care program—Transfer procedure. (1)

Notwithstanding the provisions of RCW 41.04.180, the employees, with their dependents, of any county, municipality, or other political subdivision of this state shall be eligible to participate in any insurance or self-insurance program for employees administered under chapter 41.05 RCW if the legislative authority of any such county, municipality, or other political subdivisions of this state determines, subject to collective bargaining under applicable statutes, a transfer to an insurance or self-insurance program administered under chapter 41.05 RCW should be made. In the event of a special district employee transfer pursuant to this section, members of the governing authority shall be eligible to be included in such transfer if such members are authorized by law as of June 25, 1976 to participate in the insurance program being transferred from and subject to payment by such members of all costs of insurance for members.

(2) When the legislative authority of a county, municipality, or other political subdivision determines to so transfer, the state health care authority shall:

(a) Establish the conditions for participation; and

(b) Have the sole right to reject the application, except a group application from a county or other political subdivision of the state with fewer than five thousand employees must be approved.

Approval of the application by the state health care authority shall effect a transfer of the employees involved to the insurance, self-insurance, or health care program applied for.

(3) Any application of this section to members of the law enforcement officers' and firefighters' retirement system under chapter 41.26 RCW is subject to chapter 41.56 RCW.

(4) Until December 31, 2019, school districts may voluntarily transfer to the public employees' benefits board, except that all eligible employees in a bargaining unit of a school district may transfer only as a unit and all nonrepresented employees in a district may transfer only as a unit. [2018 c 260 § 21; 2016 c 67 § 1; 1995 1st sp.s. c 6 § 8; 1993 c 386 § 3; 1992 c 199 § 1; 1990 c 222 § 1; 1988 c 107 § 17; 1975-'76 2nd ex.s. c 106 § 1.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Effective date—1993 c 386 §§ 3, 7, and 11: "Sections 3, 7, and 11 of this act shall take effect October 1, 1993." [1993 c 386 § 17.]

Intent—1993 c 386: See note following RCW 28A.400.391.

Implementation—Effective dates—1988 c 107: See RCW 41.05.901.

RCW 41.04.208 Local government retirees—Health care—Definitions—Participation—Exception. (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. [2004 c 173 § 1; 2002 c 319 § 2.]

Effective date—2004 c 173: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 26, 2004]." [2004 c 173 § 3.]

Intent—2002 c 319: "It is the intent of this act to provide retirees of local government employers access to health care benefits. It is also the intent of this act that local government employers be allowed the flexibility to design programs to meet the health care needs of their retirees and that the local government employer be able to recover all costs associated with providing retirees access to health benefits." [2002 c 319 § 1.]

RCW 41.04.212 Local government retirees—Health care—Administration. Employers providing access to health insurance coverage under chapter 319, Laws of 2002 may adopt criteria which specify allowable enrollment periods, require enrollees to keep current addresses and information, and outline other processes to ensure that plans can be administered efficiently and effectively. [2002 c 319 § 3.]

Intent—2002 c 319: See note following RCW 41.04.208.

RCW 41.04.220 Department of enterprise services to procure health benefit programs—Other governmental entities may use services. Any governmental entity other than state agencies, may use the services of the department of enterprise services upon the approval of the director, in procuring health benefit programs as provided by RCW 41.04.180, 28A.400.350 and 28B.10.660: PROVIDED, That the department of enterprise services may charge for the administrative cost incurred in the procuring of such services. [2015 c 225 § 52; 1983 c 3 § 88; 1969 ex.s. c 237 § 7.]

Effective date—1969 ex.s. c 237: See note following RCW 41.04.180.

RCW 41.04.230 Payroll deductions authorized. Any official of the state authorized to disburse funds in payment of salaries and wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct from the salaries or

wages of the officers or employees, the amount or amounts of subscription payments, premiums, contributions, or continuation thereof, for payment of the following:

(1) Credit union deductions: PROVIDED, That twenty-five or more employees of a single state agency or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same credit union. An agency may, in its own discretion, establish a minimum participation requirement of fewer than twenty-five employees.

(2) Parking fee deductions: PROVIDED, That payment is made for parking facilities furnished by the agency or by the department of enterprise services. Deductions shall be pretax, to the extent possible, for qualified parking and transit benefits as allowed under the federal internal revenue code.

(3) U.S. savings bond deductions: PROVIDED, That a person within the particular agency shall be appointed to act as trustee. The trustee will receive all contributions; purchase and deliver all bond certificates; and keep such records and furnish such bond or security as will render full accountability for all bond contributions.

(4) Board, lodging or uniform deductions when such board, lodging and uniforms are furnished by the state, or deductions for academic tuitions or fees or scholarship contributions payable to the employing institution.

(5) Dues and other fees deductions: PROVIDED, That the deduction is for payment of membership dues to any professional organization formed primarily for public employees or college and university professors: AND PROVIDED, FURTHER, That twenty-five or more employees of a single state agency, or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same professional organization.

(6) Labor, employee, or retiree organization dues, and voluntary employee contributions to any funds, committees, or subsidiary organizations maintained by labor, employee, or retiree organizations, may be deducted in the event that a payroll deduction is not provided under a collective bargaining agreement under the provisions of chapter 41.80 RCW: PROVIDED, That each labor, employee, or retiree organization chooses only one fund for voluntary employee contributions: PROVIDED, FURTHER, That twenty-five or more officers or employees of a single agency, or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same labor, employee, or retiree organization: PROVIDED, FURTHER, That labor, employee, or retiree organizations with five hundred or more members in state government may have payroll deduction for employee benefit programs.

(7) Insurance contributions to the authority for payment of premiums under contracts authorized by the state health care authority. However, enrollment or assignment by the state health care authority to participate in a health care benefit plan, as required by RCW 41.05.065(8), shall authorize a payroll deduction of premium contributions without a written consent under the terms and conditions established by the public employees' benefits board.

(8) Deductions to a bank, savings bank, or savings and loan association if (a) the bank, savings bank, or savings and loan association is authorized to do business in this state; and (b) twenty-five or more employees of a single agency, or fewer, if a lesser number is established by such agency, or a total of one hundred or more state employees of several agencies have authorized a

deduction for payment to the same bank, savings bank, or savings and loan association.

Deductions from salaries and wages of public officers and employees other than those enumerated in this section or by other law, may be authorized by the director of financial management for purposes clearly related to state employment or goals and objectives of the agency and for plans authorized by the state health care authority.

(9) Contributions to the Washington state combined fund drive.

The authority to make deductions from the salaries and wages of public officers and employees as provided for in this section shall be in addition to such other authority as may be provided by law:

PROVIDED, That the state or any department, division, or separate agency of the state shall not be liable to any insurance carrier or contractor for the failure to make or transmit any such deduction. [2013 c 124 § 1; 2007 c 99 § 1; 2006 c 216 § 1; 2002 c 61 § 5; 1995 1st sp.s. c 6 § 21. Prior: 1993 c 2 § 26 (Initiative Measure No. 134, approved November 3, 1992); 1992 c 192 § 1; 1988 c 107 § 19; 1985 c 271 § 1; 1983 1st ex.s. c 28 § 3; 1980 c 120 § 1; 1979 c 151 § 54; 1973 1st ex.s. c 147 § 5; 1970 ex.s. c 39 § 11; 1969 c 59 § 5.]

Effective date—2006 c 216: "This act takes effect January 1, 2007." [2006 c 216 § 2.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Implementation—Effective dates—1988 c 107: See RCW 41.05.901.

Application—1983 1st ex.s. c 28: See note following RCW 42.16.010.

Effective date—Effect of veto—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability—1970 ex.s. c 39: See note following RCW 41.05.050.

RCW 41.04.232 Transition to two payrolls per month—Guidelines on deductions and deferrals. In order to facilitate the transition from one payroll per month to two payrolls per month, the following guidelines concerning payroll deductions and deferrals are established:

(1) All mandatory and voluntary deductions which are based upon a percentage of salary shall be deducted, after August 23, 1983, from the salaries payable for each pay period. This subsection shall apply regardless of when the deductions were authorized or required.

(2) The office of financial management shall adopt reasonable procedures providing for deductions, including deferrals, which are not based on a percentage of salary.

(3) Amounts which are deducted in accordance with subsections (1) and (2) of this section shall be paid to the designated recipient no later than the established paydates except when other agreements are reached with the designated recipient.

(4) Payment of deductions and deferrals to the designated recipient shall be made by warrant or check except when the designated recipient requests payment by electronic funds transfer. If recipients

request electronic funds transfers, sufficient time shall be made available to establish the process. The elapsed time to establish the process shall not exceed three months from the time the recipient has requested in writing to the appropriate data processing payroll systems manager to receive payment by electronic funds transfer.

Documentation and itemization of deductions or deferrals paid shall be in printed form unless the designated recipient requests computer tapes. If recipients request computer tapes, sufficient time shall be made available to establish the process. Computer tapes shall be made available to the requesting designated recipient if at least one hundred employees paid from an automated payroll system have such deductions. The elapsed time to establish the process for providing computer tapes shall not exceed three months from the time the recipient has requested in writing to the appropriate data processing payroll systems manager to receive computer tapes. With the approval of the office of financial management, more advanced technology may be utilized to provide payment, documentation, and itemization of deductions to designated recipients. [1983 1st ex.s. c 28 § 4.]

Application—1983 1st ex.s. c 28: See note following RCW 42.16.010.

RCW 41.04.233 Payroll deductions for capitation payments to health maintenance organizations. Any employee or retired employee of the state or its departments, agencies, or subdivisions and any employee or retired employee of a county, public or municipal corporation, school district, or tax supported institution may authorize the deduction from his or her salary or wages of the amount of his or her capitation payments to any health maintenance organization receiving a certificate of authority under this chapter. Upon the filing of an authorization with the auditor or fiscal officer of the employer, such auditor or fiscal officer shall make payments in favor of the health maintenance organizations referred to in the authorization for the amounts of the deductions authorized, *RCW 41.04.230(7) notwithstanding. [2012 c 117 § 6; 1975 1st ex.s. c 290 § 20.]

***Reviser's note:** RCW 41.04.230 was amended by 1993 c 2 § 26 (Initiative Measure No. 134), and subsection (7) was deleted.

RCW 41.04.235 Retirement allowance deductions for health care benefit plans. Participants in a health care benefit plan approved pursuant to RCW 41.04.180, 41.05.065, or 28A.400.350, whichever is applicable, who are retired public employees, may authorize the deduction from their retirement allowances, of the amount or amounts of their subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance upon the approval by the retirement board of an application for such deduction on the prescribed form, and the treasurer of the state shall duly and timely draw and issue proper warrants directly to and in favor of the person, firm, or corporation, or organization named in the authorization for the amount authorized to be deducted. [1993 c 386 § 4; 1983 c 3 § 89; 1975 1st ex.s. c 73 § 1.]

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

RCW 41.04.240 Direct deposit of salaries into financial institutions—Alternate payment methods for employees of institutions of higher education—Conservation district exemption. (1) Except with regard to institutions of higher education as defined in RCW 28B.10.016, any official of the state or of any political subdivision, municipal corporation, or quasi-municipal corporation authorized to disburse funds in payment of salaries and wages of employees is authorized upon written request of at least twenty-five employees to pay all or part of such salaries or wages to any financial institution for either: (a) Credit to the employees' accounts in such financial institution; or (b) immediate transfer therefrom to the employees' accounts in any other financial institutions.

(2) In disbursing funds for payment of salaries and wages of employees, institutions of higher education as defined in RCW 28B.10.016 are authorized to require the following payment methods:

(a) For employees who have an account in a financial institution, payment to any financial institution for either: (i) Credit to the employees' accounts in such financial institution; or (ii) immediate transfer therefrom to the employees' accounts in any other financial institutions; and

(b) For employees who do not have an account in a financial institution, payment by alternate methods such as payroll cards.

(3) Nothing in this section shall be construed as authorizing any employer to require the employees to have an account in any particular financial institution or type of financial institution. A single warrant may be drawn in favor of such financial institution, for the total amount due the employees involved, and written directions provided to such financial institution of the amount to be credited to the account of an employee or to be transferred to an account in another financial institution for such employee. The issuance and delivery by the disbursing officer of a warrant in accordance with the procedure set forth herein and proper indorsement thereof by the financial institution shall have the same legal effect as payment directly to the employee.

(4) Conservation districts as established and authorized under chapter 89.08 RCW are exempt from the requirement to obtain a written request of twenty-five employees as required in subsection (1) of this section, and may disburse funds in payment of salaries and wages of employees consistent with this chapter and RCW 89.08.215.

(5) For the purposes of this section "financial institution" means any bank or trust company established in this state pursuant to chapter 2, Title 12, United States Code, or *Title 30 RCW, and any credit union established in this state pursuant to chapter 14, Title 12, United States Code, or chapter 31.12 RCW, and any mutual savings bank established in this state pursuant to Title 32 RCW, and any savings and loan association established in this state pursuant to chapter 12, Title 12, United States Code, or Title 33 RCW. [2013 c 164 § 1; 2012 c 230 § 3; 1977 ex.s. c 269 § 1; 1969 c 59 § 6.]

***Reviser's note:** Title 30 RCW was recodified and/or repealed pursuant to 2014 c 37, effective January 5, 2015.

Savings report—2012 c 230: See RCW 28B.10.0291.

RCW 41.04.245 Payroll deductions to a bank, savings bank, credit union, or savings and loan association. Any official of any local political subdivision of the state, municipal corporation, or quasi-municipal corporation authorized to disburse funds in payment of salaries and wages of employees is authorized upon written request of any employee, to deduct all or part of such employee's salary or wages for payment to any bank, savings bank, credit union, or savings and loan association if (1) the bank, savings bank, credit union, or savings and loan association is authorized to do business in this state; and (2) twenty-five or more employees of a single local political subdivision, or fewer, if a lesser number is established by such local political subdivision, authorize such a deduction for payment to the same bank, savings bank, credit union, or savings and loan association. [1992 c 192 § 2.]

RCW 41.04.270 Public retirement systems—Members or beneficiaries estopped from becoming a member or accruing rights in any other public retirement system—Exceptions. (1) Except as provided in chapter 2.10, 2.12, 41.26, 41.28, 41.32, 41.35, 41.37, 41.40, or 43.43 RCW, on and after March 19, 1976, any member or former member who (a) receives a retirement allowance earned by the former member as deferred compensation from any public retirement system authorized by the general laws of this state, or (b) is eligible to receive a retirement allowance from any public retirement system listed in RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary of a disability allowance from any public retirement system listed in RCW 41.50.030 shall be estopped from becoming a member of or accruing any contractual rights whatsoever in any other public retirement system listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not apply to persons who have accumulated less than fifteen years service credit in any such system. (2) Nothing in this section is intended to apply to any retirement system except those listed in RCW 41.50.030 and the city employee retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b) of this section does not apply to a dual member as defined in RCW 41.54.010. [2006 c 309 § 3; 2005 c 327 § 1; 2001 c 180 § 4; 1988 c 195 § 5; 1987 c 192 § 9; 1980 c 29 § 1; 1975-'76 2nd ex.s. c 105 § 1.]

Effective date—2006 c 309: See note following RCW 41.37.005.

Effective date—1988 c 195: See RCW 41.54.901.

Effective dates—1987 c 192: See RCW 41.54.900.

Severability—1975-'76 2nd ex.s. c 105: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 105 § 28.]

RCW 41.04.273 Prohibition of retirement benefits passing to slayer or abuser beneficiary—Determination by department of retirement systems—Duties upon notice—Payment upon verdicts—Admissibility of evidence—Immunity.

(1) For purposes of this section, the following definitions shall apply:

(a) "Abuser" has the same meaning as provided in RCW 11.84.010.

(b) "Decedent" means any person who is entitled to benefits from the Washington state department of retirement systems by written designation or by operation of law:

(i) Whose life is taken by a slayer; or

(ii) Who is deceased and who, at any time during life in which he or she was a vulnerable adult, was the victim of financial exploitation by an abuser, except as provided in RCW 11.84.170.

(c) "Slayer" means a slayer as defined in RCW 11.84.010.

(2) Property that would have passed to or for the benefit of a beneficiary under one of the retirement systems listed in RCW 41.50.030 shall not pass to that beneficiary if the beneficiary was a slayer or abuser of the decedent and the property shall be distributed as if the slayer or abuser had predeceased the decedent.

(3) A slayer or abuser is deemed to have predeceased the decedent as to property which, by designation or by operation of law, would have passed from the decedent to the slayer or abuser because of the decedent's entitlement to benefits under one of the retirement systems listed in RCW 41.50.030.

(4) (a) The department of retirement systems has no affirmative duty to determine whether a beneficiary is, or is alleged to be, a slayer or abuser. However, upon receipt of written notice that a beneficiary is a defendant in a civil lawsuit or probate proceeding that alleges the beneficiary is a slayer or abuser, or is charged with a crime that, if committed, means the beneficiary is a slayer or abuser, the department of retirement systems shall determine whether the beneficiary is a defendant in such a civil proceeding or has been formally charged in court with the crime, or both. If so, the department shall withhold payment of any benefits until:

(i) The case or charges, or both if both are pending, are dismissed;

(ii) The beneficiary is found not guilty in the criminal case or prevails in the civil proceeding, or both if both are pending; or

(iii) The beneficiary is convicted or is found to be a slayer or abuser in the civil proceeding.

(b) If the case or charges, or both if both are pending, are dismissed or if a beneficiary is found not guilty or prevails in the civil proceeding, or both if both are pending, the department shall pay the beneficiary the benefits the beneficiary is entitled to receive. If the beneficiary is convicted or found to be a slayer or abuser in a civil proceeding, the department shall distribute the benefits according to subsection (2) of this section.

(5) Any record of conviction for having participated in the willful and unlawful killing of the decedent or for conduct constituting financial exploitation against the decedent, including but not limited to theft, forgery, fraud, identity theft, robbery, burglary, or extortion, shall be admissible in evidence against a claimant of property in any civil action arising under this section.

(6) In the absence of a criminal conviction, a superior court may determine:

(a) By a preponderance of the evidence whether a person participated in the willful and unlawful killing of the decedent;

(b) By clear, cogent, and convincing evidence whether a person participated in conduct constituting financial exploitation against the decedent, as provided in chapter 11.84 RCW.

(7) This section shall not subject the department of retirement systems to liability for payment made to a slayer or abuser or alleged slayer or abuser, prior to the department's receipt of written notice that the slayer or abuser has been convicted of, or the alleged slayer or abuser has been formally criminally or civilly charged in court with, the death or financial exploitation of the decedent. If the conviction or civil judgment of a slayer or abuser is reversed on appeal, the department of retirement systems shall not be liable for payment made prior to the receipt of written notice of the reversal to a beneficiary other than the person whose conviction or civil judgment is reversed. [2009 c 525 § 19; 1998 c 292 § 501.]

Application—1998 c 292: "Sections 501 through 505 of this act apply to acts that result in unlawful killings of decedents by slayers on and after April 2, 1998." [1998 c 292 § 506.]

Conflict with federal requirements—1998 c 292: "If any part of sections 501 through 505 of this act is found to be in conflict with federal requirements, the conflicting part of sections 501 through 505 of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination does not affect the operation of the remainder of sections 501 through 505 of this act. Rules adopted under sections 501 through 505 of this act must meet federal requirements." [1998 c 292 § 507.]

Effective dates—1998 c 292: See RCW 11.11.903.

RCW 41.04.276 Select committee on pension policy—Creation—Membership—Terms of office—Staff support. (1) The select committee on pension policy is created. The select committee consists of:

(a) Four members of the senate appointed by the president of the senate, two of whom are members of the majority party and two of whom are members of the minority party. At least three of the appointees shall be members of the senate ways and means committee;

(b) Four members of the house of representatives appointed by the speaker, two of whom are members of the majority party and two of whom are members of the minority party. At least three of the appointees shall be members of the house of representatives appropriations committee;

(c) Four active members or representatives from organizations of active members of the state retirement systems appointed by the governor for staggered three-year terms, with no more than two appointees representing any one employee retirement system;

(d) Two retired members or representatives of retired members' organizations of the state retirement systems appointed by the governor for staggered three-year terms, with no two members from the same system;

(e) Four employer representatives of members of the state retirement systems appointed by the governor for staggered three-year terms; and

(f) The directors of the department of retirement systems and office of financial management.

(2) (a) The term of office of each member of the house of representatives or senate serving on the committee runs from the close of the session in which he or she is appointed until the close of the next regular session held in an odd-numbered year. If a successor is not appointed during a session, the member's term continues until the member is reappointed or a successor is appointed. The term of office for a committee member who is a member of the house of representatives or the senate who does not continue as a member of the senate or house of representatives ceases upon the convening of the next session of the legislature during the odd-numbered year following the member's appointment, or upon the member's resignation, whichever is earlier. All vacancies of positions held by members of the legislature must be filled from the same political party and from the same house as the member whose seat was vacated.

(b) Following the terms of members and representatives appointed under subsection (1) (d) of this section, the retiree positions shall be rotated to ensure that each system has an opportunity to have a retiree representative on the committee.

(3) The committee shall elect a chairperson and a vice chairperson. The chairperson shall be a member of the senate in even-numbered years and a member of the house of representatives in odd-numbered years and the vice chairperson shall be a member of the house of representatives in even-numbered years and a member of the senate in odd-numbered years.

(4) The committee shall establish an executive committee of six members, including the chairperson, the vice chairperson, one member from subsection (1) (c) of this section, one member from subsection (1) (d) of this section, one member from subsection (1) (e) of this section, and the director of the department of retirement systems.

(5) Nonlegislative members of the select committee serve without compensation, but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(6) The office of state actuary under chapter 44.44 RCW shall provide staff and technical support to the committee. [2005 c 24 § 1; 2003 c 295 § 1.]

RCW 41.04.278 Select committee on pension policy—Subcommittees.

(1) The select committee on pension policy may form three function-specific subcommittees, as set forth under subsection (2) of this section, from the members under RCW 41.04.276(1) (a) through (e), as follows:

(a) A public safety subcommittee with one member from each group under RCW 41.04.276(1) (a) through (e);

(b) An education subcommittee with one member from each group under RCW 41.04.276(1) (a) through (e); and

(c) A state and local government subcommittee, with one retiree member under RCW 41.04.276(1) (d) and two members from each group under RCW 41.04.276(1) (a) through (c) and (e).

The retiree members may serve on more than one subcommittee to ensure representation on each subcommittee.

(2) (a) The public safety subcommittee shall focus on pension issues affecting public safety employees who are members of the law

enforcement officers' and firefighters', public safety employees', and Washington state patrol retirement systems.

(b) The education subcommittee shall focus on pension issues affecting educational employees who are members of the public employees', teachers', and school employees' retirement systems.

(c) The state and local government subcommittee shall focus on pension issues affecting state and local government employees who are members of the public employees' retirement system. [2006 c 309 § 4; 2003 c 295 § 2.]

Effective date—2006 c 309: See note following RCW 41.37.005.

RCW 41.04.281 Select committee on pension policy—Powers and duties. The select committee on pension policy has the following powers and duties:

(1) Study pension issues, develop pension policies for public employees in state retirement systems, and make recommendations to the legislature;

(2) Study the financial condition of the state pension systems, develop funding policies, and make recommendations to the legislature;

(3) Consult with the chair and vice chair on appointing members to the state actuary appointment committee upon the convening of the state actuary appointment committee established under RCW 44.44.013; and

(4) Receive the results of the actuarial audits of the actuarial valuations and experience studies administered by the pension funding council pursuant to RCW 41.45.110. The select committee on pension policy shall study and make recommendations on changes to assumptions or contribution rates to the pension funding council prior to adoption of changes under RCW 41.45.030, 41.45.035, or 41.45.060. [2003 c 295 § 5.]

RCW 41.04.300 Travel expenses of state officials and employees. Except as otherwise provided by law the payment of travel expenses by the state to any appointive official or employee of any commission, agency, or other body of the executive, judicial, or legislative branches of state government shall be in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 3.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 41.04.340 State employee attendance incentive program—Sick leave records to be kept—Remuneration or benefits for unused sick leave—Medical expense plan in lieu of remuneration. (1) An attendance incentive program is established for all eligible employees. As used in this section the term "eligible employee" means any employee of the state, other than eligible employees of the community and technical colleges and the state board for community and technical colleges identified in RCW 28B.50.553, and teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick leave and for

whom accurate sick leave records have been maintained. No employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month. The state and regional universities and The Evergreen State College shall maintain complete and accurate sick leave records for all teaching and research faculty.

(2) In January of the year following any year in which a minimum of sixty days of sick leave is accrued, and each January thereafter, any eligible employee may receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

From July 1, 2011, through June 29, 2013, the rate of monetary compensation for the purposes of this subsection shall not be reduced by any temporary salary reduction.

(3) At the time of separation from state service due to retirement or death, an eligible employee or the employee's estate may elect to receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days of accrued sick leave. From July 1, 2011, through June 29, 2013, the rate of monetary compensation for the purposes of this subsection shall not be reduced by any temporary salary reduction.

(4) Remuneration or benefits received under this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

(5) Except as provided in subsections (7) through (9) of this section for employees not covered by chapter 41.06 RCW, this section shall be administered, and rules shall be adopted to carry out its purposes, by the director of financial management for persons subject to chapter 41.06 RCW.

(6) Should the legislature revoke any remuneration or benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

(7) In lieu of remuneration for unused sick leave at retirement as provided in subsection (3) of this section, an agency head or designee may with equivalent funds, provide eligible employees with a benefit plan that provides for reimbursement for medical expenses. This plan shall be implemented only after consultation with affected groups of employees. For eligible employees covered by chapter 41.06 RCW, procedures for the implementation of these plans shall be adopted by the director of the state health care authority. For eligible employees exempt from chapter 41.06 RCW, implementation procedures shall be adopted by an agency head having jurisdiction over the employees.

(8) Implementing procedures adopted by the director of the state health care authority or agency heads shall require that each medical expense plan authorized by subsection (7) of this section apply to all eligible employees in any one of the following groups: (a) Employees in an agency; (b) employees in a major organizational subdivision of an agency; (c) employees at a major operating location of an agency; (d) exempt employees under the jurisdiction of an elected or appointed Washington state executive; (e) employees of the Washington state senate; (f) employees of the Washington state house of representatives; (g) classified employees in a bargaining unit established by the public employment relations commission; or (h)

other group of employees defined by an agency head that is not designed to provide an individual-employee choice regarding participation in a medical expense plan. However, medical expense plans for eligible employees in any of the groups under (a) through (h) of this subsection who are covered by a collective bargaining agreement shall be implemented only by written agreement with the bargaining unit's exclusive representative and a separate medical expense plan may be provided for unrepresented employees.

(9) Medical expense plans authorized by subsection (7) of this section must require as a condition of participation in the plan that employees in the group affected by the plan sign an agreement with the employer. The agreement must include a provision to hold the employer harmless should the United States government find that the employer or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the employer not withholding or deducting a tax, assessment, or other payment on the funds as required by federal law. The agreement must also include a provision that requires an eligible employee to forfeit remuneration under subsection (3) of this section if the employee belongs to a group that has been designated to participate in the medical expense plan permitted under this section and the employee refuses to execute the required agreement. [2015 3rd sp.s. c 1 § 311. Prior: 2011 1st sp.s. c 43 § 432; 2011 1st sp.s. c 39 § 12; 2002 c 354 § 227; prior: 1998 c 254 § 1; 1998 c 116 § 2; 1997 c 232 § 2; 1993 c 281 § 17; 1991 c 249 § 1; 1990 c 162 § 1; 1980 c 182 § 1; 1979 ex.s. c 150 § 1.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Effective date—2011 1st sp.s. c 39: See note following RCW 41.04.820.

Short title—Headings, captions not law—Severability—Effective dates—2002 c 354: See RCW 41.80.907 through 41.80.910.

Conflict with federal requirements—1998 c 254 § 1: "If any part of RCW 41.04.340 (7) through (9) is found to be in conflict with federal tax laws or rulings or regulations of the federal internal revenue service, the conflicting part is inoperative solely to the extent of the conflict and such a finding shall not affect the remainder of section 1, chapter 254, Laws of 1998." [1998 c 254 § 2.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1980 c 182: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 182 § 7.]

RCW 41.04.350 Mandatory retirement prior to seventy years of age prohibited—Exceptions—Waiver of mandatory retirement. (1) Notwithstanding any other provisions of law, no employee of the state of Washington or any of its political subdivisions or any institution supported in total or in part by the state or any of its political

subdivisions, other than employees covered by chapters 41.26 and 43.43 RCW, shall be compelled to retire solely on the basis of age prior to attaining seventy years of age.

(2) All compulsory retirement provisions relating to public employees, other than employees covered by chapters 41.26 and 43.43 RCW, may be waived for individuals attaining seventy years of age by the individual's employer. [1979 ex.s. c 159 § 1.]

RCW 41.04.360 State-employed religious coordinator—Housing allowance. In the case of a minister or other clergy person employed as a religious coordinator in a state institution or agency, there is designated in the salary or wage paid to the person an amount up to forty percent of the gross salary as either of the following:

(1) The rental value of a home furnished to the person as part of the person's compensation; or

(2) The housing/rental allowance paid to the person as part of the person's compensation, to the extent used by the person to rent or provide a home. [2019 c 107 § 1; 1982 c 190 § 1.]

Appointment and duties of institutional chaplains: RCW 72.01.210 through 72.01.260.

Volunteer law enforcement chaplains: Chapter 41.22 RCW.

RCW 41.04.362 Employee wellness program. (1) Directors of state and local entities, in consultation with applicable state agencies and employee organizations, may develop and administer a voluntary state employee wellness program.

(2) A director may:

(a) Develop and implement state employee wellness policies, procedures, and activities;

(b) Disseminate wellness educational materials to agencies and employees;

(c) Encourage the establishment of wellness activities in agencies;

(d) Provide technical assistance and training to agencies conducting wellness activities for their employees;

(e) Develop standards by which agencies sponsoring specific wellness activities may impose a fee to participating employees to help defray the cost of those activities;

(f) Monitor and evaluate the effectiveness of this program, including the collection, analysis, and publication of relevant statistical information; and

(g) Perform other duties and responsibilities as necessary to carry out the purpose of this section.

(3) No wellness program or activity that involves or requires organized or systematic physical exercise may be implemented or conducted during normal working hours. [2010 c 128 § 4; 1987 c 248 § 2.]

Legislative findings—Purpose—1987 c 248: "The legislature finds that:

(1) Improved health among employees will result in a more productive workforce, better morale, reduced stress, lower injury rates and absenteeism, and improved recruitment and retention rates;

(2) A substantial amount of illness and injury in the workforce is preventable because it results from lifestyle decisions;

(3) Illness and injury among state employees can be reduced if employees engage in healthier lifestyles.

The state, as an employer, desires to foster a working environment that promotes the health and well-being of its employees. Therefore, it is the purpose of this act to establish a state employee wellness program. "Wellness program" means those policies, procedures, and activities that promote the health and well-being of state employees and that contribute to a healthful work environment." [1987 c 248 § 1.]

RCW 41.04.370 Child care—Legislative intent. The legislature recognizes that supporting child care for employees of public and private organizations is a worthwhile pursuit. To further the goals of affordable, accessible, and quality child care for working parents, the legislature intends to provide for the development of self-supporting child care programs for employees of state government. [1993 c 194 § 1; 1984 c 162 § 1.]

RCW 41.04.375 Child care—Rental of suitable space. An agency may identify space they wish to use for child care facilities or they may request assistance from the department of enterprise services in identifying the availability of suitable space in state-owned or state-leased buildings for use as child care centers for the children of state employees.

When suitable space is identified in state-owned or state-leased buildings, the department of enterprise services shall establish a rental rate for organizations to pay for the space used by persons who are not state employees. [2015 c 225 § 53; 1993 c 194 § 2; 1984 c 162 § 2.]

RCW 41.04.380 Child care—Contracts—Provision of suitable space at reduced cost authorized. When suitable space is determined to be available, either agencies or organizations of state employees may contract with one or more providers to operate child care facilities.

Subject to the approval of the director of financial management, suitable space for child care centers may be provided to organizations of state employees without charge or at reduced charge for rent or services solely for the purpose of reducing employee child care costs. [1993 c 194 § 3; 1984 c 162 § 3.]

RCW 41.04.382 Child care organizations—Qualifications for services. In order to qualify for services under RCW 41.04.380, state employee child care organizations shall be organized as nonprofit under chapter 24.03A RCW. [2021 c 176 § 5218; 1993 c 194 § 4.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 41.04.385 Child care—Legislative findings—State policy—Responsibilities of director of enterprise services. The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs have been resolved; (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child care needs; and (4) the state of Washington should encourage the development of partnerships between state agencies, state employees, state employee labor organizations, and private employers to expand the availability of affordable quality child care. The legislature finds further that resolving employee child care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child care needs. Policies and procedures for state agencies to address employee child care needs will be the responsibility of the director of enterprise services in consultation with the secretary of the department of children, youth, and families and state employee representatives. [2018 c 58 § 21; 2011 1st sp.s. c 43 § 433; 2006 c 265 § 201; 2005 c 490 § 9; 2002 c 354 § 236; 1993 c 194 § 5; 1986 c 135 § 1.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Effective date—2006 c 265: See RCW 43.216.902.

Effective date—2005 c 490: See note following RCW 43.216.705.

Short title—Headings, captions not law—Severability—Effective dates—2002 c 354: See RCW 41.80.907 through 41.80.910.

RCW 41.04.390 Flexible-time work schedules. (1) The legislature finds that flexible-time work schedules, which provide varying times for employees to arrive at and depart from work, tend to alleviate traffic congestion during peak rush hour periods and thereby reduce hazardous traffic conditions; provide more efficient use of highways and other transit facilities; and decrease fuel consumption. In addition, the legislature finds that flexible-time work schedules provide families in which both parents work outside of the home with the flexibility necessary to provide for day care; provide employees with flexibility allowing them to spend more time with their families; improve employee morale and, in-so-doing, improve productivity. Therefore, due to the clear advantages to both agencies and employees, the legislature finds that flexible-time work schedules should be utilized by agencies to the maximum extent possible.

(2) As used in this section, "flexible-time work schedule" means a daily work schedule which contains a core time of required hours

during which an employee subject to the schedule is required to be present for work and designated hours before or after the core time during which an employee, with the approval of his or her agency, may elect a time of arrival to work and departure from work.

(3) Each agency shall prepare a flexible-time work schedule or schedules and shall offer the schedule or schedules to employees as an option to the traditional eight o'clock a.m. to five o'clock p.m. working day. However, an agency shall not be required to prepare or offer a flexible-time work schedule or schedules if the agency head determines that the implementation of such a schedule would serve as an impediment to the provision of services to the public or would in any other way impede the agency in accomplishing its mission.

(4) Any employee wishing to use a flexible-time work schedule prepared under subsection (3) of this section must first obtain the permission of the agency head or the agency head's designee. However, if there is an employee organization certified as an exclusive bargaining representative for a bargaining unit affected by the flexible-time work schedule, the agency shall first negotiate with the certified employee organization.

(5) Nothing in this section affects official hours during which state offices are required to be open for the transaction of business, as prescribed in RCW 42.04.060. [1985 c 411 § 1.]

RCW 41.04.393 Public safety officers—Retirement benefits—Death in the line of duty. Retirement benefits paid under chapter 41.26, 41.37, 41.40, or 43.43 RCW to beneficiaries of public safety officers who die in the line of duty shall be paid in accordance with Title 26 U.S.C. Sec. 101(h) as amended by the Fallen Hero Survivor Benefit Fairness Act of 2001. [2006 c 309 § 5; 2003 c 32 § 1.]

Effective date—2006 c 309: See note following RCW 41.37.005.

RCW 41.04.400 Consolidation of local governmental unit and first-class city retirement system—Intent. It is the purpose of RCW 41.04.405 through 41.04.430 to govern the retirement rights of persons whose employment status is altered when: (1) Two or more units of local government of this state, at least one of which is a first-class city with its own retirement system, enter into an agreement for the consolidated performance of a governmental service, activity, or undertaking; (2) the service, activity, or undertaking is to be performed either by one of the participating local governmental units or by a newly established separate legal entity; and (3) the employees of the participating local governmental units are not all members of the same Washington public retirement system.

RCW 41.04.405 through 41.04.430 are not intended to and do not govern retirement rights of any members of the retirement systems established by chapter 41.16, 41.18, 41.20, or 41.26 RCW, or of employees described in RCW 35.58.265, 35.58.390, or 70.08.070. To the extent there is any conflict between RCW 41.04.405 through 41.04.430 and RCW 41.04.110, the provisions of RCW 41.04.405 through 41.04.430 shall govern. [1984 c 184 § 22.]

Severability—1984 c 184: See note following RCW 41.50.150.

RCW 41.04.405 Consolidation of local governmental unit and first-class city retirement system—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.400 through 41.04.430.

(1) "Legal entity" means any political subdivision or municipal corporation of the state, including but not limited to public agencies created under RCW 35.63.070, 36.70.060, or 39.34.030.

(2) "Consolidated employer" means the legal entity assigned by agreement to perform a governmental service, activity, or undertaking for two or more units of local government of the state, at least one of which is a first-class city with its own retirement system.

(3) "Existing employee" means a person who both (a) becomes employed by the consolidated employer within one year after the consolidation and (b) was employed by one of the combining legal entities at the time of the consolidation.

(4) "New employee" means an employee of the consolidated employer who is not an existing employee.

(5) "Active member" means a member of a retirement system who was making contributions to that retirement system at the time of the consolidation. [1984 c 184 § 23.]

Severability—1984 c 184: See note following RCW 41.50.150.

RCW 41.04.410 Consolidation of local governmental unit and first-class city retirement system—Membership in public employees' or public safety employees' retirement system. If a consolidated employer is a participating member in the public employees' retirement system under chapter 41.40 RCW prior to the consolidation or in the public safety employees' retirement system under chapter 41.37 RCW prior to the consolidation:

(1) All existing employees of the consolidated employer who are active members of the public employees' or public safety employees' retirement system immediately prior to the consolidation shall continue to be members of that retirement system while employed by the consolidated employer.

(2) All existing employees of the consolidated employer who are active members of a first-class city retirement system under chapter 41.28 RCW immediately prior to the consolidation shall cease to be members of that system at the time of the consolidation and, if eligible, shall immediately become members of the public employees' or public safety employees' retirement system. However, any such active member may, by a writing filed with the consolidated employer within thirty days after the consolidation or within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue to be a member of the first-class city retirement system, thereby forever waiving any rights under the public employees' or public safety employees' retirement system based upon employment with the consolidated employer.

(3) Only prospective periods of qualifying service under the public employees' or public safety employees' retirement system may be established under this section. [2007 c 492 § 2; 1984 c 184 § 24.]

Severability—1984 c 184: See note following RCW 41.50.150.

RCW 41.04.415 Consolidation of local governmental unit and first-class city retirement system—Membership in first-class city retirement system. If a consolidated employer is a city operating a first-class city retirement system under chapter 41.28 RCW prior to the consolidation:

(1) All existing employees of the consolidated employer who are active members of the first-class city retirement system immediately prior to the consolidation shall continue to be members of that retirement system while employed by the consolidated employer.

(2) All existing employees of the consolidated employer who are active members of the public employees' retirement system under chapter 41.40 RCW immediately prior to the consolidation shall cease to be members of that system at the time of the consolidation and, if eligible, shall immediately become members of the first-class city retirement system. However, any such active member may, by a writing filed with the consolidated employer within thirty days after the consolidation or within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue to be a member of the public employees' retirement system, thereby forever waiving any rights under the first-class city retirement system based upon such employment with the consolidated employer.

(3) Only prospective periods of qualifying service under the first-class city retirement system may be established under this section. [1984 c 184 § 25.]

Severability—1984 c 184: See note following RCW 41.50.150.

RCW 41.04.420 Consolidation of local governmental unit and first-class city retirement system—Newly created legal entity. If a consolidated employer is a newly created legal entity and does not immediately join the public employees' retirement system pursuant to RCW 41.40.062:

(1) All existing employees of the consolidated employer who are active members of a first-class city retirement system or the public employees' retirement system immediately prior to the consolidation shall cease to be members of these systems. However, any such active members may, by a writing filed with the consolidated employer within thirty days after the consolidation or within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue as members of the retirement system to which they belonged at the time of the consolidation for all periods of employment with the consolidated employer.

(2) If the consolidated employer later joins the public employees' retirement system, all existing employees still employed on that date shall, effective from that date, have the same retirement system rights and options, subject to the same conditions as employees governed by RCW 41.04.410, notwithstanding any previous election under subsection (1) of this section.

(3) No new employees of the consolidated employer may become members of an employer-sponsored retirement system until such time as the employer joins the public employees' retirement system pursuant to RCW 41.40.062. [1984 c 184 § 26.]

Severability—1984 c 184: See note following RCW 41.50.150.

RCW 41.04.425 Consolidation of local governmental unit and first-class city retirement system—Limitations. Notwithstanding any provision of RCW 41.04.410, 41.04.415, or 41.04.420:

(1) No person may simultaneously accrue any contractual rights whatsoever in more than one Washington public retirement system as a consequence of employment by a consolidated employer.

(2) No person who makes a written election permitted by RCW 41.04.410, 41.04.415, or 41.04.420 may receive a retirement allowance from such retirement system under any circumstances while employed or reemployed by the consolidated employer.

(3) No person may accrue any benefits or rights under any Washington public retirement system as a result of RCW 41.04.410, 41.04.415, or 41.04.420 except such rights of continuing membership that are specifically and explicitly granted by RCW 41.04.410, 41.04.415, or 41.04.420.

(4) Nothing in RCW 41.04.400 through 41.04.425 is intended to constitute an amendment or waiver of any law or rule of any Washington public retirement system, including but not limited to those governing eligibility for service credit, benefits, or membership, except to broaden the class of legal entities that are deemed to be participating employers in the retirement systems in the specific circumstances stated in RCW 41.04.410, 41.04.415, and 41.04.420. [1984 c 184 § 27.]

Severability—1984 c 184: See note following RCW 41.50.150.

RCW 41.04.430 Consolidation of local governmental unit and first-class city retirement system—Compliance with laws and rules—Application of sections. (1) Consolidated employers that employ persons governed by RCW 41.04.410, 41.04.415, or 41.04.420 shall comply with all laws and rules governing the retirement system in which the persons participate as members, including but not limited to the obligations to make employer contributions, to deduct and transmit employee contributions, and to submit required reports.

(2) RCW 41.04.410, 41.04.415, 41.04.420, and 41.04.425 govern any consolidation occurring on or after December 31, 1981. [1984 c 184 § 28.]

Severability—1984 c 184: See note following RCW 41.50.150.

RCW 41.04.440 Members' retirement contributions—Pick up by employer—Purpose—Benefits not contractual right. (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the members of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.35, 41.37, 41.40, 41.34, and 43.43 RCW to enjoy the tax deferral benefits allowed under 26 U.S.C. 414(h). Chapter 227, Laws of 1984 does not alter in any manner the provisions of RCW 41.45.060, 41.45.061, and 41.45.067 which require that the member contribution rates shall be set so as to provide fifty percent of the cost of the respective retirement plans.

(2) Should the legislature revoke any benefit allowed under 26 U.S.C. 414(h), no affected employee shall be entitled thereafter to receive such benefit as a matter of contractual right. [2007 c 492 § 3; 2000 c 247 § 1101; 1995 c 239 § 322; 1984 c 227 § 1.]

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Effective date—1984 c 227: "This act shall take effect on September 1, 1984." [1984 c 227 § 4.]

Conflict with federal requirements—1984 c 227: "If any part of this act is found to be in conflict with federal requirements, the conflicting part of the act is hereby declared to be inoperative solely to the extent of the conflict and such finding or determination shall not affect the operation of the remainder of the act in its application: PROVIDED, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner. The rules under this act shall meet federal requirements." [1984 c 227 § 6.]

Severability—1984 c 227: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected: PROVIDED, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner." [1984 c 227 § 7.]

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.04.445 Members' retirement contributions—Pick up by employer—Implementation. (1) This section applies to all members who are:

- (a) Judges under the retirement system established under chapter 2.10, 2.12, or 2.14 RCW;
- (b) Employees of the state under the retirement system established by chapter 41.32, 41.37, 41.40, or 43.43 RCW;
- (c) Employees of school districts under the retirement system established by chapter 41.32 or 41.40 RCW, except for substitute teachers as defined by RCW 41.32.010;
- (d) Employees of educational service districts under the retirement system established by chapter 41.32 or 41.40 RCW; or
- (e) Employees of community college districts under the retirement system established by chapter 41.32 or 41.40 RCW.

(2) Only for compensation earned after the effective date of the implementation of this section and as provided by section 414(h) of the federal internal revenue code, the employer of all the members specified in subsection (1) of this section shall pick up only those member contributions as required under:

- (a) RCW 2.10.090(1);
- (b) RCW 2.12.060;
- (c) RCW 2.14.090;
- (d) RCW 41.32.263;
- (e) RCW 41.32.350;
- (f) RCW 41.40.330 (1) and (3);

- (g) RCW 41.45.061 and 41.45.067;
- (h) RCW 41.34.070;
- (i) *RCW 43.43.300; and
- (j) RCW 41.34.040.

(3) Only for the purposes of federal income taxation, the gross income of the member shall be reduced by the amount of the contribution to the respective retirement system picked up by the employer.

(4) All member contributions to the respective retirement system picked up by the employer as provided by this section, plus the accrued interest earned thereon, shall be paid to the member upon the withdrawal of funds or lump sum payment of accumulated contributions as provided under the provisions of the retirement systems.

(5) At least forty-five days prior to implementing this section, the employer shall provide:

(a) A complete explanation of the effects of this section to all members; and

(b) Notification of such implementation to the director of the department of retirement systems. [2007 c 492 § 4; 2000 c 247 § 1102; 1995 c 239 § 323; 1992 c 212 § 15; 1990 c 274 § 6; 1988 c 109 § 24; 1985 c 13 § 2; 1984 c 227 § 2.]

***Reviser's note:** RCW 43.43.300 was repealed by 2001 c 329 § 12.

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Findings—Effective date—Construction—1990 c 274: See notes following RCW 41.32.010.

Effective date—1988 c 109: See note following RCW 2.10.030.

Purpose—Application—1985 c 13: "The sole purpose of this 1985 act is to clarify and more explicitly state the intent of the legislature in enacting chapter 227, Laws of 1984. This 1985 act makes no substantive changes in the meaning or impact of that chapter and the provisions of this 1985 act shall be deemed to have retrospective application to September 1, 1984." [1985 c 13 § 1.]

Retrospective application—1985 c 13: "This act shall have retrospective application to September 1, 1984." [1985 c 13 § 8.]

Effective date—Conflict with federal requirements—Severability—1984 c 227: See notes following RCW 41.04.440.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.04.450 Members' retirement contributions—Pick up by employer—Optional implementation and withdrawal. (1) Employers of those members under chapters 41.26, 41.34, 41.35, 41.37, and 41.40 RCW

who are not specified in RCW 41.04.445 may choose to implement the employer pick up of all member contributions without exception under RCW 41.26.080(1)(a), 41.26.450, 41.40.330(1), 41.45.060, 41.45.061, and 41.45.067 and chapter 41.34 RCW. If the employer does so choose, the employer and members shall be subject to the conditions and limitations of RCW 41.04.445 (3), (4), and (5) and 41.04.455.

(2) An employer exercising the option under this section may later choose to withdraw from and/or reestablish the employer pick up of member contributions only once in a calendar year following forty-five days prior notice to the director of the department of retirement systems. [2007 c 492 § 5; 2003 c 294 § 1; 2000 c 247 § 1103; 1995 c 239 § 324; 1985 c 13 § 3; 1984 c 227 § 3.]

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

Effective date—Conflict with federal requirements—Severability—1984 c 227: See notes following RCW 41.04.440.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.04.455 Members' retirement contributions—Pick up by employer—Conditions. The following two conditions apply to the employer pick up of member contributions authorized under RCW 41.04.445 (section 2, chapter 227, Laws of 1984):

(1) The retirement contributions, although designated as member contributions, will be picked up by the employer, as provided in RCW 41.04.445 (section 2, chapter 227, Laws of 1984) in lieu of contributions by the member.

(2) No retirement system member will have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system. [1985 c 13 § 4.]

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

RCW 41.04.460 Financial planning for retirement—Department of enterprise services to provide information to retirement system members. The department of enterprise services, through the combined benefits communication project, shall prepare information encouraging individual financial planning for retirement and describing the potential consequences of early retirement, including members' assumption of health insurance costs, members' receipt of reduced retirement benefits, and the increased period of time before members will become eligible for cost-of-living adjustments. The department of retirement systems shall distribute the information to members who are

eligible to retire under the provisions of chapter 234, Laws of 1992. Prior to retiring, such members who elect to retire shall sign a statement acknowledging their receipt and understanding of the information. [2011 1st sp.s. c 43 § 472; 1992 c 234 § 10.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

RCW 41.04.500 Disability leave supplement for law enforcement officers and firefighters. County, municipal, and political subdivision employers of full-time, commissioned law enforcement officers and full-time, paid firefighters shall provide a disability leave supplement to such employees who qualify for payments under RCW 51.32.090 due to a temporary total disability. [1985 c 462 § 1.]

Program and fiscal review—1985 c 462: "The legislative budget committee shall cause to be conducted a program and fiscal review of the program established by RCW 41.04.500 through 41.04.530. The review shall be conducted on or before June 30, 1987. In conducting the review, the legislative budget committee shall consider, but not be limited to, the following issues:

(1) The fiscal impact of the program on local governmental entities;

(2) The number of claims made and allowed, and duration of claims allowed, for disability leave supplement pursuant to RCW 41.04.500 through 41.04.530;

(3) The number of claimants for disability leave supplement under RCW 41.04.500 through 41.04.530 who have not returned to active service within six months from the injury or illness causing disability;

(4) The number of local governmental entities who have entered into agreements with law enforcement officers and firefighters which establish benefits which are greater than those prescribed by RCW 41.04.500 through 41.04.530, and the number of employees covered by such agreements." [1985 c 462 § 10.]

RCW 41.04.505 Disability leave supplement for law enforcement officers and firefighters—Amount. The disability leave supplement shall be an amount which, when added to the amount payable under RCW 51.32.090 will result in the employee receiving the same pay he or she would have received for full time active service, taking into account that industrial insurance payments are not subject to federal income or social security taxes. [1985 c 462 § 2.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

RCW 41.04.510 Disability leave supplement for law enforcement officers and firefighters—Payment. The disability leave supplement shall be paid as follows:

(1) The disability leave supplement shall begin on the sixth calendar day from the date of the injury or illness which entitles the

employee to benefits under RCW 51.32.090. For the purposes of this section, the day of injury shall constitute the first calendar day.

(2) One-half of the amount of the supplement as defined in RCW 41.04.505 shall be charged against the accrued paid leave of the employee. In computing such charge, the employer shall convert accumulated days, or other time units as the case may be, to a money equivalent based on the base monthly salary of the employee at the time of the injury or illness. "Base monthly salary" for the purposes of this section means the amount earned by the employee before any voluntary or involuntary payroll deductions, and not including overtime pay.

(3) One-half of the amount of the supplement as defined in RCW 41.04.505 shall be paid by the employer.

If an employee has no accrued paid leave at the time of an injury or illness which entitles him or her to benefits under RCW 51.32.090, or if accrued paid leave is exhausted during the period of disability, the employee shall receive only that portion of the disability leave supplement prescribed by subsection (3) of this section. [2012 c 117 § 7; 1989 c 21 § 1; 1985 c 462 § 3.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

RCW 41.04.515 Disability leave supplement for law enforcement officers and firefighters—Time limitation. The disability leave supplement provided by RCW 41.04.500 through 41.04.530 shall continue as long as the employee is receiving benefits under RCW 51.32.090, up to a maximum of six months from the date of the injury or illness. [1985 c 462 § 4.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

RCW 41.04.520 Disability leave supplement for law enforcement officers and firefighters—Employee to perform light duty tasks. While an employee is receiving disability leave supplement, the employee, subject to the approval of his or her treating physician, shall perform light duty tasks in the employee's previous department as the employer may require, with no reduction in the disability leave supplement. [1985 c 462 § 5.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

RCW 41.04.525 Disability leave supplement for law enforcement officers and firefighters—Continuation of employee insurance benefits. The disability leave supplement provided in RCW 41.04.510(3) shall not be considered salary or wages for personal services: PROVIDED, That the employee shall also continue to receive all insurance benefits provided in whole or in part by the employer, notwithstanding the fact that some portion of the cost of those benefits is paid by the employee: PROVIDED FURTHER, That the portion

of the cost not paid by the employer continues to be paid by the employee. [1989 c 11 § 10; 1985 c 462 § 7.]

Severability—1989 c 11: See note following RCW 9A.56.220.

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

RCW 41.04.530 Disability leave supplement for law enforcement officers and firefighters—Exhaustion of accrued sick leave. If an employee's accrued sick leave is exhausted during the period of disability, the employee may, for a period of two months following return to active service, draw prospectively upon sick leave the employee is expected to accumulate up to a maximum of three days or three work shifts, whichever is greater. Any sick leave drawn prospectively as provided in this section shall be charged against earned sick leave until such time as the employee has accrued the amount needed to restore the amount used. In the event an employee terminates active service without having restored the sick leave drawn prospectively, the employer shall deduct the actual cost of any payments made under this section from compensation or other money payable to the employee, or otherwise recover such payments. [1985 c 462 § 8.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

RCW 41.04.535 Disability leave supplement for law enforcement officers and firefighters—Greater benefits not precluded. Nothing in RCW 41.04.500 through 41.04.530 shall preclude employers of law enforcement officers and firefighters and such employees from entering into agreements which provide benefits to employees which are greater than those prescribed by RCW 41.04.500 through 41.04.530, nor is there any intent by the legislature to alter or in any way affect any such agreements which may now exist. [1985 c 462 § 11.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

RCW 41.04.540 Disability leave supplement for law enforcement officers and firefighters—Supplement not required in smaller cities, towns, and counties. Cities and towns with a population of less than twenty-five hundred and counties with a population of less than ten thousand shall not be required to provide a disability leave supplement to their commissioned law enforcement officers and full-time paid firefighters who qualify for payments pursuant to RCW 51.32.090, due to temporary total disability. [1985 c 462 § 12.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

RCW 41.04.545 Disability leave supplement for law enforcement officers and firefighters—Vested right not created. Chapter 462, Laws of 1985 neither grants employees a vested right to receive a disability leave supplement nor creates a contractual obligation on behalf of the state or its political subdivisions to provide a disability leave supplement. [1985 c 462 § 13.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

RCW 41.04.550 Disability leave supplement for law enforcement officers and firefighters—Not subject to interest arbitration. Disability leave supplement payments for employees covered by chapter 462, Laws of 1985 shall not be subject to interest arbitration as defined in RCW 41.56.430 through 41.56.905. [1985 c 462 § 14.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

RCW 41.04.580 Dismissal of municipal employees during World War II—Redress authorized. A municipality may by ordinance or resolution provide for redress to any municipal employee or the surviving spouse of a municipal employee who, due to the promulgation of federal Executive Order 9066, was dismissed, terminated from a temporary position, or rejected during the person's probationary period, or who voluntarily resigned in lieu of dismissal from municipal employment, and who incurred salary and other employment related losses as a result thereof during the years 1942 through 1947. [1986 c 225 § 2.]

Legislative findings—1986 c 225: "The dismissal or termination of various municipal employees during World War II resulted from the promulgation of federal Executive Order 9066 which was based mainly on fear and suspicion rather than on factual justification. It is fair and just that redress be made to those employees who were terminated from municipal employment during the wartime years because of these circumstances. The legislature therefore finds that equity and fairness will be served by authorizing municipalities to accept claims for salary and other employment related losses suffered by the municipal employees directly affected and to pay the claims subject to the provisions of this chapter." [1986 c 225 § 1.]

Severability—1986 c 225: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 225 § 7.]

Reparations to state employees terminated during World War II: Chapter 41.68 RCW.

RCW 41.04.585 Dismissal of municipal employees during World War II—Redress not mandatory. RCW 41.04.580 through 41.04.595 do not require a municipality to adopt an ordinance or resolution providing

for redress of salary and other employment related losses. [1986 c 225 § 3.]

Legislative findings—Severability—1986 c 225: See notes following RCW 41.04.580.

RCW 41.04.590 Dismissal of municipal employees during World War II—Redress—Limitations. Under the system of redress authorized under RCW 41.04.580 through 41.04.595:

(1) A municipality may determine in its sole discretion the monetary amount of redress for salary and other employment related losses, which may not exceed five thousand dollars for any undivided claim.

(2) If a municipality adopts an ordinance or resolution providing for redress of salary and other employment related losses, it has no obligation to notify directly any person of possible eligibility for redress of salary and other employment related losses. [1986 c 225 § 4.]

Legislative findings—Severability—1986 c 225: See notes following RCW 41.04.580.

RCW 41.04.595 Dismissal of municipal employees during World War II—Definitions. For the purposes of this chapter, "municipality" means a city, town, county, special purpose district, municipal corporation, quasi-municipal corporation, or political subdivision of the state of Washington. For the purposes of this chapter, a "municipal employee" means an employee of a municipality. [1986 c 225 § 5.]

Legislative findings—Severability—1986 c 225: See notes following RCW 41.04.580.

RCW 41.04.650 Leave sharing program—Findings—Intent. The legislature finds that: (1) State employees historically have joined together to help their fellow employees who suffer from, or have relatives or household members suffering from, an extraordinary or severe illness, injury, impairment, or physical or mental condition which prevents the individual from working and causes great economic and emotional distress to the employee and his or her family; (2) state employees have also joined together to help their fellow employees who are sick or temporarily disabled because of pregnancy disability or for the purpose of parental leave to bond with the employee's newborn, adoptive, or foster child; and (3) these circumstances may be exacerbated because the affected employees use all their accrued sick leave and annual leave and are forced to take leave without pay or terminate their employment. Therefore, the legislature intends to provide for the establishment of a leave sharing program. [2018 c 39 § 1; 1989 c 93 § 1.]

Effective date—2018 c 39: "This act takes effect July 1, 2018." [2018 c 39 § 5.]

Severability—1989 c 93: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 93 § 8.]

RCW 41.04.655 Leave sharing program—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.650 through 41.04.670, 28A.400.380, and section 7, chapter 93, Laws of 1989.

(1) "Domestic violence" means any of the following acts committed by one family or household member against another or by one intimate partner against another, as those terms are defined in RCW 10.99.020:

(a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault;

(b) Sexual assault; or

(c) Stalking as defined in RCW 9A.46.110.

(2) "Employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or annual leave and for whom accurate leave records are maintained.

(3) "Parental leave" means leave to bond and care for a newborn child after birth or to bond and care for a child after placement for adoption or foster care.

(4) "Pregnancy disability" means a pregnancy-related medical condition or miscarriage.

(5) "Program" means the leave sharing program established in RCW 41.04.660.

(6) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(7) "Sexual assault" has the same meaning as set forth in RCW 70.125.030.

(8) "Stalking" has the same meaning as set forth in RCW 9A.46.110.

(9) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

(10) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the president of the United States in time of war or national emergency.

(11) "Victim" means a person against whom domestic violence, sexual assault, or stalking has been committed as defined in this section. [2021 c 215 § 148. Prior: 2020 c 29 § 14; 2020 c 6 § 1; 2018

c 39 § 2; 2008 c 36 § 1; 2003 1st sp.s. c 12 § 1; 1990 c 33 § 569; 1989 c 93 § 2.]

Effective date—2022 c 268; 2021 c 215: See note following RCW 7.105.900.

Effective date—2020 c 29: See note following RCW 7.77.060.

Effective date—2018 c 39: See note following RCW 41.04.650.

Effective date—2008 c 36: "This act takes effect October 1, 2008." [2008 c 36 § 4.]

Effective date—2003 1st sp.s. c 12: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 20, 2003]." [2003 1st sp.s. c 12 § 4.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1989 c 93: See note following RCW 41.04.650.

RCW 41.04.660 Leave sharing program—Created. The Washington state leave sharing program is hereby created. The purpose of the program is to permit state employees, at no significantly increased cost to the state of providing annual leave, sick leave, or personal holidays, to come to the aid of a fellow state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition; a fellow state employee who is a victim of domestic violence, sexual assault, or stalking; a fellow state employee who is sick or temporarily disabled because of pregnancy disability or for the purpose of parental leave; or a fellow state employee who has been called to service in the uniformed services, which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment. [2018 c 39 § 3; 2008 c 36 § 2; 2003 1st sp.s. c 12 § 2; 1996 c 176 § 2; 1990 c 23 § 1; 1989 c 93 § 3.]

Effective date—2018 c 39: See note following RCW 41.04.650.

Effective date—2008 c 36: See note following RCW 41.04.655.

Effective date—2003 1st sp.s. c 12: See note following RCW 41.04.655.

Severability—1989 c 93: See note following RCW 41.04.650.

RCW 41.04.665 Leave sharing program—When employee may receive leave—When employee may transfer accrued leave—Transfer of leave between employees of different agencies—Return of unused leave—Rules.

(1) An agency head may permit an employee to receive leave under this section if:

(a) (i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) The employee is a current member of the uniformed services or is a veteran as defined under RCW 41.04.005, and is attending medical appointments or treatments for a service connected injury or disability;

(iv) The employee is a spouse of a current member of the uniformed services or a veteran as defined under RCW 41.04.005, who is attending medical appointments or treatments for a service connected injury or disability and requires assistance while attending appointment or treatment;

(v) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;

(vi) The employee is a victim of domestic violence, sexual assault, or stalking;

(vii) The employee needs the time for parental leave; or

(viii) The employee is sick or temporarily disabled because of pregnancy disability;

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, temporary layoff under section 3(5), chapter 32, Laws of 2010 1st sp. sess., or stalking has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(c) The employee's absence and the use of shared leave are justified;

(d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a) (i) of this subsection;

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a) (ii) of this subsection;

(iii) Annual leave if he or she qualifies under (a) (v) or (vi) of this subsection; or

(iv) Annual leave and sick leave reserves if the employee qualifies under (a) (vii) or (viii) of this subsection;

(e) The employee has abided by agency rules regarding:

(i) Sick leave use if he or she qualifies under (a) (i), (vi), (vii), or (viii) of this subsection; or

(ii) Military leave if he or she qualifies under (a) (ii) of this subsection; and

(f) (i) Until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring a state of emergency in the state of Washington, or any amendment thereto, whichever is later, an agency head may permit an employee to receive shared leave under this section if the employee, or a relative or household member, is isolated or quarantined as recommended, requested, or ordered by a

public health official or health care provider as a result of suspected or confirmed infection with or exposure to the 2019 novel coronavirus (COVID-19). An agency head may permit use of shared leave under this subsection (1)(f) without considering the requirements of (a) through (e) of this subsection.

(ii) The office of the governor must provide notice of the expiration of proclamation 20-05, or any amendment thereto, whichever is later, to the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the office of the governor.

(2)(a) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, the agency head may not prevent an employee from using shared leave intermittently or on nonconsecutive days so long as the leave has not been returned under subsection (10) of this section. In addition, an employee shall not receive a total of more than five hundred twenty-two days of leave, except that, a supervisor may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for the shared leave program because he or she is suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. Shared leave received under the uniformed service shared leave pool in RCW 41.04.685 is not included in this total.

(b) An employee receiving industrial insurance wage replacement benefits may not receive greater than twenty-five percent of his or her base salary from the receipt of shared leave under this section.

(3) The agency head must allow employees who are veterans, as defined under RCW 41.04.005, and their spouses, to access shared leave from the veterans' in-state service shared leave pool upon employment.

(4) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (4)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(5) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to

receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(1)(b) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(6) Transfers of leave made by an agency head under subsections (4) and (5) of this section shall not exceed the requested amount.

(7) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency.

(8) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(9) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(10)(a) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Unused shared leave may not be returned until one of the following occurs:

(i) The agency head receives from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved; or

(ii) The employee is released to full-time employment; has not received additional medical treatment for his or her current condition or any other qualifying condition for at least six months; and the employee's doctor has declined, in writing, the employee's request for a statement indicating the employee's condition has been resolved.

(b) If a shared leave account is closed and an employee later has a need to use shared leave due to the same condition listed in the closed account, the agency head must approve a new shared leave request for the employee.

(c) To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(11) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

(12) The director of financial management may adopt rules as necessary to implement subsection (2) of this section.

(13) For the purposes of this section, "shortly deplete" means that the employee will have forty hours or less of the applicable leave types under subsection (1)(d) of this section. However, the employee is not required to deplete all of the employee's leave and can maintain up to forty hours of the applicable leave types in reserve. [2020 c 6 § 2; 2019 c 64 § 17. Prior: 2018 c 39 § 4; 2017 c 173 § 1; 2016 c 177 § 1; 2015 3rd sp.s. c 1 § 312; 2011 1st sp.s. c 43 § 435; prior: 2010 1st sp.s. c 32 § 10; 2010 c 168 § 1; 2008 c 36 § 3; prior: 2007 c 454 § 1; 2007 c 25 § 2; 2003 1st sp.s. c 12 § 3; 1999 c 25 § 1; 1996 c 176 § 1; 1990 c 23 § 2; 1989 c 93 § 4.]

Effective date—2020 c 6 § 2: "Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 17, 2020]." [2020 c 6 § 4.]

Explanatory statement—2019 c 64: See note following RCW 1.20.110.

Effective date—2018 c 39: See note following RCW 41.04.650.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—Conflict with federal requirements—Effective date—2010 1st sp.s. c 32: See notes following RCW 42.04.060.

Effective date—2010 c 168: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 23, 2010]." [2010 c 168 § 2.]

Effective date—2008 c 36: See note following RCW 41.04.655.

Severability—Effective date—2007 c 25: See notes following RCW 41.04.685.

Effective date—2003 1st sp.s. c 12: See note following RCW 41.04.655.

Severability—1989 c 93: See note following RCW 41.04.650.

RCW 41.04.670 Leave sharing program—Adoption of rules. The office of financial management and other personnel authorities shall each adopt rules applicable to employees under their respective jurisdictions: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; (2) providing for equivalent treatment of employees between their respective jurisdictions and allowing transfers of leave in accordance with RCW 41.04.665(5); (3) establishing procedures to ensure that the program does not significantly increase the cost of providing leave; and (4) providing for the administration of the program and providing for maintenance and collection of sufficient information on the program to allow a thorough legislative review. [2011 1st sp.s. c 43 § 436; 1993 c 281 § 18; 1990 c 23 § 3; 1989 c 93 § 5.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Effective date—1993 c 281: See note following RCW 41.06.022.

Temporary policies—1989 c 93: "School districts, the department of personnel, the higher education personnel board, and other personnel authorities may adopt temporary emergency policies and procedures to implement the program on April 20, 1989, so that donated leave may be used in lieu of leave without pay taken after April 20, 1989." [1989 c 93 § 7.]

Severability—1989 c 93: See note following RCW 41.04.650.

RCW 41.04.671 Parental leave—Use after birth or placement—Use with pregnancy disability leave. (1) Parental leave received under RCW 41.04.665 must be used within the sixteen weeks immediately after birth or placement, except as provided in subsection (2) of this section.

(2) If a person receiving parental leave also receives leave due to a pregnancy disability, the parental leave may be taken in the sixteen weeks immediately after the pregnancy disability leave. However, parental leave may not be used more than one year after birth. [2020 c 6 § 3.]

RCW 41.04.672 Veterans' in-state service shared leave pool. (1) The veterans' in-state service shared leave pool is created to allow employees to donate leave to be used as shared leave for:

(a) Veteran employees who meet the requirements of RCW 41.04.665; or

(b) Spouses of veteran employees, who meet the requirements of RCW 41.04.665, who are caring for their spouses.

(2) Participation in the pool shall, at all times, be voluntary on the part of the employee. The department of veterans affairs shall administer the veterans' in-state service shared leave pool.

(3) Employees who are eligible to donate leave under RCW 41.04.665 may donate leave to the veterans' in-state service shared leave pool.

(4) A veteran employee who is eligible for shared leave under RCW 41.04.665 or a spouse of a veteran employee, who is eligible for shared leave under RCW 41.04.665, who is caring for his or her spouse may request shared leave from veterans' in-state service shared leave pool.

(5) Shared leave under this section may not be granted unless the pool has a sufficient balance to fund the requested shared leave.

(6) Shared leave paid under this section, in combination with an employee's salary, may not exceed the level of the employee's state monthly salary.

(7) Any leave donated must be removed from the personally accumulated leave balance of the employee donating the leave.

(8) All employees who donate to the shared leave pool must specify their intent to donate to the veterans' in-state service shared leave pool.

(9) An employee who receives shared leave from the pool is not required to recontribute such leave to the pool, except as otherwise provided in this section.

(10) Leave that may be donated or received by any one employee must be calculated as in RCW 41.04.665.

(11) As used in this section:

(a) "Employee" has the meaning provided in RCW 41.04.655, except that "employee" as used in this section does not include employees of school districts and educational service districts. "Employee" does not include employees called to service in the uniformed services.

(b) "Monthly salary" includes monthly salary and special pay and shift differential, or the monthly equivalent for hourly employees. "Monthly salary" does not include:

- (i) Overtime pay;
- (ii) Call back pay;
- (iii) Standby pay; or
- (iv) Performance bonuses.

(c) "Service in the uniformed services" has the meaning provided in RCW 41.04.655.

(d) "Veteran" has the meaning provided in RCW 41.04.005.

(12) The office of financial management, in consultation with the department of veterans affairs, shall adopt rules and policies governing the donation and use of shared leave from the veterans' in-state service shared leave pool, including definitions of pay and allowances and guidelines for agencies to use in recordkeeping concerning shared leave.

(13) Agencies shall investigate any alleged abuse of the veterans' in-state service shared leave pool and on a finding of wrongdoing, the employee may be required to repay all of the shared leave received from the veterans' in-state service shared leave pool.

(14) Higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions. [2017 c 173 § 2.]

RCW 41.04.674 Foster parent shared leave pool. (1) The foster parent shared leave pool is created to allow employees to donate leave to be used as shared leave for any employee who is a foster parent needing to care for or preparing to accept a foster child in their home. Participation in the pool shall, at all times, be voluntary on the part of the employee. The department of children, youth, and

families, in consultation with the office of financial management, shall administer the foster parent shared leave pool.

(2) Employees, as defined in RCW 41.04.655, may donate leave to the foster parent shared leave pool.

(3) An employee, as defined in RCW 41.04.655, who is also a foster parent licensed pursuant to RCW 74.15.040 may request shared leave from the foster parent shared leave pool.

(4) Shared leave under this section may not be granted unless the pool has a sufficient balance to fund the requested shared leave.

(5) Shared leave paid under this section must not exceed the level of the employee's state monthly salary.

(6) Any leave donated must be removed from the personally accumulated leave balance of the employee donating the leave.

(7) An employee who receives shared leave from the pool is not required to recontribute such leave to the pool, except as otherwise provided in this section.

(8) Leave that may be donated or received by any one employee shall be calculated as in RCW 41.04.665.

(9) As used in this section, "monthly salary" includes monthly salary and special pay and shift differential, or the monthly equivalent for hourly employees. "Monthly salary" does not include:

- (a) Overtime pay;
- (b) Call back pay;
- (c) Standby pay; or
- (d) Performance bonuses.

(10) The office of financial management, in consultation with the department of children, youth, and families, shall adopt rules and policies governing the donation and use of shared leave from the foster parent shared leave pool, including definitions of pay and allowances and guidelines for agencies to use in recordkeeping concerning shared leave.

(11) Agencies must investigate any alleged abuse of the foster parent shared leave pool and on a finding of wrongdoing, the employee may be required to repay all of the shared leave received from the foster parent shared leave pool.

(12) Higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions. [2019 c 470 § 6; 2017 3rd sp.s. c 20 § 12.]

Construction—Competitive procurement process and contract provisions—Conflict with federal requirements and Indian Child Welfare Act of 1978—2017 3rd sp.s. c 20: See notes following RCW 74.13.270.

RCW 41.04.680 Pooled sick leave—Plan establishment—Calculations—Participation—Higher education institutions. The office of financial management and other personnel authorities shall adopt rules or policies governing the accumulation and use of sick leave for state agency and department employees, expressly for the establishment of a plan allowing participating employees to pool sick leave and allowing any sick leave thus pooled to be used by any participating employee who has used all of the sick leave, annual leave, and compensatory leave that has been personally accrued by him or her. Each department or agency of the state may allow employees to participate in a sick

leave pool established by the office of financial management and other personnel authorities.

(1) For purposes of calculating maximum sick leave that may be donated or received by any one employee, pooled sick leave:

(a) Is counted and converted in the same manner as sick leave under the Washington state leave sharing program as provided in this chapter; and

(b) Does not create a right to sick leave in addition to the amount that may be donated or received under the Washington state leave sharing program as provided in this chapter.

(2) The office of financial management and other personnel authorities, except the personnel authorities for higher education institutions, shall adopt rules which provide:

(a) That employees are eligible to participate in the sick leave pool after one year of employment with the state or agency of the state if the employee has accrued a minimum amount of unused sick leave, to be established by rule;

(b) That participation in the sick leave pool shall, at all times, be voluntary on the part of the employees;

(c) That any sick leave pooled shall be removed from the personally accumulated sick leave balance of the employee contributing the leave;

(d) That any sick leave in the pool that is used by a participating employee may be used only for the employee's personal illness, accident, or injury;

(e) That a participating employee is not eligible to use sick leave accumulated in the pool until all of his or her personally accrued sick, annual, and compensatory leave has been used;

(f) A maximum number of days of sick leave in the pool that any one employee may use;

(g) That a participating employee who uses sick leave from the pool is not required to recontribute such sick leave to the pool, except as otherwise provided in this section;

(h) That an employee who cancels his or her membership in the sick leave pool is not eligible to withdraw the days of sick leave contributed by that employee to the pool;

(i) That an employee who transfers from one position in state government to another position in state government may transfer from one pool to another if the eligibility criteria of the pools are comparable and the administrators of the pools have agreed on a formula for transfer of credits;

(j) That alleged abuse of the use of the sick leave pool shall be investigated, and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and shall be subject to such other disciplinary action as is determined by the agency head;

(k) That sick leave credits may be drawn from the sick leave pool by a part-time employee on a pro rata basis; and

(l) That each department or agency shall maintain accurate and reliable records showing the amount of sick leave which has been accumulated and is unused by employees, in accordance with guidelines established by the office of financial management.

(3) Personnel authorities for higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions. [2015 3rd sp.s. c 1 § 313; 2011 1st sp.s. c 43 § 437; 2006 c 356 § 1.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Effective date—2006 c 356: "This act takes effect July 1, 2007."
[2006 c 356 § 2.]

RCW 41.04.685 Uniformed service shared leave pool—Creation—Administration—Restrictions—Definitions. (1) The uniformed service shared leave pool is created to allow employees to donate leave to be used as shared leave for any employee who has been called to service in the uniformed services and who meets the requirements of RCW 41.04.665. Participation in the pool shall, at all times, be voluntary on the part of the employee. The military department, in consultation with the office of financial management, shall administer the uniformed service shared leave pool.

(2) Employees as defined in subsection (10) of this section who are eligible to donate leave under RCW 41.04.665 may donate leave to the uniformed service shared leave pool.

(3) An employee as defined in subsection (10) of this section who has been called to service in the uniformed services and is eligible for shared leave under RCW 41.04.665 may request shared leave from the uniformed service shared leave pool.

(4) It shall be the responsibility of the employee who has been called to service to provide an earnings statement verifying military salary, orders of service, and notification of a change in orders of service or military salary.

(5) Shared leave under this section may not be granted unless the pool has a sufficient balance to fund the requested shared leave for the expected term of service.

(6) Shared leave paid under this section, in combination with military salary, shall not exceed the level of the employee's state monthly salary.

(7) Any leave donated shall be removed from the personally accumulated leave balance of the employee donating the leave.

(8) An employee who receives shared leave from the pool is not required to recontribute such leave to the pool, except as otherwise provided in this section.

(9) Leave that may be donated or received by any one employee shall be calculated as in RCW 41.04.665.

(10) As used in this section:

(a) "Employee" has the meaning provided in RCW 41.04.655, except that "employee" as used in this section does not include employees of school districts and educational service districts.

(b) "Service in the uniformed services" has the meaning provided in RCW 41.04.655.

(c) "Military salary" includes base, specialty, and other pay, but does not include allowances such as the basic allowance for housing.

(d) "Monthly salary" includes monthly salary and special pay and shift differential, or the monthly equivalent for hourly employees.

"Monthly salary" does not include:

- (i) Overtime pay;
- (ii) Call back pay;
- (iii) Standby pay; or
- (iv) Performance bonuses.

(11) The office of financial management, in consultation with the military department, shall adopt rules and policies governing the donation and use of shared leave from the uniformed service shared leave pool, including definitions of pay and allowances and guidelines for agencies to use in recordkeeping concerning shared leave.

(12) Agencies shall investigate any alleged abuse of the uniformed service shared leave pool and on a finding of wrongdoing, the employee may be required to repay all of the shared leave received from the uniformed service shared leave pool.

(13) Higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions. [2011 1st sp.s. c 43 § 438; 2007 c 25 § 1.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Severability—2007 c 25: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 25 § 4.]

Effective date—2007 c 25: "This act takes effect October 1, 2007." [2007 c 25 § 5.]

RCW 41.04.700 Employee assistance program—Intent. The legislature finds that:

(1) Assisting employees in resolving personal problems that impair their performance will result in a more productive workforce, better morale, reduced stress, reduced use of medical benefits, reduced absenteeism, lower turnover rates, and fewer accidents;

(2) A substantial number of employee problems can be identified and the employees referred to treatment by an employee assistance program;

(3) The state, as an employer, desires to foster a working environment that promotes safety and productivity as well as the health and well-being of its employees.

Therefore, it is the purpose of RCW 41.04.710 through 41.04.730 to assist state employees by establishing a state employee assistance program. [1990 c 60 § 301.]

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

RCW 41.04.710 Employee assistance program—Created. The employee assistance program is hereby created to provide support and services to state employees who have personal problems that impair their performance in the workplace. The goal of the program is to help promote a safe, productive, and healthy state workforce by assisting state employees and their supervisors to identify and deal with such personal problems. However, nothing in this chapter relieves employees from the responsibility of performing their jobs in an acceptable manner. [1990 c 60 § 302.]

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

RCW 41.04.720 Employee assistance program—Director of enterprise services—Duties. The director of enterprise services shall:

- (1) Administer the state employee assistance program to assist employees who have personal problems that adversely affect their job performance or have the potential of doing so;
- (2) Develop policies, procedures, and activities for the program;
- (3) Encourage and promote the voluntary use of the employee assistance program by increasing employee awareness and disseminating educational materials;
- (4) Provide technical assistance and training to agencies on how to use the employee assistance program;
- (5) Assist and encourage supervisors to identify and refer employees with problems that impair their performance by incorporating proper use of the program in management training, management performance criteria, ongoing communication with agencies, and other appropriate means;
- (6) Offer substance abuse prevention and awareness activities to be provided through the employee assistance program and the state employee wellness program;
- (7) Monitor and evaluate the effectiveness of the program, including the collection, analysis, and publication of relevant statistical information; and
- (8) Consult with state agencies, institutions of higher education, and employee organizations in carrying out the purposes of RCW 41.04.700 through 41.04.730. [2011 1st sp.s. c 43 § 439; 1990 c 60 § 303.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

RCW 41.04.730 Employee assistance program—Information confidential—Exceptions. Individual employees' participation in the employee assistance program and all individually identifiable information gathered in the process of conducting the program shall be held in strict confidence; except that agency management may be provided with the following information about employees referred by that agency management due to poor job performance:

- (1) Whether or not the referred employee made an appointment;
- (2) The date and time the employee arrived and departed;
- (3) Whether the employee agreed to follow the advice of counselors; and
- (4) Whether further appointments were scheduled.

Participation or nonparticipation by any employee in the employee assistance program shall not be a factor in any decision affecting an employee's job security, promotional opportunities, corrective or disciplinary action, or other employment rights. [1990 c 60 § 304.]

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

RCW 41.04.750 Supported employment—Definitions. Unless the context clearly requires otherwise the definitions in this section apply throughout RCW 41.04.760 through 41.04.780.

(1) "Developmental disability" means a disability as defined in RCW 71A.10.020.

(2) "Significant disability" means a disability as defined in 29 U.S.C. Sec. 705.

(3) "Supported employment" means employment for individuals with developmental disabilities or other significant disabilities who require on-the-job training and long-term support in order to fulfill their job duties successfully. Supported employment offers the same wages and benefits as similar nonsupported employment positions.

(4) "State agency" means any office, department, division, bureau, board, commission, community college or institution of higher education, or agency of the state of Washington. [1999 c 178 § 2; 1997 c 287 § 2.]

Finding—1997 c 287: "The legislature finds that the rate of unemployment among individuals with developmental disabilities or other significant disabilities is high due to the limited employment opportunities available to them. Given that individuals with developmental disabilities or other significant disabilities are capable of filling employment positions in the general workforce population, supported employment is an effective way of integrating such individuals into the general workforce population. The creation of supported employment programs can increase the types and availability of employment positions for individuals with developmental disabilities or other significant disabilities." [1999 c 178 § 1; 1997 c 287 § 1.]

RCW 41.04.760 Supported employment—State agency participation. State agencies are encouraged to participate in supported employment activities. The department of social and health services, in conjunction with the department of personnel and the office of financial management, shall identify agencies that have positions and funding conducive to implementing supported employment. An agency may only participate in supported employment activities pursuant to this section if the agency is able to operate the program within its existing budget. These agencies shall:

(1) Designate a coordinator who will be responsible for information and resource referral regarding the agency's supported employment program. The coordinator shall serve as a liaison between the agency and the department of personnel regarding supported employment;

(2) Submit an annual update to the department of social and health services, the department of personnel, and the office of financial management. The annual update shall include: A description of the agency's supported employment efforts, the number of individuals placed in supported employment positions, and an overall evaluation of the effectiveness of supported employment for the agency. [1999 c 178 § 3; 1997 c 287 § 3.]

Finding—1997 c 287: See note following RCW 41.04.750.

RCW 41.04.770 Supported employment—Implementation. The department of social and health services and the department of enterprise services shall, after consultation with supported employment provider associations and other interested parties, encourage, educate, and assist state agencies in implementing supported employment programs. The department of enterprise services shall provide human resources technical assistance to agencies implementing supported employment programs. [2011 1st sp.s. c 43 § 440; 1997 c 287 § 4.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Finding—1997 c 287: See note following RCW 41.04.750.

RCW 41.04.780 Supported employment—Impact on other employment positions. The creation of supported employment positions under RCW 41.04.760 and 41.04.770 shall not count against an agency's allotted full-time equivalent employee positions. Supported employment programs are not intended to displace employees or abrogate any reduction-in-force rights. [1997 c 287 § 5.]

Finding—1997 c 287: See note following RCW 41.04.750.

RCW 41.04.800 Chapter not applicable to officers and employees of state convention and trade center. The provisions of this chapter shall not be applicable to the officers and employees of the nonprofit corporation formed under *chapter 67.40 RCW. [1984 c 210 § 5.]

***Reviser's note:** A majority of chapter 67.40 RCW was repealed by 2010 1st sp.s. c 15 § 14, effective November 30, 2010. RCW 67.40.020 was repealed by 2010 1st sp.s. c 15 § 15, effective December 30, 2010.

Savings—Severability—1984 c 210: See notes following RCW 43.01.045.

RCW 41.04.803 Application of chapter 236, Laws of 2012. (1) Chapter 236, Laws of 2012 is curative and remedial and is applicable to any future determination of eligibility for membership in a retirement system under chapters 41.26, 41.32, 41.35, 41.37, and 41.40 RCW.

(2) Chapter 236, Laws of 2012 does not apply to or contravene any prior final decision of the state supreme court regarding the interpretation of the statutes addressed in chapter 236, Laws of 2012. [2012 c 236 § 7.]

Purpose—Application—2012 c 236: See note following RCW 41.26.030.

RCW 41.04.810 Title not applicable to individual providers, family child care providers, adult family home providers, and language access providers. Individual providers, as defined in RCW 74.39A.240, and family child care providers, adult family home providers, and language access providers, all as defined in RCW 41.56.030, are not employees of the state or any of its political subdivisions and are specifically and entirely excluded from all provisions of this title, except as provided in RCW 74.39A.270, 41.56.028, and 41.56.029. [2010 c 296 § 5; 2007 c 184 § 4; 2006 c 54 § 4; 2004 c 3 § 3.]

Conflict with federal requirements—2010 c 296: See note following RCW 41.56.510.

Part headings not law—Severability—Conflict with federal requirements—2007 c 184: See notes following RCW 41.56.029.

Conflict with federal requirements—Short title—Effective date—2006 c 54: See RCW 41.56.913 through 41.56.915.

Severability—Effective date—2004 c 3: See notes following RCW 74.39A.270.

RCW 41.04.820 Temporary salary reductions—Exceptions—Implementation. (1) Except as provided in this section, from July 1, 2011, through June 29, 2013, base salaries are reduced three percent for all state employees of the executive, legislative, and judicial branches, including those employees in the Washington management service and employees not subject to the provisions of chapter 41.06 RCW.

(2) The following employees of the executive, legislative, and judicial branches are not subject to subsection (1) of this section:

- (a) Elected officials whose salaries are set by the commission on salaries for elected officials;
- (b) Employees at state institutions of higher education;
- (c) Certificated employees of the state school for the blind and the *center for childhood deafness and hearing loss;
- (d) Commissioned officers of the Washington state patrol represented by the state patrol troopers association and the Washington state patrol lieutenants association;
- (e) Represented ferry workers of the Washington state department of transportation; and
- (f) Employees whose monthly full-time equivalent salary is less than two thousand five hundred dollars per month.

(3) Except as provided in subsection (4) of this section, if an employee subject to the three percent salary reduction under subsection (1) of this section is entitled to leave, the employee will receive temporary salary reduction leave of up to five and two-tenths hours per month. The director of the department of personnel shall adopt rules governing the accrual and use of temporary salary reduction leave for nonrepresented employees. For represented employees, the accrual and use of temporary salary reduction leave shall be in accordance with the provisions of the collective bargaining agreements.

(4) If provisions of collective bargaining agreements prevent the implementation of subsection (1) of this section, agencies of the

executive, legislative, and judicial branches shall achieve a three percent salary reduction for each employee through employee leave without pay, mandatory and voluntary temporary layoffs, reduced work hours, or other actions consistent with collective bargaining agreements. This subsection does not prohibit an agency from granting temporary salary reduction leave for employees entitled to leave in accordance with subsection (3) of this section.

(5) Subsection (2) of this section does not prohibit employers of the executive, legislative, and judicial branches from implementing a salary reduction for employees exempted under subsection (2) of this section. Employers of the executive, legislative, and judicial branches are encouraged to implement a salary reduction for employees exempted under subsection (2) of this section, except for those employees whose monthly full-time equivalent salary is less than two thousand five hundred dollars per month.

(6) Subsection (2) of this section does not prohibit elected officials whose salaries are set by the commission on salaries for elected officials to voluntarily agree to a reduction in salary and elected officials are encouraged to take such action.

(7) This section does not prohibit a state agency or institution during the 2011-2013 fiscal biennium from instituting reduced work hours, mandatory or voluntary leave without pay, reductions in salaries, or temporary layoffs as an integral part of the employer's expenditure reduction efforts, as certified by the employer. This subsection must be implemented consistent with collective bargaining agreements. [2011 1st sp.s. c 39 § 1.]

***Reviser's note:** The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Effective date—2011 1st sp.s. c 39: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011." [2011 1st sp.s. c 39 § 15.]

RCW 41.04.821 Background check for access to federal tax information—State employees—State contractors—Rules. (1) All current and prospective employees of and contractors with the state of Washington who are or may be authorized by the agency for which he or she is employed to access federal tax information are required to have a criminal history record check through the Washington state patrol criminal identification system and through the federal bureau of investigation. The record check must include a fingerprint check using a complete Washington state criminal identification fingerprint card, which must be forwarded by the state patrol to the federal bureau of investigation.

(2) Agencies must establish background investigation policies applicable to current and prospective employees and contractors subject to subsection (1) of this section. Agency background investigation policies must also satisfy any specific background investigation standards established by the internal revenue service. The office of financial management shall create a model background investigation policy.

(3) The cost of the background investigation for current and prospective employees shall be paid by the agency. The agency may charge contractors the cost of the background investigation.

(4) Information received by the employing agency pursuant to this section may be used only for the purposes of making, supporting, or defending decisions regarding the appointment, hiring, or retention of persons, or for complying with any requirements from the internal revenue service. Further dissemination or use of the information is prohibited, notwithstanding any other provision of law.

(5) The office of financial management may adopt rules to implement this section. [2018 c 19 § 1.]

RCW 41.04.830 Medical information exempt from disclosure—
Exceptions. Medical information contained in files and records of members of retirement plans administered by the department of retirement systems or the law enforcement officers' and firefighters' plan 2 retirement board, under the provisions of this title, are confidential and exempt from public inspection and copying under chapter 42.56 RCW. However:

(1) Representatives of an applicant may review an application file or receive specific information from an application file with the signed authorization of the applicant.

(2) Health care providers treating or examining applicants claiming disability retirement benefits under this title, or physicians giving medical advice to the department of retirement systems regarding any application, may, at the discretion of the department of retirement systems, inspect the application files and records of applicants.

(3) At the discretion of the department of retirement systems, persons rendering assistance to the department at any stage of the proceedings on any matter pertaining to the administration of this title may inspect the health information contained in application files and records of applicants. [2020 c 323 § 1.]

RCW 41.04.899 Lawful permanent resident—Defined. "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20), as of June 7, 2018. [2018 c 32 § 6.]

RCW 41.04.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral,

and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 85.]