

1 **2SHB 1566** - H AMDS **617 WITHDRAWN 4/13/95**

2 By Representative Carlson

3 On page 4, after line 14, insert the following:

4 "(8) "Benefits contribution plan" means a plan whereby state
5 and public employees may agree to a contribution to benefit costs
6 which will allow the employee to participate in benefits offered
7 pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal
8 Revenue Code.

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

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

13 (11) "Plan year" means the time period established by the
14 authority."

15
16 On page 14, after line 15, insert the following:

17 "NEW SECTION. Sec. 13. A new section is added to chapter
18 41.05 RCW to read as follows:

19 (1) The state of Washington may enter into benefits
20 contribution agreements with employees of the state pursuant to the
21 Internal Revenue Code, 26 U.S.C. Sec. 125 for the purpose of making
22 it possible for employees of the state to select on a "before-tax
23 basis" certain taxable and nontaxable benefits pursuant to 26
24 U.S.C. Sec. 125. The purpose of the benefits contribution plan
25 established in this chapter is to attract and retain individuals in
26 governmental service by permitting them to enter into agreements
27 with the state to provide for benefits pursuant to 26 U.S.C. Sec.
28 125 and other applicable sections of the Internal Revenue Code.

29 (2) Nothing in the benefits contribution plan constitutes an
30 employment agreement between the participant and the state, and
31 nothing contained in the participant's benefits contribution

1 agreement, the plan, or RCW 41.05.105 through 41.05.145 gives a
2 participant any right to be retained in state employment.

3
4 NEW SECTION. Sec. 14. A new section is added to chapter 41.05
5 RCW to read as follows:

6 The authority shall have responsibility for the formulation
7 and adoption of a plan, policies and procedures designed to guide,
8 direct, and administer the benefits contribution plan.

9 (1) A plan document describing the benefits contribution plan
10 shall be adopted and administered by the authority. The authority
11 shall represent the state in all matters concerning the
12 administration of the plan. The state, through the authority, may
13 engage the services of a professional consultant or administrator
14 on a contractual basis to serve as an agent to assist the authority
15 or perform the administrative functions necessary in carrying out
16 the purposes of this act.

17 (2) The authority shall formulate and establish policies and
18 procedures for the administration of the benefits contribution plan
19 that are consistent with existing state law, the internal revenue
20 code, and the regulations adopted by the internal revenue service
21 as they may apply to the benefits offered to participants under the
22 plan.

23 (3) The funds held by the state for the benefits contribution
24 program shall be deposited in the benefits contribution account in
25 the state treasury. Any interest in excess of the amount used to
26 defray the cost of administering the benefits contribution plan
27 shall become a part of the general fund. Unclaimed moneys
28 remaining in the benefits contribution account at the end of a plan
29 year after all timely submitted claims for that plan year have been
30 processed shall become a part of the benefits contribution
31 administrative account. The authority may assess each participant
32 a fee for administering the salary reduction plan. In addition to
33 moneys for initial costs, moneys may be appropriated from the

1 general fund or benefits contribution administrative account for
2 any expense relating to the administration of the benefits
3 contribution plan.

4 (4) The benefits contribution administrative account is
5 created in the state treasury. The authority may periodically bill
6 agencies for employer savings experienced as the result of benefits
7 contribution program participation by employees. All receipts from
8 the following shall be deposited in the account: (a) charges to
9 agencies for all or a portion of the estimated savings due to
10 reductions in employer contributions under the social security act;
11 (b) charges for other similar savings; (c) unclaimed moneys in the
12 benefits contribution account at the end of the plan year after all
13 timely submitted claims for that plan year have been processed; and
14 (d) fees charged to participants. Moneys in the account may be
15 spent only after appropriation. Expenditures from the account may
16 be used only for any expense related to the administration of the
17 benefits contribution plan.

18 (5) Every action taken by the authority in administering
19 sections 13 through 19 of this act shall be presumed to be a fair
20 and reasonable exercise of the authority vested in or the duties
21 imposed upon it. The authority shall be presumed to have exercised
22 reasonable care, diligence, and prudence and to have acted
23 impartially as to all persons interested unless the contrary be
24 proved by clear and convincing affirmative evidence.

25
26 NEW SECTION. **Sec. 15.** A new section is added to chapter
27 41.05 RCW to read as follows:

28 (1) Elected officials and all permanent employees of the
29 state are eligible to participate in the benefits contribution plan
30 and contribute amount(s) by agreement with the authority. The
31 authority may adopt rules to permit participation in the plan by
32 temporary employees of the state.

1 (2) Persons eligible under subsection (1) of this section may
2 enter into benefits contribution agreements with the state.

3 (3)(a) In the initial year of the benefits contribution plan,
4 and eligible person may become a participant after the adoption of
5 the plan and before its effective date by agreeing to have a
6 portion of his or her gross salary contributed and deposited into
7 a health care and other benefits account to be used for
8 reimbursement of expenses covered by the plan.

9 (b) After the initial year of the benefits contribution plan,
10 an eligible person may become a participant for a full plan year,
11 with annual benefit selection for each new plan year made before
12 the beginning of the plan year, as determined by the authority, or
13 upon becoming eligible.

14 (c) Once an eligible person elects to participate and the
15 determination of the amount of gross salary that he or she shall
16 contribute and the benefit for which the funds are to be used
17 during the plan year, the agreement shall be irrevocable and may
18 not be amended during the plan year except as provided in (d) of
19 this subsection. Prior to making an election to participate in the
20 benefit contribution plan, the eligible person shall be informed in
21 writing of all the benefits and contributions that will occur as a
22 result of such election.

23 (d) The authority shall provide in the benefits contribution
24 plan that a participant may enroll, terminate, or change his or her
25 election after the plan year has begun if there is a significant
26 change in a participant's status, as provided by 26 U.S.C. Sec. 125
27 and the regulations adopted under that section and defined by the
28 authority.

29 (4) The authority shall establish as part of the benefits
30 contribution plan the procedures for and effect of withdrawal from
31 the plan by reason of retirement, death, leave of absence, or
32 termination of employment. To the extent possible under federal

1 law, the authority shall protect participants from forfeiture of
2 rights under the plan.

3 (5) Any contribution under the benefits contribution plan
4 shall continue to be included as regular compensation for the
5 purpose of computing the state retirement and pension benefits
6 earned by the employee.

7
8 NEW SECTION. **Sec. 16.** A new section is added to chapter
9 41.05 RCW to read as follows:

10 The benefits contribution account is established in the state
11 treasury. All fees paid to reimburse participants or service
12 providers pursuant to the provisions of sections 13 through 19 of
13 this act shall be paid from the benefit contribution account.

14
15 NEW SECTION. **Sec. 17.** A new section is added to chapter
16 41.05 RCW to read as follows:

17 (1) The authority shall keep or cause to be kept full and
18 adequate accounts and records of the assets, obligations,
19 transactions, and affairs of a salary reduction plan created under
20 section 14 of this act.

21 (2) The authority shall file an annual report of the
22 financial condition, transactions, and affairs of the salary
23 reduction plan under the authority's jurisdiction. A copy of the
24 annual report shall be filed with the speaker of the house of
25 representatives, the president of the senate, the governor, and the
26 state auditor.

27
28 NEW SECTION. **Sec. 18.** A new section is added to chapter
29 41.05 RCW to read as follows:

30 (1) The state may terminate the benefits contribution plan at
31 the end of the plan year or upon notification of federal action
32 affecting the status of the plan.

1 (2) The authority may amend the benefits contribution plan at
2 any time if the amendment does not affect the rights of the
3 participants to receive eligible reimbursement from the
4 participants' benefits contribution accounts.

5
6 NEW SECTION. **Sec. 19.** A new section is added to chapter
7 41.05 RCW to read as follows:

8 The authority shall adopt rules necessary to implement
9 sections 13 through 18 of this act.

10
11 NEW SECTION. **Sec. 20.** A new section is added to chapter
12 41.05 RCW to read as follows:

13 Health care and other benefits--Benefits contribution plan--
14 Construction of statutes. Sections 13 through 19 of this act shall
15 be construed to effectuate the purposes of 26 U.S.C. Sec. 125 and
16 other applicable sections of the Internal Revenue Code as
17 required."

EFFECT: Authorizes the Health Care Authority to establish a
plan to provide health care benefits on a pre-tax basis to
employees who receive benefits through a cost sharing
arrangement. State and higher education employees who
participate will make any premium co-payments and/or managed
competition premium payments for health benefits on a pre-tax
basis.