
SENATE BILL 6747

State of Washington

58th Legislature

2004 Regular Session

By Senators Fraser and Winsley

Read first time . Referred to .

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

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

5 **Sec. 1.** RCW 41.05.011 and 2001 c 165 s 2 are each amended to read
6 as follows:

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

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

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

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

18 (4) "Insuring entity" means an insurer as defined in chapter 48.01

1 RCW, a health care service contractor as defined in chapter 48.44 RCW,
2 or a health maintenance organization as defined in chapter 48.46 RCW.

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

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

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

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

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

36 (b) Persons who separate from employment with a school district or
37 educational service district on or after October 1, 1993, and

1 immediately upon separation receive a retirement allowance under
2 chapter 41.32, 41.35, or 41.40 RCW;

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

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

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

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

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

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

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

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

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

34 (15) "Retired local government employee" means:

35 (a) Persons who separated from employment with a county,
36 municipality, or other political subdivision of the state and are
37 receiving a retirement allowance under chapter 41.40 RCW as of July 1,
38 2004;

1 (b) Persons who separate from employment with a county,
2 municipality, or other political subdivision of the state on or after
3 July 1, 2004, and immediately upon separation receive a retirement
4 allowance under chapter 41.40 RCW; or

5 (c) Members of the public employees' retirement system plan 3 as
6 defined in chapter 41.40 RCW who are at least fifty-five years of age
7 and who have at least ten years of service credit in the public
8 employees' retirement system and who separate from employment with a
9 county, municipality, or other political subdivision of the state on or
10 after July 1, 2004, and immediately upon separation elect to continue
11 health insurance coverage with their employer or coverage provided by
12 the public employees' benefits board.

13 **Sec. 2.** RCW 41.04.208 and 2002 c 319 s 2 are each amended to read
14 as follows:

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

17 (a) "Disabled employee" means an individual eligible to receive a
18 disability retirement allowance from the public employees' retirement
19 system.

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

25 (c) "Retired employee" means a public employee meeting the
26 retirement eligibility, years of service requirements, and other
27 criteria set forth in the public employees' retirement system, except
28 that "retired local government employee" means:

29 (i) Persons who separated from employment with a county,
30 municipality, or other political subdivision of the state and are
31 receiving a retirement allowance under chapter 41.40 RCW as of July 1,
32 2004;

33 (ii) Persons who separate from employment with a county,
34 municipality, or other political subdivision of the state on or after
35 July 1, 2004, and immediately upon separation receive a retirement
36 allowance under chapter 41.40 RCW;

1 (iii) Members of the public employees' retirement system plan 3 as
2 defined in chapter 41.40 RCW who are at least fifty-five years of age
3 and who have at least ten years of service credit in the public
4 employees' retirement system and who separate from employment with a
5 county, municipality, or other political subdivision of the state on or
6 after July 1, 2004, and immediately upon separation elect to continue
7 health insurance coverage with their employer or coverage provided by
8 the public employees' benefits board.

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

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

36 (4) Payments for continued participation in a former employer's
37 health plan may be assigned to the underwriter of the health plan from
38 public pension benefits or may be paid to the former employer, as

1 determined by the former employer, so that an underwriter of the health
2 plan that is an insurance company, health care service contractor, or
3 health maintenance organization is not required to accept individual
4 payments from persons continuing participation in the employer's health
5 plan.

6 (5) After an initial open enrollment period of ninety days after
7 January 1, 2003, an employer may not be required to permit a person to
8 continue participation in the health plan if the person is responsible
9 for a lapse in coverage under the plan. In addition, an employer may
10 not be required to permit a person to continue participation in the
11 employer's health plan if the employer offered continued participation
12 in a health plan that meets the requirements of chapter 319, Laws of
13 2002.

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

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

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

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

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

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

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

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

17 (2) On and after January 1, 1995, at least the following state-
18 purchased health services programs shall be merged into a single,
19 community-rated risk pool: Health benefits for groups of employees of
20 school districts and educational service districts that voluntarily
21 purchase health benefits as provided in RCW 41.05.011; health benefits
22 for state employees; health benefits for eligible retired or disabled
23 school employees not eligible for parts A and B of medicare; health
24 benefits for eligible retired local government employees not eligible
25 for parts A and B of medicare; and health benefits for eligible state
26 retirees not eligible for parts A and B of medicare.

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

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

33 (b) Require that a health care provider or a health care facility
34 that receives funds from a public program provide care to state
35 residents receiving a state subsidy who may wish to receive care from
36 them, and that an insuring entity that receives funds from a public

1 program accept enrollment from state residents receiving a state
2 subsidy who may wish to enroll with them;

3 (c) Strive to integrate purchasing for all publicly sponsored
4 health services in order to maximize the cost control potential and
5 promote the most efficient methods of financing and coordinating
6 services;

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

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

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

17 (1) Under the qualifications, terms, conditions, and benefits set
18 by the board:

19 (a) Retired or disabled state employees, retired or disabled school
20 employees, or employees of county, municipal, or other political
21 subdivisions (~~covered by this chapter~~) who are retired may continue
22 their participation in insurance plans and contracts after retirement
23 or disablement; retired employees of county, municipal, or other
24 political subdivisions who selected participation in insurance plans
25 provided by their employers immediately upon retirement may elect to
26 move to coverage provided by the public employees' benefits board
27 during the open enrollment period of each year, provided that no lapse
28 in coverage results;

29 (b) Separated employees may continue their participation in
30 insurance plans and contracts if participation is selected immediately
31 upon separation from employment; separated employees of county,
32 municipal, or other political subdivisions who selected participation
33 in insurance plans provided by their employers immediately upon
34 separation of employment may elect to move to coverage provided by the
35 public employees' benefits board during the open enrollment period of
36 each year, provided that no lapse in coverage results;

1 (c) Surviving spouses and dependent children of emergency service
2 personnel killed in the line of duty may participate in insurance plans
3 and contracts.

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

9 (3) Rates charged to surviving spouses of emergency service
10 personnel killed in the line of duty, retired or disabled employees,
11 separated employees, spouses, or children who are eligible for parts A
12 and B of medicare shall be calculated from a separate experience risk
13 pool comprised only of individuals eligible for parts A and B of
14 medicare; however, the premiums charged to medicare-eligible retirees
15 and disabled employees shall be reduced by the amount of the subsidy
16 provided under RCW 41.05.085.

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

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

28 **Sec. 5.** RCW 41.05.120 and 1994 c 153 s 9 are each amended to read
29 as follows:

30 (1) The public employees' and retirees' insurance account is hereby
31 established in the custody of the state treasurer, to be used by the
32 administrator for the deposit of contributions, the remittance paid by
33 school districts and educational service districts under RCW
34 (~~28A.400.400~~) 28A.400.410, the remittance paid by county,
35 municipality, or other political subdivisions under section 6 of this
36 act, reserves, dividends, and refunds, and for payment of premiums for
37 employee and retiree insurance benefit contracts and subsidy amounts

1 provided under RCW 41.05.085. Moneys from the account shall be
2 disbursed by the state treasurer by warrants on vouchers duly
3 authorized by the administrator.

4 (2) The state treasurer and the state investment board may invest
5 moneys in the public employees' and retirees' insurance account. All
6 such investments shall be in accordance with RCW 43.84.080 or
7 43.84.150, whichever is applicable. The administrator shall determine
8 whether the state treasurer or the state investment board or both shall
9 invest moneys in the public employees' and retirees' insurance account.

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

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

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

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

25 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2004.

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