

RCW 41.26.565 Tribal general authority peace officers—State-tribal compacts. (Effective July 1, 2025.) (1) The governor is authorized to enter into state-tribal compacts for the participation of tribal general authority peace officers meeting the terms and conditions of this section in the law enforcement officers' and firefighters' retirement system plan 2.

(2) The governor shall establish an application and approval process, procedures, and timelines for the negotiation, approval or disapproval, and execution of state-tribal law enforcement officers' and firefighters' retirement system plan 2 compacts.

(3) The process may be initiated by submission, to the governor, of a resolution by the governing body of a federally recognized tribe in the state of Washington.

(4) The resolution must be accompanied by an application that indicates the police department whose employees will be offered participation in the law enforcement officers' and firefighters' retirement system plan 2, and that demonstrates that the police department will be operated solely as a governmental entity and compliant with all applicable state and federal laws, the rules adopted thereunder, and the terms and conditions set forth in the application.

(5) Within 90 days of receipt of a resolution and application under this section, the governor must convene a government-to-government meeting for the purpose of considering the resolution and application and initiating negotiations.

(6) State-tribal law enforcement officers' and firefighters' retirement system plan 2 participation compacts must include provisions regarding:

(a) Acknowledgment by the tribe that it affirmatively chooses to participate in the law enforcement officers' and firefighters' retirement system for tribal law enforcement officers meeting the criteria of this section;

(b) Evidence that the person or persons who sign the compact on behalf of a tribe have authority under tribal law to bind the tribe to all provisions in the compact, including any waiver of sovereign immunity;

(c) If the tribe chooses to participate in the law enforcement officers' and firefighters' retirement system:

(i) Agreement by the tribe that it meets the definition of an employer as defined in this chapter;

(ii) Agreement by the tribe to adhere to all reporting, contribution, and auditing requirements as defined in this chapter, and all rules adopted under authority of RCW 41.50.050(5), including RCW 41.26.062; and

(iii) Agreement by the tribe that, at the request of the criminal justice training commission, the tribe will make available any records the tribe has provided to the department of retirement systems as required under the reporting, contribution, and auditing requirements defined in this chapter or chapter 41.50 RCW, and rules implementing those chapters;

(d) Agreement by the tribe to a limited waiver of sovereign immunity and consent to the jurisdiction of the Washington state courts for the purpose of enforcing the reporting, contribution, and auditing requirements defined in this chapter and all rules adopted under authority of RCW 41.50.050(5), including RCW 41.26.062;

(e) Agreement by the tribe to dissolution procedures memorialized in the state-tribal compact so that all parties are aware of their expectations and duties if the compact terminates or the tribal law enforcement agency chooses to no longer participate in the state retirement systems at a future date, specifically including withdrawal liability and examples of the scale of withdrawal liability for an employer with a tribal law enforcement agency similar in size to the tribe memorializing the compact;

(f) Acknowledgment by the tribe that it has been advised that choosing to no longer participate in the retirement systems may result in federal tax implications for the governing body and its employees that are outside the control of the state of Washington, the department of retirement systems, and that the tribe has been encouraged to seek counsel before agreeing to any dissolution procedures in the compact; and

(g) Acknowledgment by both parties that the pension system participation portions of the state-tribal compact are null and void if the federal internal revenue service issues guidance stating that any portion of those sections are in conflict with the plan qualification requirements for governmental plans in section 401(a) of the internal revenue code, and the conflict cannot be resolved through administrative action, statutory change, or amendment to the state-tribal compact.

(7) For tribes that opt out of pension system participation, such tribal law enforcement employees shall have no right to earn additional service credit in the plan. [2023 c 77 § 2.]

Effective date—2023 c 77: "This act takes effect July 1, 2025."
[2023 c 77 § 5.]