

**RCW 41.48.030 Agreement with the federal secretary of health and human services.**

(1) The governor is hereby authorized to enter on behalf of the state into an agreement with the federal secretary of health and human services consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision not members of an existing retirement system, or to members of a retirement system established by the state or by a political subdivision thereof or by an institution of higher learning with respect to services specified in such agreement which constitute "employment" as defined in RCW 41.48.020. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the governor and secretary of health and human services shall agree upon, but, except as may be otherwise required by or under the social security act as to the services to be covered, such agreement shall provide in effect that:

(a) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of Title II of the social security act;

(b) The state will pay to the secretary of the treasury, at such time or times as may be prescribed under the social security act, contributions with respect to wages (as defined in RCW 41.48.020), equal to the sum of the taxes which would be imposed by the federal insurance contributions act if the services covered by the agreement constituted employment within the meaning of that act;

(c) Such agreement shall be effective with respect to services in employment covered by the agreement or modification thereof performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year immediately preceding the calendar year in which such agreement or modification of the agreement is accepted by the secretary of health and human services;

(d) All services which constitute employment as defined in RCW 41.48.020 and are performed in the employ of the state by employees of the state, shall be covered by the agreement;

(e) All services which (i) constitute employment as defined in RCW 41.48.020, (ii) are performed in the employ of a political subdivision of the state, and (iii) are covered by a plan which is in conformity with the terms of the agreement and has been approved by the governor under RCW 41.48.050, shall be covered by the agreement;

(f) As modified, the agreement shall include all services described in either (d) or (e) of this subsection and performed by individuals to whom section 218(c)(3)(C) of the social security act is applicable, and shall provide that the service of any such individual shall continue to be covered by the agreement in case he or she thereafter becomes eligible to be a member of a retirement system;

(g) As modified, the agreement shall include all services described in either (d) or (e) of this subsection and performed by individuals in positions covered by a retirement system with respect to which the governor has issued a certificate to the secretary of health and human services pursuant to subsection (5) of this section; and

(h) Law enforcement officers and firefighters of each political subdivision of this state who are covered by the Washington law

enforcement officers' and firefighters' retirement system act, chapter 41.26 RCW, shall constitute a separate "coverage group" for purposes of the agreement entered into under this section and for purposes of section 218 of the social security act.

(2) Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (a) to enter into an agreement with the secretary of health and human services whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality, (b) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under RCW 41.48.040(1) if they were covered by an agreement made pursuant to subsection (1) of this section, and (c) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (1) of this section and other provisions of this chapter.

(3) The governor is empowered to authorize a referendum, and to designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the social security act, and subsection (4) of this section on the question of whether service in all positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this chapter. If a retirement system covers positions of employees of the state of Washington, of the institutions of higher learning, and positions of employees of one or more of the political subdivisions of the state, then for the purpose of the referendum as provided in this section, there may be deemed to be a separate retirement system with respect to employees of the state, or any one or more of the political subdivisions, or institutions of higher learning and the governor shall authorize a referendum upon request of the subdivisions' or institutions' of higher learning governing body: PROVIDED HOWEVER, That if a referendum of state employees generally fails to produce a favorable majority vote then the governor may authorize a referendum covering positions of employees in any state department who are compensated in whole or in part from grants made to this state under Title III of the federal social security act: PROVIDED, That any city or town affiliated with the statewide city employees retirement system organized under chapter 41.44 RCW may at its option agree to a plan submitted by the board of trustees of that statewide city employees retirement system for inclusion under an agreement under this chapter if the referendum to be held as provided in this section indicates a favorable result: PROVIDED FURTHER, That the teachers' retirement system be considered one system for the purpose of the referendum except as applied to the several \*colleges of education. The notice of referendum required by section 218(d)(3)(C) of the social security act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this chapter.

(4) The governor, before authorizing a referendum, shall require the following conditions to be met:

(a) The referendum shall be by secret written ballot on the question of whether service in positions covered by such retirement system shall be excluded from or included under the agreement between the governor and the secretary of health and human services provided for in subsection (1) of this section;

(b) An opportunity to vote in such referendum shall be given and shall be limited to eligible employees;

(c) Not less than ninety days' notice of such referendum shall be given to all such employees;

(d) Such referendum shall be conducted under the supervision of the governor or of an agency or individual designated by the governor;

(e) (i) The proposal for coverage shall be approved only if a majority of the eligible employees vote in favor of including services in such positions under the agreement;

(ii) Coverage obtained through a divided referendum process shall extend coverage to law enforcement officers, firefighters, and employees of political subdivisions of this state, who have membership in a qualified retirement system, allowing them to obtain medicare coverage only (HI-only). In such a divided referendum process, those members voting in favor of medicare coverage constitute a separate coverage group;

(f) The state legislature, in the case of a referendum affecting the rights and liabilities of state employees covered under the state employees' retirement system and employees under the teachers' retirement system, and in all other cases the local legislative authority or governing body, shall have specifically approved the proposed plan and approved any necessary structural adjustment to the existing system to conform with the proposed plan;

(g) In the case of a referendum authorized under section 218(d)(6) of the social security act and (e)(ii) of this subsection, the retirement system will be divided into two parts or divisions. One part or division of the retirement system shall be composed of positions of those members of the system who desire coverage under the agreement as permitted by this section. The remaining part or division of the retirement system shall be composed of positions of those members who do not desire coverage under such an agreement. Each part or division is a separate retirement system for the purposes of section 218(d) of the social security act. The positions of individuals who become members of the system after the coverage is extended shall be included in the part or division of the system composed of members desiring the coverage, with the exception of positions that are excluded in the agreement.

(5) Upon receiving satisfactory evidence that with respect to any such referendum the conditions specified in subsection (4) of this section and section 218(d)(3) of the social security act have been met, the governor shall so certify to the secretary of health and human services.

(6) If the legislative body of any political subdivision of this state certifies to the governor that a referendum has been held under the terms of RCW 41.48.050(1)(i) and gives notice to the governor of termination of social security for any coverage group of the political subdivision, the governor shall give two years advance notice in writing to the federal department of health and human services of the termination of the agreement entered into under this section with respect to that coverage group. [2008 c 142 § 1; 2007 c 218 § 72;

1971 ex.s. c 257 § 19; 1967 c 5 § 1; 1957 c 170 § 1; 1955 ex.s. c 4 § 3; 1951 c 184 § 3.]

**\*Reviser's note:** The "colleges of education" were redesignated state colleges by 1961 c 62 § 1, formerly RCW 28.81.005, decodified in the 1969 education code. See also RCW 28B.10.016.

**Intent—Finding—2007 c 218:** See note following RCW 41.08.020.

**Purpose—Severability—1971 ex.s. c 257:** See notes following RCW 41.26.030.