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HOUSE BILL 1721

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State of Washington

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1993 Regular Session

By Representatives R. Meyers, Dorn, Zellinsky, Wang, Reams, G. Fisher, H. Myers and Mielke

Read first time 02/05/93. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to jointly administered health and welfare benefits  
2 trusts; and adding a new section to chapter 48.62 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.62 RCW  
5 to read as follows:

6 (1)(a) It is a lawful method of a local government unit self-  
7 insuring health and welfare benefits under this chapter for the  
8 governing board of a local government, under a collective bargaining  
9 agreement or otherwise, to fund a trust fund established for the  
10 exclusive benefit of the employees of the local government and others  
11 who may lawfully be included as beneficiaries. Local government  
12 entities may enter into multientity, including county-wide or state-  
13 wide, arrangements to establish or make payments to trusts established  
14 under this section to provide health and welfare benefits. A trust  
15 created under this section may also purchase insurance to provide  
16 health and welfare benefits.

17 (b) A trust fund under this section is not self-insurance of the  
18 local government unit. Funds paid to the trust to accomplish its  
19 purposes are private funds under this section and this chapter.

1 (c) Regulatory fees imposed by this chapter and all other taxes and  
2 fees, if any, are the responsibility of the trust.

3 (2) Payments to a trust fund under this section are to be held in  
4 trust in a depository identified by the trustees for the purpose of  
5 paying health and welfare benefits, either from principal, income, or  
6 both, for the benefit of employees, retirees of the employer,  
7 dependents, and other lawful beneficiaries. The funds shall be  
8 invested in accordance with policies adopted by the trustees or a  
9 designee supervised by them.

10 (3)(a) The detailed basis on which payments are to be made shall be  
11 specified in a written agreement between the employer and employees or  
12 their representatives.

13 (b)(i) Employees and employers shall be equally represented in the  
14 administration of a trust fund under this section, together with  
15 neutral persons that the representatives of the employers and the  
16 representatives of the employees agree upon. Designated  
17 representatives of employers and employees need not be employees of the  
18 local governmental unit.

19 (ii) There shall be a provision for neutral persons, that the  
20 representatives of the employers and the representatives of the  
21 employees agree upon, to break a deadlock in the administration of a  
22 trust fund under this section. The agreement shall provide that the  
23 two groups agree on an impartial umpire to decide the dispute if there  
24 is a deadlock and there are no neutral persons empowered to break the  
25 deadlock. If the two groups fail to agree on an impartial umpire  
26 within a reasonable length of time, an impartial umpire to decide the  
27 dispute shall, on petition of either group, be appointed by the  
28 presiding judge of the superior court for the county in which the trust  
29 fund has its principal office.

30 (c) The agreement shall also contain provisions for an annual audit  
31 of the trust fund. A statement of the results of the audit shall be  
32 available for inspection by interested persons at the principal office  
33 of the trust fund and at other places that may be designated in the  
34 written agreement. The board may select appropriately licensed private  
35 professionals to perform audits under guidelines adopted by rule by the  
36 state risk manager regarding other relevant qualifications.

37 (4)(a) A trust fund under this section may also, alternatively,  
38 collect money or establish additional trusts to defray the costs of

1 child care expenses for preschool-age and school-age dependents of  
2 employees.

3 (b) No labor organization or employer is required to bargain on the  
4 establishment of a child care trust fund and refusal to do so is not an  
5 unfair labor practice.

6 (5) All trusts created under this section shall contain provisions  
7 requiring that in the event of the dissolution of the trust and after  
8 payment of existing obligations, the remaining trust funds shall be  
9 expended only for the health and welfare benefits purposes for  
10 employees and other lawful beneficiaries for which the trust was  
11 created.

12 (6) The trust instrument may also include other terms to implement  
13 its purposes and arrange for the payment of reasonable administrative  
14 expenses both during its existence and after termination.

15 (7) A beneficiary may bring suit against the trust in the county in  
16 which the trust is domiciled or where the beneficiary lives to obtain  
17 benefits to which the beneficiary is entitled under employee benefit  
18 plans being funded through the trust. If the trust purchases insurance  
19 to fund an employee benefit or benefits, a beneficiary may sue the  
20 insurer directly.

21 (8) Trusts in existence on the effective date of this act are  
22 deemed to have lawfully operated under this chapter if they come into  
23 compliance with this chapter within the one hundred eighty day period  
24 immediately following the effective date of this act.

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