
SENATE BILL 5781

State of Washington

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By Senators Fraser, Benton, Pflug, Regala, Zarelli, Rasmussen, Keiser, Kline, Haugen, Roach, Prentice, Jacobsen and Kohl-Welles

Read first time 02/07/2005. Referred to Committee on Ways & Means.

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; providing an effective date; and
4 declaring an emergency.

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

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

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

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

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

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

1 (4) "Insuring entity" means an insurer as defined in chapter 48.01
2 RCW, a health care service contractor as defined in chapter 48.44 RCW,
3 or a health maintenance organization as defined in chapter 48.46 RCW.

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

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

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

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

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

37 (b) Persons who separate from employment with a school district or

1 educational service district on or after October 1, 1993, and
2 immediately upon separation receive a retirement allowance under
3 chapter 41.32, 41.35, or 41.40 RCW;

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

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

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

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

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

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

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

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

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

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

36 (a) Persons who separated from employment with a county,
37 municipality, or other political subdivision of the state and are

1 receiving a retirement allowance under chapter 41.40 RCW as of July 1,
2 2005;

3 (b) Persons who separate from employment with a county,
4 municipality, or other political subdivision of the state on or after
5 July 1, 2005, and immediately upon separation receive a retirement
6 allowance under chapter 41.40 RCW; or

7 (c) Members of the public employees' retirement system plan 3 as
8 defined in chapter 41.40 RCW who are at least fifty-five years of age
9 and who have at least ten years of service credit in the public
10 employees' retirement system and who separate from employment with a
11 county, municipality, or other political subdivision of the state on or
12 after July 1, 2005, and immediately upon separation elect to continue
13 health insurance coverage with their employer or coverage provided by
14 the public employees' benefits board.

15 **Sec. 2.** RCW 41.04.208 and 2004 c 173 s 1 are each amended to read
16 as follows:

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

19 (a) "Disabled employee" means a person eligible to receive a
20 disability retirement allowance from the Washington law enforcement
21 officers' and fire fighters' retirement system plan 2 and the public
22 employees' retirement system.

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

28 (c) "Retired employee" means a public employee meeting the
29 retirement eligibility, years of service requirements, and other
30 criteria of the Washington law enforcement officers' and fire fighters'
31 retirement system plan 2 and the public employees' retirement system,
32 except that "retired local government employee" means:

33 (i) Persons who separated from employment with a county,
34 municipality, or other political subdivision of the state and are
35 receiving a retirement allowance under chapter 41.40 RCW as of July 1,
36 2005;

1 (ii) Persons who separate from employment with a county,
2 municipality, or other political subdivision of the state on or after
3 July 1, 2005, and immediately upon separation receive a retirement
4 allowance under chapter 41.40 RCW;

5 (iii) 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, 2005, 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 (2) A county, municipality, or other political subdivision that
14 provides a health plan for its employees shall permit retired and
15 disabled employees and their dependents to continue participation in a
16 plan subject to the exceptions, limitations, and conditions set forth
17 in this section. However, this section does not apply to a county,
18 municipality, or other political subdivision participating in an
19 insurance program administered under chapter 41.05 RCW if retired and
20 disabled employees and their dependents of the participating county,
21 municipality, or other political subdivision are covered under an
22 insurance program administered under chapter 41.05 RCW. Nothing in
23 this subsection or chapter 319, Laws of 2002 precludes the local
24 government employer from offering retired or disabled employees a
25 health plan with a benefit structure, copayment, deductible,
26 coinsurance, lifetime benefit maximum, and other plan features which
27 differ from those offered through a health plan provided to active
28 employees. Further, nothing in this subsection precludes a local
29 government employer from joining with other public agency employers,
30 including interjurisdictional benefit pools and multi-employer
31 associations or consortiums, to fulfill its obligations under chapter
32 319, Laws of 2002.

33 (3) A county, municipality, or other political subdivision has full
34 authority to require a person who requests continued participation in
35 a health plan under subsection (2) of this section to pay the full cost
36 of such participation, including any amounts necessary for
37 administration. However, this subsection does not require an employer

1 who is currently paying for all or part of a health plan for its
2 retired and disabled employees to discontinue those payments.

3 (4) Payments for continued participation in a former employer's
4 health plan may be assigned to the underwriter of the health plan from
5 public pension benefits or may be paid to the former employer, as
6 determined by the former employer, so that an underwriter of the health
7 plan that is an insurance company, health care service contractor, or
8 health maintenance organization is not required to accept individual
9 payments from persons continuing participation in the employer's health
10 plan.

11 (5) After an initial open enrollment period of ninety days after
12 January 1, 2003, an employer may not be required to permit a person to
13 continue participation in the health plan if the person is responsible
14 for a lapse in coverage under the plan. In addition, an employer may
15 not be required to permit a person to continue participation in the
16 employer's health plan if the employer offered continued participation
17 in a health plan that meets the requirements of chapter 319, Laws of
18 2002.

19 (6) If a person continuing participation in the former employer's
20 health plan has medical coverage available through another employer,
21 the medical coverage of the other employer is the primary coverage for
22 purposes of coordination of benefits as provided for in the former
23 employer's health plan.

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

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

1 (9) If an employer changes the underwriter of a health plan, the
2 replaced underwriter has no further responsibility or obligation to
3 persons who continued participation in a health plan of the replaced
4 underwriter. However, the employer shall permit those persons to
5 participate in any new health plan.

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

11 (11) This section does not affect any health plan contained in a
12 collective bargaining agreement in existence as of January 1, 2003.
13 However, any plan contained in future collective bargaining agreements
14 shall conform to this section. In addition, this section does not
15 affect any health plan contract or policy in existence as of January 1,
16 2003. However, any renewal of the contract or policy shall conform to
17 this section.

18 (12) Counties, municipalities, and other political subdivisions
19 that make a documented good faith effort to comply with the provisions
20 of subsections (2) through (11) of this section and are unable to
21 provide access to a fully insured group health benefit plan are
22 discharged from any obligations under subsections (2) through (11) of
23 this section but shall assist disabled employees and retired employees
24 in applying for health insurance. Assistance may include developing
25 and distributing standardized information on the availability and cost
26 of individual health benefit plans, application packages, and health
27 benefit fairs.

28 (13) The office of the insurance commissioner shall make available
29 to counties, municipalities, and other political subdivisions
30 information regarding individual health benefit plans, including a list
31 of carriers offering individual coverage, the rates charged, and how to
32 apply for coverage.

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

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

1 (2) On and after January 1, 1995, at least the following state-
2 purchased health services programs shall be merged into a single,
3 community-rated risk pool: Health benefits for groups of employees of
4 school districts and educational service districts that voluntarily
5 purchase health benefits as provided in RCW 41.05.011; health benefits
6 for state employees; health benefits for eligible retired or disabled
7 school employees not eligible for parts A and B of medicare; health
8 benefits for eligible retired local government employees not eligible
9 for parts A and B of medicare; and health benefits for eligible state
10 retirees not eligible for parts A and B of medicare.

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

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

17 (b) Require that a health care provider or a health care facility
18 that receives funds from a public program provide care to state
19 residents receiving a state subsidy who may wish to receive care from
20 them, and that an insuring entity that receives funds from a public
21 program accept enrollment from state residents receiving a state
22 subsidy who may wish to enroll with them;

23 (c) Strive to integrate purchasing for all publicly sponsored
24 health services in order to maximize the cost control potential and
25 promote the most efficient methods of financing and coordinating
26 services;

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

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

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

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

3 (a) Retired or disabled state employees, retired or disabled school
4 employees, or employees of county, municipal, or other political
5 subdivisions (~~covered by this chapter~~) who are retired may continue
6 their participation in insurance plans and contracts after retirement
7 or disablement; retired employees of county, municipal, or other
8 political subdivisions who selected participation in insurance plans
9 provided by their employers immediately upon retirement may elect to
10 move to coverage provided by the public employees' benefits board
11 during the open enrollment period of each year, provided that no lapse
12 in coverage results;

13 (b) Separated employees may continue their participation in
14 insurance plans and contracts if participation is selected immediately
15 upon separation from employment; separated employees of county,
16 municipal, or other political subdivisions who selected participation
17 in insurance plans provided by their employers immediately upon
18 separation of employment may elect to move to coverage provided by the
19 public employees' benefits board during the open enrollment period of
20 each year, provided that no lapse in coverage results;

21 (c) Surviving spouses and dependent children of emergency service
22 personnel killed in the line of duty may participate in insurance plans
23 and contracts.

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

29 (3) Rates charged to surviving spouses of emergency service
30 personnel killed in the line of duty, retired or disabled employees,
31 separated employees, spouses, or children who are eligible for parts A
32 and B of medicare shall be calculated from a separate experience risk
33 pool comprised only of individuals eligible for parts A and B of
34 medicare; however, the premiums charged to medicare-eligible retirees
35 and disabled employees shall be reduced by the amount of the subsidy
36 provided under RCW 41.05.085.

37 (4) Surviving spouses and dependent children of emergency service
38 personnel killed in the line of duty and retired or disabled and

1 separated employees shall be responsible for payment of premium rates
2 developed by the authority which shall include the cost to the
3 authority of providing insurance coverage including any amounts
4 necessary for reserves and administration in accordance with this
5 chapter. These self pay rates will be established based on a separate
6 rate for the employee, the spouse, and the children.

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

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

12 (1) The public employees' and retirees' insurance account is hereby
13 established in the custody of the state treasurer, to be used by the
14 administrator for the deposit of contributions, the remittance paid by
15 school districts and educational service districts under RCW
16 (~~28A.400.400~~) 28A.400.410, the remittance paid by county,
17 municipality, or other political subdivisions under section 6 of this
18 act, reserves, dividends, and refunds, and for payment of premiums for
19 employee and retiree insurance benefit contracts and subsidy amounts
20 provided under RCW 41.05.085. Moneys from the account shall be
21 disbursed by the state treasurer by warrants on vouchers duly
22 authorized by the administrator.

23 (2) The state treasurer and the state investment board may invest
24 moneys in the public employees' and retirees' insurance account. All
25 such investments shall be in accordance with RCW 43.84.080 or
26 43.84.150, whichever is applicable. The administrator shall determine
27 whether the state treasurer or the state investment board or both shall
28 invest moneys in the public employees' and retirees' insurance account.

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

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

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

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

9 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and takes effect
12 July 1, 2005.

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