
SENATE BILL 5869

State of Washington 61st Legislature 2009 Regular Session

By Senators Prentice and Shin; by request of Governor Gregoire

Read first time 02/05/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to clarifying public employees' benefits board
2 eligibility; amending RCW 41.05.008, 41.05.011, 41.05.050, and
3 41.05.055; reenacting and amending RCW 41.05.021 and 41.05.065; adding
4 a new section to chapter 41.05 RCW; repealing RCW 41.05.053; and
5 providing an effective date.

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

7 **Sec. 1.** RCW 41.05.008 and 2005 c 143 s 4 are each amended to read
8 as follows:

9 (1) Every employing agency (~~((shall fully cooperate with the~~
10 ~~authority and))~~) shall carry out all actions required by the authority
11 under this chapter including, but not limited to, those necessary for
12 the operation of benefit plans, education of employees, claims
13 administration, and ((~~other activities that may be required by the~~
14 ~~authority for administration of this chapter)) appeals process.~~

15 (2) Employing agencies shall report all data relating to employees
16 eligible to participate in benefits or plans administered by the
17 authority in a format designed and communicated by the authority.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW
2 to read as follows:

3 (1) The authority, or at the authority's direction, an employing
4 agency shall initially determine and periodically review whether an
5 employee is eligible for benefits pursuant to the criteria established
6 under this chapter.

7 (2) An employing agency shall inform an employee in writing whether
8 or not he or she is eligible for benefits when initially determined and
9 upon any subsequent change, including notice of the employee's right to
10 an appeal.

11 **Sec. 3.** RCW 41.05.011 and 2008 c 229 s 2 are each amended to read
12 as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

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

16 (2) "State purchased health care" or "health care" means medical
17 and health care, pharmaceuticals, and medical equipment purchased with
18 state and federal funds by the department of social and health
19 services, the department of health, the basic health plan, the state
20 health care authority, the department of labor and industries, the
21 department of corrections, the department of veterans affairs, and
22 local school districts.

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

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

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

31 (6) "Employee" includes all ~~((full-time and career seasonal))~~
32 employees of the state, whether or not covered by civil service;
33 elected and appointed officials of the executive branch of government,
34 including full-time members of boards, commissions, or committees;
35 ~~((and includes any or all part-time and temporary employees under the
36 terms and conditions established under this chapter by the authority;))~~
37 justices of the supreme court and judges of the court of appeals and

1 the superior courts; ~~((and))~~ members of the state legislature ~~((or of~~
2 ~~the legislative authority of any county, city, or town who are elected~~
3 ~~to office after February 20, 1970))~~~~((; and employees of state~~
4 ~~institutions of higher education))~~. Pursuant to contractual agreement
5 with the authority, "employee" may also include~~((s))~~: (a) Employees of
6 a county, municipality, or other political subdivision of the state and
7 members of the legislative authority of any county, city, or town who
8 are elected to office after February 20, 1970, if the legislative
9 authority of the county, municipality, or other political subdivision
10 of the state seeks and receives the approval of the authority to
11 provide any of its insurance programs by contract with the authority,
12 as provided in RCW 41.04.205 and 41.05.021(1)(g); (b) employees of
13 employee organizations representing state civil service employees, at
14 the option of each such employee organization, and, effective October
15 1, 1995, employees of employee organizations currently pooled with
16 employees of school districts for the purpose of purchasing insurance
17 benefits, at the option of each such employee organization; (c)
18 employees of a school district if the authority agrees to provide any
19 of the school districts' insurance programs by contract with the
20 authority as provided in RCW 28A.400.350; and (d) employees of a tribal
21 government, if the governing body of the tribal government seeks and
22 receives the approval of the authority to provide any of its insurance
23 programs by contract with the authority, as provided in RCW
24 41.05.021(1) (f) and (g). "Employee" does not include: Adult family
25 homeowners; unpaid volunteers; patients of state hospitals; inmates;
26 employees of the Washington state convention and trade center as
27 provided in RCW 41.05.110; students of institutions of higher education
28 as determined by their institution; and any others not expressly
29 defined as employees under this chapter or by the authority under this
30 chapter.

31 (7) "Seasonal employee" means an employee hired to work during a
32 recurring, annual season with a duration of more than three months, and
33 anticipated to return each season to perform similar work.

34 (8) "Faculty" means an academic employee of an institution of
35 higher education whose workload is not defined by work hours but whose
36 appointment, workload, and duties directly serve the institution's
37 academic mission, as determined under the authority of its enabling

1 statutes, its governing body, and any applicable collective bargaining
2 agreement.

3 (9) "Board" means the public employees' benefits board established
4 under RCW 41.05.055.

5 ~~((+8))~~ (10) "Retired or disabled school employee" means:

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

9 (b) Persons who separate from employment with a school district or
10 educational service district on or after October 1, 1993, and
11 immediately upon separation receive a retirement allowance under
12 chapter 41.32, 41.35, or 41.40 RCW;

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

17 ~~((+9))~~ (11) "Premium payment plan" means a benefit plan whereby
18 state and public employees may pay their share of group health plan
19 premiums with pretax dollars as provided in the salary reduction plan
20 under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of
21 the internal revenue code.

22 ~~((+10))~~ (12) "Salary" means a state employee's monthly salary or
23 wages.

24 ~~((+11))~~ (13) "Participant" means an individual who fulfills the
25 eligibility and enrollment requirements under the salary reduction
26 plan.

27 ~~((+12))~~ (14) "Plan year" means the time period established by the
28 authority.

29 ~~((+13))~~ (15) "Separated employees" means persons who separate from
30 employment with an employer as defined in:

31 (a) RCW 41.32.010(11) on or after July 1, 1996; or

32 (b) RCW 41.35.010 on or after September 1, 2000; or

33 (c) RCW 41.40.010 on or after March 1, 2002;

34 and who are at least age fifty-five and have at least ten years of
35 service under the teachers' retirement system plan 3 as defined in RCW
36 41.32.010(40), the Washington school employees' retirement system plan
37 3 as defined in RCW 41.35.010, or the public employees' retirement
38 system plan 3 as defined in RCW 41.40.010.

1 (~~(14)~~) (16) "Emergency service personnel killed in the line of
2 duty" means law enforcement officers and firefighters as defined in RCW
3 41.26.030, members of the Washington state patrol retirement fund as
4 defined in RCW 43.43.120, and reserve officers and firefighters as
5 defined in RCW 41.24.010 who die as a result of injuries sustained in
6 the course of employment as determined consistent with Title 51 RCW by
7 the department of labor and industries.

8 (~~(15)~~) (17) "Employer" means the state of Washington.

9 (~~(16)~~) (18) "Employing agency" means a division, department, or
10 separate agency of state government, including an institution of higher
11 education; a county, municipality, school district, educational service
12 district, or other political subdivision; and a tribal government
13 covered by this chapter.

14 (~~(17)~~) (19) "Tribal government" means an Indian tribal government
15 as defined in section 3(32) of the employee retirement income security
16 act of 1974, as amended, or an agency or instrumentality of the tribal
17 government, that has government offices principally located in this
18 state.

19 (~~(18)~~) (20) "Dependent care assistance program" means a benefit
20 plan whereby state and public employees may pay for certain employment
21 related dependent care with pretax dollars as provided in the salary
22 reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or
23 other sections of the internal revenue code.

24 (~~(19)~~) (21) "Salary reduction plan" means a benefit plan whereby
25 state and public employees may agree to a reduction of salary on a
26 pretax basis to participate in the dependent care assistance program,
27 medical flexible spending arrangement, or premium payment plan offered
28 pursuant to 26 U.S.C. Sec. 125 or other sections of the internal
29 revenue code.

30 (~~(20)~~) (22) "Medical flexible spending arrangement" means a
31 benefit plan whereby state and public employees may reduce their salary
32 before taxes to pay for medical expenses not reimbursed by insurance as
33 provided in the salary reduction plan under this chapter pursuant to 26
34 U.S.C. Sec. 125 or other sections of the internal revenue code.

35 **Sec. 4.** RCW 41.05.021 and 2007 c 274 s 1 and 2007 c 114 s 3 are
36 each reenacted and amended to read as follows:

37 (1) The Washington state health care authority is created within

1 the executive branch. The authority shall have an administrator
2 appointed by the governor, with the consent of the senate. The
3 administrator shall serve at the pleasure of the governor. The
4 administrator may employ up to seven staff members, who shall be exempt
5 from chapter 41.06 RCW, and any additional staff members as are
6 necessary to administer this chapter. The administrator may delegate
7 any power or duty vested in him or her by this chapter, including
8 authority to make final decisions and enter final orders in hearings
9 conducted under chapter 34.05 RCW. The primary duties of the authority
10 shall be to: Administer state employees' insurance benefits and
11 retired or disabled school employees' insurance benefits; administer
12 the basic health plan pursuant to chapter 70.47 RCW; study state-
13 purchased health care programs in order to maximize cost containment in
14 these programs while ensuring access to quality health care; implement
15 state initiatives, joint purchasing strategies, and techniques for
16 efficient administration that have potential application to all state-
17 purchased health services; and administer grants that further the
18 mission and goals of the authority. The authority's duties include,
19 but are not limited to, the following:

20 (a) To administer health care benefit programs for employees and
21 retired or disabled school employees as specifically authorized in RCW
22 41.05.065 and in accordance with the methods described in RCW
23 41.05.075, 41.05.140, and other provisions of this chapter;

24 (b) To analyze state-purchased health care programs and to explore
25 options for cost containment and delivery alternatives for those
26 programs that are consistent with the purposes of those programs,
27 including, but not limited to:

28 (i) Creation of economic incentives for the persons for whom the
29 state purchases health care to appropriately utilize and purchase
30 health care services, including the development of flexible benefit
31 plans to offset increases in individual financial responsibility;

32 (ii) Utilization of provider arrangements that encourage cost
33 containment, including but not limited to prepaid delivery systems,
34 utilization review, and prospective payment methods, and that ensure
35 access to quality care, including assuring reasonable access to local
36 providers, especially for employees residing in rural areas;

37 (iii) Coordination of state agency efforts to purchase drugs
38 effectively as provided in RCW 70.14.050;

1 (iv) Development of recommendations and methods for purchasing
2 medical equipment and supporting services on a volume discount basis;

3 (v) Development of data systems to obtain utilization data from
4 state-purchased health care programs in order to identify cost centers,
5 utilization patterns, provider and hospital practice patterns, and
6 procedure costs, utilizing the information obtained pursuant to RCW
7 41.05.031; and

8 (vi) In collaboration with other state agencies that administer
9 state purchased health care programs, private health care purchasers,
10 health care facilities, providers, and carriers:

11 (A) Use evidence-based medicine principles to develop common
12 performance measures and implement financial incentives in contracts
13 with insuring entities, health care facilities, and providers that:

14 (I) Reward improvements in health outcomes for individuals with
15 chronic diseases, increased utilization of appropriate preventive
16 health services, and reductions in medical errors; and

17 (II) Increase, through appropriate incentives to insuring entities,
18 health care facilities, and providers, the adoption and use of
19 information technology that contributes to improved health outcomes,
20 better coordination of care, and decreased medical errors;

21 (B) Through state health purchasing, reimbursement, or pilot
22 strategies, promote and increase the adoption of health information
23 technology systems, including electronic medical records, by hospitals
24 as defined in RCW 70.41.020(4), integrated delivery systems, and
25 providers that:

26 (I) Facilitate diagnosis or treatment;

27 (II) Reduce unnecessary duplication of medical tests;

28 (III) Promote efficient electronic physician order entry;

29 (IV) Increase access to health information for consumers and their
30 providers; and

31 (V) Improve health outcomes;

32 (C) Coordinate a strategy for the adoption of health information
33 technology systems using the final health information technology report
34 and recommendations developed under chapter 261, Laws of 2005;

35 (c) To analyze areas of public and private health care interaction;

36 (d) To provide information and technical and administrative
37 assistance to the board;

1 (e) To review and approve or deny applications from counties,
2 municipalities, and other political subdivisions of the state to
3 provide state-sponsored insurance or self-insurance programs to their
4 employees in accordance with the provisions of RCW 41.04.205 and (g) of
5 this subsection, setting the premium contribution for approved groups
6 as outlined in RCW 41.05.050;

7 (f) To review and approve or deny the application when the
8 governing body of a tribal government applies to transfer their
9 employees to an insurance or self-insurance program administered under
10 this chapter. In the event of an employee transfer pursuant to this
11 subsection (1)(f), members of the governing body are eligible to be
12 included in such a transfer if the members are authorized by the tribal
13 government to participate in the insurance program being transferred
14 from and subject to payment by the members of all costs of insurance
15 for the members. The authority shall: (i) Establish the conditions
16 for participation; (ii) have the sole right to reject the application;
17 and (iii) set the premium contribution for approved groups as outlined
18 in RCW 41.05.050. Approval of the application by the authority
19 transfers the employees and dependents involved to the insurance,
20 self-insurance, or health care program approved by the authority;

21 (g) To ensure the continued status of the employee insurance or
22 self-insurance programs administered under this chapter as a
23 governmental plan under section 3(32) of the employee retirement income
24 security act of 1974, as amended, the authority shall limit the
25 participation of employees of a county, municipal, school district,
26 educational service district, or other political subdivision, or a
27 tribal government, including providing for the participation of those
28 employees whose services are substantially all in the performance of
29 essential governmental functions, but not in the performance of
30 commercial activities;

31 (h) To establish billing procedures and collect funds from school
32 districts in a way that minimizes the administrative burden on
33 districts;

34 (i) To publish and distribute to nonparticipating school districts
35 and educational service districts by October 1st of each year a
36 description of health care benefit plans available through the
37 authority and the estimated cost if school districts and educational
38 service district employees were enrolled;

1 (j) To apply for, receive, and accept grants, gifts, and other
2 payments, including property and service, from any governmental or
3 other public or private entity or person, and make arrangements as to
4 the use of these receipts to implement initiatives and strategies
5 developed under this section;

6 (k) To issue, distribute, and administer grants that further the
7 mission and goals of the authority; (~~and~~)

8 (l) To adopt rules consistent with this chapter as described in RCW
9 41.05.160 including, but not limited to:

10 (i) Setting forth the criteria established by the board under RCW
11 41.05.065 for determining whether an employee is eligible for benefits;

12 (ii) Establishing an appeal process in accordance with chapter
13 34.05 RCW by which an employee may appeal an eligibility determination;

14 (iii) Establishing a process to assure that the eligibility
15 determinations of an employing agency comply with the criteria under
16 this chapter, including the imposition of penalties as may be
17 authorized by the board.

18 (2) On and after January 1, 1996, the public employees' benefits
19 board may implement strategies to promote managed competition among
20 employee health benefit plans. Strategies may include but are not
21 limited to:

22 (a) Standardizing the benefit package;

23 (b) Soliciting competitive bids for the benefit package;

24 (c) Limiting the state's contribution to a percent of the lowest
25 priced qualified plan within a geographical area;

26 (d) Monitoring the impact of the approach under this subsection
27 with regards to: Efficiencies in health service delivery, cost shifts
28 to subscribers, access to and choice of managed care plans statewide,
29 and quality of health services. The health care authority shall also
30 advise on the value of administering a benchmark employer-managed plan
31 to promote competition among managed care plans.

32 **Sec. 5.** RCW 41.05.050 and 2007 c 114 s 4 are each amended to read
33 as follows:

34 (1) Every: (a) Department, division, or separate agency of state
35 government; (b) county, municipal, school district, educational service
36 district, or other political subdivisions; and (c) tribal governments
37 as are covered by this chapter, shall provide contributions to

1 insurance and health care plans for its employees and their dependents,
2 the content of such plans to be determined by the authority.
3 Contributions, paid by the county, the municipality, other political
4 subdivision, or a tribal government for their employees, shall include
5 an amount determined by the authority to pay such administrative
6 expenses of the authority as are necessary to administer the plans for
7 employees of those groups, except as provided in subsection (4) of this
8 section.

9 (2) If the authority at any time determines that the participation
10 of a county, municipal, other political subdivision, or a tribal
11 government covered under this chapter adversely impacts insurance rates
12 for state employees, the authority shall implement limitations on the
13 participation of additional county, municipal, other political
14 subdivisions, or a tribal government.

15 (3) The contributions of any: (a) Department, division, or
16 separate agency of the state government; (b) county, municipal, or
17 other political subdivisions; and (c) any tribal government as are
18 covered by this chapter, shall be set by the authority, subject to the
19 approval of the governor for availability of funds as specifically
20 appropriated by the legislature for that purpose. Insurance and health
21 care contributions for ferry employees shall be governed by RCW
22 47.64.270.

23 (4)(a) (~~Beginning September 1, 2003,~~) The authority shall collect
24 from each participating school district and educational service
25 district an amount equal to the composite rate charged to state
26 agencies, plus an amount equal to the employee premiums by plan and
27 family size as would be charged to state employees, for groups of
28 district employees enrolled in authority plans (~~as of January 1, 2003.~~
29 ~~However, during the 2005-07 fiscal biennium, the authority shall~~
30 ~~collect from each participating school district and educational service~~
31 ~~district an amount equal to the insurance benefit allocations provided~~
32 ~~in section 504, chapter 518, Laws of 2005, plus any additional funding~~
33 ~~provided by the legislature for school employee health benefits, plus~~
34 ~~an amount equal to the employee premiums by plan and family size as~~
35 ~~would be charged to state employees, for groups of district employees~~
36 ~~enrolled in authority plans as of July 1, 2005)). The authority may
37 collect these amounts in accordance with the district fiscal year, as
38 described in RCW 28A.505.030.~~

1 (b) For all groups of district employees enrolling in authority
2 plans for the first time after September 1, 2003, the authority shall
3 collect from each participating school district an amount equal to the
4 composite rate charged to state agencies, plus an amount equal to the
5 employee premiums by plan and by family size as would be charged to
6 state employees, only if the authority determines that this method of
7 billing the districts will not result in a material difference between
8 revenues from districts and expenditures made by the authority on
9 behalf of districts and their employees. The authority may collect
10 these amounts in accordance with the district fiscal year, as described
11 in RCW 28A.505.030.

12 (c) If the authority determines at any time that the conditions in
13 (b) of this subsection cannot be met, the authority shall offer
14 enrollment to additional groups of district employees on a tiered rate
15 structure until such time as the authority determines there would be no
16 material difference between revenues and expenditures under a composite
17 rate structure for all district employees enrolled in authority plans.

18 (d) The authority may charge districts a one-time set-up fee for
19 employee groups enrolling in authority plans for the first time.

20 (e) For the purposes of this subsection:

21 (i) "District" means school district and educational service
22 district; and

23 (ii) "Tiered rates" means the amounts the authority must pay to
24 insuring entities by plan and by family size.

25 (f) Notwithstanding this subsection and RCW 41.05.065(~~(+3)~~) (4),
26 the authority may allow districts enrolled on a tiered rate structure
27 prior to September 1, 2002, to continue participation based on the same
28 rate structure and under the same conditions and eligibility criteria.

29 (5) The authority shall transmit a recommendation for the amount of
30 the employer contribution to the governor and the director of financial
31 management for inclusion in the proposed budgets submitted to the
32 legislature.

33 **Sec. 6.** RCW 41.05.055 and 1995 1st sp.s. c 6 s 4 are each amended
34 to read as follows:

35 (1) The public employees' benefits board is created within the
36 authority. The function of the board is to design and approve

1 insurance benefit plans for ((state)) employees and ((school district
2 employees)) to establish eligibility criteria for participation in
3 insurance benefit plans.

4 (2) The board shall be composed of nine members appointed by the
5 governor as follows:

6 (a) Two representatives of state employees, one of whom shall
7 represent an employee union certified as exclusive representative of at
8 least one bargaining unit of classified employees, and one of whom is
9 retired, is covered by a program under the jurisdiction of the board,
10 and represents an organized group of retired public employees;

11 (b) Two representatives of school district employees, one of whom
12 shall represent an association of school employees and one of whom is
13 retired, and represents an organized group of retired school employees;

14 (c) Four members with experience in health benefit management and
15 cost containment; and

16 (d) The administrator.

17 (3) The member who represents an association of school employees
18 and one member appointed pursuant to subsection (2)(c) of this section
19 shall be nonvoting members until such time that there are no less than
20 twelve thousand school district employee subscribers enrolled with the
21 authority for health care coverage.

22 (4) The governor shall appoint the initial members of the board to
23 staggered terms not to exceed four years. Members appointed thereafter
24 shall serve two-year terms. Members of the board shall be compensated
25 in accordance with RCW 43.03.250 and shall be reimbursed for their
26 travel expenses while on official business in accordance with RCW
27 43.03.050 and 43.03.060. The board shall prescribe rules for the
28 conduct of its business. The administrator shall serve as chair of the
29 board. Meetings of the board shall be at the call of the chair.

30 **Sec. 7.** RCW 41.05.065 and 2007 c 156 s 10 and 2007 c 114 s 5 are
31 each reenacted and amended to read as follows:

32 (1) The board shall study all matters connected with the provision
33 of health care coverage, life insurance, liability insurance,
34 accidental death and dismemberment insurance, and disability income
35 insurance or any of, or a combination of, the enumerated types of
36 insurance for employees and their dependents on the best basis possible

1 with relation both to the welfare of the employees and to the state.
2 However, liability insurance shall not be made available to dependents.

3 (2) The board shall develop employee benefit plans that include
4 comprehensive health care benefits for ~~((all))~~ employees. In
5 developing these plans, the board shall consider the following
6 elements:

7 (a) Methods of maximizing cost containment while ensuring access to
8 quality health care;

9 (b) Development of provider arrangements that encourage cost
10 containment and ensure access to quality care, including but not
11 limited to prepaid delivery systems and prospective payment methods;

12 (c) Wellness incentives that focus on proven strategies, such as
13 smoking cessation, injury and accident prevention, reduction of alcohol
14 misuse, appropriate weight reduction, exercise, automobile and
15 motorcycle safety, blood cholesterol reduction, and nutrition
16 education;

17 (d) Utilization review procedures including, but not limited to a
18 cost-efficient method for prior authorization of services, hospital
19 inpatient length of stay review, requirements for use of outpatient
20 surgeries and second opinions for surgeries, review of invoices or
21 claims submitted by service providers, and performance audit of
22 providers;

23 (e) Effective coordination of benefits; and

24 (f) Minimum standards for insuring entities ~~((; and~~

25 ~~((g) Minimum scope and content of public employee benefit plans to~~
26 ~~be offered to enrollees participating in the employee health benefit~~
27 ~~plans)).~~

28 (3) To maintain the comprehensive nature of employee health care
29 benefits, ~~((employee eligibility criteria related to the number of~~
30 ~~hours worked and the))~~ benefits provided to employees shall be
31 substantially equivalent to the state employees' health benefits plan
32 ~~((and eligibility criteria))~~ in effect on January 1, 1993. Nothing in
33 this subsection ~~((+2)(g))~~ shall prohibit changes or increases in
34 employee point-of-service payments or employee premium payments for
35 benefits or the administration of a high deductible health plan in
36 conjunction with a health savings account. The board may establish
37 employee eligibility criteria which are not substantially equivalent to
38 employee eligibility criteria in effect on January 1, 1993.

1 ~~((3))~~ (4) Except if bargained for under chapter 41.80 RCW, the
2 board shall design benefits and determine the terms and conditions of
3 employee and retired employee participation and coverage, including
4 establishment of eligibility criteria subject to the requirements of
5 (RCW 41.05.066. The same terms and conditions of participation and
6 coverage, including eligibility criteria, shall apply to state
7 employees and to school district employees and educational service
8 district employees)) this chapter. Employer groups obtaining benefits
9 through contractual agreement with the authority for employees defined
10 in RCW 41.05.011(6) (a) through (d) may contractually agree with the
11 authority to benefits eligibility criteria which differs from that
12 determined by the board. The eligibility criteria established by the
13 board shall be no more restrictive than the following:

14 (a) Except as provided in (b) through (e) of this subsection, an
15 employee is eligible for benefits from the date of employment if the
16 employing agency anticipates he or she will work seventy or more hours
17 per month in each month for more than six consecutive months. An
18 employee determined ineligible for benefits at the beginning of his or
19 her employment shall become eligible in the following circumstances:

20 (i) An employee who works seventy or more hours per month and whose
21 anticipated duration of employment is revised from less than or equal
22 to six consecutive months to more than six consecutive months becomes
23 eligible when the revision is made.

24 (ii) An employee who works an average of seventy hours per month
25 over a period of six consecutive months and for at least eight hours in
26 each of those six consecutive months becomes eligible at the first of
27 the month following the six-month averaging period.

28 (b) A seasonal employee is eligible for benefits from the date of
29 employment if the employing agency anticipates that he or she will work
30 seventy or more hours in each month of the season. A seasonal employee
31 determined ineligible at the beginning of his or her employment who
32 works an average of seventy hours per month over a period of six
33 consecutive months and at least eight hours in each of those six
34 consecutive months becomes eligible at the first of the month following
35 the six-month averaging period. A benefits-eligible seasonal employee
36 who works a season of less than nine months shall not be eligible for
37 the employer contribution during the off season, but may continue
38 enrollment in benefits during the off season by self-paying for the

1 benefits. A benefits-eligible seasonal employee who works a season of
2 nine months or more is eligible for the employer contribution through
3 the off season following each season worked.

4 (c) Faculty are eligible as follows:

5 (i) Faculty who the employing agency anticipates will work
6 half-time or more for the entire instructional year or equivalent nine-
7 month period are eligible for benefits from the date of employment.
8 Eligibility shall continue until the beginning of the first full month
9 of the next instructional year.

10 (ii) Faculty who the employing agency anticipates will not work for
11 the entire instructional year or equivalent nine-month period are
12 eligible for benefits at the beginning of the second consecutive
13 quarter or semester of employment in which he or she is anticipated to
14 work, or has actually worked, half-time or more. Such an employee
15 shall continue to receive uninterrupted employer contributions for
16 benefits if the employee works at least half-time in a quarter or
17 semester. Faculty who the employing agency anticipates will not work
18 for the entire instructional year or equivalent nine-month period, but
19 who actually work half-time or more throughout the entire instructional
20 year, are eligible for summer or off-quarter coverage. Faculty who
21 have met the criteria of this subsection (4)(c)(ii), who work at least
22 two quarters of the academic year with an average academic year
23 workload of half-time or more for three quarters of the academic year,
24 and who have worked an average of half-time or more in each of the two
25 preceding academic years shall continue to receive uninterrupted
26 employer contributions for benefits if he or she works at least half-
27 time in a quarter or semester or works two quarters of the academic
28 year with an average academic workload each academic year of half-time
29 or more for three quarters. Eligibility under this section ceases
30 immediately if this criteria is not met.

31 (iii) Faculty may establish or maintain eligibility for benefits by
32 working for more than one institution of higher education. When
33 faculty work for more than one institution of higher education, those
34 institutions shall prorate the employer contribution costs, or if
35 eligibility is reached through one institution, that institution will
36 pay the full employer contribution. Faculty working for more than one
37 institution must alert his or her employers to his or her potential
38 eligibility in order to establish eligibility.

1 (iv) The employing agency must provide written notice to faculty
2 who are potentially eligible for benefits under this subsection (4)(c)
3 of their potential eligibility.

4 (v) To be eligible for maintenance of benefits through averaging
5 under (c)(ii) of this subsection, faculty must provide written
6 notification to his or her employing agency or agencies of his or her
7 potential eligibility.

8 (d) A legislator is eligible for benefits on the date his or her
9 term begins. All other elected and full-time appointed officials of
10 the legislative and executive branches of state government are eligible
11 for benefits on the date his or her term begins or they take the oath
12 of office, whichever occurs first.

13 (e) A justice of the supreme court and judges of the court of
14 appeals and the superior courts become eligible for benefits on the
15 date he or she takes the oath of office.

16 (f) Except as provided in (c)(i) and (ii) of this subsection,
17 eligibility ceases for any employee the first of the month following
18 termination of the employment relationship.

19 (g) In determining eligibility under this section, the employing
20 agency may disregard training hours, standby hours, or temporary
21 changes in work hours as determined by the authority under this
22 section.

23 (h) Insurance coverage for all eligible employees begins on the
24 first day of the month following the date when eligibility for benefits
25 is established. If the date eligibility is established is the first
26 working day of a month, insurance coverage begins on that date.

27 (i) Eligibility for an employee whose work circumstances are
28 described by more than one of the eligibility categories in (a) through
29 (e) of this subsection shall be determined solely by the criteria of
30 the category that most closely describes the employee's work
31 circumstances.

32 (j) Except for an employee eligible for benefits under (b) or
33 (c)(ii) of this subsection, an employee who has established eligibility
34 for benefits under this section shall remain eligible for benefits each
35 month in which he or she is in pay status for eight or more hours, if
36 (i) he or she remains in a benefits-eligible position and (ii) leave
37 from the benefits-eligible position is approved by the employing
38 agency. A benefits-eligible seasonal employee is eligible for the

1 employer contribution in any month of his or her season in which he or
2 she is in pay status eight or more hours during that month.
3 Eligibility ends if these conditions are not met, the employment
4 relationship is terminated, or the employee voluntarily transfers to a
5 noneligible position.

6 (k) For the purposes of this subsection:

7 (i) "Academic year" means summer, fall, winter, and spring quarters
8 or semesters;

9 (ii) "Half-time" means one-half of the full-time academic workload
10 as determined by each institution;

11 (iii) "Benefits-eligible position" shall be defined by the board.

12 ~~((+4))~~ (5) The board may authorize premium contributions for an
13 employee and the employee's dependents in a manner that encourages the
14 use of cost-efficient managed health care systems. ~~((During the 2005-~~
15 ~~2007 fiscal biennium, the board may only authorize premium~~
16 ~~contributions for an employee and the employee's dependents that are~~
17 ~~the same, regardless of an employee's status as represented or~~
18 ~~nonrepresented by a collective bargaining unit under the personnel~~
19 ~~system reform act of 2002. The board shall require participating~~
20 ~~school district and educational service district employees to pay at~~
21 ~~least the same employee premiums by plan and family size as state~~
22 ~~employees pay.~~

23 ~~(+5))~~ (6) The board shall develop a health savings account option
24 for employees that conform to section 223, Part VII of subchapter B of
25 chapter 1 of the internal revenue code of 1986. The board shall comply
26 with all applicable federal standards related to the establishment of
27 health savings accounts.

28 ~~((+6))~~ (7) Notwithstanding any other provision of this chapter,
29 the board shall develop a high deductible health plan to be offered in
30 conjunction with a health savings account developed under subsection
31 ~~((+5))~~ (6) of this section.

32 ~~((+7))~~ (8) Employees shall choose participation in one of the
33 health care benefit plans developed by the board and may be permitted
34 to waive coverage under terms and conditions established by the board.

35 ~~((+8))~~ (9) The board shall review plans proposed by insuring
36 entities that desire to offer property insurance and/or accident and
37 casualty insurance to state employees through payroll deduction. The
38 board may approve any such plan for payroll deduction by insuring

1 entities holding a valid certificate of authority in the state of
2 Washington and which the board determines to be in the best interests
3 of employees and the state. The board shall adopt rules setting forth
4 criteria by which it shall evaluate the plans.

5 ~~((+9))~~ (10) Before January 1, 1998, the public employees' benefits
6 board shall make available one or more fully insured long-term care
7 insurance plans that comply with the requirements of chapter 48.84 RCW.
8 Such programs shall be made available to eligible employees, retired
9 employees, and retired school employees as well as eligible dependents
10 which, for the purpose of this section, includes the parents of the
11 employee or retiree and the parents of the spouse of the employee or
12 retiree. Employees of local governments, political subdivisions, and
13 tribal governments not otherwise enrolled in the public employees'
14 benefits board sponsored medical programs may enroll under terms and
15 conditions established by the administrator, if it does not jeopardize
16 the financial viability of the public employees' benefits board's long-
17 term care offering.

18 (a) Participation of eligible employees or retired employees and
19 retired school employees in any long-term care insurance plan made
20 available by the public employees' benefits board is voluntary and
21 shall not be subject to binding arbitration under chapter 41.56 RCW.
22 Participation is subject to reasonable underwriting guidelines and
23 eligibility rules established by the public employees' benefits board
24 and the health care authority.

25 (b) The employee, retired employee, and retired school employee are
26 solely responsible for the payment of the premium rates developed by
27 the health care authority. The health care authority is authorized to
28 charge a reasonable administrative fee in addition to the premium
29 charged by the long-term care insurer, which shall include the health
30 care authority's cost of administration, marketing, and consumer
31 education materials prepared by the health care authority and the
32 office of the insurance commissioner.

33 (c) To the extent administratively possible, the state shall
34 establish an automatic payroll or pension deduction system for the
35 payment of the long-term care insurance premiums.

36 (d) The public employees' benefits board and the health care
37 authority shall establish a technical advisory committee to provide
38 advice in the development of the benefit design and establishment of

1 underwriting guidelines and eligibility rules. The committee shall
2 also advise the board and authority on effective and cost-effective
3 ways to market and distribute the long-term care product. The
4 technical advisory committee shall be comprised, at a minimum, of
5 representatives of the office of the insurance commissioner, providers
6 of long-term care services, licensed insurance agents with expertise in
7 long-term care insurance, employees, retired employees, retired school
8 employees, and other interested parties determined to be appropriate by
9 the board.

10 (e) The health care authority shall offer employees, retired
11 employees, and retired school employees the option of purchasing long-
12 term care insurance through licensed agents or brokers appointed by the
13 long-term care insurer. The authority, in consultation with the public
14 employees' benefits board, shall establish marketing procedures and may
15 consider all premium components as a part of the contract negotiations
16 with the long-term care insurer.

17 (f) In developing the long-term care insurance benefit designs, the
18 public employees' benefits board shall include an alternative plan of
19 care benefit, including adult day services, as approved by the office
20 of the insurance commissioner.

21 (g) The health care authority, with the cooperation of the office
22 of the insurance commissioner, shall develop a consumer education
23 program for the eligible employees, retired employees, and retired
24 school employees designed to provide education on the potential need
25 for long-term care, methods of financing long-term care, and the
26 availability of long-term care insurance products including the
27 products offered by the board.

28 (11) The board may establish penalties to be imposed by the
29 authority when the eligibility determinations of an employing agency
30 fail to comply with the criteria under this chapter.

31 NEW SECTION. **Sec. 8.** RCW 41.05.053 (Community and technical
32 colleges--Part-time academic employees--Continuous health care
33 eligibility--Employer contributions) and 2007 c 302 s 2 & 2006 c 308 s
34 2 are each repealed.

35 NEW SECTION. **Sec. 9.** This act takes effect January 1, 2010, and

1 applies to benefit eligibility determinations made after December 31,
2 2009.

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