
SENATE BILL 6516

State of Washington

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By Senators Tom, Zarelli, Hobbs, and Hatfield

Read first time 01/26/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to plan year for the purposes of the public
2 employees' benefits board; amending RCW 41.05.065; and reenacting and
3 amending RCW 41.05.011.

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

5 **Sec. 1.** RCW 41.05.011 and 2011 1st sp.s. c 15 s 54 are each
6 reenacted and amended to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Authority" means the Washington state health care authority.

10 (2) "Board" means the public employees' benefits board established
11 under RCW 41.05.055.

12 (3) "Dependent care assistance program" means a benefit plan
13 whereby state and public employees may pay for certain employment
14 related dependent care with pretax dollars as provided in the salary
15 reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or
16 other sections of the internal revenue code.

17 (4) "Director" means the director of the authority.

18 (5) "Emergency service personnel killed in the line of duty" means
19 law enforcement officers and firefighters as defined in RCW 41.26.030,

1 members of the Washington state patrol retirement fund as defined in
2 RCW 43.43.120, and reserve officers and firefighters as defined in RCW
3 41.24.010 who die as a result of injuries sustained in the course of
4 employment as determined consistent with Title 51 RCW by the department
5 of labor and industries.

6 (6) "Employee" includes all employees of the state, whether or not
7 covered by civil service; elected and appointed officials of the
8 executive branch of government, including full-time members of boards,
9 commissions, or committees; justices of the supreme court and judges of
10 the court of appeals and the superior courts; and members of the state
11 legislature. Pursuant to contractual agreement with the authority,
12 "employee" may also include: (a) Employees of a county, municipality,
13 or other political subdivision of the state and members of the
14 legislative authority of any county, city, or town who are elected to
15 office after February 20, 1970, if the legislative authority of the
16 county, municipality, or other political subdivision of the state seeks
17 and receives the approval of the authority to provide any of its
18 insurance programs by contract with the authority, as provided in RCW
19 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations
20 representing state civil service employees, at the option of each such
21 employee organization, and, effective October 1, 1995, employees of
22 employee organizations currently pooled with employees of school
23 districts for the purpose of purchasing insurance benefits, at the
24 option of each such employee organization; (c) employees of a school
25 district if the authority agrees to provide any of the school
26 districts' insurance programs by contract with the authority as
27 provided in RCW 28A.400.350; and (d) employees of a tribal government,
28 if the governing body of the tribal government seeks and receives the
29 approval of the authority to provide any of its insurance programs by
30 contract with the authority, as provided in RCW 41.05.021(1) (f) and
31 (g). "Employee" does not include: Adult family homeowners; unpaid
32 volunteers; patients of state hospitals; inmates; employees of the
33 Washington state convention and trade center as provided in RCW
34 41.05.110; students of institutions of higher education as determined
35 by their institution; and any others not expressly defined as employees
36 under this chapter or by the authority under this chapter.

37 (7) "Employer" means the state of Washington.

1 (8) "Employing agency" means a division, department, or separate
2 agency of state government, including an institution of higher
3 education; a county, municipality, school district, educational service
4 district, or other political subdivision; and a tribal government
5 covered by this chapter.

6 (9) "Faculty" means an academic employee of an institution of
7 higher education whose workload is not defined by work hours but whose
8 appointment, workload, and duties directly serve the institution's
9 academic mission, as determined under the authority of its enabling
10 statutes, its governing body, and any applicable collective bargaining
11 agreement.

12 (10) "Flexible benefit plan" means a benefit plan that allows
13 employees to choose the level of health care coverage provided and the
14 amount of employee contributions from among a range of choices offered
15 by the authority.

16 (11) "Insuring entity" means an insurer as defined in chapter 48.01
17 RCW, a health care service contractor as defined in chapter 48.44 RCW,
18 or a health maintenance organization as defined in chapter 48.46 RCW.

19 (12) "Medical flexible spending arrangement" means a benefit plan
20 whereby state and public employees may reduce their salary before taxes
21 to pay for medical expenses not reimbursed by insurance as provided in
22 the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec.
23 125 or other sections of the internal revenue code.

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

26 (14) "Plan year" means the time period established by the
27 authority, subject to the requirements of RCW 41.05.065.

28 (15) "Premium payment plan" means a benefit plan whereby state and
29 public employees may pay their share of group health plan premiums with
30 pretax dollars as provided in the salary reduction plan under this
31 chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the
32 internal revenue code.

33 (16) "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 (17) "Salary" means a state employee's monthly salary or wages.

9 (18) "Salary reduction plan" means a benefit plan whereby state and
10 public employees may agree to a reduction of salary on a pretax basis
11 to participate in the dependent care assistance program, medical
12 flexible spending arrangement, or premium payment plan offered pursuant
13 to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

14 (19) "Seasonal employee" means an employee hired to work during a
15 recurring, annual season with a duration of three months or more, and
16 anticipated to return each season to perform similar work.

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

19 (a) RCW 41.32.010(17) on or after July 1, 1996; or

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

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

22 and who are at least age fifty-five and have at least ten years of
23 service under the teachers' retirement system plan 3 as defined in RCW
24 41.32.010(33), the Washington school employees' retirement system plan
25 3 as defined in RCW 41.35.010, or the public employees' retirement
26 system plan 3 as defined in RCW 41.40.010.

27 (21) "State purchased health care" or "health care" means medical
28 and health care, pharmaceuticals, and medical equipment purchased with
29 state and federal funds by the department of social and health
30 services, the department of health, the basic health plan, the state
31 health care authority, the department of labor and industries, the
32 department of corrections, the department of veterans affairs, and
33 local school districts.

34 (22) "Tribal government" means an Indian tribal government as
35 defined in section 3(32) of the employee retirement income security act
36 of 1974, as amended, or an agency or instrumentality of the tribal
37 government, that has government offices principally located in this
38 state.

1 **Sec. 2.** RCW 41.05.065 and 2011 1st sp.s. c 8 s 1 are each amended
2 to read as follows:

3 (1) The board shall study all matters connected with the provision
4 of health care coverage, life insurance, liability insurance,
5 accidental death and dismemberment insurance, and disability income
6 insurance or any of, or a combination of, the enumerated types of
7 insurance for employees and their dependents on the best basis possible
8 with relation both to the welfare of the employees and to the state.
9 However, liability insurance shall not be made available to dependents.

10 (2) The board shall develop employee benefit plans that include
11 comprehensive health care benefits for employees. In developing these
12 plans, the board shall consider the following elements:

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

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

18 (c) Wellness incentives that focus on proven strategies, such as
19 smoking cessation, injury and accident prevention, reduction of alcohol
20 misuse, appropriate weight reduction, exercise, automobile and
21 motorcycle safety, blood cholesterol reduction, and nutrition
22 education;

23 (d) Utilization review procedures including, but not limited to a
24 cost-efficient method for prior authorization of services, hospital
25 inpatient length of stay review, requirements for use of outpatient
26 surgeries and second opinions for surgeries, review of invoices or
27 claims submitted by service providers, and performance audit of
28 providers;

29 (e) Effective coordination of benefits; and

30 (f) Minimum standards for insuring entities.

31 (3) To maintain the comprehensive nature of employee health care
32 benefits, benefits provided to employees shall be substantially
33 equivalent to the state employees' health benefits plan in effect on
34 January 1, 1993. Nothing in this subsection shall prohibit changes or
35 increases in employee point-of-service payments or employee premium
36 payments for benefits or the administration of a high deductible health
37 plan in conjunction with a health savings account. The board may

1 establish employee eligibility criteria which are not substantially
2 equivalent to employee eligibility criteria in effect on January 1,
3 1993.

4 (4) Except if bargained for under chapter 41.80 RCW, the board
5 shall design benefits and determine the terms and conditions of
6 employee and retired employee participation and coverage, including
7 establishment of eligibility criteria subject to the requirements of
8 this chapter. Employer groups obtaining benefits through contractual
9 agreement with the authority for employees defined in RCW 41.05.011(6)
10 (a) through (d) may contractually agree with the authority to benefits
11 eligibility criteria which differs from that determined by the board.
12 The eligibility criteria established by the board shall be no more
13 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 an average of at least
17 eighty hours per month and for at least eight hours in each month for
18 more than six consecutive months. An employee determined ineligible
19 for benefits at the beginning of his or her employment shall become
20 eligible in the following circumstances:

21 (i) An employee who works an average of at least eighty hours per
22 month and for at least eight hours in each month and whose anticipated
23 duration of employment is revised from less than or equal to six
24 consecutive months to more than six consecutive months becomes eligible
25 when the revision is made.

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

30 (b) A seasonal employee is eligible for benefits from the date of
31 employment if the employing agency anticipates that he or she will work
32 an average of at least eighty hours per month and for at least eight
33 hours in each month of the season. A seasonal employee determined
34 ineligible at the beginning of his or her employment who works an
35 average of at least half-time, as defined by the board, per month over
36 a period of six consecutive months and at least eight hours in each of
37 those six consecutive months becomes eligible at the first of the month
38 following the six-month averaging period. A benefits-eligible seasonal

1 employee who works a season of less than nine months shall not be
2 eligible for the employer contribution during the off season, but may
3 continue enrollment in benefits during the off season by self-paying
4 for the benefits. A benefits-eligible seasonal employee who works a
5 season of nine months or more is eligible for the employer contribution
6 through the off season following each season worked.

7 (c) Faculty are eligible as follows:

8 (i) Faculty who the employing agency anticipates will work
9 half-time or more for the entire instructional year or equivalent nine-
10 month period are eligible for benefits from the date of employment.
11 Eligibility shall continue until the beginning of the first full month
12 of the next instructional year, unless the employment relationship is
13 terminated, in which case eligibility shall cease the first month
14 following the notice of termination or the effective date of the
15 termination, whichever is later.

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

37 (iii) Faculty may establish or maintain eligibility for benefits by
38 working for more than one institution of higher education. When

1 faculty work for more than one institution of higher education, those
2 institutions shall prorate the employer contribution costs, or if
3 eligibility is reached through one institution, that institution will
4 pay the full employer contribution. Faculty working for more than one
5 institution must alert his or her employers to his or her potential
6 eligibility in order to establish eligibility.

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

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

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

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

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

25 (g) In determining eligibility under this section, the employing
26 agency may disregard training hours, standby hours, or temporary
27 changes in work hours as determined by the authority under this
28 section.

29 (h) Insurance coverage for all eligible employees begins on the
30 first day of the month following the date when eligibility for benefits
31 is established. If the date eligibility is established is the first
32 working day of a month, insurance coverage begins on that date.

33 (i) Eligibility for an employee whose work circumstances are
34 described by more than one of the eligibility categories in (a) through
35 (e) of this subsection shall be determined solely by the criteria of
36 the category that most closely describes the employee's work
37 circumstances.

1 (j) Except for an employee eligible for benefits under (b) or
2 (c)(ii) of this subsection, an employee who has established eligibility
3 for benefits under this section shall remain eligible for benefits each
4 month in which he or she is in pay status for eight or more hours, if
5 (i) he or she remains in a benefits-eligible position and (ii) leave
6 from the benefits-eligible position is approved by the employing
7 agency. A benefits-eligible seasonal employee is eligible for the
8 employer contribution in any month of his or her season in which he or
9 she is in pay status eight or more hours during that month.
10 Eligibility ends if these conditions are not met, the employment
11 relationship is terminated, or the employee voluntarily transfers to a
12 noneligible position.

13 (k) For the purposes of this subsection:

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

16 (ii) "Half-time" means one-half of the full-time academic workload
17 as determined by each institution, except that half-time for community
18 and technical college faculty employees shall have the same meaning as
19 "part-time" under RCW 28B.50.489;

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

21 (5) The board may authorize premium contributions for an employee
22 and the employee's dependents in a manner that encourages the use of
23 cost-efficient managed health care systems.

24 (6)(a) For any open enrollment period following August 24, 2011,
25 the board shall offer a health savings account option for employees
26 that conforms to section 223, Part VII of subchapter B of chapter 1 of
27 the internal revenue code of 1986. The board shall comply with all
28 applicable federal standards related to the establishment of health
29 savings accounts.

30 (b) By November 30, 2015, and each year thereafter, the authority
31 shall submit a report to the relevant legislative policy and fiscal
32 committees that includes the following:

33 (i) Public employees' benefits board health plan cost and service
34 utilization trends for the previous three years, in total and for each
35 health plan offered to employees;

36 (ii) For each health plan offered to employees, the number and
37 percentage of employees and dependents enrolled in the plan, and the
38 age and gender demographics of enrollees in each plan;

1 (iii) Any impact of enrollment in alternatives to the most
2 comprehensive plan, including the high deductible health plan with a
3 health savings account, upon the cost of health benefits for those
4 employees who have chosen to remain enrolled in the most comprehensive
5 plan.

6 (7) Notwithstanding any other provision of this chapter, for any
7 open enrollment period following August 24, 2011, the board shall offer
8 a high deductible health plan in conjunction with a health savings
9 account developed under subsection (6) of this section.

10 (8) Employees shall choose participation in one of the health care
11 benefit plans developed by the board and may be permitted to waive
12 coverage under terms and conditions established by the board.

13 (9) The board shall review plans proposed by insuring entities that
14 desire to offer property insurance and/or accident and casualty
15 insurance to state employees through payroll deduction. The board may
16 approve any such plan for payroll deduction by insuring entities
17 holding a valid certificate of authority in the state of Washington and
18 which the board determines to be in the best interests of employees and
19 the state. The board shall adopt rules setting forth criteria by which
20 it shall evaluate the plans.

21 (10) Before January 1, 1998, the public employees' benefits board
22 shall make available one or more fully insured long-term care insurance
23 plans that comply with the requirements of chapter 48.84 RCW. Such
24 programs shall be made available to eligible employees, retired
25 employees, and retired school employees as well as eligible dependents
26 which, for the purpose of this section, includes the parents of the
27 employee or retiree and the parents of the spouse of the employee or
28 retiree. Employees of local governments, political subdivisions, and
29 tribal governments not otherwise enrolled in the public employees'
30 benefits board sponsored medical programs may enroll under terms and
31 conditions established by the administrator, if it does not jeopardize
32 the financial viability of the public employees' benefits board's long-
33 term care offering.

34 (a) Participation of eligible employees or retired employees and
35 retired school employees in any long-term care insurance plan made
36 available by the public employees' benefits board is voluntary and
37 shall not be subject to binding arbitration under chapter 41.56 RCW.

1 Participation is subject to reasonable underwriting guidelines and
2 eligibility rules established by the public employees' benefits board
3 and the health care authority.

4 (b) The employee, retired employee, and retired school employee are
5 solely responsible for the payment of the premium rates developed by
6 the health care authority. The health care authority is authorized to
7 charge a reasonable administrative fee in addition to the premium
8 charged by the long-term care insurer, which shall include the health
9 care authority's cost of administration, marketing, and consumer
10 education materials prepared by the health care authority and the
11 office of the insurance commissioner.

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

15 (d) The public employees' benefits board and the health care
16 authority shall establish a technical advisory committee to provide
17 advice in the development of the benefit design and establishment of
18 underwriting guidelines and eligibility rules. The committee shall
19 also advise the board and authority on effective and cost-effective
20 ways to market and distribute the long-term care product. The
21 technical advisory committee shall be comprised, at a minimum, of
22 representatives of the office of the insurance commissioner, providers
23 of long-term care services, licensed insurance agents with expertise in
24 long-term care insurance, employees, retired employees, retired school
25 employees, and other interested parties determined to be appropriate by
26 the board.

27 (e) The health care authority shall offer employees, retired
28 employees, and retired school employees the option of purchasing long-
29 term care insurance through licensed agents or brokers appointed by the
30 long-term care insurer. The authority, in consultation with the public
31 employees' benefits board, shall establish marketing procedures and may
32 consider all premium components as a part of the contract negotiations
33 with the long-term care insurer.

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

1 (g) The health care authority, with the cooperation of the office
2 of the insurance commissioner, shall develop a consumer education
3 program for the eligible employees, retired employees, and retired
4 school employees designed to provide education on the potential need
5 for long-term care, methods of financing long-term care, and the
6 availability of long-term care insurance products including the
7 products offered by the board.

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

11 (12) After June 30, 2013, benefit plans provided by the board shall
12 be operated on plan years that are concurrent with state fiscal years
13 as defined in RCW 43.88.020. The board may establish a six-month plan
14 year beginning January 1, 2013, in order to effect the transition
15 required in this subsection.

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