
SENATE BILL 6071

State of Washington

64th Legislature

2015 Regular Session

By Senators Hobbs and Conway

Read first time 02/25/15. Referred to Committee on Ways & Means.

1 AN ACT Relating to authorizing benefit funding accounts for
2 members of the law enforcement officers' and firefighters' retirement
3 system plan 2; amending RCW 41.04.208 and 41.26.740; adding a new
4 section to chapter 41.26 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** (1) Public safety employees, such as
7 firefighters, police officers, and corrections officers, participate
8 in the law enforcement officers' and firefighters' retirement system
9 plan 2 and have the opportunity to retire at age fifty-three or take
10 an early retirement at age fifty. Many members of the law enforcement
11 officers' and firefighters' retirement system plan 2 have access to
12 the retiree medical plans sponsored by the public employees' benefits
13 board, however many local employers do not participate in the medical
14 program, and retiree medical coverage can be hard to find and
15 expensive especially before reaching medicare eligibility generally
16 at age sixty-five.

17 (2) It is the intent of the legislature to help ensure access to
18 retiree medical coverage for the public safety employees listed in
19 subsection (1) of this section, especially for the nonmedicare
20 retirees, and to assist employees in planning for their retirement
21 and future medical benefit needs through the use of appropriate tax-

1 authorized spending accounts that will allow employees to voluntarily
2 contribute to their benefit accounts to help pay for their future
3 medical premiums. As allowed by the internal revenue service, the
4 accounts may also allow employer contributions as bargained locally.

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

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

9 (a) "Disabled employee" means a person eligible to receive a
10 disability retirement allowance from the Washington law enforcement
11 officers' and firefighters' retirement system plan 2 and the public
12 employees' retirement system.

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

18 (c) "Retired employee" means a public employee meeting the
19 retirement eligibility, years of service requirements, and other
20 criteria of the Washington law enforcement officers' and
21 firefighters' retirement system plan 2 and the public employees'
22 retirement system.

23 (2) A county, municipality, or other political subdivision that
24 provides a health plan for its employees shall permit retired and
25 disabled employees and their dependents to continue participation in
26 a plan subject to the exceptions, limitations, and conditions set
27 forth in this section. However, this section does not apply to a
28 county, municipality, or other political subdivision participating in
29 an insurance program administered under chapter 41.05 RCW if retired
30 and disabled employees and their dependents of the participating
31 county, municipality, or other political subdivision are covered
32 under an insurance program administered under chapter 41.05 RCW.
33 Nothing in this subsection or chapter 319, Laws of 2002 precludes the
34 local government employer from offering retired or disabled employees
35 a health plan with a benefit structure, copayment, deductible,
36 coinsurance, lifetime benefit maximum, and other plan features which
37 differ from those offered through a health plan provided to active
38 employees. Further, nothing in this subsection precludes a local
39 government employer from joining with other public agency employers,

1 including interjurisdictional benefit pools and multi-employer
2 associations or consortiums, to fulfill its obligations under chapter
3 319, Laws of 2002.

4 (3) A county, municipality, or other political subdivision has
5 full authority to require a person who requests continued
6 participation in a health plan under subsection (2) of this section
7 to pay the full cost of such participation, including any amounts
8 necessary for administration. However, this subsection does not
9 require an employer who is currently paying for all or part of a
10 health plan for its retired and disabled employees to discontinue
11 those payments.

12 (4) Payments for continued participation in a former employer's
13 health plan may be assigned to the underwriter of the health plan
14 from public pension benefits or may be paid to the former employer,
15 as determined by the former employer, so that an underwriter of the
16 health plan that is an insurance company, health care service
17 contractor, or health maintenance organization is not required to
18 accept individual payments from persons continuing participation in
19 the employer's health plan.

20 (5) After an initial open enrollment period of ninety days after
21 January 1, 2003, an employer may not be required to permit a person
22 to continue participation in the health plan if the person is
23 responsible for a lapse in coverage under the plan. In addition, an
24 employer may not be required to permit a person to continue
25 participation in the employer's health plan if the employer offered
26 continued participation in a health plan that meets the requirements
27 of chapter 319, Laws of 2002.

28 (6) If a person continuing participation in the former employer's
29 health plan has medical coverage available through another employer,
30 the medical coverage of the other employer is the primary coverage
31 for purposes of coordination of benefits as provided for in the
32 former employer's health plan.

33 (7) If a person's continued participation in a health plan was
34 permitted because of the person's relationship to a retired or
35 disabled employee of the employer providing the health plan and the
36 retired or disabled employee dies, then that person is permitted to
37 continue participation in the health plan for a period of not more
38 than six months after the death of the retired or disabled employee.
39 However, the employer providing the health plan may permit continued
40 participation beyond that time period.

1 (8) An employer may offer one or more health plans different from
2 that provided for active employees and designed to meet the needs of
3 persons requesting continued participation in the employer's health
4 plan. An employer, in designing or offering continued participation
5 in a health plan, may utilize terms or conditions necessary to
6 administer the plan to the extent the terms and conditions do not
7 conflict with this section.

8 (9) If an employer changes the underwriter of a health plan, the
9 replaced underwriter has no further responsibility or obligation to
10 persons who continued participation in a health plan of the replaced
11 underwriter. However, the employer shall permit those persons to
12 participate in any new health plan.

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

19 (11) This section does not affect any health plan contained in a
20 collective bargaining agreement in existence as of January 1, 2003.
21 However, any plan contained in future collective bargaining
22 agreements shall conform to this section. In addition, this section
23 does not affect any health plan contract or policy in existence as of
24 January 1, 2003. However, any renewal of the contract or policy shall
25 conform to this section.

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

36 (13) The office of the insurance commissioner shall make
37 available to counties, municipalities, and other political
38 subdivisions information regarding individual health benefit plans,
39 including a list of carriers offering individual coverage, the rates
40 charged, and how to apply for coverage.

1 (14) Counties, municipalities, and other political subdivisions
2 that employ public safety employees participating in the law
3 enforcement officers' and firefighters' system plan 2 must set up tax
4 appropriate flexible spending accounts or voluntary employee benefit
5 accounts that allow employees to contribute and accrue savings for
6 retiree medical premiums. The tax accounts must be consistent with
7 existing state law, the internal revenue code, and the regulations
8 adopted by the internal revenue service. To the extent allowed by the
9 internal revenue code, accounts may be authorized to accept
10 contributions from employers.

11 NEW SECTION. Sec. 3. A new section is added to chapter 41.26
12 RCW to read as follows:

13 (1) The department, in consultation with the law enforcement
14 officers' and firefighters' retirement system plan 2 board, shall
15 assist employers of law enforcement officers and firefighters in the
16 formulation and adoption of a plan, policies, and procedures designed
17 to guide, direct, and administer the voluntary employee benefit
18 account established in RCW 41.04.208 for public safety employees. The
19 program and plan documents must be developed in consultation with the
20 employers of law enforcement officers and firefighters.

21 (2) A plan document describing the requirements shall be adopted
22 and administered by the department and be available as a template for
23 local employers. The department shall represent the state in all
24 matters concerning the administration of the plan. The state may
25 engage the services of a professional consultant or administrator on
26 a contractual basis to serve as an agent to assist or perform the
27 administrative functions necessary in carrying out the purposes
28 necessary to establish the voluntary employee benefit account or
29 alternative internal revenue service authorized spending account.

30 **Sec. 4.** RCW 41.26.740 and 2003 c 92 s 7 are each amended to read
31 as follows:

32 (1) All expenses of the department and the office of the state
33 actuary related to the implementation of chapter 2, Laws of 2003
34 shall be reimbursed from the law enforcement officers' and
35 firefighters' retirement system expense fund under RCW 39.34.130.

36 (2) All expenses of the department and the office of the state
37 actuary related to the implementation of the accounts required in
38 sections 2 and 3 of this act shall be reimbursed from the law

1 enforcement officers' and firefighters' retirement system expense
2 fund under RCW 39.34.130.

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