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**HOUSE BILL 2771**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representative McCaslin

Read first time 01/21/20. Referred to Committee on Appropriations.

1 AN ACT Relating to clarifying contributions to and eligibility  
2 for school employees' benefits board coverage; amending RCW 41.05.011  
3 and 41.05.050; adding new sections to chapter 41.05 RCW; creating a  
4 new section; and providing an effective date.

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

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

8 Substitute teachers and other employees who work an intermittent  
9 unspecified workweek and coaches who are not otherwise employed by  
10 the school district are not eligible for benefits through the school  
11 employees' benefits board.

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

14 Retired school employees receiving benefits under the public  
15 employees' benefits board are not eligible for benefits through the  
16 school employees' benefits board.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05  
18 RCW to read as follows:

1 (1) Employees receiving coverage under the school employees'  
2 benefits board may not be an eligible dependent of an employee  
3 obtaining benefits under the public employees' benefits board.

4 (2) Employees receiving coverage under the public employees'  
5 benefits board may not be an eligible dependent of an employee  
6 obtaining benefits under the school employees' benefits board for the  
7 purpose of medical benefits.

8 **Sec. 4.** RCW 41.05.011 and 2019 c 411 s 4 are each amended to  
9 read as follows:

10 The definitions in this section apply throughout this chapter  
11 unless the context clearly requires otherwise.

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

13 (2) "Board" means the public employees' benefits board  
14 established under RCW 41.05.055 and the school employees' benefits  
15 board established under RCW 41.05.740.

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

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

22 (5) "Emergency service personnel killed in the line of duty"  
23 means law enforcement officers and firefighters as defined in RCW  
24 41.26.030, members of the Washington state patrol retirement fund as  
25 defined in RCW 43.43.120, and reserve officers and firefighters as  
26 defined in RCW 41.24.010 who die as a result of injuries sustained in  
27 the course of employment as determined consistent with Title 51 RCW  
28 by the department of labor and industries.

29 (6) (a) "Employee" for the public employees' benefits board  
30 program includes all employees of the state, whether or not covered  
31 by civil service; elected and appointed officials of the executive  
32 branch of government, including full-time members of boards,  
33 commissions, or committees; justices of the supreme court and judges  
34 of the court of appeals and the superior courts; and members of the  
35 state legislature. Pursuant to contractual agreement with the  
36 authority, "employee" may also include: (i) Employees of a county,  
37 municipality, or other political subdivision of the state and members  
38 of the legislative authority of any county, city, or town who are  
39 elected to office after February 20, 1970, if the legislative

1 authority of the county, municipality, or other political subdivision  
2 of the state submits application materials to the authority to  
3 provide any of its insurance programs by contract with the authority,  
4 as provided in RCW 41.04.205 and 41.05.021(1)(g); (ii) employees of  
5 employee organizations representing state civil service employees, at  
6 the option of each such employee organization; (iii) through December  
7 31, 2019, employees of a school district if the authority agrees to  
8 provide any of the school districts' insurance programs by contract  
9 with the authority as provided in RCW 28A.400.350; (iv) employees of  
10 a tribal government, if the governing body of the tribal government  
11 seeks and receives the approval of the authority to provide any of  
12 its insurance programs by contract with the authority, as provided in  
13 RCW 41.05.021(1) (f) and (g); (v) employees of the Washington health  
14 benefit exchange if the governing board of the exchange established  
15 in RCW 43.71.020 seeks and receives approval of the authority to  
16 provide any of its insurance programs by contract with the authority,  
17 as provided in RCW 41.05.021(1) (g) and (n); and (vi) through  
18 December 31, 2019, employees of a charter school established under  
19 chapter 28A.710 RCW. "Employee" does not include: Adult family home  
20 providers; unpaid volunteers; patients of state hospitals; inmates;  
21 employees of the Washington state convention and trade center as  
22 provided in RCW 41.05.110; students of institutions of higher  
23 education as determined by their institution; and any others not  
24 expressly defined as employees under this chapter or by the authority  
25 under this chapter.

26 (b) Effective January 1, 2020, "school employee" for the school  
27 employees' benefits board program includes:

28 (i) All employees of school districts and charter schools  
29 established under chapter 28A.710 RCW, excluding employees defined in  
30 sections 1, 2, and 3 of this act;

31 (ii) Represented employees of educational service districts; and

32 (iii) Effective January 1, 2024, all employees of educational  
33 service districts.

34 (7) "Employee group" means employees of a similar employment  
35 type, such as administrative, represented classified, nonrepresented  
36 classified excluding such employees in educational service districts  
37 until December 31, 2023, confidential, represented certificated, or  
38 nonrepresented certificated excluding such employees in educational  
39 service districts until December 31, 2023, within a school employees'

1 benefits board organization. Employees defined in sections 1, 2, and  
2 3 of this act are excluded from this subsection.

3 (8) (a) "Employer" for the public employees' benefits board  
4 program means the state of Washington.

5 (b) "Employer" for the school employees' benefits board program  
6 means school districts and educational service districts and charter  
7 schools established under chapter 28A.710 RCW.

8 (9) "Employer group" means those counties, municipalities,  
9 political subdivisions, the Washington health benefit exchange,  
10 tribal governments, employee organizations representing state civil  
11 service employees, and through December 31, 2019, school districts,  
12 charter schools, and through December 31, 2023, educational service  
13 districts obtaining employee benefits through a contractual agreement  
14 with the authority to participate in benefit plans developed by the  
15 public employees' benefits board.

16 (10) (a) "Employing agency" for the public employees' benefits  
17 board program means a division, department, or separate agency of  
18 state government, including an institution of higher education; a  
19 county, municipality, or other political subdivision; and a tribal  
20 government covered by this chapter.

21 (b) "Employing agency" for the school employees' benefits board  
22 program means school districts, educational service districts, and  
23 charter schools.

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

30 (12) "Flexible benefit plan" means a benefit plan that allows  
31 employees and school employees to choose the level of health care  
32 coverage provided and the amount of employee or school employee  
33 contributions from among a range of choices offered by the authority.

34 (13) "Insuring entity" means an insurer as defined in chapter  
35 48.01 RCW, a health care service contractor as defined in chapter  
36 48.44 RCW, or a health maintenance organization as defined in chapter  
37 48.46 RCW.

38 (14) "Medical flexible spending arrangement" means a benefit plan  
39 whereby state and school employees may reduce their salary before  
40 taxes to pay for medical expenses not reimbursed by insurance as

1 provided in the salary reduction plan under this chapter pursuant to  
2 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

3 (15) "Participant" means an individual who fulfills the  
4 eligibility and enrollment requirements under the salary reduction  
5 plan.

6 (16) "Plan year" means the time period established by the  
7 authority.

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

13 (18) "Public employee" has the same meaning as employee and  
14 school employee.

15 (19) "Retired or disabled school employee" means:

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

19 (b) Persons who separate from employment with a school district,  
20 educational service district, or charter school on or after October  
21 1, 1993, and immediately upon separation receive a retirement  
22 allowance under chapter 41.32, 41.35, or 41.40 RCW;

23 (c) Persons who separate from employment with a school district,  
24 educational service district, or charter school due to a total and  
25 permanent disability, and are eligible to receive a deferred  
26 retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

27 (20) "Salary" means a state or school employee's monthly salary  
28 or wages.

29 (21) "Salary reduction plan" means a benefit plan whereby public  
30 employees may agree to a reduction of salary on a pretax basis to  
31 participate in the dependent care assistance program, medical  
32 flexible spending arrangement, or premium payment plan offered  
33 pursuant to 26 U.S.C. Sec. 125 or other sections of the internal  
34 revenue code.

35 (22) "School employees' benefits board organization" means a  
36 public school district or educational service district or charter  
37 school established under chapter 28A.710 RCW that is required to  
38 participate in benefit plans provided by the school employees'  
39 benefits board.

1 (23) "School year" means school year as defined in RCW  
2 28A.150.203(11).

3 (24) "Seasonal employee" means a state employee hired to work  
4 during a recurring, annual season with a duration of three months or  
5 more, and anticipated to return each season to perform similar work.

6 (25) "Separated employees" means persons who separate from  
7 employment with an employer as defined in:

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

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

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

11 and who are at least age fifty-five and have at least ten years of  
12 service under the teachers' retirement system plan 3 as defined in  
13 RCW 41.32.010(33), the Washington school employees' retirement system  
14 plan 3 as defined in RCW 41.35.010, or the public employees'  
15 retirement system plan 3 as defined in RCW 41.40.010.

16 (26) "State purchased health care" or "health care" means medical  
17 and health care, pharmaceuticals, and medical equipment purchased  
18 with 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 (27) "Tribal government" means an Indian tribal government as  
24 defined in section 3(32) of the employee retirement income security  
25 act of 1974, as amended, or an agency or instrumentality of the  
26 tribal government, that has government offices principally located in  
27 this state.

28 **Sec. 5.** RCW 41.05.050 and 2019 c 411 s 5 are each amended to  
29 read as follows:

30 (1) Every: (a) Department, division, or separate agency of state  
31 government; (b) county, municipal, school district, educational  
32 service district, or other political subdivisions; and (c) tribal  
33 governments as are covered by this chapter, shall provide  
34 contributions to insurance and health care plans for its employees  
35 and their dependents, the content of such plans to be determined by  
36 the authority. Contributions, paid by the county, the municipality,  
37 other political subdivision, or a tribal government for their  
38 employees, shall include an amount determined by the authority to pay  
39 such administrative expenses of the authority as are necessary to

1 administer the plans for employees of those groups, except as  
2 provided in subsection (4) of this section.

3 (2) To account for increased cost of benefits for the state and  
4 for state employees, the authority may develop a rate surcharge  
5 applicable to participating counties, municipalities, other political  
6 subdivisions, and tribal governments.

7 (3) The contributions of any: (a) Department, division, or  
8 separate agency of the state government; (b) county, municipal, or  
9 other political subdivisions; (c) any tribal government as are  
10 covered by this chapter; and (d) school districts, educational  
11 service districts, and charter schools, shall be set by the  
12 authority, subject to the approval of the governor for availability  
13 of funds as specifically appropriated by the legislature for that  
14 purpose. Insurance and health care contributions for ferry employees  
15 shall be governed by RCW 47.64.270.

16 (4)(a) Until January 1, 2020, the authority shall collect from  
17 each participating school district and educational service district  
18 an amount equal to the composite rate charged to state agencies, plus  
19 an amount equal to the employee premiums by plan and family size as  
20 would be charged to employees, for groups of school district and  
21 educational service district employees enrolled in authority plans.  
22 The authority may collect these amounts in accordance with the school  
23 district or educational service district fiscal year, as described in  
24 RCW 28A.505.030.

25 (b)(i) For all groups of school district or educational service  
26 district employees enrolling in authority plans for the first time  
27 after September 1, 2003, and until January 1, 2020, the authority  
28 shall collect from each participating school district or educational  
29 service district an amount equal to the composite rate charged to  
30 state agencies, plus an amount equal to the employee premiums by plan  
31 and by family size as would be charged to employees, only if the  
32 authority determines that this method of billing the school districts  
33 and educational service districts will not result in a material  
34 difference between revenues from school districts and educational  
35 service districts and expenditures made by the authority on behalf of  
36 school districts and educational service districts and their  
37 employees. The authority may collect these amounts in accordance with  
38 the school district or educational service district fiscal year, as  
39 described in RCW 28A.505.030.

1 (ii) For all groups of educational service district employees  
2 enrolling in plans developed by the public employees' benefits board  
3 after January 1, 2020, and until January 1, 2024, the authority shall  
4 collect from each participating educational service district an  
5 amount equal to the composite rate charged to state agencies, plus an  
6 amount equal to the employee premiums by plan and by family size as  
7 would be charged to employees, only if the authority determines that  
8 this method of billing the educational service districts will not  
9 result in a material difference between revenues from educational  
10 service districts and expenditures made by the authority on behalf of  
11 educational service districts and their employees. The authority may  
12 collect these amounts in accordance with the educational service  
13 district fiscal year, as described in RCW 28A.505.030.

14 (c) Until January 1, 2020, if the authority determines at any  
15 time that the conditions in (b) of this subsection cannot be met, the  
16 authority shall offer enrollment to additional groups of school and  
17 educational service district employees on a tiered rate structure  
18 until such time as the authority determines there would be no  
19 material difference between revenues and expenditures under a  
20 composite rate structure for all school and educational service  
21 district employees enrolled in authority plans.

22 (d) (i) Beginning January 1, 2020, all school districts,  
23 represented employees of educational service districts, and charter  
24 schools shall commence participation in the school employees'  
25 benefits board program established under RCW 41.05.740. All school  
26 districts, represented employees of educational service districts,  
27 charter schools, and all school district employee groups  
28 participating in the public employees' benefits board plans before  
29 January 1, 2020, shall thereafter participate in the school  
30 employees' benefits board program administered by the authority. All  
31 school districts, represented employees of educational service  
32 districts, and charter schools shall provide contributions to the  
33 authority for insurance and health care plans for school employees  
34 and their dependents. These contributions must be provided to the  
35 authority for all eligible school employees eligible for benefits  
36 under RCW 41.05.740(6) (d), including school employees who have waived  
37 their coverage(~~(+)~~). Except, contributions to the authority are not  
38 required for (~~individuals~~) the following:

39 (A) Individuals eligible for benefits under RCW 41.05.740(6) (e)  
40 who waive their coverage; or



1        (B) Individuals who have benefits under a qualified federal  
2 insurance plan who choose to waive their coverage.

3        (ii) Beginning January 1, 2024, all educational service districts  
4 shall participate in the school employees' benefits board program.

5        (e) For the purposes of this subsection, "tiered rates" means the  
6 amounts the authority must pay to insuring entities by plan and by  
7 family size.

8        (f) Notwithstanding this subsection and RCW 41.05.065(4), the  
9 authority may allow school districts and educational service  
10 districts enrolled on a tiered rate structure prior to September 1,  
11 2002, and until January 1, 2020, to continue participation based on  
12 the same rate structure and under the same conditions and eligibility  
13 criteria.

14        (5) The authority shall transmit a recommendation for the amount  
15 of the employer contributions to the governor and the director of  
16 financial management for inclusion in the proposed budgets submitted  
17 to the legislature.

18        NEW SECTION.    **Sec. 6.**    This act applies to school employee  
19 benefits beginning on or after January 1, 2022.

20        NEW SECTION.    **Sec. 7.**    This act takes effect July 1, 2021.

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