

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1008**

Chapter 164, Laws of 2023

68th Legislature  
2023 Regular Session

SEPARATED PUBLIC EMPLOYEE BENEFITS—PLAN 2—PUBLIC EMPLOYEES' BENEFITS  
BOARD

EFFECTIVE DATE: January 1, 2024

Passed by the House February 6, 2023  
Yeas 93 Nays 0

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 12, 2023  
Yeas 49 Nays 0

DENNY HECK

**President of the Senate**

Approved April 25, 2023 3:11 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1008** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

April 26, 2023

**Secretary of State  
State of Washington**

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HOUSE BILL 1008

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Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Representatives Bronoske, Simmons, Goodman, Leavitt, Bateman, Lekanoff, Callan, Kloba, Santos, Ormsby, and Fosse

Prefiled 12/06/22. Read first time 01/09/23. Referred to Committee on Appropriations.

1 AN ACT Relating to participating in insurance plans and contracts  
2 by separated plan 2 members of certain retirement systems; amending  
3 RCW 41.05.011; and providing an effective date.

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

5 **Sec. 1.** RCW 41.05.011 and 2019 c 411 s 4 are each amended to  
6 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  
11 established under RCW 41.05.055 and the school employees' benefits  
12 board established under RCW 41.05.740.

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

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

19 (5) "Emergency service personnel killed in the line of duty"  
20 means law enforcement officers and firefighters as defined in RCW  
21 41.26.030, members of the Washington state patrol retirement fund as

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

5 (6) (a) "Employee" for the public employees' benefits board  
6 program includes all employees of the state, whether or not covered  
7 by civil service; elected and appointed officials of the executive  
8 branch of government, including full-time members of boards,  
9 commissions, or committees; justices of the supreme court and judges  
10 of the court of appeals and the superior courts; and members of the  
11 state legislature. Pursuant to contractual agreement with the  
12 authority, "employee" may also include: (i) Employees of a county,  
13 municipality, or other political subdivision of the state and members  
14 of the legislative authority of any county, city, or town who are  
15 elected to office after February 20, 1970, if the legislative  
16 authority of the county, municipality, or other political subdivision  
17 of the state submits application materials to the authority to  
18 provide any of its insurance programs by contract with the authority,  
19 as provided in RCW 41.04.205 and 41.05.021(1)(g); (ii) employees of  
20 employee organizations representing state civil service employees, at  
21 the option of each such employee organization; (iii) through December  
22 31, 2019, employees of a school district if the authority agrees to  
23 provide any of the school districts' insurance programs by contract  
24 with the authority as provided in RCW 28A.400.350; (iv) employees of  
25 a tribal government, if the governing body of the tribal government  
26 seeks and receives the approval of the authority to provide any of  
27 its insurance programs by contract with the authority, as provided in  
28 RCW 41.05.021(1) (f) and (g); (v) employees of the Washington health  
29 benefit exchange if the governing board of the exchange established  
30 in RCW 43.71.020 seeks and receives approval of the authority to  
31 provide any of its insurance programs by contract with the authority,  
32 as provided in RCW 41.05.021(1) (g) and (n); and (vi) through  
33 December 31, 2019, employees of a charter school established under  
34 chapter 28A.710 RCW. "Employee" does not include: Adult family home  
35 providers; unpaid volunteers; patients of state hospitals; inmates;  
36 employees of the Washington state convention and trade center as  
37 provided in RCW 41.05.110; students of institutions of higher  
38 education as determined by their institution; and any others not  
39 expressly defined as employees under this chapter or by the authority  
40 under this chapter.

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

3 (i) All employees of school districts and charter schools  
4 established under chapter 28A.710 RCW;

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

6 (iii) Effective January 1, 2024, all employees of educational  
7 service districts.

8 (7) "Employee group" means employees of a similar employment  
9 type, such as administrative, represented classified, nonrepresented  
10 classified excluding such employees in educational service districts  
11 until December 31, 2023, confidential, represented certificated, or  
12 nonrepresented certificated excluding such employees in educational  
13 service districts until December 31, 2023, within a school employees'  
14 benefits board organization.

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

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

20 (9) "Employer group" means those counties, municipalities,  
21 political subdivisions, the Washington health benefit exchange,  
22 tribal governments, employee organizations representing state civil  
23 service employees, and through December 31, 2019, school districts,  
24 charter schools, and through December 31, 2023, educational service  
25 districts obtaining employee benefits through a contractual agreement  
26 with the authority to participate in benefit plans developed by the  
27 public employees' benefits board.

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

33 (b) "Employing agency" for the school employees' benefits board  
34 program means school districts, educational service districts, and  
35 charter schools.

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

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

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

7 (13) "Insuring entity" means an insurer as defined in chapter  
8 48.01 RCW, a health care service contractor as defined in chapter  
9 48.44 RCW, or a health maintenance organization as defined in chapter  
10 48.46 RCW.

11 (14) "Medical flexible spending arrangement" means a benefit plan  
12 whereby state and school employees may reduce their salary before  
13 taxes to pay for medical expenses not reimbursed by insurance as  
14 provided in the salary reduction plan under this chapter pursuant to  
15 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

16 (15) "Participant" means an individual who fulfills the  
17 eligibility and enrollment requirements under the salary reduction  
18 plan.

19 (16) "Plan year" means the time period established by the  
20 authority.

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

26 (18) "Public employee" has the same meaning as employee and  
27 school employee.

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

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

32 (b) Persons who separate from employment with a school district,  
33 educational service district, or charter school on or after October  
34 1, 1993, and immediately upon separation receive a retirement  
35 allowance under chapter 41.32, 41.35, or 41.40 RCW;

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

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

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

9 (22) "School employees' benefits board organization" means a  
10 public school district or educational service district or charter  
11 school established under chapter 28A.710 RCW that is required to  
12 participate in benefit plans provided by the school employees'  
13 benefits board.

14 (23) "School year" means school year as defined in RCW  
15 28A.150.203(11).

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

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

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

22 (~~(b)~~) (ii) RCW 41.35.010 on or after September 1, 2000; or

23 (~~(c)~~) (iii) RCW 41.40.010 on or after March 1, 2002;

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

29 (b) For the purposes of RCW 41.05.080:

30 (i) RCW 41.32.010 on or after the effective date of this section;

31 or

32 (ii) RCW 41.35.010 on or after the effective date of this  
33 section; or

34 (iii) RCW 41.40.010 on or after the effective date of this  
35 section; and who are at least age 55 and have at least 20 years of  
36 service under the teachers' retirement system plan 2 as defined in  
37 RCW 41.32.010, the Washington school employees' retirement system  
38 plan 2 as defined in RCW 41.35.010, or the public employees'  
39 retirement system plan 2 as defined in RCW 41.40.010.

1 (26) "State purchased health care" or "health care" means medical  
2 and health care, pharmaceuticals, and medical equipment purchased  
3 with state and federal funds by the department of social and health  
4 services, the department of health, the basic health plan, the state  
5 health care authority, the department of labor and industries, the  
6 department of corrections, the department of veterans affairs, and  
7 local school districts.

8 (27) "Tribal government" means an Indian tribal government as  
9 defined in section 3(32) of the employee retirement income security  
10 act of 1974, as amended, or an agency or instrumentality of the  
11 tribal government, that has government offices principally located in  
12 this state.

13 NEW SECTION. **Sec. 2.** This act takes effect January 1, 2024.

Passed by the House February 6, 2023.  
Passed by the Senate April 12, 2023.  
Approved by the Governor April 25, 2023.  
Filed in Office of Secretary of State April 26, 2023.

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