
SENATE BILL 5420

State of Washington

68th Legislature

2023 Regular Session

By Senators Conway and Van De Wege

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.

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