
SENATE BILL 5718

State of Washington

67th Legislature

2022 Regular Session

By Senator Conway; by request of Health Care Authority

Prefiled 01/06/22.

1 AN ACT Relating to insurance benefits for retired or disabled
2 school employees; and amending RCW 41.05.011, 41.05.022, 41.05.080,
3 and 41.05.740.

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.

40 (20) "Retired or disabled state employee" means:

1 (a) Persons who separated from employment with the state and are
2 receiving a retirement allowance under chapter 2.10, 2.12, 41.37,
3 41.40, or 43.43 RCW;

4 (b) Persons who separate from employment with the state, and
5 immediately upon separation receive a retirement allowance under
6 chapter 2.10, 2.12, 41.37, 41.40, or 43.43 RCW;

7 (c) Persons who separate from employment with the state due to a
8 total and permanent disability, and are eligible to receive a
9 deferred retirement allowance under chapter 2.10, 2.12, 41.37, 41.40,
10 or 43.43 RCW;

11 (d) Persons who separate from employment with a higher education
12 institution, and immediately upon separation receive a retirement
13 allowance from an annuity or retirement plan authorized under RCW
14 28B.10.400 for employees in various positions within higher education
15 institutions; and

16 (e) Members of the legislature who voluntarily or involuntarily
17 leave state office whether receiving a retirement allowance or not.

18 (21) "Salary" means a state or school employee's monthly salary
19 or wages.

20 ~~((21))~~ (22) "Salary reduction plan" means a benefit plan
21 whereby public employees may agree to a reduction of salary on a
22 pretax basis to participate in the dependent care assistance program,
23 medical flexible spending arrangement, or premium payment plan
24 offered pursuant to 26 U.S.C. Sec. 125 or other sections of the
25 internal revenue code.

26 ~~((22))~~ (23) "School employees' benefits board organization"
27 means a public school district or educational service district or
28 charter school established under chapter 28A.710 RCW that is required
29 to participate in benefit plans provided by the school employees'
30 benefits board.

31 ~~((23))~~ (24) "School year" means school year as defined in RCW
32 28A.150.203(11).

33 ~~((24))~~ (25) "Seasonal employee" means a state employee hired to
34 work during a recurring, annual season with a duration of three
35 months or more, and anticipated to return each season to perform
36 similar work.

37 ~~((25))~~ (26) "Separated employees" means persons who separate
38 from employment with an employer as defined in ~~((a))~~ RCW
39 41.32.010(17) on or after July 1, 1996 ~~((b))~~ or ~~((c))~~ RCW 41.35.010
40 on or after September 1, 2000 ~~((d))~~ or ~~((e))~~ RCW 41.40.010 on or

1 after March 1, 2002~~((†))~~, and who are at least age fifty-five and
2 have at least ten years of service under ~~((the))~~;

3 (a) The teachers' retirement system plan 3 as defined in RCW
4 41.32.010(33) ~~((†the))~~;

5 (b) The Washington school employees' retirement system plan 3 as
6 defined in RCW 41.35.010 ~~((†))~~; or

7 ~~((the))~~ (c) The public employees' retirement system plan 3 as
8 defined in RCW 41.40.010.

9 ~~((26))~~ (27) "State purchased health care" or "health care"
10 means medical and health care, pharmaceuticals, and medical equipment
11 purchased with state and federal funds by the department of social
12 and health services, the department of health, the basic health plan,
13 the state health care authority, the department of labor and
14 industries, the department of corrections, the department of veterans
15 affairs, and local school districts.

16 ~~((27))~~ (28) "Tribal government" means an Indian tribal
17 government as defined in section 3(32) of the employee retirement
18 income security act of 1974, as amended, or an agency or
19 instrumentality of the tribal government, that has government offices
20 principally located in this state.

21 **Sec. 2.** RCW 41.05.022 and 2018 c 260 s 7 are each amended to
22 read as follows:

23 (1) The health care authority is hereby designated as the single
24 state agent for purchasing health services.

25 (2) ~~On and after January 1, 1995, ((at least the following state-~~
26 ~~purchased health services programs shall be merged into a single,~~
27 ~~community-rated risk pool: Health benefits for groups of employees of~~
28 ~~school districts and educational service districts that voluntarily~~
29 ~~purchase health benefits as provided in RCW 41.05.011 through~~
30 ~~December 31, 2019; health benefits for employees; health benefits for~~
31 ~~eligible retired or disabled school employees not eligible for parts~~
32 ~~A and B of medicare; and health benefits for eligible state retirees~~
33 ~~not eligible for parts A and B of medicare)) the state purchased~~
34 health benefits for the following groups shall be merged into a
35 single, community-rated risk pool:

36 (a) Employees;

37 (b) Retired or disabled state employees who are not eligible for
38 parts A and B of medicare;

1 (c) Retired or disabled school employees who are not eligible for
2 parts A and B of medicare and who are enrolled in public employees'
3 benefits board benefits as of December 31, 2022;

4 (d) Separated employees as defined in RCW 41.05.011(26)(c) and
5 who are not eligible for parts A and B of medicare; and

6 (e) Separated employees as defined in RCW 41.05.011(26) (a) and
7 (b) who are not eligible for parts A and B of medicare and who are
8 enrolled in public employees' benefits board benefits as of December
9 31, 2022.

10 (3) On and after January 1, 2020, the state purchased health
11 benefits for the following groups ((of school) employees ((of school
12 employees' benefits board organizations shall be merged into a
13 single, community-rated risk pool separate and distinct from the pool
14 described in subsection (2) of this section)) shall be merged into a
15 single, community-rated risk pool separate and distinct from the pool
16 established in subsection (2) of this section:

17 (a) School employees;

18 (b) Retired or disabled school employees who are not eligible for
19 parts A and B of medicare and who are not enrolled in public
20 employees' benefits board benefits as of January 1, 2023; and

21 (c) Separated employees as defined in RCW 41.05.011(26) (a) and
22 (b) who are not eligible for parts A and B of medicare and who are
23 not enrolled in public employees' benefits board benefits as of
24 January 1, 2023.

25 (4) ~~((By December 15, 2018, the health care authority, in~~
26 ~~consultation with the board, shall submit to the appropriate~~
27 ~~committees of the legislature a complete analysis of the most~~
28 ~~appropriate risk pool for the retired and disabled school employees,~~
29 ~~to include at a minimum an analysis of the size of the nonmedicare~~
30 ~~and medicare retiree enrollment pools, the impacts on cost for state~~
31 ~~and school district retirees of moving retirees from one pool to~~
32 ~~another, the need for and the amount of an ongoing retiree subsidy~~
33 ~~allocation from the active school employees, and the timing and~~
34 ~~suggested approach for a transition from one risk pool to another.~~

35 ~~(5))~~ At a minimum, and regardless of other legislative
36 enactments, the state health services purchasing agent shall:

37 (a) Require that a public agency that provides subsidies for a
38 substantial portion of services now covered under the basic health
39 plan use uniform eligibility processes, insofar as may be possible,
40 and ensure that multiple eligibility determinations are not required;

1 (b) Require that a health care provider or a health care facility
2 that receives funds from a public program provide care to state
3 residents receiving a state subsidy who may wish to receive care from
4 them, and that an insuring entity that receives funds from a public
5 program accept enrollment from state residents receiving a state
6 subsidy who may wish to enroll with them;

7 (c) Strive to integrate purchasing for all publicly sponsored
8 health services in order to maximize the cost control potential and
9 promote the most efficient methods of financing and coordinating
10 services;

11 (d) Consult regularly with the governor, the legislature, and
12 state agency directors whose operations are affected by the
13 implementation of this section; and

14 (e) Ensure the control of benefit costs under managed competition
15 by adopting rules to prevent an employing agency from entering into
16 an agreement with employees or employee organizations when the
17 agreement would result in increased utilization in board plans or
18 reduce the expected savings of managed competition.

19 **Sec. 3.** RCW 41.05.080 and 2018 c 260 s 15 are each amended to
20 read as follows:

21 (1) Under the qualifications, terms, conditions, and benefits set
22 by the public employees' benefits board:

23 (a) Retired or disabled state employees, retired or disabled
24 school employees who are not eligible for parts A and B of medicare
25 who are enrolled in public employees' benefits board benefits as of
26 December 31, 2022, retired or disabled school employees who are
27 eligible for parts A and B of medicare, retired or disabled employees
28 of county, municipal, or other political subdivisions, or retired or
29 disabled employees of tribal governments covered by this chapter may
30 continue their participation in insurance plans and contracts after
31 retirement or disablement;

32 (b) Separated employees as defined in RCW 41.05.011(26)(c),
33 separated employees as defined in RCW 41.05.011(26) (a) and (b) who
34 are eligible for parts A and B of medicare, and separated employees
35 as defined in RCW 41.05.011(26) (a) and (b) who are not eligible for
36 parts A and B of medicare who are enrolled in public employees'
37 benefits board benefits as of December 31, 2022, may continue their
38 participation in insurance plans and contracts if participation is
39 selected immediately upon separation from employment;

1 (c) Surviving spouses, surviving state registered domestic
2 partners, and dependent children of emergency service personnel
3 killed in the line of duty may participate in insurance plans and
4 contracts.

5 (2) Rates charged (~~((surviving spouses and surviving state~~
6 ~~registered domestic partners of emergency service personnel killed in~~
7 ~~the line of duty, retired or disabled employees, separated employees,~~
8 ~~spouses, or dependent children))~~ to those defined in subsection
9 (1)(a) through (c) of this section who are not eligible for parts A
10 and B of medicare shall be based on the experience of the community-
11 rated risk pool established under RCW 41.05.022(2).

12 (3) Rates charged to (~~((surviving spouses and surviving state~~
13 ~~registered domestic partners of emergency service personnel killed in~~
14 ~~the line of duty, retired or disabled employees, separated employees,~~
15 ~~spouses, or children))~~ those defined in subsection (1)(a) through (c)
16 of this section who are eligible for parts A and B of medicare shall
17 be calculated from a separate experience risk pool comprised only of
18 individuals eligible for parts A and B of medicare; however, the
19 premiums charged to medicare-eligible retired and disabled state
20 employees and medicare-eligible retirees and disabled school
21 employees shall be reduced by the amount of the subsidy provided
22 under RCW 41.05.085.

23 (4) (~~((Surviving spouses, surviving state registered domestic~~
24 ~~partners, and dependent children of emergency service personnel~~
25 ~~killed in the line of duty and retired or disabled and separated~~
26 ~~employees))~~ Those defined in subsection (1)(a) through (c) of this
27 section shall be responsible for payment of premium rates developed
28 by the authority which shall include the cost to the authority of
29 providing insurance coverage including any amounts necessary for
30 reserves and administration in accordance with this chapter. These
31 self pay rates will be established based on a separate rate for the
32 employee, the spouse, state registered domestic partners, and the
33 children.

34 (~~((5) The term "retired state employees" for the purpose of this~~
35 ~~section shall include but not be limited to members of the~~
36 ~~legislature whether voluntarily or involuntarily leaving state~~
37 ~~office.))~~

38 **Sec. 4.** RCW 41.05.740 and 2018 c 260 s 1 are each amended to
39 read as follows:

1 (1) The school employees' benefits board is created within the
2 authority. The function of the school employees' benefits board is to
3 design and approve insurance benefit plans for school employees and
4 to establish eligibility criteria for participation in insurance
5 benefit plans.

6 (2) By September 30, 2017, the governor shall appoint the
7 following voting members to the school employees' benefits board as
8 follows:

9 (a) Two members from associations representing certificated
10 employees;

11 (b) Two members from associations representing classified
12 employees;

13 (c) Four members with expertise in employee health benefits
14 policy and administration, one of which is nominated by an
15 association representing school business officials; and

16 (d) The director of the authority or his or her designee.

17 (3) Initial members of the school employees' benefits board shall
18 serve staggered terms not to exceed four years. Members appointed
19 thereafter shall serve two-year terms.

20 (4) Compensation and reimbursement related to school employees'
21 benefits board member service are as follows:

22 (a) Members of the school employees' benefits board must be
23 compensated in accordance with RCW 43.03.250 and must be reimbursed
24 for their travel expenses while on official business in accordance
25 with RCW 43.03.050 and 43.03.060.

26 (b) While school employees' benefits board members are carrying
27 out their powers and duties under this chapter (~~(41.05-RCW)~~), if the
28 service of any certificated or classified employee results in a need
29 for a school employees' benefits board organization to employ a
30 substitute for such certificated or classified employee during such
31 service, payment for such a substitute may be made by the authority
32 from funds appropriated by the legislature for the school employees'
33 benefits board program. If such substitute is paid by the authority,
34 no deduction shall be made from the salary of the certificated or
35 classified employee. In no event shall a school employees' benefits
36 board organization deduct from the salary of a certificated or
37 classified employee serving on the school employees' benefits board
38 more than the amount paid the substitute employed by the school
39 employees' benefits board organization.

1 (5) The director of the authority or his or her designee shall be
2 the chair and another member shall be selected by the school
3 employees' benefits board as vice chair. The chair shall conduct
4 meetings of the school employees' benefits board. The vice chair
5 shall preside over meetings in the absence of the chair. The school
6 employees' benefits board shall develop bylaws for the conduct of its
7 business.

8 (6) The school employees' benefits board shall:

9 (a) Study all matters connected with the provision of health care
10 coverage, life insurance, liability insurance, accidental death and
11 dismemberment, and disability insurance, or any of, or combination
12 of, the enumerated types of insurance for eligible school employees
13 and their dependents on the best basis possible with relation both to
14 the welfare of the school employees and the state. However, liability
15 insurance should not be made available to dependents;

16 (b) Develop school employee benefit plans that include
17 comprehensive, evidence-based health care benefits for school
18 employees. In developing these plans, the school employees' benefits
19 board shall consider the following elements:

20 (i) Methods of maximizing cost containment while ensuring access
21 to quality health care;

22 (ii) Development of provider arrangements that encourage cost
23 containment and ensure access to quality care including, but not
24 limited to, prepaid delivery systems and prospective payment methods;

25 (iii) Wellness, preventive care, chronic disease management, and
26 other incentives that focus on proven strategies;

27 (iv) Utilization review procedures to support cost-effective
28 benefits delivery;

29 (v) Ways to leverage efficient purchasing by coordinating with
30 the public employees' benefits board;

31 (vi) Effective coordination of benefits; and

32 (vii) Minimum standards for insuring entities;

33 (c) Authorize premium contributions for a school employee and the
34 employee's dependents in a manner that encourages the use of cost-
35 efficient health care systems. For participating school employees,
36 the required school employee share of the cost for family coverage
37 premiums may not exceed three times the premiums for a school
38 employee purchasing single coverage for the same coverage plan;

39 (d) Determine the terms and conditions of school employee and
40 dependent eligibility criteria, enrollment policies, and scope of

1 coverage. At a minimum, the eligibility criteria established by the
2 school employees' benefits board shall address the following:

3 (i) The effective date of coverage following hire;

4 (ii) The benefits eligibility criteria, but the school employees'
5 benefits board's criteria shall be no more restrictive than requiring
6 that a school employee be anticipated to work at least six hundred
7 thirty hours per school year to be benefits eligible; and

8 (iii) Coverage for dependents, including criteria for legal
9 spouses; children up to age twenty-six; children of any age with
10 disabilities, mental illness, or intellectual or other developmental
11 disabilities; and state registered domestic partners, as defined in
12 RCW 26.60.020, and others authorized by the legislature;

13 (e) Establish terms and conditions for a school employees'
14 benefits board organization to have the ability to locally negotiate
15 eligibility criteria for a school employee who is anticipated to work
16 less than six hundred thirty hours in a school year. A school
17 employees' benefits board organization that elects to use a lower
18 threshold of hours for benefits eligibility must use benefits
19 authorized by the school employees' benefits board and shall do so as
20 an enrichment to the state's definition of basic education;

21 (f) Establish penalties to be imposed when a school employees'
22 benefits board organization fails to comply with established
23 participation criteria; and

24 (g) Participate with the authority in the preparation of
25 specifications and selection of carriers contracted for school
26 employee benefit plan coverage of eligible school employees in
27 accordance with the criteria set forth in rules. To the extent
28 possible, the school employees' benefits board shall leverage
29 efficient purchasing by coordinating with the public employees'
30 benefits board.

31 (7) School employees shall choose participation in one of the
32 health care benefit plans developed by the school employees' benefits
33 board. Individual school employees eligible for benefits under
34 subsection (6)(d) of this section may be permitted to waive coverage
35 under terms and conditions established by the school employees'
36 benefits board.

37 (8) By November 30, 2021, the authority shall review the benefit
38 plans provided through the school employees' benefits board, complete
39 an analysis of the benefits provided and the administration of the
40 benefits plans, and determine whether provisions in chapter 13, Laws

1 of 2017 3rd sp. sess. have resulted in cost savings to the state. The
2 authority shall submit a report to the relevant legislative policy
3 and fiscal committees summarizing the results of the review and
4 analysis.

5 (9) As of January 1, 2023, under the qualifications, terms,
6 conditions, and benefits set by the school employees' benefits board,
7 retired or disabled school employees who are not eligible for parts A
8 and B of medicare and who are not enrolled in public employees'
9 benefits board benefits as of December 31, 2022, may continue their
10 participation in insurance plans and contracts after retirement or
11 disablement.

12 (10) As of January 1, 2023, under the qualifications, terms,
13 conditions, and benefits set by the school employees' benefits board,
14 separated employees defined in RCW 41.05.011(26) (a) and (b) who are
15 not eligible for parts A and B of medicare and who are not enrolled
16 in public employees' benefits board benefits as of December 31, 2022,
17 may continue their participation in insurance plans and contracts if
18 participation is selected immediately upon separation from employment
19 with their school employees' benefits board organization.

20 (11) Rates charged to those defined in subsections (9) and (10)
21 of this section shall be based on the experience of the community-
22 rated risk pool established under RCW 41.05.022(3).

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