

Washington State Health Care Authority
 Public Employees Benefits Board (PEBB) Program
 LEOFF 2 Board Presentation
 December 12, 2012

PEBB Technical Corrections Bill

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PEBB Overview

- The Washington State Health Care Authority (HCA) is a Cabinet-level agency in Washington State.
- HCA operates several programs, including Medicaid and the Public Employees Benefits Board (PEBB) Program.
- PEBB provides insurance coverage to eligible state and higher-education employees, retirees, and their dependents, as well as eligible groups.
- PEBB provides health coverage for about 340,000 members.
 - Includes 110 surviving spouses, state-registered domestic partners, and dependent children of emergency service personnel killed in the line of duty
- PEBB coverage for LEOFF 2 survivors includes:
 - Medical and dental coverage
 - Optional coverage including long-term care, auto, and home insurance

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Key issues within the PEBB Technical Corrections Bill

- Clean-up of domestic partner eligibility: Two bills enacted in 2009 addressed the benefit rights of domestic partners of emergency service personnel killed in the line of duty. They amended RCW 41.05.080 in slightly different forms.
 - This proposal amends RCW 41.05.080 to achieve a single statutory provision consistent with the three domestic partner bills enacted in 2009.
 - Repeals 41.05.080 as amended by 2009 c 522 to achieve a single statutory provision consistent with the three domestic partner bills enacted in 2009
- Align child dependent coverage: The statute conflicts with provisions of the Patient Protection and Affordable Care Act (PPACA) because it extends self-paid PEBB coverage to dependents up to age 25, not paid on the same basis as other dependents and up to age 26 as required.

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Closing

- PEBB requests support for our technical corrections bill during the upcoming legislative session.
- Thank you for your time on this issue.
- Questions?

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Health Care Authority
2012 Agency Request Legislation: Z-0033.3/13

Agency: Health Care Authority

Agency Contact & Phone Number: Dennis Martin
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Request Title: Technical Corrections to the Public Employee Benefits Board Program (PEBB) Eligibility Statutes.

Z-Draft Number: Z-0033.3/13

Previously Submitted? If yes, indicate year, Z-Draft number, and title: Yes. The proposal is similar to Z-0070.1/11, a Health Care Authority (HCA) proposal submitted for the 2011 session. Brief Title: Making technical corrections to PEBB eligibility statutes.

Statement of Need

This proposal makes technical corrections and clarifying amendments to the PEBB statutes consistent with current state and federal laws. The proposal will align PEBB dependent eligibility to federal regulation and remove an existing conflict in state statute. It is not intended to expand or restrict eligibility from PEB's current interpretation and guidance. The proposal helps mitigate the state's risk associated with misinterpretation of eligibility. The proposal has no operational or fiscal impact on the PEBB Program, other state agencies, or PEBB stakeholders.

The proposal recommends the following technical changes to Chapter 41.05 RCW:

1. Child Dependent Coverage –Section 6 of the proposal will amend RCW 41.05.095 to align PEBB dependent eligibility to federal regulation and Title 48. The statute does not comply with provisions of the Patient Protection and Affordable Care Act (PPACA) because it only extends PEBB dependent coverage up to age 25, not up to age 26 as required. Additionally, section 2714 of the Public Health Services Act requires the federal mandate be applied without regard to age, financial dependency or student status. Title 48 was amended to reflect the federal requirement. Should any element of PPACA be repealed at the federal level, the current PEBB eligibility in chapter 41.05 would be in conflict with requirements in Title 48.
2. PEBB Eligibility Authority - Sections 1-3 of the proposal provide clarifying amendments to a 2009 act that increased the authority of the PEB Board and HCA to enforce eligibility policies, simplified PEBB eligibility criteria, and encouraged consistent application of PEBB eligibility rules. The 2009 bill was passed without consideration of technical amendments identified by HCA and the Governor's office late in the session. Additional clarifying amendments were identified by HCA during rule and policy development. This proposal would amend RCWs 41.05.009, 41.05.011, and 41.05.065, to include those technical and clarifying amendments.
3. Domestic Partner Eligibility – Sections 4, 5, and 7 of the proposal amend PEBB statutes consistent with a 2009 act that required state registered domestic partners to be treated the same as married spouses. This proposal would amend RCW 41.05.066 regarding PEBB eligibility for domestic partners and make a technical correction to RCW 41.05.195. Two other bills enacted in 2009 addressed the benefit rights of domestic partners of emergency service personnel killed in the line of duty. These acts amended RCW 41.05.080 in slightly different forms. This proposal amends RCW 41.05.080 to achieve a single statutory provision consistent with the three domestic partner bills enacted in 2009.

Summary of the Major Provisions of the Bill and Impact on Current Law

Section 1: Clarifies that an employing agency participating in PEBB may be designated by HCA to determine and periodically review whether an employee of the agency is eligible for PEBB benefits.

Section 2: Subsection 6 clarifies that adult family home providers (rather than adult family homeowners) are not defined as employees under Chapter 41.05 RCW. Subsection 23 provides a definition for "employer group"—a term added to the PEBB statutes in 2009.

Section 3: Subsection 4(b) provides a PEBB employment eligibility standard for seasonal employees consistent with the employment eligibility standard as stated in subsections 4(a) and (b) of this section—"at least eighty hours per month over a period of six consecutive months." Subsection 4(c) clarifies that eligibility for PEBB benefits for the faculty of institutions of higher education may be based on either academic semesters or quarters. The definitions of "academic year" and "half-time" are relocated within subsection 4(c). Also the definition of "half time" is rewritten so it is clear that for community and technical college faculty employees eligibility is governed by RCW 28B.50.489.

Section 4: Clarifies that a certificate of domestic partnership issued by the Secretary of State under the provisions of RCW 26.60.030 shall be recognized as evidence of a qualified domestic partnership for both same sex partners and for opposite sex domestic partners.

Section 5: Repeals 41.05.080 as amended by 2009 c 522 in order to achieve a single statutory provision consistent with the three domestic partner bills enacted in 2009. (Two bills enacted in 2009 addressed the benefit rights of domestic partners of emergency service personnel killed in the line of duty. These acts amended RCW 41.05.080 in slightly different forms). Clarifies that all state registered domestic partners of emergency service personnel killed in the line of duty are eligible for PEBB benefits.

Section 6: Amends RCW 41.05.095 to comply with provisions of the ACA. Federal regulation requires group health plans to make coverage available to dependent children up to age 26, if the plan offers dependent coverage. RCW 41.05.095 is not consistent with the federal mandate because it only extends coverage to age 25 and by rule the federal mandate must be applied without regard to age, financial dependency or student status.

Section 7: Amends RCW 41.05.195 to include surviving state registered domestic partners as a group that is allowed to participate in Medicare supplemental insurance policies.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0033.3/13 3rd draft

ATTY/TYPIST: LL:lel

BRIEF DESCRIPTION: Addressing public employee benefits.

1 AN ACT Relating to public employee benefits; amending RCW
2 41.05.009, 41.05.011, 41.05.065, 41.05.066, 41.05.095, and 41.05.195;
3 and reenacting and amending RCW 41.05.080.

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

5 **Sec. 1.** RCW 41.05.009 and 2009 c 537 s 2 are each amended to read
6 as follows:

7 (1) The authority, or an employing agency at the authority's
8 direction, (~~(an employing agency)~~) shall initially determine and
9 periodically review whether an employee is eligible for benefits
10 pursuant to the criteria established under this chapter.

11 (2) An employing agency shall inform an employee in writing whether
12 or not he or she is eligible for benefits when initially determined and
13 upon any subsequent change, including notice of the employee's right to
14 an appeal.

15 **Sec. 2.** RCW 41.05.011 and 2012 c 87 s 22 are each amended to read
16 as follows:

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

- 1 (1) "Authority" means the Washington state health care authority.
- 2 (2) "Board" means the public employees' benefits board established
3 under RCW 41.05.055.
- 4 (3) "Dependent care assistance program" means a benefit plan
5 whereby state and public employees may pay for certain employment
6 related dependent care with pretax dollars as provided in the salary
7 reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or
8 other sections of the internal revenue code.
- 9 (4) "Director" means the director of the authority.
- 10 (5) "Emergency service personnel killed in the line of duty" means
11 law enforcement officers and firefighters as defined in RCW 41.26.030,
12 members of the Washington state patrol retirement fund as defined in
13 RCW 43.43.120, and reserve officers and firefighters as defined in RCW
14 41.24.010 who die as a result of injuries sustained in the course of
15 employment as determined consistent with Title 51 RCW by the department
16 of labor and industries.
- 17 (6) "Employee" includes all employees of the state, whether or not
18 covered by civil service; elected and appointed officials of the
19 executive branch of government, including full-time members of boards,
20 commissions, or committees; justices of the supreme court and judges of
21 the court of appeals and the superior courts; and members of the state
22 legislature. Pursuant to contractual agreement with the authority,
23 "employee" may also include: (a) Employees of a county, municipality,
24 or other political subdivision of the state and members of the
25 legislative authority of any county, city, or town who are elected to
26 office after February 20, 1970, if the legislative authority of the
27 county, municipality, or other political subdivision of the state seeks
28 and receives the approval of the authority to provide any of its
29 insurance programs by contract with the authority, as provided in RCW
30 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations
31 representing state civil service employees, at the option of each such
32 employee organization, and, effective October 1, 1995, employees of
33 employee organizations currently pooled with employees of school
34 districts for the purpose of purchasing insurance benefits, at the
35 option of each such employee organization; (c) employees of a school
36 district if the authority agrees to provide any of the school
37 districts' insurance programs by contract with the authority as
38 provided in RCW 28A.400.350; (d) employees of a tribal government, if

1 the governing body of the tribal government seeks and receives the
2 approval of the authority to provide any of its insurance programs by
3 contract with the authority, as provided in RCW 41.05.021(1) (f) and
4 (g); and (e) employees of the Washington health benefit exchange if the
5 governing board of the exchange established in RCW 43.71.020 seeks and
6 receives approval of the authority to provide any of its insurance
7 programs by contract with the authority, as provided in RCW
8 41.05.021(1) (g) and (n). "Employee" does not include: Adult family
9 (~~homeowners~~) home providers; unpaid volunteers; patients of state
10 hospitals; inmates; employees of the Washington state convention and
11 trade center as provided in RCW 41.05.110; students of institutions of
12 higher education as determined by their institution; and any others not
13 expressly defined as employees under this chapter or by the authority
14 under this chapter.

15 (7) "Employer" means the state of Washington.

16 (8) "Employing agency" means a division, department, or separate
17 agency of state government, including an institution of higher
18 education; a county, municipality, school district, educational service
19 district, or other political subdivision; and a tribal government
20 covered by this chapter.

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

27 (10) "Flexible benefit plan" means a benefit plan that allows
28 employees to choose the level of health care coverage provided and the
29 amount of employee contributions from among a range of choices offered
30 by the authority.

31 (11) "Insuring entity" means an insurer as defined in chapter 48.01
32 RCW, a health care service contractor as defined in chapter 48.44 RCW,
33 or a health maintenance organization as defined in chapter 48.46 RCW.

34 (12) "Medical flexible spending arrangement" means a benefit plan
35 whereby state and public employees may reduce their salary before taxes
36 to pay for medical expenses not reimbursed by insurance as provided in
37 the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec.
38 125 or other sections of the internal revenue code.

1 (13) "Participant" means an individual who fulfills the eligibility
2 and enrollment requirements under the salary reduction plan.

3 (14) "Plan year" means the time period established by the
4 authority.

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

10 (16) "Retired or disabled school employee" means:

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

14 (b) Persons who separate from employment with a school district or
15 educational service district on or after October 1, 1993, and
16 immediately upon separation receive a retirement allowance under
17 chapter 41.32, 41.35, or 41.40 RCW;

18 (c) Persons who separate from employment with a school district or
19 educational service district due to a total and permanent disability,
20 and are eligible to receive a deferred retirement allowance under
21 chapter 41.32, 41.35, or 41.40 RCW.

22 (17) "Salary" means a state employee's monthly salary or wages.

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

28 (19) "Seasonal employee" means an employee hired to work during a
29 recurring, annual season with a duration of three months or more, and
30 anticipated to return each season to perform similar work.

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

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

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

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

36 and who are at least age fifty-five and have at least ten years of
37 service under the teachers' retirement system plan 3 as defined in RCW

1 41.32.010(33), the Washington school employees' retirement system plan
2 3 as defined in RCW 41.35.010, or the public employees' retirement
3 system plan 3 as defined in RCW 41.40.010.

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

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

16 (23) "Employer group" means those counties, municipalities,
17 political subdivisions, the Washington health benefit exchange, tribal
18 governments, school districts, and educational service districts, and
19 employee organizations representing state civil service employees,
20 obtaining employee benefits through a contractual agreement with the
21 authority.

22 **Sec. 3.** RCW 41.05.065 and 2011 1st sp.s. c 8 s 1 are each amended
23 to read as follows:

24 (1) The board shall study all matters connected with the provision
25 of health care coverage, life insurance, liability insurance,
26 accidental death and dismemberment insurance, and disability income
27 insurance or any of, or a combination of, the enumerated types of
28 insurance for employees and their dependents on the best basis possible
29 with relation both to the welfare of the employees and to the state.
30 However, liability insurance shall not be made available to dependents.

31 (2) The board shall develop employee benefit plans that include
32 comprehensive health care benefits for employees. In developing these
33 plans, the board shall consider the following elements:

34 (a) Methods of maximizing cost containment while ensuring access to
35 quality health care;

36 (b) Development of provider arrangements that encourage cost

1 containment and ensure access to quality care, including but not
2 limited to prepaid delivery systems and prospective payment methods;

3 (c) Wellness incentives that focus on proven strategies, such as
4 smoking cessation, injury and accident prevention, reduction of alcohol
5 misuse, appropriate weight reduction, exercise, automobile and
6 motorcycle safety, blood cholesterol reduction, and nutrition
7 education;

8 (d) Utilization review procedures including, but not limited to a
9 cost-efficient method for prior authorization of services, hospital
10 inpatient length of stay review, requirements for use of outpatient
11 surgeries and second opinions for surgeries, review of invoices or
12 claims submitted by service providers, and performance audit of
13 providers;

14 (e) Effective coordination of benefits; and

15 (f) Minimum standards for insuring entities.

16 (3) To maintain the comprehensive nature of employee health care
17 benefits, benefits provided to employees shall be substantially
18 equivalent to the state employees' health benefits plan in effect on
19 January 1, 1993. Nothing in this subsection shall prohibit changes or
20 increases in employee point-of-service payments or employee premium
21 payments for benefits or the administration of a high deductible health
22 plan in conjunction with a health savings account. The board may
23 establish employee eligibility criteria which are not substantially
24 equivalent to employee eligibility criteria in effect on January 1,
25 1993.

26 (4) Except if bargained for under chapter 41.80 RCW, the board
27 shall design benefits and determine the terms and conditions of
28 employee and retired employee participation and coverage, including
29 establishment of eligibility criteria subject to the requirements of
30 this chapter. Employer groups obtaining benefits through contractual
31 agreement with the authority for employees defined in RCW 41.05.011(6)
32 (a) through (d) may contractually agree with the authority to benefits
33 eligibility criteria which differs from that determined by the board.
34 The eligibility criteria established by the board shall be no more
35 restrictive than the following:

36 (a) Except as provided in (b) through (e) of this subsection, an
37 employee is eligible for benefits from the date of employment if the
38 employing agency anticipates he or she will work an average of at least

1 eighty hours per month and for at least eight hours in each month for
2 more than six consecutive months. An employee determined ineligible
3 for benefits at the beginning of his or her employment shall become
4 eligible in the following circumstances:

5 (i) An employee who works an average of at least eighty hours per
6 month and for at least eight hours in each month and whose anticipated
7 duration of employment is revised from less than or equal to six
8 consecutive months to more than six consecutive months becomes eligible
9 when the revision is made.

10 (ii) An employee who works an average of at least eighty hours per
11 month over a period of six consecutive months and for at least eight
12 hours in each of those six consecutive months becomes eligible at the
13 first of the month following the six-month averaging period.

14 (b) A seasonal employee is eligible for benefits from the date of
15 employment if the employing agency anticipates that he or she will work
16 an average of at least eighty hours per month and for at least eight
17 hours in each month of the season. A seasonal employee determined
18 ineligible at the beginning of his or her employment who works an
19 average of at least (~~half-time, as defined by the board,~~) eighty
20 hours per month over a period of six consecutive months and at least
21 eight hours in each of those six consecutive months becomes eligible at
22 the first of the month following the six-month averaging period. A
23 benefits-eligible seasonal employee who works a season of less than
24 nine months shall not be eligible for the employer contribution during
25 the off season, but may continue enrollment in benefits during the off
26 season by self-paying for the benefits. A benefits-eligible seasonal
27 employee who works a season of nine months or more is eligible for the
28 employer contribution through the off season following each season
29 worked.

30 (c) Faculty are eligible as follows:

31 (i) Faculty who the employing agency anticipates will work
32 half-time or more for the entire instructional year or equivalent nine-
33 month period are eligible for benefits from the date of employment.
34 Eligibility shall continue until the beginning of the first full month
35 of the next instructional year, unless the employment relationship is
36 terminated, in which case eligibility shall cease the first month
37 following the notice of termination or the effective date of the
38 termination, whichever is later.

1 (ii) Faculty who the employing agency anticipates will not work for
2 the entire instructional year or equivalent nine-month period are
3 eligible for benefits at the beginning of the second consecutive
4 quarter or semester of employment in which he or she is anticipated to
5 work, or has actually worked, half-time or more. Such an employee
6 shall continue to receive uninterrupted employer contributions for
7 benefits if the employee works at least half-time in a quarter or
8 semester. Faculty who the employing agency anticipates will not work
9 for the entire instructional year or equivalent nine-month period, but
10 who actually work half-time or more throughout the entire instructional
11 year, are eligible for summer or off-quarter or off-semester coverage.
12 Faculty who have met the criteria of this subsection (4)(c)(ii), who
13 work at least two quarters or two semesters of the academic year with
14 an average academic year workload of half-time or more for three
15 quarters or two semesters of the academic year, and who have worked an
16 average of half-time or more in each of the two preceding academic
17 years shall continue to receive uninterrupted employer contributions
18 for benefits if he or she works at least half-time in a quarter or
19 semester or works two quarters or two semesters of the academic year
20 with an average academic workload each academic year of half-time or
21 more for three quarters or two semesters. Eligibility under this
22 section ceases immediately if this criteria is not met.

23 (iii) Faculty may establish or maintain eligibility for benefits by
24 working for more than one institution of higher education. When
25 faculty work for more than one institution of higher education, those
26 institutions shall prorate the employer contribution costs, or if
27 eligibility is reached through one institution, that institution will
28 pay the full employer contribution. Faculty working for more than one
29 institution must alert his or her employers to his or her potential
30 eligibility in order to establish eligibility.

31 (iv) The employing agency must provide written notice to faculty
32 who are potentially eligible for benefits under this subsection (4)(c)
33 of their potential eligibility.

34 (v) To be eligible for maintenance of benefits through averaging
35 under (c)(ii) of this subsection, faculty must provide written
36 notification to his or her employing agency or agencies of his or her
37 potential eligibility.

38 (vi) For the purposes of this subsection (4)(c):

1 (A) "Academic year" means summer, fall, winter, and spring quarters
2 or summer, fall, and spring semesters;

3 (B) "Half-time" means one-half of the full-time academic workload
4 as determined by each institution; except that for community and
5 technical college faculty, half-time academic workload is calculated
6 according to RCW 28B.50.489.

7 (d) A legislator is eligible for benefits on the date his or her
8 term begins. All other elected and full-time appointed officials of
9 the legislative and executive branches of state government are eligible
10 for benefits on the date his or her term begins or they take the oath
11 of office, whichever occurs first.

12 (e) A justice of the supreme court and judges of the court of
13 appeals and the superior courts become eligible for benefits on the
14 date he or she takes the oath of office.

15 (f) Except as provided in (c)(i) and (ii) of this subsection,
16 eligibility ceases for any employee the first of the month following
17 termination of the employment relationship.

18 (g) In determining eligibility under this section, the employing
19 agency may disregard training hours, standby hours, or temporary
20 changes in work hours as determined by the authority under this
21 section.

22 (h) Insurance coverage for all eligible employees begins on the
23 first day of the month following the date when eligibility for benefits
24 is established. If the date eligibility is established is the first
25 working day of a month, insurance coverage begins on that date.

26 (i) Eligibility for an employee whose work circumstances are
27 described by more than one of the eligibility categories in (a) through
28 (e) of this subsection shall be determined solely by the criteria of
29 the category that most closely describes the employee's work
30 circumstances.

31 (j) Except for an employee eligible for benefits under (b) or
32 (c)(ii) of this subsection, an employee who has established eligibility
33 for benefits under this section shall remain eligible for benefits each
34 month in which he or she is in pay status for eight or more hours, if
35 (i) he or she remains in a benefits-eligible position and (ii) leave
36 from the benefits-eligible position is approved by the employing
37 agency. A benefits-eligible seasonal employee is eligible for the
38 employer contribution in any month of his or her season in which he or

1 she is in pay status eight or more hours during that month.
2 Eligibility ends if these conditions are not met, the employment
3 relationship is terminated, or the employee voluntarily transfers to a
4 noneligible position.

5 (k) For the purposes of this subsection(~~(~~

6 ~~(i) "Academic year" means summer, fall, winter, and spring quarters~~
7 ~~or semesters;~~

8 ~~(ii) "Half-time" means one half of the full-time academic workload~~
9 ~~as determined by each institution, except that half-time for community~~
10 ~~and technical college faculty employees shall have the same meaning as~~
11 ~~"part-time" under RCW 28B.50.489;~~

12 ~~(iii))~~, the board shall define "benefits-eligible position."
13 ~~((shall be defined by the board.))~~

14 (5) The board may authorize premium contributions for an employee
15 and the employee's dependents in a manner that encourages the use of
16 cost-efficient managed health care systems.

17 (6)(a) For any open enrollment period following August 24, 2011,
18 the board shall offer a health savings account option for employees
19 that conforms to section 223, Part VII of subchapter B of chapter 1 of
20 the internal revenue code of 1986. The board shall comply with all
21 applicable federal standards related to the establishment of health
22 savings accounts.

23 (b) By November 30, 2015, and each year thereafter, the authority
24 shall submit a report to the relevant legislative policy and fiscal
25 committees that includes the following:

26 (i) Public employees' benefits board health plan cost and service
27 utilization trends for the previous three years, in total and for each
28 health plan offered to employees;

29 (ii) For each health plan offered to employees, the number and
30 percentage of employees and dependents enrolled in the plan, and the
31 age and gender demographics of enrollees in each plan;

32 (iii) Any impact of enrollment in alternatives to the most
33 comprehensive plan, including the high deductible health plan with a
34 health savings account, upon the cost of health benefits for those
35 employees who have chosen to remain enrolled in the most comprehensive
36 plan.

37 (7) Notwithstanding any other provision of this chapter, for any

1 open enrollment period following August 24, 2011, the board shall offer
2 a high deductible health plan in conjunction with a health savings
3 account developed under subsection (6) of this section.

4 (8) Employees shall choose participation in one of the health care
5 benefit plans developed by the board and may be permitted to waive
6 coverage under terms and conditions established by the board.

7 (9) The board shall review plans proposed by insuring entities that
8 desire to offer property insurance and/or accident and casualty
9 insurance to state employees through payroll deduction. The board may
10 approve any such plan for payroll deduction by insuring entities
11 holding a valid certificate of authority in the state of Washington and
12 which the board determines to be in the best interests of employees and
13 the state. The board shall adopt rules setting forth criteria by which
14 it shall evaluate the plans.

15 (10) Before January 1, 1998, the public employees' benefits board
16 shall make available one or more fully insured long-term care insurance
17 plans that comply with the requirements of chapter 48.84 RCW. Such
18 programs shall be made available to eligible employees, retired
19 employees, and retired school employees as well as eligible dependents
20 which, for the purpose of this section, includes the parents of the
21 employee or retiree and the parents of the spouse of the employee or
22 retiree. Employees of local governments, political subdivisions, and
23 tribal governments not otherwise enrolled in the public employees'
24 benefits board sponsored medical programs may enroll under terms and
25 conditions established by the administrator, if it does not jeopardize
26 the financial viability of the public employees' benefits board's long-
27 term care offering.

28 (a) Participation of eligible employees or retired employees and
29 retired school employees in any long-term care insurance plan made
30 available by the public employees' benefits board is voluntary and
31 shall not be subject to binding arbitration under chapter 41.56 RCW.
32 Participation is subject to reasonable underwriting guidelines and
33 eligibility rules established by the public employees' benefits board
34 and the health care authority.

35 (b) The employee, retired employee, and retired school employee are
36 solely responsible for the payment of the premium rates developed by
37 the health care authority. The health care authority is authorized to
38 charge a reasonable administrative fee in addition to the premium

1 charged by the long-term care insurer, which shall include the health
2 care authority's cost of administration, marketing, and consumer
3 education materials prepared by the health care authority and the
4 office of the insurance commissioner.

5 (c) To the extent administratively possible, the state shall
6 establish an automatic payroll or pension deduction system for the
7 payment of the long-term care insurance premiums.

8 (d) The public employees' benefits board and the health care
9 authority shall establish a technical advisory committee to provide
10 advice in the development of the benefit design and establishment of
11 underwriting guidelines and eligibility rules. The committee shall
12 also advise the board and authority on effective and cost-effective
13 ways to market and distribute the long-term care product. The
14 technical advisory committee shall be comprised, at a minimum, of
15 representatives of the office of the insurance commissioner, providers
16 of long-term care services, licensed insurance agents with expertise in
17 long-term care insurance, employees, retired employees, retired school
18 employees, and other interested parties determined to be appropriate by
19 the board.

20 (e) The health care authority shall offer employees, retired
21 employees, and retired school employees the option of purchasing long-
22 term care insurance through licensed agents or brokers appointed by the
23 long-term care insurer. The authority, in consultation with the public
24 employees' benefits board, shall establish marketing procedures and may
25 consider all premium components as a part of the contract negotiations
26 with the long-term care insurer.

27 (f) In developing the long-term care insurance benefit designs, the
28 public employees' benefits board shall include an alternative plan of
29 care benefit, including adult day services, as approved by the office
30 of the insurance commissioner.

31 (g) The health care authority, with the cooperation of the office
32 of the insurance commissioner, shall develop a consumer education
33 program for the eligible employees, retired employees, and retired
34 school employees designed to provide education on the potential need
35 for long-term care, methods of financing long-term care, and the
36 availability of long-term care insurance products including the
37 products offered by the board.

1 (11) The board may establish penalties to be imposed by the
2 authority when the eligibility determinations of an employing agency
3 fail to comply with the criteria under this chapter.

4 **Sec. 4.** RCW 41.05.066 and 2007 c 156 s 9 are each amended to read
5 as follows:

6 A certificate of domestic partnership (~~issued to a couple of the~~
7 ~~same sex~~) qualified under the provisions of RCW 26.60.030 shall be
8 recognized as evidence of a qualified (~~same sex~~) domestic partnership
9 fulfilling all necessary eligibility criteria for the partner of the
10 employee to receive benefits. Nothing in this section affects the
11 requirements of (~~same sex~~) domestic partners to complete
12 documentation related to federal tax status that may currently be
13 required by the board for employees choosing to make premium payments
14 on a pretax basis.

15 **Sec. 5.** RCW 41.05.080 and 2009 c 523 s 1 and 2009 c 522 s 9 are
16 each reenacted and amended to read as follows:

17 (1) Under the qualifications, terms, conditions, and benefits set
18 by the board:

19 (a) Retired or disabled state employees, retired or disabled school
20 employees, retired or disabled employees of county, municipal, or other
21 political subdivisions, or retired or disabled employees of tribal
22 governments covered by this chapter may continue their participation in
23 insurance plans and contracts after retirement or disablement;

24 (b) Separated employees may continue their participation in
25 insurance plans and contracts if participation is selected immediately
26 upon separation from employment;

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

30 (2) Rates charged surviving spouses and surviving state registered
31 domestic partners of emergency service personnel killed in the line of
32 duty, retired or disabled employees, separated employees, spouses, or
33 dependent children who are not eligible for parts A and B of medicare
34 shall be based on the experience of the community rated risk pool
35 established under RCW 41.05.022.

1 (3) Rates charged to surviving spouses and surviving state
2 registered domestic partners of emergency service personnel killed in
3 the line of duty, retired or disabled employees, separated employees,
4 spouses, or children who are eligible for parts A and B of medicare
5 shall be calculated from a separate experience risk pool comprised only
6 of individuals eligible for parts A and B of medicare; however, the
7 premiums charged to medicare-eligible retirees and disabled employees
8 shall be reduced by the amount of the subsidy provided under RCW
9 41.05.085.

10 (4) Surviving spouses, surviving state registered domestic
11 partners, and dependent children of emergency service personnel killed
12 in the line of duty and retired or disabled and separated employees
13 shall be responsible for payment of premium rates developed by the
14 authority which shall include the cost to the authority of providing
15 insurance coverage including any amounts necessary for reserves and
16 administration in accordance with this chapter. These self pay rates
17 will be established based on a separate rate for the employee, the
18 spouse, state registered domestic partners, and the children.

19 (5) The term "retired state employees" for the purpose of this
20 section shall include but not be limited to members of the legislature
21 whether voluntarily or involuntarily leaving state office.

22 **Sec. 6.** RCW 41.05.095 and 2010 c 94 s 11 are each amended to read
23 as follows:

24 (1) Any plan offered to employees under this chapter must offer
25 each employee the option of covering any (~~unmarried~~) dependent of the
26 employee under the age of twenty-(~~five~~) six.

27 ~~(2) ((Any employee choosing under subsection (1) of this section to~~
28 ~~cover a dependent who is: (a) Age twenty through twenty three and not~~
29 ~~a registered student at an accredited secondary school, college,~~
30 ~~university, vocational school, or school of nursing; or (b) age twenty-~~
31 ~~four, shall be required to pay the full cost of such coverage.~~

32 ~~(3) Any employee choosing under subsection (1) of this section to~~
33 ~~cover a dependent with disabilities, mental illness, or intellectual or~~
34 ~~other developmental disabilities, who is incapable of self-support, may~~
35 ~~continue covering that dependent under the same premium and payment~~
36 ~~structure as for dependents under the age of twenty, irrespective of~~
37 ~~age)) Coverage must terminate upon attainment of age twenty-six except~~

1 in the case of a child who is and continues to be both (a) incapable of
2 self-sustaining employment by reason of a developmental disability or
3 physical handicap and (b) chiefly dependent upon the employee for
4 support and maintenance, provided proof of such incapacity and
5 dependency is furnished by the employee within sixty days of the
6 child's attainment of age twenty-six and subsequently as may be
7 required by the authority, but not more frequently than annually after
8 the two-year period following the child's attainment of age twenty-six.

9 **Sec. 7.** RCW 41.05.195 and 2009 c 523 s 2 are each amended to read
10 as follows:

11 Notwithstanding any other provisions of this chapter or rules or
12 procedures adopted by the authority, the authority shall make available
13 to retired or disabled employees who are enrolled in parts A and B of
14 medicare one or more medicare supplemental insurance policies that
15 conform to the requirements of chapter 48.66 RCW. The policies shall
16 be chosen in consultation with the public employees' benefits board.
17 These policies shall be made available to retired or disabled state
18 employees; retired or disabled school district employees; retired
19 employees of county, municipal, or other political subdivisions or
20 retired employees of tribal governments eligible for coverage available
21 under the authority; or surviving spouses or surviving state registered
22 domestic partners of emergency service personnel killed in the line of
23 duty.

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