

CHAPTER 4.

[H. B. 4.]

FEDERAL SOCIAL SECURITY FOR PUBLIC EMPLOYEES.

AN ACT relating to the covering of certain officers and employees of the state and local governments under the old-age and survivors insurance provisions of Title II of the federal social security act, as amended; fixing the powers and duties of certain state officials, and amending section 1, chapter 184, Laws of 1951 and RCW 41.48.010, and section 1, chapter 62, Laws of 1953 and RCW 41.48.020, and section 3, chapter 184, Laws of 1951 and RCW 41.48.030, and section 4, chapter 184, Laws of 1951 and RCW 41.48.040, and section 5, chapter 184, Laws of 1951 and RCW 41.48.050.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 1, chapter 184, Laws of 1951 and RCW 41.48.010 are each amended to read as follows: Amendment.

In order to extend to employees of the state and its political subdivisions and to the dependents and survivors of such employees, the basic protection accorded to others by the old-age and survivors insurance system embodied in the social security act, it is hereby declared to be the policy of the legislature, subject to the limitations of this chapter, that such steps be taken as to provide such protection to employees of the state and its political subdivisions on as broad a basis as is permitted under the social security act. Persons now members of or protected by any state or local pension or retirement plan or system may be covered under the federal social security act only as provided by the federal social security act amendments of 1954. (Public Law No. 761.) It is hereby declared to be the policy of the legislature in enacting the succeeding sections of this title that the protection afforded the employees in positions covered by a retirement system on the date an agreement under this title is made applicable to service performed in such positions, or re- Legislative
policy
declaration.

ceiving periodic benefits under such retirement system at such time, will not be impaired as the result of making the agreement so applicable whether the agreement provides for supplementation, integration or coordination.

Amendment.

SEC. 2. Section 1, chapter 62, Laws of 1953 and RCW 41.48.020 are each amended to read as follows:

For the purposes of this chapter:

Defined.
"Wages."

(1) "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the federal insurance contributions act, would not constitute "wages" within the meaning of that act;

"Employment."

(2) "Employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except (a) service which in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the social security act; or (b) service which under the social security act may not be included in an agreement between the state and the secretary of health, education, and welfare entered into under this chapter;

"Employee."

(3) "Employee" includes all officers and employees of the state or its political subdivisions except officials compensated on a fee basis;

"Secretary of health, education and welfare."

(4) "Secretary of health, education, and welfare" includes any individual to whom the secretary of health, education, and welfare has delegated any of his functions under the social security act with respect to coverage under such act of employees of states and their political subdivisions, and with respect to any action taken prior to April 11, 1953, includes the federal security administrator and any

individual to whom such administrator has delegated any such function;

(5) "Political subdivision" includes an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions. Such term also includes a proprietary enterprise acquired, purchased or originated by the state or any of its political subdivisions subsequent to December, 1950. Such a subdivision may elect to accept federal OASI coverage under this chapter.

"Political subdivision."

(6) "Federal insurance contributions act" means subchapter A of chapter 9 of the federal internal revenue code of 1939 and subchapters A and B of chapter 21 of the federal internal revenue code of 1954, as such codes have been and may from time to time be amended; and the term "employee tax" means the tax imposed by section 1400 of such code of 1939 and section 3101 of such code of 1954.

"Federal insurance contributions act."

SEC. 3. Section 3, chapter 184, Laws of 1951 and RCW 41.48.030 are each amended to read as follows:

Amendment.

(1) The governor is hereby authorized to enter on behalf of the state into an agreement with the secretary of health, education, and welfare consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision not members of an existing retirement system, or to members of a retirement system established by the state or by a political subdivision thereof or by an institution of higher learning with respect to services specified in such agreement which constitute "employment" as defined in RCW 41.48.020. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the governor and secre-

Authorization to governor to enter into agreement on behalf of state.

Contents of agreement.

Such agree-
ment shall
provide the
following.

tary of health, education, and welfare shall agree upon, but, except as may be otherwise required by or under the social security act as to the services to be covered, such agreement shall provide in effect that—

(a) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of title II of the social security act;

(b) The state will pay to the secretary of the treasury, at such time or times as may be prescribed under the social security act, contributions with respect to wages (as defined in RCW 41.48.020), equal to the sum of the taxes which would be imposed by the federal insurance contributions act if the services covered by the agreement constituted employment within the meaning of that act;

(c) Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year in which such agreement is entered into or in which the modification of the agreement making it applicable to such services, is entered into except that if a modification is entered into after December 31, 1954, and prior to January 1, 1958, which applies to individuals covered by an existing retirement system, such modification may be effective with respect to services performed after December 31, 1954, or after a later date specified in such modification.

(d) All services which constitute employment as defined in RCW 41.48.020 and are performed in the employ of the state by employees of the state, shall be covered by the agreement;

(e) All services which (i) constitute employment as defined in RCW 41.48.020, (ii) are performed in the employ of a political subdivision of the state, and (iii) are covered by a plan which is in conformity with the terms of the agreement and has been approved by the governor under RCW 41.48.050, shall be covered by the agreement; and

(f) As modified, the agreement shall include all services described in either paragraph (d) or paragraph (e) of this subsection and performed by individuals to whom section 218 (c) (3) (C) of the social security act is applicable, and shall provide that the service of any such individual shall continue to be covered by the agreement in case he thereafter becomes eligible to be a member of a retirement system; and

(g) As modified, the agreement shall include all services described in either paragraph (d) or paragraph (e) of this subsection and performed by individuals in positions covered by a retirement system with respect to which the governor has issued a certificate to the secretary of health, education, and welfare pursuant to subsection (5) of section 3 of this act.

(2) Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (a) to enter into an agreement with the secretary of health, education, and welfare whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality, (b) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under RCW 41.48.040 (1) if they were covered by an agreement made pursuant to subsection (1) of this section, and (c) to make payments to the secretary of the trea-

Authorization given jointly created instrumentality of this and another state.

sury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (1) and other provisions of this chapter.

Governor empowered to authorize referendum; question of exclusion of portions covered by present retirement system from agreement made under this chapter.

(3) The governor is empowered to authorize a referendum, and to designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218 (d) (3) of the social security act, and subsection 4 of section 3 of this act on the question of whether service in all positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this chapter. If a retirement system covers positions of employees of the state of Washington, the university of Washington, the state college of Washington and the several colleges of education, and positions of employees of one or more of the political subdivisions of the state, then for the purpose of the referendum as provided herein, there may be deemed to be a separate retirement system with respect to any one or more of the political subdivisions, or institutions of higher learning (excluding members of the state employees retirement system), named herein and the governor shall authorize a referendum upon request of the subdivisions' or institutions' of higher learning governing body: *Provided*, That any city or town affiliated with the statewide city employees retirement system organized under RCW 41.44 may at its option agree to a plan submitted by the board of trustees of said statewide city employees retirement system for inclusion under an agreement under this chapter if the referendum to be held as provided herein indicates a favorable result: *Provided further*, That the Teachers' Retirement System be considered one system for the pur-

pose of the referendum except as applied to the several colleges of education. The notice of referendum required by section 218 (d) (3) (C) of the social security act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this chapter.

(4) The governor, before authorizing a referendum, shall require the following conditions to be met:

Conditions prerequisite to referendum.

(a) The referendum shall be by secret written ballot on the question of whether service in positions covered by such retirement system shall be excluded from or included under the agreement between the governor and the secretary of health, education, and welfare provided for in RCW 41.48.030 (1);

Secret written ballot.

(b) An opportunity to vote in such referendum shall be given and shall be limited to eligible employees;

Eligible voters.

(c) Not less than ninety days' notice of such referendum shall be given to all such employees;

Notice.

(d) Such referendum shall be conducted under the supervision (of the governor or) of an agency or individual designated by the governor;

Supervision of referendum.

(e) The proposal for coverage shall be approved only if a majority of the eligible employees vote in favor of including services in such positions under the agreement;

Majority approval.

(f) The state legislature, in the case of a referendum affecting the rights and liabilities of state employees covered under the state employees' retirement system and employees under the teachers'

Legislative approval.

retirement system, and in all other cases the local legislative authority or governing body, shall have specifically approved the proposed plan and approved any necessary structural adjustment to the existing system to conform with the proposed plan.

Certification.

(5) Upon receiving satisfactory evidence that with respect to any such referendum the conditions specified in subsection 4 of section 3 of this act and section 218 (d) (3) of the social security act have been met, the governor shall so certify to the secretary of health, education, and welfare.

Amendment.

SEC. 4. Section 4, chapter 184, Laws of 1951 and RCW 41.48.040 are each amended to read as follows:

Employee's contribution.

(1) Every employee of the state whose services are covered by an agreement entered into under RCW 41.48.030 shall be required to pay for the period of such coverage, into the contribution fund established by RCW 41.48.060, contributions, with respect to wages (as defined in RCW 41.48.020), equal to the amount of employee tax which would be imposed by the federal insurance contributions act if such services constituted employment within the meaning of that act. Such liability shall arise in consideration of the employees' retention in the service of the state, or his entry upon such service, after the enactment of this chapter.

Procedure to collect contribution.

(2) The contribution imposed by this section shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution.

Proper adjustments authorized.

(3) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe.

SEC. 5. Section 5, chapter 184, Laws of 1951 and RCW 41.48.050 are each amended to read as follows:

(1) Each political subdivision of the state is hereby authorized to submit for approval by the governor a plan for extending the benefits of title II of the social security act, in conformity with the applicable provisions of such act, to those employees of such political subdivisions who are not covered by an existing pension or retirement system. Each pension or retirement system established by the state or a political subdivision thereof is hereby authorized to submit for approval by the governor a plan for extending the benefits of title II of the social security act, in conformity with applicable provisions of such act, to members of such pension or retirement system. Each such plan and any amendment thereof shall be approved by the governor if he finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the governor, except that no such plan shall be approved unless—

(a) It is in conformity with the requirements of the social security act and with the agreement entered into under RCW 41.48.030;

(b) It provides that all services which constitute employment as defined in RCW 41.48.020 and are performed in the employ of the political subdivision by employees thereof, shall be covered by the plan;

(c) It specifies the source or sources from which the funds necessary to make the payments required by paragraph (a) of subsection (3) and by subsection (4) of this section are expected to be derived and contains reasonable assurance that such sources will be adequate for such purposes;

(d) It provides that in the plan of coverage for members of the state teachers' retirement system or for state employee members of the state employees' retirement system, there shall be no additional cost

Amendment.

Political subdivisions authorized to submit plans for extending benefits of title II of social security act.

Approval of plan by governor.

Conditions prerequisite to plan approval.

to or involvement of the state until such plan has received prior approval by the legislature;

(e) It provides for such methods of administration of the plan by the political subdivision as are found by the governor to be necessary for the proper and efficient administration of the plan;

(f) It provides that the political subdivision will make such reports, in such form and containing such information, as the governor may from time to time require and comply with such provisions as the governor or the secretary of health, education, and welfare may from time to time find necessary to assure the correctness and verification of such reports; and

(g) It authorizes the governor to terminate the plan in its entirety, in his discretion, if he finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the governor and may be consistent with the provisions of the social security act.

Notice and hearing prerequisite to disapproval or termination of plan.

(2) The governor shall not finally refuse to approve a plan submitted by a political subdivision under subsection (1), and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

Contributions by political subdivision.

(3) (a) Each political subdivision as to which a plan has been approved under this section shall pay into the contribution fund, with respect to wages (as defined in RCW 41.48.020), at such time or times as the governor may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the governor under RCW 41.48.030.

(b) Each political subdivision required to make payments under paragraph (a) of this subsection is authorized, in consideration of the employee's reten-

tion in, or entry upon, employment after enactment of this chapter, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages (as defined in RCW 41.48.020), not exceeding the amount of employee tax which is imposed by the federal insurance contributions act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the OASI contribution fund in partial discharge of the liability of such political subdivision or instrumentality under paragraph (a) of this subsection. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

Limitation on amount of employee's deductible contribution.

(4) Delinquent payments due under paragraph (a) of subsection (3) may, with interest at the rate of six percent per annum, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the governor, be deducted from any other moneys payable to such subdivision by any department or agency of the state.

Delinquent payments.

Passed the House March 20, 1955.

Passed the Senate March 19, 1955.

Approved by the Governor April 4, 1955.