

**RCW 41.40.230 Nonduty disability—Applicability to certain judges.** (1) Subject to the provisions of RCW 41.40.310 and 41.40.320, upon application of a member, or his or her employer, a member who has been an employee at least five years, and who becomes totally and permanently incapacitated for duty as the result of causes occurring not in the performance of his or her duty, may be retired by the department, subject to the following conditions:

(a) That the medical adviser, after a medical examination of the member made by or under the direction of the medical adviser, shall certify in writing that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired; and

(b) That the department concurs in the recommendation of the medical adviser.

(2) The retirement for disability of a judge, who is a member of the retirement system and who has been an employee at least five years, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (Amendment 71), with the concurrence of the department, shall be considered a retirement under subsection (1) of this section. [1991 c 35 s 82; 1982 c 18 s 4; 1969 c 128 s 9; 1951 c 50 s 7; 1949 c 240 s 17; 1947 c 274 s 24; Rem. Supp. 1949 s 11072-24.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—1969 c 128:** See note following RCW 41.40.010.