

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1211

52nd Legislature
1991 Regular Session

Passed by the House March 18, 1991
Yeas 93 Nays 5

**Speaker of the
House of Representatives**

Passed by the Senate April 19, 1991
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1211** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 1211

AS AMENDED BY THE SENATE

Passed Legislature - 1991 Regular Session

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Belcher, Hine, Silver, G. Fisher, Fraser, Winsley, Padden and Phillips).

Read first time January 31, 1991.

1 AN ACT Relating to the assignment of retirement benefits; amending
2 RCW 41.50.500, 41.50.510, 41.50.530, 41.50.540, 41.50.550, 41.50.560,
3 41.50.580, 41.50.590, 41.50.600, 41.50.620, 41.50.630, 41.50.650,
4 2.10.180, 2.12.090, 41.26.180, 41.32.590, 41.40.380, 43.43.310,
5 26.09.138, 6.27.150, 41.40.270, 41.40.700, 41.32.520, 41.32.805,
6 41.26.510, 43.43.280, 41.32.550, and 41.26.030; adding new sections to
7 chapter 41.50 RCW; and adding a new section to chapter 41.32 RCW.

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

9 **Sec. 1.** RCW 41.50.500 and 1987 c 326 s 1 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout RCW 41.50.500 through 41.50.650, sections
13 13 through 17, and 25 of this act, and 26.09.138.

14 (1) "Benefits" means periodic retirement payments or a withdrawal
15 of accumulated contributions.

1 (2) "Disposable benefits" means that part of the benefits of an
2 individual remaining after the deduction from those benefits of any
3 amount required by law to be withheld. The term "required by law to be
4 withheld" does not include any deduction elective to the member.

5 (3) "Dissolution order" means any judgment, decree, or order of
6 spousal maintenance, property division, or court-approved property
7 settlement incident to a decree of divorce, dissolution, invalidity, or
8 legal separation issued by the superior court of the state of
9 Washington or a judgment, decree, or other order of spousal support
10 issued by a court of competent jurisdiction in another state or
11 country, that has been registered or otherwise made enforceable in this
12 state.

13 (4) "Mandatory benefits assignment order" means an order issued to
14 the department of retirement systems pursuant to RCW 41.50.570 to
15 withhold and deliver benefits payable to an obligor under chapter 2.10,
16 2.12, 41.26, 41.32, 41.40, or 43.43 RCW.

17 (5) "Obligee" means an ex spouse or spouse to whom a duty of
18 spousal maintenance or property division obligation is owed.

19 (6) "Obligor" means the spouse or ex spouse owing a duty of spousal
20 maintenance or a property division obligation.

21 (7) "Periodic retirement payments" means periodic payments of
22 retirement allowances, including but not limited to service retirement
23 allowances, disability retirement allowances, and survivors'
24 allowances. The term does not include a withdrawal of accumulated
25 contributions.

26 (8) "Property division obligation" means any outstanding court-
27 ordered property division or court-approved property settlement
28 obligation incident to a decree of divorce, dissolution, or legal
29 separation.

1 (9) "Standard allowance" means a benefit payment option selected
2 under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a),
3 41.40.188(1)(a), or 41.40.660(1), that ceases upon the death of the
4 retiree. Standard allowance also means the benefit allowance provided
5 under RCW 2.10.110, 2.10.130, 43.43.260, 41.26.100, 41.26.130(1)(a), or
6 chapter 2.12 RCW. Standard allowance also means the maximum retirement
7 allowance available under RCW 41.32.530(1) following member withdrawal
8 of accumulated contributions, if any.

9 (10) "Withdrawal of accumulated contributions" means a lump sum
10 payment to a retirement system member of all or a part of the member's
11 accumulated contributions, including accrued interest, at the request
12 of the member(~~(. The term does not include)~~) including any lump sum
13 amount paid upon the death of the member.

14 **Sec. 2.** RCW 41.50.510 and 1987 c 326 s 2 are each amended to read
15 as follows:

16 (1) The remedies provided in RCW 41.50.530 through 41.50.650 and
17 26.09.138 are in addition to, and not in substitution for, any other
18 remedies provided by law to enforce a dissolution order against an
19 obligor.

20 (2) (~~(Except for the remedies provided in chapters 26.18 and 74.20A~~
21 ~~RCW,)~~) The remedies provided in RCW 41.50.530 through 41.50.630 shall
22 be the exclusive remedies enforceable against the department of
23 retirement systems or the retirement systems listed in RCW 41.50.030
24 (in connection with any action or as a result of a judgment, decree,
25 or order of) to recover spousal maintenance pursuant to a dissolution,
26 divorce, or legal separation order.

27 (3) RCW 41.50.530 through 41.50.650 and 26.09.138 apply to all
28 dissolution orders incident to a decree of divorce, dissolution, or
29 legal separation whether entered before or after July 1, 1987.

1 **Sec. 3.** RCW 41.50.530 and 1987 c 326 s 4 are each amended to read
2 as follows:

3 (1) A proceeding to enforce a duty of spousal maintenance (~~(or a~~
4 ~~property division obligation by means of)~~) through a mandatory benefits
5 assignment order may be commenced by an obligee:

6 (a) By filing a petition for an original action; or

7 (b) By motion in an existing action or under an existing cause
8 number.

9 (2) Venue for the action is in the superior court of the county of
10 the state of Washington where the obligee resides or is present, where
11 the obligor resides, or where the prior dissolution order was entered.

12 (3) The court retains continuing jurisdiction under RCW 41.50.500
13 through 41.50.650 and 26.09.138 until the obligor has satisfied all
14 duties of spousal maintenance (~~(and all property settlement obligations~~
15 ~~of the obligor)~~), including arrearages, (~~(with respect)~~) to the obligee
16 (~~(have been satisfied)~~).

17 **Sec. 4.** RCW 41.50.540 and 1987 c 326 s 5 are each amended to read
18 as follows:

19 (1) Every court order or decree establishing a spousal maintenance
20 obligation (~~(or property division obligation)~~) may state that if any
21 such payment is more than fifteen days past due and the total of such
22 past due payments is equal to or greater than one hundred dollars or if
23 the obligor requests a withdrawal of accumulated contributions from the
24 department of retirement systems, the obligee may seek a mandatory
25 benefits assignment order without prior notice to the obligor. Failure
26 to include this provision does not affect the validity of the
27 dissolution order.

28 (2) If the dissolution order under which the obligor owes the duty
29 of spousal maintenance (~~(or a property division obligation)~~) is not in

1 compliance with subsection (1) of this section or if the obligee cannot
2 show that the obligor has approved or received a copy of the court
3 order or decree that complies with subsection (1) of this section, then
4 notice shall be provided to the obligor at least fifteen days before
5 the obligee seeks a mandatory benefits assignment order. The notice
6 shall state that, if a spousal maintenance ((~~or property division~~))
7 payment is more than fifteen days past due and the total of such past
8 due payments is equal to or greater than one hundred dollars or if the
9 obligor requests a withdrawal of accumulated contributions from the
10 department of retirement systems, the obligee may seek a mandatory
11 benefits assignment order without further notice to the obligor.
12 Service of the notice shall be by personal service, or by any form of
13 mail requiring a return receipt. The notice requirement under this
14 subsection is not jurisdictional.

15 **Sec. 5.** RCW 41.50.550 and 1987 c 326 s 6 are each amended to read
16 as follows:

17 (1) An obligee who wishes to be notified by the department of
18 retirement systems if the obligor seeks a withdrawal of accumulated
19 contributions shall submit such a request to the department in writing
20 on a form supplied by the department. The request shall be filed by
21 certified or registered mail and shall include the obligee's address
22 and a copy of the dissolution order requiring the spousal maintenance
23 ((~~or property division obligation~~)) owed.

24 (2) The department shall thereafter promptly send notice to the
25 obligee at the address provided in subsection (1) of this section when
26 the obligor applies for a withdrawal of accumulated contributions. The
27 department shall not process the obligor's request for a withdrawal of
28 accumulated contributions sooner than seventy-five days after sending
29 the notice to the obligee.

1 (3) The department (~~may~~) shall pay directly to an obligee who has
2 not obtained a mandatory benefits assignment order all or part of the
3 accumulated contributions (~~(withdrawn by an obligor if, and only)~~) if
4 the dissolution order filed with the department pursuant to subsection
5 (1) of this section includes a provision that states (~~(in substantially~~
6 ~~the following form)~~):

7 "At such time as (the obligor) requests a withdrawal of
8 accumulated contributions as defined in RCW 41.50.500, the department
9 of retirement systems shall pay to (the obligee)
10 dollars from such accumulated contributions or percentage of such
11 accumulated contributions (whichever is provided by the court)."

12 **Sec. 6.** RCW 41.50.560 and 1987 c 326 s 7 are each amended to read
13 as follows:

14 (1) A petition or motion seeking a mandatory benefits assignment
15 order in an action under RCW 41.50.530 may be filed by an obligee if
16 the obligor is more than fifteen days past due in spousal maintenance
17 (~~(or property division obligation)~~) payments and the total of such past
18 due payments is equal to or greater than one hundred dollars or if the
19 obligor requests a withdrawal of accumulated contributions from the
20 department of retirement systems. The petition or motion shall include
21 a sworn statement by the obligee, stating the facts authorizing the
22 issuance of the mandatory benefits assignment order, including:

23 (a) That the obligor, stating his or her name, residence, and
24 social security number, (i) is more than fifteen days past due in
25 spousal maintenance payments (~~(or property division obligation~~
26 ~~payments)~~) and that the total of such past due payments is equal to or
27 greater than one hundred dollars, or (ii) has requested a withdrawal of
28 accumulated contributions from the department of retirement systems;

1 (b) A description of the terms of the dissolution order requiring
2 payment of spousal maintenance (~~((or a property division obligation))~~)
3 and the amount, if any, past due;

4 (c) The name of the public retirement system or systems from which
5 the obligor is currently receiving periodic retirement benefits or from
6 which the obligor has requested a withdrawal of accumulated
7 contributions; and

8 (d) That notice has been provided to the obligor as required by RCW
9 41.50.540.

10 (2) If the court in which a mandatory benefits assignment order is
11 sought does not already have a copy of the dissolution order in the
12 court file, then the obligee shall attach a copy of the dissolution
13 order to the petition or motion seeking the mandatory benefits
14 assignment order.

15 **Sec. 7.** RCW 41.50.580 and 1987 c 326 s 9 are each amended to read
16 as follows:

17 (1)(a) The mandatory benefits assignment order (~~(in)~~) issued
18 pursuant to RCW 41.50.570 and directed at periodic retirement benefits
19 shall include:

20 (i) The maximum amount of current spousal maintenance (~~((or property~~
21 ~~division obligation, if any,))~~) to be withheld from the obligor's
22 periodic retirement benefits each month;

23 (ii) The total amount of the arrearage judgments previously entered
24 by the court, if any, together with interest, if any; and

25 (iii) The maximum amount to be withheld from the obligor's periodic
26 retirement payments each month to satisfy the arrearage judgments
27 specified in (a)(ii) of this subsection.

28 (b) (~~((With respect to such a mandatory benefits assignment order,))~~)
29 The total amount to be withheld from the obligor's periodic retirement

1 payments each month pursuant to a mandatory benefits assignment order
2 shall not exceed fifty percent of the disposable benefits of the
3 obligor (~~or the maximum amount allowed by 15 U.S.C. Sec. 1673,~~
4 ~~whichever is less~~). If the amounts to be paid toward the arrearage
5 are specified in the assignment order, then the maximum amount to be
6 withheld is the sum of the current maintenance ordered and the amount
7 ordered to be paid toward the arrearage, or fifty percent of the
8 disposable benefits of the obligor, whichever is less.

9 (c) (~~Except as otherwise required by federal law,~~) Fifty percent
10 of the disposable benefits of the obligor are exempt from collection
11 under the assignment order, and may be disbursed by the department to
12 the obligor. The provisions of RCW 6.27.150 do not apply to mandatory
13 benefits assignment orders under this chapter.

14 (2)(a) A mandatory benefits assignment order (~~in~~) issued pursuant
15 to RCW 41.50.570 and directed at a withdrawal of accumulated
16 contributions shall include:

17 (i) (~~The property division interest, if any, of the obligee in the~~
18 ~~obligor's accumulated contributions, established by the dissolution~~
19 ~~order, which interest shall be stated as either a dollar amount or a~~
20 ~~percentage amount in the mandatory benefits assignment order~~) The
21 maximum amount of current spousal maintenance to be withheld from the
22 obligor's accumulated contributions;

23 (ii) The total amount of the arrearage judgments for spousal
24 maintenance payments (~~or property division payments~~) entered by the
25 court, if any, together with interest, if any; and

26 (iii) The amount to be withheld from the obligor's withdrawal of
27 accumulated contributions to satisfy the (~~property division interest~~)
28 current maintenance obligation and the arrearage judgments specified in

29 (a) (i) and (ii) of this subsection;

1 (b) (~~With respect to such a mandatory benefits assignment order,~~)
2 The total amount to be withheld from the obligor's withdrawal of
3 accumulated contributions may be up to one hundred percent of the
4 disposable benefits of the obligor.

5 (3) If an obligor is subject to two or more mandatory benefits
6 assignment orders on account of different obligees and if the nonexempt
7 portion of the obligor's benefits is not sufficient to respond fully to
8 all the mandatory benefits assignment orders, the department shall
9 apportion the obligor's nonexempt disposable benefits among the various
10 obligees in (~~equal~~) proportionate shares to the extent permitted by
11 federal law. Any obligee may seek a court order directing the
12 department to reapportion the obligor's nonexempt disposable earnings
13 upon notice to all interested obligees. The order must specifically
14 supersede the terms of previous mandatory benefits assignment orders
15 the terms of which it alters. Notice shall be by personal service, or
16 in a manner provided by the civil rules of superior court or applicable
17 statute.

18 **Sec. 8.** RCW 41.50.590 and 1987 c 326 s 10 are each amended to read
19 as follows:

20 The mandatory benefits assignment order shall be (~~substantially~~)
21 in the following form:

22 IN THE SUPERIOR COURT OF THE STATE OF
23 WASHINGTON IN AND FOR THE COUNTY OF
24

25,	
26 Obligee	No...
27 vs.	
28,	MANDATORY
29 Obligor	BENEFITS ASSIGNMENT
	ORDER

31,
32 The Department of Retirement Systems
33 of the State of Washington
34 THE STATE OF WASHINGTON TO: The Department of Retirement Systems
35 AND TO:

Obligor

1
2
3 The above-named obligee claims that the above-named obligor is more
4 than fifteen days past due in spousal maintenance (~~(or property~~
5 ~~division obligation)~~) payments and that the total amount of such past
6 due payments is equal to or greater than one hundred dollars or that
7 the obligor has requested a withdrawal of accumulated contributions
8 from the department of retirement systems. The amount of the accrued
9 past due spousal maintenance (~~(or property division obligation)~~) debt
10 as of this date is dollars. If the obligor is receiving
11 periodic retirement payments from the department, the amount to be
12 withheld from the obligor's benefits to satisfy such accrued spousal
13 maintenance (~~(or property division obligation)~~) is dollars
14 per month and the amount to be withheld from the obligor's benefits to
15 satisfy current and continuing spousal maintenance (~~(or property~~
16 ~~division obligation)~~) is per month. Upon satisfaction of
17 the accrued past due spousal maintenance debt, the department shall
18 withhold only dollars, the amount necessary to satisfy
19 current and continuing spousal maintenance from the obligor's benefits.
20 If the obligor has requested a withdrawal of accumulated contributions
21 from the department, the amount to be withheld from the obligor's
22 benefits to satisfy such accrued spousal maintenance (~~(or property~~
23 ~~division obligation)~~) is dollars (~~(and the amount to be~~
24 ~~withheld from the obligor's benefits to satisfy the obligee's property~~
25 ~~division interest in the obligor's accumulated contributions is ...~~
26 ~~percent of the disposable benefits or is dollars)~~).

27 You are hereby commanded to answer this order by filling in the
28 attached form according to the instructions, and you must mail or
29 deliver the original of the answer to the court, one copy to the
30 obligee or obligee's attorney, and one copy to the obligor within
31 twenty days after service of this benefits assignment order upon you.

32 (1) If you are currently paying periodic retirement payments to the
33 obligor, then you shall do as follows:

34 (a) Withhold from the obligor's retirement payments each month the
35 lesser of:

36 (i) The sum of the specified arrearage payment amount plus the
37 specified current spousal maintenance (~~(or property division~~
38 ~~obligation)~~) amount; or

39 (ii) Fifty percent of the disposable benefits of the obligor (~~(or~~
40 ~~the maximum amount allowed by federal law, whichever is less)~~).

41 (b) The total amount withheld above is subject to the mandatory
42 benefits assignment order, and all other sums may be disbursed to the
43 obligor.

44 You shall continue to withhold the ordered amounts from nonexempt
45 benefits of the obligor until notified by a court order that the
46 mandatory benefits assignment order has been modified or terminated.
47 You shall promptly notify the court if and when the obligor is no
48 longer receiving periodic retirement payments from the department of
49 retirement systems.

50 You shall deliver the withheld benefits to the clerk of the court
51 that issued this mandatory benefits assignment order each month, but
52 the first delivery shall occur no sooner than twenty days after your
53 receipt of this mandatory benefits assignment order.

54 (2) If you are not currently paying periodic retirement payments to
55 the obligor but the obligor has requested a withdrawal of accumulated
56 contributions, then you shall do as follows:

57 (a) Withhold from the obligor's benefits the sum of the specified
58 arrearage payment amount plus the specified (~~(property division)~~)

1 interest amount, up to one hundred percent of the disposable benefits
2 of the obligor.

3 (b) The total amount withheld above is subject to the mandatory
4 benefits assignment order, and all other sums may be disbursed to the
5 obligor.

6 You shall mail a copy of this order and a copy of your answer to
7 the obligor at the mailing address in the department's files as soon as
8 is reasonably possible. This mandatory benefits assignment order has
9 priority over any assignment or order of execution, garnishment,
10 attachment, levy, or similar legal process authorized by Washington
11 law, except for a wage assignment order for child support under chapter
12 26.18 RCW or order to withhold or deliver under chapter 74.20A RCW.

13 NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE
14 SUPERIOR COURT THAT ISSUED THIS MANDATORY BENEFITS ASSIGNMENT ORDER, TO
15 REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE MANDATORY
16 BENEFITS ASSIGNMENT ORDER.

17 DATED THIS ... day of ..., 19

18
19 Obligee, Judge/Court Commissioner
20 or obligee's attorney

21 **Sec. 9.** RCW 41.50.600 and 1987 c 326 s 11 are each amended to read
22 as follows:

23 (1) The director or the director's designee shall answer an order
24 by sworn affidavit within twenty days after the date of service. The
25 answer shall state whether the obligor receives periodic payments from
26 the department of retirement systems, whether the obligor has requested
27 a withdrawal of accumulated contributions from the department, whether
28 the department will honor the mandatory benefits assignment order and
29 if not, the reasons why, and whether there are other current court or
30 administrative orders on file with the department directing the
31 department to withhold all or a portion of the obligor's benefits.

32 (2)(a) If any periodic retirement payments are currently payable to
33 the obligor, the funds subject to the mandatory benefits assignment
34 order shall be withheld from the next periodic retirement payment due
35 twenty days or more after receipt of the mandatory benefits assignment
36 order. The withheld amount shall be delivered to the clerk of the
37 court that issued the mandatory benefits assignment order each month,

1 but the first delivery shall occur no sooner than twenty days after
2 receipt of the mandatory benefits assignment order.

3 (b) The department shall continue to withhold the ordered amount
4 from nonexempt benefits of the obligor until notified by the court that
5 the mandatory benefits assignment order has been modified or
6 terminated. If the department is initially unable to comply, or able
7 to comply only partially, with the withholding obligation, the court's
8 order shall be interpreted to require the department to comply to the
9 greatest extent possible at the earliest possible date. The department
10 shall notify the court of changes in withholding amounts and the reason
11 for the change. When the obligor is no longer eligible to receive
12 funds from one or more public retirement systems the department shall
13 promptly notify the court.

14 (3)(a) If no periodic retirement payments are currently payable to
15 the obligor but the obligor has requested a withdrawal of accumulated
16 contributions, the funds subject to the mandatory benefits assignment
17 order shall be withheld from the withdrawal payment. The withheld
18 amount shall be delivered to the clerk of the court that issued the
19 mandatory benefits assignment order.

20 (b) If the department is unable to comply fully with the
21 withholding obligation, the court's order shall be interpreted to
22 require the department to comply to the greatest extent possible.

23 (4) The department may deduct a processing fee from the remainder
24 of the obligor's funds after withholding under the mandatory benefits
25 assignment order, unless the remainder is exempt under RCW 41.50.580.
26 The processing fee may not exceed (a) twenty-five dollars for the first
27 disbursement made by the department to the superior court clerk; and
28 (b) six dollars for each subsequent disbursement to the clerk. Funds
29 collected pursuant to this subsection shall be deposited in the
30 department of retirement systems expense fund.

1 (5) A court order for spousal maintenance (~~(or a property division~~
2 ~~obligation)~~) governed by RCW 41.50.500 through 41.50.650 or 26.09.138
3 shall have priority over any other assignment or order of execution,
4 garnishment, attachment, levy, or similar legal process authorized
5 under Washington law, except for a mandatory wage assignment for child
6 support under chapter 26.18 RCW, or an order to withhold and deliver
7 under chapter 74.20A RCW.

8 (6) If the department, without good cause, fails to withhold funds
9 as required by a mandatory benefits assignment order issued under RCW
10 41.50.570, the department may be held liable to the obligee for any
11 amounts wrongfully disbursed to the obligor in violation of the
12 mandatory benefits assignment order. However, the department shall
13 under no circumstances be held liable for failing to withhold funds
14 from a withdrawal of accumulated contributions unless the mandatory
15 benefits assignment order was properly served on the department at
16 least thirty days before the department made the withdrawal payment to
17 the obligor. If the department is held liable to an obligee for
18 failing to withhold funds as required by a mandatory benefits
19 assignment order, the department may recover such amounts paid to an
20 obligee by thereafter either withholding such amounts from the
21 available nonexempt benefits of the obligor or filing a legal action
22 against the obligor.

23 (7) If the department complies with a court order pursuant to RCW
24 41.50.500 through 41.50.650, neither the department, its officers, its
25 employees, nor any of the retirement systems listed in RCW 41.50.030
26 may be liable to the obligor or an obligee for wrongful withholding.

27 (8) The department may combine amounts withheld from various
28 obligors into a single payment to the superior court clerk, if the
29 payment includes a listing of the amounts attributable to each obligor
30 and other information as required by the clerk.

1 (9) The department shall mail to the obligor at the obligor's last
2 known mailing address appearing in the department's files copies of the
3 mandatory benefits assignment order and the department's answer within
4 twenty days after receiving the mandatory benefits assignment order.

5 (10) The department shall not consider any withholding allowance
6 that is elective to the employee to be a mandatory deduction for
7 purposes of calculating the member's disposable benefits subject to a
8 mandatory benefits assignment order. The department shall withhold
9 elective withholdings as elected by the employee after deducting from
10 the benefit the amount owing to an obligee pursuant to a mandatory
11 benefits assignment order.

12 **Sec. 10.** RCW 41.50.620 and 1987 c 326 s 13 are each amended to
13 read as follows:

14 (1) Service of the mandatory benefits assignment order on the
15 department is invalid unless it is served with four answer forms in
16 (~~substantial~~) conformance with RCW 41.50.610, together with stamped
17 envelopes addressed to, respectively, the clerk of the court where the
18 order was issued, the obligee's attorney or the obligee, and the
19 obligor at the last mailing address known to the obligee. The obligee
20 shall also include an extra copy of the mandatory benefits assignment
21 order for the department to mail to the obligor. Service on the
22 department shall be in person or by any form of mail requiring a return
23 receipt.

24 (2) On or before the date of service of the mandatory benefits
25 assignment order on the department, the obligee shall mail or cause to
26 be mailed by certified or registered mail a copy of the mandatory
27 benefits assignment order to the obligor at the obligor's last mailing
28 address known to the obligee; or, in the alternative, a copy of the
29 mandatory benefits assignment order shall be served on the obligor in

1 the same manner as a summons in a civil action on, before, or within
2 two days after the date of service of the order on the department. This
3 requirement is not jurisdictional, but if the copy is not mailed or
4 served as this subsection requires, or if any irregularity appears with
5 respect to the mailing or service, the superior court, in its
6 discretion, may quash the mandatory benefits assignment order, upon
7 motion of the obligor promptly made and supported by an affidavit
8 showing that the obligor has been prejudiced due to the failure to mail
9 or serve the copy.

10 **Sec. 11.** RCW 41.50.630 and 1987 c 326 s 14 are each amended to
11 read as follows:

12 In a hearing to quash, modify, or terminate the mandatory benefits
13 assignment order, the court may grant relief only upon a showing that
14 the mandatory benefits assignment order causes extreme hardship or
15 substantial injustice. Satisfaction by the obligor of all past due
16 payments subsequent to the issuance of the mandatory benefits
17 assignment order is not grounds to quash, modify, or terminate the
18 mandatory benefits assignment order. If a mandatory benefits
19 assignment order has been in operation for twelve consecutive months
20 and the obligor's spousal maintenance (~~or property division~~
21 ~~obligation~~) is current, the court may terminate the order upon motion
22 of the obligor unless the obligee can show good cause as to why the
23 mandatory benefits assignment order should remain in effect.

24 **Sec. 12.** RCW 41.50.650 and 1987 c 326 s 16 are each amended to
25 read as follows:

26 (1) Notwithstanding RCW 2.10.180(1), 2.12.090(1), 41.26.180(1),
27 41.32.590(1), 41.40.380(1), and 43.43.310(1) as those sections existed
28 between July 1, 1987, and the effective date of this act, the

1 department of retirement systems (~~may~~) shall make direct payments of
2 benefits to a spouse or ex spouse pursuant to court orders or decrees
3 entered before July 1, 1987, that complied with all the requirements in
4 RCW 2.10.180(1), 2.12.090(2), 41.26.180(3), 41.32.590(3), 41.40.380(3),
5 43.43.310(2), and 41.04.310 through 41.04.330, as such requirements
6 existed before July 1, 1987. The department shall be responsible for
7 making direct payments only if the decree or court order expressly
8 orders the department to make direct payments to the spouse or ex
9 spouse and specifies a sum certain or percentage amount of the benefit
10 payments to be made to the spouse or ex spouse.

11 (2) The department of retirement systems shall notify a spouse or
12 ex spouse who, pursuant to a mandatory benefits assignment order
13 entered between July 1, 1987, and the effective date of this act, is
14 receiving benefits in satisfaction of a court-ordered property
15 division, that he or she is entitled to receive direct payments of a
16 court-ordered property division pursuant to section 13 of this act if
17 the dissolution order fully complies or is modified to fully comply
18 with the requirements of sections 13 through 17 and 25 of this act and,
19 as applicable, RCW 2.10.180, 2.12.090, 41.26.180, 41.32.590, 41.40.380,
20 43.43.310, and 26.09.138. The department shall send notice in writing
21 as soon as reasonably feasible but no later than ninety days after the
22 effective date of this act. The department shall also send notice to
23 the obligor member spouse.

24 NEW SECTION. Sec. 13. (1) Nothing in this chapter regarding
25 mandatory assignment of benefits to enforce a spousal maintenance
26 obligation shall abridge the right of an obligee to direct payments of
27 retirement benefits to satisfy a property division obligation ordered
28 pursuant to a court decree of dissolution or legal separation or any
29 court order or court-approved property settlement agreement incident to

1 any court decree of dissolution or legal separation as provided in RCW
2 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, 41.26.180,
3 41.32.590, 41.40.380, 43.43.310, or 26.09.138, as those statutes
4 existed before July 1, 1987, and as those statutes exist on and after
5 the effective date of this act. The department shall pay benefits
6 under this chapter in a lump sum or as a portion of periodic retirement
7 payments as expressly provided by the dissolution order. A dissolution
8 order may not order the department to pay a periodic retirement payment
9 or lump sum unless that payment is specifically authorized under the
10 provisions of chapter 2.10, 2.12, 41.26, 41.32, 41.40, or 43.43 RCW, as
11 applicable.

12 (2) The department shall pay directly to an obligee the amount of
13 periodic retirement payments or lump sum payment, as appropriate,
14 specified in the dissolution order if the dissolution order filed with
15 the department pursuant to subsection (1) of this section includes a
16 provision that states in the following form:

17 If (the obligor) receives periodic retirement payments
18 as defined in RCW 41.50.500, the department of retirement systems shall
19 pay to (the obligee) dollars from such payments
20 or percent of such payments. If the obligor's debt is expressed
21 as a percentage of his or her periodic retirement payment and the
22 obligee does not have a survivorship interest in the obligor's benefit,
23 the amount received by the obligee shall be the percentage of the
24 periodic retirement payment that the obligor would have received had he
25 or she selected a standard allowance.

26 If (the obligor) requests or has requested a withdrawal
27 of accumulated contributions as defined in RCW 41.50.500, or becomes
28 eligible for a lump sum death benefit, the department of retirement
29 systems shall pay to (the obligee) dollars plus

1 interest at the rate paid by the department of retirement systems on
2 member contributions. Such interest to accrue from the date of this
3 order's entry with the court of record.

4 (3) This section does not require a member to select a standard
5 allowance upon retirement nor does it require the department to
6 recalculate the amount of a retiree's periodic retirement payment based
7 on a change in survivor option.

8 (4) A court order under this section may not order the department
9 to pay more than seventy-five percent of an obligor's periodic
10 retirement payment to an obligee.

11 (5) Persons whose court decrees were entered between July 1, 1987,
12 and the effective date of this act shall also be entitled to receive
13 direct payments of retirement benefits to satisfy court-ordered
14 property divisions if the dissolution orders comply or are modified to
15 comply with this section and sections 14 through 17 and 25 of this act
16 and, as applicable, RCW 2.10.180, 2.12.090, 41.26.180, 41.32.590,
17 41.40.380, 43.43.310, and 26.09.138.

18 (6) The obligee must file a copy of the dissolution order with the
19 department within ninety days of that order's entry with the court of
20 record.

21 (7) A division of benefits pursuant to a dissolution order under
22 this section shall be based upon the obligor's gross benefit prior to
23 any deductions. If the department is required to withhold a portion of
24 the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of
25 that amount plus the amount owed to the obligee exceeds the total
26 benefit, the department shall satisfy the withholding requirements
27 under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee.
28 The provisions of this subsection do not apply to amounts withheld
29 pursuant to 26 U.S.C. Sec. 3402(i).

1 NEW SECTION. **Sec. 14.** The department may deduct a processing
2 fee for administering direct payments under section 13 of this act
3 according to the dissolution order. The fee may not exceed (1)
4 seventy-five dollars or the actual average administrative costs,
5 whichever is less, for the first disbursement made by the department;
6 and (2) six dollars or the actual average administrative costs,
7 whichever is less for subsequent disbursements. The department shall
8 deduct the fee in equal dollar amounts from the obligee's and obligor's
9 payments. The funds collected pursuant to this section shall be
10 deposited in the department of retirement systems expense account.

11 NEW SECTION. **Sec. 15.** Unless otherwise prohibited by federal
12 law, following both the initial and final postretirement audit of an
13 obligor's retirement benefit, the department shall provide an obligee
14 entitled to direct payment of retirement benefits pursuant to a
15 dissolution order under section 13 of this act with a statement of
16 monthly retirement benefit allowance to be paid to the obligor, and
17 other retirement benefit information available to the obligor including
18 the average final compensation, total years of service, retirement
19 date, the amount of the employee contributions made prior to
20 implementation of employer pickup under RCW 41.04.445 and 41.04.450,
21 and savings and interest.

22 NEW SECTION. **Sec. 16.** (1) The department's obligation to
23 provide direct payment of a property division obligation to an obligee
24 under section 13 of this act shall cease upon the death of the obligee
25 or upon the death of the obligor, whichever comes first. However, if
26 an obligor dies and is eligible for a lump sum death benefit, the
27 department shall be obligated to provide direct payment to the obligee

1 of all or a portion of the withdrawal of accumulated contributions
2 pursuant to a court order that complies with section 13 of this act.

3 (2) The direct payment of a property division obligation to an
4 obligee under section 13 of this act shall be paid as a deduction from
5 the member's periodic retirement payment. An obligee may not direct
6 the department to withhold any funds from such payment.

7 NEW SECTION. **Sec. 17.** (1) The remedies provided in sections
8 13 through 17 and 25 of this act are the exclusive remedies enforceable
9 against the department or the retirement systems listed in RCW
10 41.50.030 for the direct payment of retirement benefits to satisfy a
11 property division obligation pursuant to a dissolution order. The
12 department shall not be required to make payments to an obligee of
13 benefits accruing prior to (a) thirty calendar days following service
14 of the dissolution order on the department; or (b) benefit payments
15 restrained under section 25 of this act.

16 (2) Whenever the department of retirement systems makes direct
17 payments of property division to a spouse or ex spouse under section 13
18 of this act to the extent expressly provided for in any court decree of
19 dissolution or legal separation or in any court order or court-approved
20 property settlement agreement incident to any court decree of
21 dissolution or legal separation, it shall be a sufficient answer to any
22 claim of a beneficiary against the department for the department to
23 show that the payments were made pursuant to court decree.

24 **Sec. 18.** RCW 2.10.180 and 1989 c 360 s 22 are each amended to read
25 as follows:

26 (1) Except as provided in subsections (2), (3), and (4) of this
27 section, the right of a person to a retirement allowance, disability
28 allowance, or death benefit, the retirement, disability or death

1 allowance itself, any optional benefit, any other right accrued or
2 accruing to any person under the provisions of this chapter, and the
3 moneys in the fund created under this chapter, are hereby exempt from
4 any state, county, municipal, or other local tax and shall not be
5 subject to execution, garnishment, or any other process of law
6 whatsoever.

7 (2) Subsection (1) of this section shall not be deemed to prohibit
8 a beneficiary of a retirement allowance from authorizing deductions
9 therefrom for payment of premiums due on any group insurance policy or
10 plan issued for the benefit of a group comprised of public employees of
11 the state of Washington.

12 (3) Deductions made in the past from retirement benefits are hereby
13 expressly recognized, ratified, and affirmed. Future deductions may
14 only be made in accordance with this section.

15 (4) Subsection (1) of this section shall not prohibit the
16 department of retirement systems from complying with (a) a wage
17 assignment order for child support issued pursuant to chapter 26.18
18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW,
19 (c) an order to withhold and deliver issued pursuant to chapter 74.20A
20 RCW, (d) a mandatory benefits assignment order issued pursuant to
21 chapter 41.50 RCW, ~~((e))~~ (e) a court order directing the department of
22 retirement systems to pay benefits directly to an obligee under a
23 dissolution order as defined in RCW 41.50.500(3) which fully complies
24 with sections 13 and 16 of this act, or (f) any administrative or
25 court order expressly authorized by federal law.

26 **Sec. 19.** RCW 2.12.090 and 1989 c 360 s 23 are each amended to read
27 as follows:

28 (1) Except as provided in subsections (2), (3), and (4) of this
29 section, the right of any person to a retirement allowance or optional

1 retirement allowance under the provisions of this chapter and all
2 moneys and investments and income thereof are exempt from any state,
3 county, municipal, or other local tax and shall not be subject to
4 execution, garnishment, attachment, the operation of bankruptcy or the
5 insolvency laws, or other processes of law whatsoever and shall be
6 unassignable except as herein specifically provided.

7 (2) Subsection (1) of this section shall not prohibit the
8 department of retirement systems from complying with (a) a wage
9 assignment order for child support issued pursuant to chapter 26.18
10 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW,
11 (c) an order to withhold and deliver issued pursuant to chapter 74.20A
12 RCW, (d) a mandatory benefits assignment order issued pursuant to
13 chapter 41.50 RCW, ~~((e))~~ (e) a court order directing the department of
14 retirement systems to pay benefits directly to an obligee under a
15 dissolution order as defined in RCW 41.50.500(3) which fully complies
16 with sections 13 and 16 of this act, or (f) any administrative or court
17 order expressly authorized by federal law.

18 (3) Subsection (1) of this section shall not be deemed to prohibit
19 a beneficiary of a retirement allowance from authorizing deductions
20 therefrom for payment of premiums due on any group insurance policy or
21 plan issued for the benefit of a group comprised of public employees of
22 the state of Washington.

23 (4) Deductions made in the past from retirement benefits are hereby
24 expressly recognized, ratified, and affirmed. Future deductions may
25 only be made in accordance with this section.

26 **Sec. 20.** RCW 41.26.180 and 1989 c 360 s 24 are each amended to
27 read as follows:

28 (1) Subject to subsections (2) and (3) of this section, the right
29 of a person to a retirement allowance, disability allowance, or death

1 benefit, to the return of accumulated contributions, the retirement,
2 disability or death allowance itself, any optional benefit, any other
3 right accrued or accruing to any person under the provisions of this
4 chapter, and the moneys in the fund created under this chapter, are
5 hereby exempt from any state, county, municipal, or other local tax and
6 shall not be subject to execution, garnishment, attachment, the
7 operation of bankruptcy or insolvency laws, or any other process of law
8 whatsoever, and shall be unassignable.

9 (2) On the written request of any person eligible to receive
10 benefits under this section, the department of retirement systems may
11 deduct from such payments the premiums for life, health, or other
12 insurance. The request on behalf of any child or children shall be
13 made by the legal guardian of such child or children. The department
14 of retirement systems may provide for such persons one or more plans of
15 group insurance, through contracts with regularly constituted insurance
16 carriers or health care service contractors.

17 (3) Subsection (1) of this section shall not prohibit the
18 department of retirement systems from complying with (a) a wage
19 assignment order for child support issued pursuant to chapter 26.18
20 RCW, (b) an order to withhold and deliver issued pursuant to chapter
21 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW
22 26.23.060, (d) a mandatory benefits assignment order issued pursuant to
23 chapter 41.50 RCW, ~~((e))~~ (e) a court order directing the department of
24 retirement systems to pay benefits directly to an obligee under a
25 dissolution order as defined in RCW 41.50.500(3) which fully complies
26 with sections 13 and 16 of this act, or (f) any administrative or court
27 order expressly authorized by federal law.

28 **Sec. 21.** RCW 41.32.590 and 1989 c 360 s 25 are each amended to
29 read as follows:

1 (1) Subject to subsections (2) and (3) of this section, the right
2 of a person to a pension, an annuity, a retirement allowance, or
3 disability allowance, to the return of contributions, any optional
4 benefit or death benefit, any other right accrued or accruing to any
5 person under the provisions of this chapter and the moneys in the
6 various funds created by this chapter shall be unassignable, and are
7 hereby exempt from any state, county, municipal or other local tax, and
8 shall not be subject to execution, garnishment, attachment, the
9 operation of bankruptcy or insolvency laws, or other process of law
10 whatsoever.

11 (2) This section shall not be deemed to prohibit a beneficiary of
12 a retirement allowance who is eligible:

13 (a) Under RCW 41.05.080 from authorizing monthly deductions
14 therefrom for payment of premiums due on any group insurance policy or
15 plan issued for the benefit of a group comprised of public employees of
16 the state of Washington or its political subdivisions;

17 (b) Under a group health care benefit plan approved pursuant to RCW
18 28A.58.420 or 41.05.065 from authorizing monthly deductions therefrom,
19 of the amount or amounts of subscription payments, premiums, or
20 contributions to any person, firm, or corporation furnishing or
21 providing medical, surgical, and hospital care or other health care
22 insurance; or

23 (c) Under the Washington state teachers' retirement system from
24 authorizing monthly deductions therefrom for payment of dues and other
25 membership fees to any retirement association composed of retired
26 teachers and/or public employees pursuant to a written agreement
27 between the director and the retirement association.

28 Deductions under (a) and (b) of this subsection shall be made in
29 accordance with rules and regulations that may be promulgated by the
30 director of retirement systems.

1 (3) Subsection (1) of this section shall not prohibit the
2 department of retirement systems from complying with (a) a wage
3 assignment order for child support issued pursuant to chapter 26.18
4 RCW, (b) an order to withhold and deliver issued pursuant to chapter
5 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW
6 26.23.060, (d) a mandatory benefits assignment order issued pursuant to
7 chapter 41.50 RCW, ~~((or))~~ (e) a court order directing the department of
8 retirement systems to pay benefits directly to an obligee under a
9 dissolution order as defined in RCW 41.50.500(3) which fully complies
10 with sections 13 and 16 of this act, or (f) any administrative or court
11 order expressly authorized by federal law.

12 **Sec. 22.** RCW 41.40.380 and 1989 c 360 s 27 are each amended to
13 read as follows:

14 (1) Subject to subsections (2) and (3) of this section, the right
15 of a person to a pension, an annuity, or retirement allowance, any
16 optional benefit, any other right accrued or accruing to any person
17 under the provisions of this chapter, the various funds created by this
18 chapter, and all moneys and investments and income thereof, are hereby
19 exempt from any state, county, municipal, or other local tax, and shall
20 not be subject to execution, garnishment, attachment, the operation of
21 bankruptcy or insolvency laws, or other process of law whatsoever, and
22 shall be unassignable.

23 (2) This section shall not be deemed to prohibit a beneficiary of
24 a retirement allowance from authorizing deductions therefrom for
25 payment of premiums due on any group insurance policy or plan issued
26 for the benefit of a group comprised of public employees of the state
27 of Washington or its political subdivisions and which has been approved
28 for deduction in accordance with rules and regulations that may be
29 promulgated by the state health care authority and/or the department of

1 retirement systems, and this section shall not be deemed to prohibit a
2 beneficiary of a retirement allowance from authorizing deductions
3 therefrom for payment of dues and other membership fees to any
4 retirement association or organization the membership of which is
5 composed of retired public employees, if a total of three hundred or
6 more of such retired employees have authorized such deduction for
7 payment to the same retirement association or organization.

8 (3) Subsection (1) of this section shall not prohibit the
9 department of retirement systems from complying with (a) a wage
10 assignment order for child support issued pursuant to chapter 26.18
11 RCW, (b) an order to withhold and deliver issued pursuant to chapter
12 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW
13 26.23.060, (d) a mandatory benefits assignment order issued pursuant to
14 chapter 41.50 RCW, (~~(e)~~) (e) a court order directing the department of
15 retirement systems to pay benefits directly to an obligee under a
16 dissolution order as defined in RCW 41.50.500(3) which fully complies
17 with sections 13 and 16 of this act, or (f) any administrative or court
18 order expressly authorized by federal law.

19 **Sec. 23.** RCW 43.43.310 and 1989 c 360 s 29 are each amended to
20 read as follows:

21 (1) Except as provided in subsections (2) and (3) of this section,
22 the right of any person to a retirement allowance or optional
23 retirement allowance under the provisions hereof and all moneys and
24 investments and income thereof are exempt from any state, county,
25 municipal, or other local tax and shall not be subject to execution,
26 garnishment, attachment, the operation of bankruptcy or the insolvency
27 laws, or other processes of law whatsoever and shall be unassignable
28 except as herein specifically provided.

1 (2) Subsection (1) of this section shall not prohibit the
2 department of retirement systems from complying with (a) a wage
3 assignment order for child support issued pursuant to chapter 26.18
4 RCW, (b) an order to withhold and deliver issued pursuant to chapter
5 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW
6 26.23.060, (d) a mandatory benefits assignment order issued pursuant to
7 chapter 41.50 RCW, ~~((or))~~ (e) a court order directing the department of
8 retirement systems to pay benefits directly to an obligee under a
9 dissolution order as defined in RCW 41.50.500(3) which fully complies
10 with sections 13 and 16 of this act, or (f) any administrative or court
11 order expressly authorized by federal law.

12 (3) Subsection (1) of this section shall not be deemed to prohibit
13 a beneficiary of a retirement allowance from authorizing deductions
14 therefrom for payment of premiums due on any group insurance policy or
15 plan issued for the benefit of a group comprised of members of the
16 Washington state patrol or other public employees of the state of
17 Washington, or for contributions to the Washington state patrol
18 memorial foundation.

19 **Sec. 24.** RCW 26.09.138 and 1987 c 326 s 26 are each amended to
20 read as follows:

21 (1) Any obligee of a court order or decree establishing a spousal
22 maintenance obligation ~~((or a property division obligation))~~ may seek
23 a mandatory benefits assignment order under chapter 41.50 RCW if any
24 spousal maintenance payment ~~((or a property division obligation~~
25 ~~payment))~~ is more than fifteen days past due and the total of such past
26 due payments is equal to or greater than one hundred dollars, or if the
27 obligor requests a withdrawal of accumulated contributions from the
28 department of retirement systems.

1 (2) Any court order or decree establishing a spousal maintenance
2 obligation (~~((or a property division obligation))~~) may state that, if any
3 spousal maintenance payment (~~((or property division obligation payment))~~)
4 is more than fifteen days past due and the total of such past due
5 payments is equal to or greater than one hundred dollars, or if the
6 obligor requests a withdrawal of accumulated contributions from the
7 department of retirement systems, the obligee may seek a mandatory
8 benefits assignment order under chapter 41.50 RCW without prior notice
9 to the obligor. Any such court order or decree may also, or in the
10 alternative, contain a provision that would allow the department to
11 make a direct payment of all or part of a withdrawal of accumulated
12 contributions pursuant to RCW 41.50.550(3). Failure to include this
13 provision does not affect the validity of the court order or decree
14 establishing the spousal maintenance (~~((or property division~~
15 ~~obligations))~~), nor does such failure affect the general applicability
16 of RCW 41.50.500 through 41.50.650 to such obligations.

17 (3) The remedies in RCW 41.50.530 through 41.50.630 are the
18 exclusive provisions of law enforceable against the department of
19 retirement systems in connection with any action for enforcement of a
20 spousal maintenance obligation ordered pursuant to a divorce,
21 dissolution, or legal separation, and no other remedy ordered by a
22 court under this chapter shall be enforceable against the department of
23 retirement systems for collection of spousal maintenance.

24 (4)(a) Nothing in this section regarding mandatory assignment of
25 benefits to enforce a spousal maintenance obligation shall abridge the
26 right of an ex spouse to receive direct payment of retirement benefits
27 payable pursuant to: (i) A court decree of dissolution or legal
28 separation; or (ii) any court order or court-approved property
29 settlement agreement; or (iii) incident to any court decree of
30 dissolution or legal separation, if such dissolution orders fully

1 comply with sections 13 and 16 of this act, or as applicable, RCW
2 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, 41.26.180,
3 41.32.590, 41.40.380, or 43.43.310 as those statutes existed before
4 July 1, 1987, and as those statutes exist on and after the effective
5 date of this act.

6 (b) Persons whose dissolution orders as defined in RCW 41.50.500(3)
7 were entered between July 1, 1987, and the effective date of this act
8 shall be entitled to receive direct payments of retirement benefits to
9 satisfy court-ordered property divisions if the dissolution orders
10 filed with the department comply or are amended to comply with sections
11 13 through 17 and 25 of this act and, as applicable, RCW 2.10.180,
12 2.12.090, 41.26.180, 41.32.590, 41.40.380, or 43.43.310.

13 NEW SECTION. Sec. 25. A party to a dissolution proceeding may
14 file a motion with the court requesting the court to enter an order
15 restraining the department from paying any benefits to a member until
16 further order of the court. The department shall not initiate payment
17 of benefits to a member from the time a restraining order is served on
18 the department until the court enters a further order disposing of the
19 benefits.

20 **Sec. 26.** RCW 6.27.150 and 1987 c 442 s 1015 are each amended to
21 read as follows:

22 (1) Except as provided in subsection (2) of this section, if the
23 garnishee is an employer owing the defendant earnings, then for each
24 week of such earnings, an amount shall be exempt from garnishment which
25 is the greatest of the following:

26 (a) Thirty times the federal minimum hourly wage prescribed by
27 section 206(a)(1) of Title 29 of the United States Code in effect at
28 the time the earnings are payable; or

1 (b) Seventy-five percent of the disposable earnings of the
2 defendant.

3 (2) In the case of a garnishment based on a judgment or other court
4 order for child support or court order for spousal maintenance, other
5 than a mandatory wage assignment order pursuant to chapter 26.18 RCW,
6 or a mandatory assignment of retirement benefits pursuant to chapter
7 41.50 RCW, the exemption shall be fifty percent of the disposable
8 earnings of the defendant if the individual is supporting a spouse or
9 dependent child (other than a spouse or child on whose behalf the
10 garnishment is brought), or forty percent of the disposable earnings of
11 the defendant if the individual is not supporting such a spouse or
12 dependent child.

13 (3) The exemptions stated in this section shall apply whether such
14 earnings are paid, or are to be paid, weekly, monthly, or at other
15 intervals, and whether earnings are due the defendant for one week, a
16 portion thereof, or for a longer period.

17 (4) Unless directed otherwise by the court, the garnishee shall
18 determine and deduct exempt amounts under this section as directed in
19 the writ of garnishment and answer, and shall pay these amounts to the
20 defendant.

21 (5) No money due or earned as earnings as defined in RCW 6.27.010
22 shall be exempt from garnishment under the provisions of RCW 6.15.010,
23 as now or hereafter amended.

24 **Sec. 27.** RCW 41.40.270 and 1990 c 249 s 11 are each amended to
25 read as follows:

26 (1) Should a member die before the date of retirement the amount of
27 the accumulated contributions standing to the member's credit in the
28 employees' savings fund, less any amount identified as owing to an

1 obligee upon withdrawal of accumulated contributions pursuant to a
2 court order filed under section 13 of this act, at the time of death:

3 (a) Shall be paid to such person or persons, having an insurable
4 interest in the member's life, as the member shall have nominated by
5 written designation duly executed and filed with the department; or

6 (b) If there be no such designated person or persons still living
7 at the time of the member's death, or if a member fails to file a new
8 beneficiary designation subsequent to marriage, remarriage, dissolution
9 of marriage, divorce, or reestablishment of membership following
10 termination by withdrawal or retirement, such accumulated
11 contributions, less any amount identified as owing to an obligee upon
12 withdrawal of accumulated contributions pursuant to a court order filed
13 under section 13 of this act, shall be paid to the surviving spouse as
14 if in fact such spouse had been nominated by written designation as
15 aforesaid, or if there be no such surviving spouse, then to the
16 member's legal representatives.

17 (2) Upon the death in service, or while on authorized leave of
18 absence for a period not to exceed one hundred and twenty days from the
19 date of payroll separation, of any member who is qualified but has not
20 applied for a service retirement allowance or has completed ten years
21 of service at the time of death, the designated beneficiary, or the
22 surviving spouse as provided in subsection (1) of this section, may
23 elect to waive the payment provided by subsection (1) of this section.
24 Upon such an election, a joint and one hundred percent survivor option
25 under RCW 41.40.188, calculated under the retirement allowance
26 described in RCW 41.40.185 or 41.40.190, whichever is greater,
27 actuarially reduced by the amount of any lump sum benefit identified as
28 owing to an obligee upon withdrawal of accumulated contributions
29 pursuant to a court order filed under section 13 of this act shall
30 automatically be given effect as if selected for the benefit of the

1 surviving spouse or dependent who is the designated beneficiary. If
2 the member is not then qualified for a service retirement allowance,
3 such benefit shall be based upon the actuarial equivalent of the sum
4 necessary to pay the accrued regular retirement allowance commencing
5 when the deceased member would have first qualified for a service
6 retirement allowance.

7 (3) Subsection (1) of this section, unless elected, shall not apply
8 to any member who has applied for service retirement in RCW 41.40.180,
9 as now or hereafter amended, and thereafter dies between the date of
10 separation from service and the member's effective retirement date,
11 where the member has selected a survivorship option under RCW
12 41.40.188. In those cases the beneficiary named in the member's final
13 application for service retirement may elect to receive either a cash
14 refund, less any amount identified as owing to an obligee upon
15 withdrawal of accumulated contributions pursuant to a court order filed
16 under section 13 of this act, or monthly payments according to the
17 option selected by the member.

18 **Sec. 28.** RCW 41.40.700 and 1990 c 249 s 18 are each amended to
19 read as follows:

20 (1) If a member or a vested member who has not completed at least
21 ten years of service dies, the amount of the accumulated contributions
22 standing to such member's credit in the retirement system at the time
23 of such member's death, less any amount identified as owing to an
24 obligee upon withdrawal of accumulated contributions pursuant to a
25 court order filed under section 13 of this act, shall be paid to such
26 person or persons having an insurable interest in such member's life as
27 the member shall have nominated by written designation duly executed
28 and filed with the department. If there be no such designated person
29 or persons still living at the time of the member's death, such

1 member's accumulated contributions standing to such member's credit in
2 the retirement system, less any amount identified as owing to an
3 obligee upon withdrawal of accumulated contributions pursuant to a
4 court order filed under section 13 of this act, shall be paid to the
5 member's surviving spouse as if in fact such spouse had been nominated
6 by written designation, or if there be no such surviving spouse, then
7 to such member's legal representatives.

8 (2) If a member who is eligible for retirement or a member who has
9 completed at least ten years of service dies, the surviving spouse or
10 eligible child or children shall elect to receive either:

11 (a) A retirement allowance computed as provided for in RCW
12 41.40.630(1), actuarially reduced by the amount of any lump sum benefit
13 identified as owing to an obligee upon withdrawal of accumulated
14 contributions pursuant to a court order filed under section 13 of this
15 act and actuarially adjusted to reflect a joint and one hundred percent
16 survivor option under RCW 41.40.660 and if the member was not eligible
17 for normal retirement at the date of death a further reduction as
18 described in RCW 41.40.630(2); if a surviving spouse who is receiving
19 a retirement allowance dies leaving a child or children of the member
20 under the age of majority, then such child or children shall continue
21 to receive an allowance in an amount equal to that which was being
22 received by the surviving spouse, share and share alike, until such
23 child or children reach the age of majority; if there is no surviving
24 spouse eligible to receive an allowance at the time of the member's
25 death, such member's child or children under the age of majority shall
26 receive an allowance share and share alike calculated as herein
27 provided making the assumption that the ages of the spouse and member
28 were equal at the time of the member's death; or

29 (b) The member's accumulated contributions, less any amount
30 identified as owing to an obligee upon withdrawal of accumulated

1 contributions pursuant to a court order filed under section 13 of this
2 act.

3 (3) If a member who is eligible for retirement or a member who has
4 completed at least ten years of service dies after October 1, 1977, and
5 is not survived by a spouse or an eligible child, then the accumulated
6 contributions standing to the member's credit, less any amount
7 identified as owing to an obligee upon withdrawal of accumulated
8 contributions pursuant to a court order filed under section 13 of this
9 act, shall be paid:

10 (a) To a person or persons, having an insurable interest in the
11 member's life, as the member shall have nominated by written
12 designation duly executed and filed with the department; or

13 (b) If there is no such designated person or persons still living
14 at the time of the member's death, then to the member's legal
15 representatives.

16 **Sec. 29.** RCW 41.32.520 and 1990 c 249 s 15 are each amended to
17 read as follows:

18 (1) Upon receipt of proper proofs of death of any member before
19 retirement or before the first installment of his or her retirement
20 allowance shall become due his or her accumulated contributions, less
21 any amount identified as owing to an obligee upon withdrawal of
22 accumulated contributions pursuant to a court order filed under section
23 13 of this act, and/or other benefits payable upon his or her death
24 shall be paid to his or her estate or to such persons as he or she
25 shall have nominated by written designation duly executed and filed
26 with the board of trustees. If a member fails to file a new
27 beneficiary designation subsequent to marriage, divorce, or
28 reestablishment of membership following termination by withdrawal,
29 lapsation, or retirement, payment of his or her accumulated

1 contributions, less any amount identified as owing to an obligee upon
2 withdrawal of accumulated contributions pursuant to a court order filed
3 under section 13 of this act, and/or other benefits upon death before
4 retirement shall be made to the surviving spouse, if any; otherwise, to
5 his or her estate. If a member had established ten or more years of
6 Washington membership service credit or was eligible for retirement,
7 the beneficiary or the surviving spouse if otherwise eligible may
8 elect, in lieu of a cash refund of the member's accumulated
9 contributions, the following survivor benefit plan actuarially reduced
10 by the amount of any lump sum benefit identified as owing to an obligee
11 upon withdrawal of accumulated contributions pursuant to a court order
12 filed under section 13 of this act:

13 (a) A widow or widower, without a child or children under eighteen
14 years of age, may elect a monthly payment of fifty dollars to become
15 effective at age fifty, provided the member had fifteen or more years
16 of Washington membership service credit.

17 (b) The beneficiary, if a surviving spouse or a dependent (as that
18 term is used in computing the dependent exemption for federal internal
19 revenue purposes) may elect to receive a joint and one hundred percent
20 retirement allowance under RCW 41.32.530.

21 (i) In the case of a dependent child the allowance shall continue
22 until attainment of majority or so long as the board judges that the
23 circumstances which created his or her dependent status continue to
24 exist. In any case, if at the time dependent status ceases, an amount
25 equal to the amount of accumulated contributions of the deceased member
26 has not been paid to the beneficiary, the remainder shall then be paid
27 in a lump sum to the beneficiary.

28 (ii) If at the time of death, the member was not then qualified for
29 a service retirement allowance, the benefit shall be based upon the
30 actuarial equivalent of the sum necessary to pay the accrued regular

1 retirement allowance commencing when the deceased member would have
2 first qualified for a service retirement allowance.

3 (2) If no qualified beneficiary survives a member, at his or her
4 death his or her accumulated contributions, less any amount identified
5 as owing to an obligee upon withdrawal of accumulated contributions
6 pursuant to a court order filed under section 13 of this act, shall be
7 paid to his or her estate, or his or her dependents may qualify for
8 survivor benefits under benefit plan (1)(b) in lieu of a cash refund of
9 the members accumulated contributions in the following order: Widow or
10 widower, guardian of a dependent child or children under age eighteen,
11 or dependent parent or parents.

12 (3) Under survivors' benefit plan (1)(a) the board of trustees
13 shall transfer to the survivors' benefit fund the accumulated
14 contributions of the deceased member together with an amount from the
15 pension fund determined by actuarial tables to be sufficient to fully
16 fund the liability. Benefits shall be paid from the survivors' benefit
17 fund monthly and terminated at the marriage of the beneficiary.

18 **Sec. 30.** RCW 41.32.805 and 1990 c 249 s 16 are each amended to
19 read as follows:

20 (1) If a member or a vested member who has not completed at least
21 ten years of service dies, the amount of the accumulated contributions
22 standing to such member's credit in the retirement system, less any
23 amount identified as owing to an obligee upon withdrawal of accumulated
24 contributions pursuant to a court order filed under section 13 of this
25 act, at the time of such member's death shall be paid to such person or
26 persons having an insurable interest in such member's life as the
27 member shall have nominated by written designation duly executed and
28 filed with the department. If there be no such designated person or
29 persons still living at the time of the member's death, such member's

1 accumulated contributions standing to such member's credit in the
2 retirement system, less any amount identified as owing to an obligee
3 upon withdrawal of accumulated contributions pursuant to a court order
4 filed under section 13 of this act, shall be paid to the member's
5 surviving spouse as if in fact such spouse had been nominated by
6 written designation, or if there be no such surviving spouse, then to
7 such member's legal representatives.

8 (2) If a member who is eligible for retirement or a member who has
9 completed at least ten years of service dies, the surviving spouse or
10 eligible children shall elect to receive either:

11 (a) A retirement allowance computed as provided for in RCW
12 41.32.765(1), actuarially reduced by the amount of any lump sum benefit
13 identified as owing to an obligee upon withdrawal of accumulated
14 contributions pursuant to a court order filed under section 13 of this
15 act and actuarially adjusted to reflect a joint and one hundred percent
16 survivor option under RCW 41.32.785 and if the member was not eligible
17 for normal retirement at the date of death a further reduction as
18 described in RCW 41.32.765(2); if a surviving spouse who is receiving
19 a retirement allowance dies leaving a child or children of the member
20 under the age of majority, then such child or children shall continue
21 to receive an allowance in an amount equal to that which was being
22 received by the surviving spouse, share and share alike, until such
23 child or children reach the age of majority; if there is no surviving
24 spouse eligible to receive an allowance at the time of the member's
25 death, such member's child or children under the age of majority shall
26 receive an allowance share and share alike calculated as herein
27 provided making the assumption that the ages of the spouse and member
28 were equal at the time of the member's death; or

29 (b) The member's accumulated contributions, less any amount
30 identified as owing to an obligee upon withdrawal of accumulated

1 contributions pursuant to a court order filed under section 13 of this
2 act.

3 (3) If a member who is eligible for retirement or a member who has
4 completed at least ten years of service dies after October 1, 1977, and
5 is not survived by a spouse or an eligible child, then the accumulated
6 contributions standing to the member's credit, less any amount
7 identified as owing to an obligee upon withdrawal of accumulated
8 contributions pursuant to a court order filed under section 13 of this
9 act, shall be paid:

10 (a) To a person or persons, having an insurable interest in the
11 member's life, as the member shall have nominated by written
12 designation duly executed and filed with the department; or

13 (b) If there is no such designated person or persons still living
14 at the time of the member's death, then to the member's legal
15 representatives.

16 **Sec. 31.** RCW 41.26.510 and 1990 c 249 s 14 are each amended to
17 read as follows:

18 (1) If a member or a vested member who has not completed at least
19 ten years of service dies, the amount of the accumulated contributions
20 standing to such member's credit in the retirement system at the time
21 of such member's death, less any amount identified as owing to an
22 obligee upon withdrawal of accumulated contributions pursuant to a
23 court order filed under section 13 of this act, shall be paid to such
24 person or persons having an insurable interest in such member's life as
25 the member shall have nominated by written designation duly executed
26 and filed with the department. If there be no such designated person
27 or persons still living at the time of the member's death, such
28 member's accumulated contributions standing to such member's credit in
29 the retirement system, less any amount identified as owing to an

1 obligee upon withdrawal of accumulated contributions pursuant to a
2 court order filed under section 13 of this act, shall be paid to the
3 member's surviving spouse as if in fact such spouse had been nominated
4 by written designation, or if there be no such surviving spouse, then
5 to such member's legal representatives.

6 (2) If a member who is eligible for retirement or a member who has
7 completed at least ten years of service dies, the surviving spouse or
8 eligible child or children shall elect to receive either:

9 (a) A retirement allowance computed as provided for in RCW
10 41.26.430(1), actuarially reduced by the amount of any lump sum benefit
11 identified as owing to an obligee upon withdrawal of accumulated
12 contributions pursuant to a court order filed under section 13 of this
13 act and actuarially adjusted to reflect a joint and one hundred percent
14 survivor option under RCW 41.26.460 and if the member was not eligible
15 for normal retirement at the date of death a further reduction as
16 described in RCW 41.26.430(2); if a surviving spouse who is receiving
17 a retirement allowance dies leaving a child or children of the member
18 under the age of majority, then such child or children shall continue
19 to receive an allowance in an amount equal to that which was being
20 received by the surviving spouse, share and share alike, until such
21 child or children reach the age of majority; if there is no surviving
22 spouse eligible to receive an allowance at the time of the member's
23 death, such member's child or children under the age of majority shall
24 receive an allowance share and share alike calculated as herein
25 provided making the assumption that the ages of the spouse and member
26 were equal at the time of the member's death; or

27 (b) The member's accumulated contributions, less any amount
28 identified as owing to an obligee upon withdrawal of accumulated
29 contributions pursuant to a court order filed under section 13 of this
30 act.

1 (3) If a member who is eligible for retirement or a member who has
2 completed at least ten years of service dies after October 1, 1977, and
3 is not survived by a spouse or an eligible child, then the accumulated
4 contributions standing to the member's credit, less any amount
5 identified as owing to an obligee upon withdrawal of accumulated
6 contributions pursuant to a court order filed under section 13 of this
7 act, shall be paid:

8 (a) To a person or persons, having an insurable interest in the
9 member's life, as the member shall have nominated by written
10 designation duly executed and filed with the department; or

11 (b) If there is no such designated person or persons still living
12 at the time of the member's death, then to the member's legal
13 representatives.

14 **Sec. 32.** RCW 43.43.280 and 1987 c 215 s 2 are each amended to read
15 as follows:

16 (1) If a member dies before retirement, and has no surviving spouse
17 or children under the age of eighteen years, all contributions made by
18 the member with interest as determined by the director, less any amount
19 identified as owing to an obligee upon withdrawal of accumulated
20 contributions pursuant to a court order filed under section 13 of this
21 act, shall be paid to such person or persons as the member shall have
22 nominated by written designation duly executed and filed with the
23 department, or if there be no such designated person or persons, then
24 to the member's legal representative.

25 (2) If a member should cease to be an employee before attaining age
26 sixty for reasons other than the member's death, or retirement, the
27 individual shall thereupon cease to be a member except as provided
28 under RCW 43.43.130 (2) and (3) and, the individual may withdraw the
29 member's contributions to the retirement fund, with interest as

1 determined by the director, by making application therefor to the
2 department, except that: A member who ceases to be an employee after
3 having completed at least five years of service shall remain a member
4 during the period of the member's absence from employment for the
5 exclusive purpose only of receiving a retirement allowance to begin at
6 attainment of age sixty, however such a member may upon written notice
7 to the department elect to receive a reduced retirement allowance on or
8 after age fifty-five which allowance shall be the actuarial equivalent
9 of the sum necessary to pay regular retirement benefits as of age
10 sixty: PROVIDED, That if such member should withdraw all or part of
11 the member's accumulated contributions, the individual shall thereupon
12 cease to be a member and this subsection shall not apply.

13 **Sec. 33.** RCW 41.32.550 and 1970 ex.s. c 35 s 4 are each amended to
14 read as follows:

15 Should the (~~board~~) director determine from the report of the
16 medical director that a member (~~in full time service~~) employed under
17 an annual contract with an employer has become permanently disabled for
18 the performance of his or her duties or at any time while a member is
19 receiving temporary disability benefits that a member's disability will
20 be permanent, a member shall have the option of then receiving (1) all
21 of his or her accumulated contributions in a lump sum payment and
22 canceling his or her membership, or (2) of accepting a retirement
23 allowance based on service or age, if eligible under RCW 41.32.480, or
24 (3) if he or she had five or more years of Washington membership
25 service credit established with the retirement system, a retirement
26 allowance because of disability: PROVIDED, That any member applying for
27 a retirement allowance who is eligible for benefits on the basis of
28 service or age shall receive a retirement allowance based on the
29 provision of law governing retirement for service or age. If the

1 member qualifies to receive a retirement allowance because of
2 disability he or she shall be paid the maximum annuity which shall be
3 the actuarial equivalent of his or her accumulated contributions at his
4 or her age of retirement and a pension equal to the service pension to
5 which he or she would be entitled under RCW 41.32.497 as now or
6 hereafter amended. If the member dies before he or she has received in
7 annuity payments the present value of his or her accumulated
8 contributions at the time of his or her retirement, the unpaid balance
9 shall be paid to his or her estate or to such persons as he or she
10 shall have nominated by written designation executed and filed with the
11 (~~board of trustees~~) department.

12 A member retired for disability may be required at any time to
13 submit to reexamination. If medical findings reveal that the
14 individual is no longer disabled for the performance of public school
15 service, the retirement allowance granted because of disability may be
16 terminated by action of the (~~board of trustees~~) director or upon
17 written request of the member. In case of such termination, the
18 individual shall be restored to full membership in the retirement
19 system.

20 NEW SECTION. Sec. 34. A new section is added to chapter 41.32 RCW
21 to read as follows:

22 Persons who were under an annual half-time contract with an
23 employer anytime during the period of September 1, 1986, through August
24 31, 1987, shall be eligible for benefits provided by RCW 41.32.550, as
25 amended by chapter ..., Laws of 1991 (this act), if during that period
26 they were medically determined to be permanently disabled for the
27 performance of their duty.

1 **Sec. 35.** RCW 41.26.030 and 1987 c 418 s 1 are each amended to read
2 as follows:

3 As used in this chapter, unless a different meaning is plainly
4 required by the context:

5 (1) "Retirement system" means the "Washington law enforcement
6 officers' and fire fighters' retirement system" provided herein.

7 (2) (a) "Employer" for persons who establish membership in the
8 retirement system on or before September 30, 1977, means the
9 legislative authority of any city, town, county or district or the
10 elected officials of any municipal corporation that employs any law
11 enforcement officer and/or fire fighter, any authorized association of
12 such municipalities, and, except for the purposes of RCW 41.26.150, any
13 labor guild, association, or organization, which represents the fire
14 fighters or law enforcement officers of at least seven cities of over
15 20,000 population and the membership of each local lodge or division of
16 which is composed of at least sixty percent law enforcement officers or
17 fire fighters as defined in this chapter.

18 (b) "Employer" for persons who establish membership in the
19 retirement system on or after October 1, 1977, means the legislative
20 authority of any city, town, county, or district or the elected
21 officials of any municipal corporation that employs any law enforcement
22 officer and/or fire fighter.

23 (3) "Law enforcement officer" means any person who is serving on a
24 full time, fully compensated basis as a county sheriff or deputy
25 sheriff, including sheriffs or deputy sheriffs serving under a
26 different title pursuant to a county charter, city police officer, or
27 town marshal or deputy marshal, with the following qualifications:

28 (a) No person who is serving in a position that is basically
29 clerical or secretarial in nature, and who is not commissioned shall be
30 considered a law enforcement officer;

1 (b) Only those deputy sheriffs, including those serving under a
2 different title pursuant to county charter, who have successfully
3 completed a civil service examination for deputy sheriff or the
4 equivalent position, where a different title is used, and those persons
5 serving in unclassified positions authorized by RCW 41.14.070 except a
6 private secretary will be considered law enforcement officers;

7 (c) Only such full time commissioned law enforcement personnel as
8 have been appointed to offices, positions, or ranks in the police
9 department which have been specifically created or otherwise expressly
10 provided for and designated by city charter provision or by ordinance
11 enacted by the legislative body of the city shall be considered city
12 police officers;

13 (d) The term "law enforcement officer" also includes the executive
14 secretary of a labor guild, association or organization (which is an
15 employer under RCW 41.26.030(2) as now or hereafter amended) if such
16 individual has five years previous membership in the retirement system
17 established in chapter 41.20 RCW: PROVIDED, That for persons who
18 establish membership in the retirement system on or after October 1,
19 1977, the provisions of this subparagraph shall not apply; and

20 (e) The term "law enforcement officer" also includes any person
21 employed on or after November 1, 1975, and prior to December 1, 1975,
22 as a director of public safety so long as the duties of the director
23 substantially involve only police and/or fire duties and no other
24 duties.

25 (4) "Fire fighter" means:

26 (a) any person who is serving on a full time, fully compensated
27 basis as a member of a fire department of an employer and who is
28 serving in a position which requires passing a civil service
29 examination for fire fighter, or fireman if this title is used by the
30 department, and who is actively employed as such;

1 (b) anyone who is actively employed as a full time fire fighter
2 where the fire department does not have a civil service examination;

3 (c) supervisory fire fighter personnel;

4 (d) any full time executive secretary of an association of fire
5 protection districts authorized under RCW 52.12.031: PROVIDED, That
6 for persons who establish membership in the retirement system on or
7 after October 1, 1977, the provisions of this subparagraph shall not
8 apply;

9 (e) the executive secretary of a labor guild, association or
10 organization (which is an employer under RCW 41.26.030(2) as now or
11 hereafter amended), if such individual has five years previous
12 membership in a retirement system established in chapter 41.16 or 41.18
13 RCW: PROVIDED, That for persons who establish membership in the
14 retirement system on or after October 1, 1977, the provisions of this
15 subparagraph shall not apply;

16 (f) any person who is serving on a full time, fully compensated
17 basis for an employer, as a fire dispatcher, in a department in which,
18 on March 1, 1970, a dispatcher was required to have passed a civil
19 service examination for fireman or fire fighter;

20 (g) any person who on March 1, 1970, was employed on a full time,
21 fully compensated basis by an employer, and who on May 21, 1971 was
22 making retirement contributions under the provisions of chapter 41.16
23 or 41.18 RCW; and

24 (h) the term "fire fighter" also includes any person employed on or
25 after November [1,] 1975, and prior to December 1, 1975, as a director
26 of public safety so long as the duties of the director substantially
27 involve only police and/or fire duties and no other duties.

28 (5) "Retirement board" means the Washington public employees'
29 retirement system board established in chapter 41.40 RCW, including two
30 members of the retirement system and two employer representatives as

1 provided for in RCW 41.26.050. The retirement board shall be called
2 the Washington law enforcement officers' and fire fighters' retirement
3 board and may enter in legal relationships in that name. Any legal
4 relationships entered into in that name prior to the adoption of this
5 1972 amendatory act are hereby ratified.

6 (6) "Surviving spouse" for persons who establish membership in the
7 retirement system on or before September 30, 1977, means the surviving
8 widow or widower of a member~~((The word shall not include the~~
9 ~~divorced spouse of a member))~~ or an ex spouse who has been provided
10 benefits under any court decree of dissolution or legal separation or
11 in any court order or court-approved property settlement agreement
12 incident to any court decree of dissolution or legal separation. In
13 order to qualify as a surviving spouse under this subsection: (a) A
14 person shall have been married to the member for at least thirty years,
15 including at least twenty years prior to the member's retirement or
16 separation from service if a vested member; (b) the decree or court
17 order must be currently effective; and (c) the decree or court order
18 must have been entered after the member's retirement and prior to
19 December 31, 1979. If two or more persons are eligible as surviving
20 spouses under this subsection, benefits shall be divided between the
21 surviving spouses based on the percentage of total service credit the
22 member accrued during each marriage. This definition shall apply
23 retroactively.

24 (7) "Child" or "children" whenever used in this chapter means every
25 natural born child and stepchild where that relationship was in
26 existence prior to the date benefits are payable under this chapter,
27 posthumous child, child legally adopted or made a legal ward of a
28 member prior to the date benefits are payable under this chapter, and
29 illegitimate child legitimized prior to the date any benefits are
30 payable under this chapter, all while unmarried, and either under the

1 age of eighteen years or mentally or physically handicapped as
2 determined by the retirement board except a handicapped person in the
3 full time care of a state institution. A person shall also be deemed
4 to be a child up to and including the age of twenty years and eleven
5 months while attending any high school, college, or vocational or other
6 educational institution accredited, licensed, or approved by the state,
7 in which it is located, including the summer vacation months and all
8 other normal and regular vacation periods at the particular educational
9 institution after which the child returns to school.

10 (8) "Member" means any fire fighter, law enforcement officer, or
11 other person as would apply under subsections (3) or (4) of this
12 section whose membership is transferred to the Washington law
13 enforcement officers' and fire fighters' retirement system on or after
14 March 1, 1970, and every law enforcement officer and fire fighter who
15 is employed in that capacity on or after such date.

16 (9) "Retirement fund" means the "Washington law enforcement
17 officers' and fire fighters' retirement system fund" as provided for
18 herein.

19 (10) "Employee" means any law enforcement officer or fire fighter
20 as defined in subsections (3) and (4) above.

21 (11) (a) "Beneficiary" for persons who establish membership in the
22 retirement system on or before September 30, 1977, means any person in
23 receipt of a retirement allowance, disability allowance, death benefit,
24 or any other benefit described herein.

25 (b) "Beneficiary" for persons who establish membership in the
26 retirement system on or after October 1, 1977, means any person in
27 receipt of a retirement allowance or other benefit provided by this
28 chapter resulting from service rendered to an employer by another
29 person.

1 (12) (a) "Final average salary" for persons who establish
2 membership in the retirement system on or before September 30, 1977,
3 means (i) for a member holding the same position or rank for a minimum
4 of twelve months preceding the date of retirement, the basic salary
5 attached to such same position or rank at time of retirement; (ii) for
6 any other member, including a civil service member who has not served
7 a minimum of twelve months in the same position or rank preceding the
8 date of retirement, the average of the greatest basic salaries payable
9 to such member during any consecutive twenty-four month period within
10 such member's last ten years of service for which service credit is
11 allowed, computed by dividing the total basic salaries payable to such
12 member during the selected twenty-four month period by twenty-four;
13 (iii) in the case of disability of any member, the basic salary payable
14 to such member at the time of disability retirement; (iv) in the case
15 of a member who hereafter vests pursuant to RCW 41.26.090, the basic
16 salary payable to such member at the time of vesting.

17 (b) "Final average salary" for persons who establish membership in
18 the retirement system on or after October 1, 1977, means the monthly
19 average of the member's basic salary for the highest consecutive sixty
20 months of service prior to such member's retirement, termination, or
21 death. Periods constituting authorized unpaid leaves of absence may
22 not be used in the calculation of final average salary.

23 (13) (a) "Basic salary" for persons who establish membership in the
24 retirement system on or before September 30, 1977, means the basic
25 monthly rate of salary or wages, including longevity pay but not
26 including overtime earnings or special salary or wages, upon which
27 pension or retirement benefits will be computed and upon which employer
28 contributions and salary deductions will be based.

29 (b) "Basic salary" for persons who establish membership in the
30 retirement system on or after October 1, 1977, means salaries or wages

1 earned by a member during a payroll period for personal services,
2 including overtime payments, and shall include wages and salaries
3 deferred under provisions established pursuant to sections 403(b),
4 414(h), and 457 of the United States Internal Revenue Code, but shall
5 exclude lump sum payments for deferred annual sick leave, unused
6 accumulated vacation, unused accumulated annual leave, or any form of
7 severance pay: PROVIDED, That in any year in which a member serves in
8 the legislature the member shall have the option of having such
9 member's basic salary be the greater of:

10 (i) the basic salary the member would have received had such member
11 not served in the legislature; or

12 (ii) such member's actual basic salary received for nonlegislative
13 public employment and legislative service combined. Any additional
14 contributions to the retirement system required because basic salary
15 under subparagraph (i) of this subsection is greater than basic salary
16 under subparagraph (ii) of this subsection shall be paid by the member
17 for both member and employer contributions.

18 (14) (a) "Service" for persons who establish membership in the
19 retirement system on or before September 30, 1977, means all periods of
20 employment for an employer as a fire fighter or law enforcement
21 officer, for which compensation is paid, together with periods of
22 suspension not exceeding thirty days in duration. For the purposes of
23 this chapter service shall also include service in the armed forces of
24 the United States as provided in RCW 41.26.190. Credit shall be
25 allowed for all months of service rendered by a member from and after
26 the member's initial commencement of employment as a fire fighter or
27 law enforcement officer, during which the member worked for seventy or
28 more hours, or was on disability leave or disability retirement. Only
29 months of service shall be counted in the computation of any retirement
30 allowance or other benefit provided for in this chapter. In addition

1 to the foregoing, for members retiring after May 21, 1971 who were
2 employed under the coverage of a prior pension act before March 1,
3 1970, "service" shall include (i) such military service not exceeding
4 five years as was creditable to the member as of March 1, 1970, under
5 the member's particular prior pension act, and (ii) such other periods
6 of service as were then creditable to a particular member under the
7 provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no
8 event shall credit be allowed for any service rendered prior to March
9 1, 1970, where the member at the time of rendition of such service was
10 employed in a position covered by a prior pension act, unless such
11 service, at the time credit is claimed therefor, is also creditable
12 under the provisions of such prior act: PROVIDED, That if such
13 member's prior service is not creditable due to the withdrawal of his
14 contributions plus accrued interest thereon from a prior pension
15 system, such member shall be credited with such prior service, as a law
16 enforcement officer or fire fighter, by paying to the Washington law
17 enforcement officers' and fire fighters' retirement system, on or
18 before March 1, 1975, an amount which is equal to that which was
19 withdrawn from the prior system by such member, as a law enforcement
20 officer or fire fighter: PROVIDED FURTHER, That if such member's prior
21 service is not creditable because, although employed in a position
22 covered by a prior pension act, such member had not yet become a member
23 of the pension system governed by such act, such member shall be
24 credited with such prior service as a law enforcement officer or fire
25 fighter, by paying to the Washington law enforcement officers' and fire
26 fighters' retirement system, on or before March 1, 1975, an amount
27 which is equal to the employer's contributions which would have been
28 required under the prior act when such service was rendered if the
29 member had been a member of such system during such period: AND
30 PROVIDED FURTHER, That where a member is employed by two employers at

1 the same time, he shall only be credited with service to one such
2 employer for any month during which he rendered such dual service.

3 (b) "Service" for persons who establish membership in the
4 retirement system on or after October 1, 1977, means periods of
5 employment by a member for one or more employers for which basic salary
6 is earned for ninety or more hours per calendar month.

7 Members of the retirement system who are elected or appointed to a
8 state elective position may elect to continue to be members of this
9 retirement system.

10 Years of service shall be determined by dividing the total number
11 of months of service by twelve. Any fraction of a year of service as
12 so determined shall be taken into account in the computation of such
13 retirement allowance or benefits.

14 If a member receives basic salary from two or more employers during
15 any calendar month, the individual shall receive one month's service
16 credit during any calendar month in which multiple service for ninety
17 or more hours is rendered.

18 (15) "Accumulated contributions" means the employee's contributions
19 made by a member plus accrued interest credited thereon.

20 (16) "Actuarial reserve" means a method of financing a pension or
21 retirement plan wherein reserves are accumulated as the liabilities for
22 benefit payments are incurred in order that sufficient funds will be
23 available on the date of retirement of each member to pay the member's
24 future benefits during the period of retirement.

25 (17) "Actuarial valuation" means a mathematical determination of
26 the financial condition of a retirement plan. It includes the
27 computation of the present monetary value of benefits payable to
28 present members, and the present monetary value of future employer and
29 employee contributions, giving effect to mortality among active and

1 retired members and also to the rates of disability, retirement,
2 withdrawal from service, salary and interest earned on investments.

3 (18) "Disability board" means either the county disability board or
4 the city disability board established in RCW 41.26.110 for persons who
5 establish membership in the retirement system on or before September
6 30, 1977.

7 (19) "Disability leave" means the period of six months or any
8 portion thereof during which a member is on leave at an allowance equal
9 to the member's full salary prior to the commencement of disability
10 retirement. The definition contained in this subsection shall apply
11 only to persons who establish membership in the retirement system on or
12 before September 30, 1977.

13 (20) "Disability retirement" for persons who establish membership
14 in the retirement system on or before September 30, 1977, means the
15 period following termination of a member's disability leave, during
16 which the member is in receipt of a disability retirement allowance.

17 (21) "Position" means the employment held at any particular time,
18 which may or may not be the same as civil service rank.

19 (22) "Medical services" for persons who establish membership in the
20 retirement system on or before September 30, 1977, shall include the
21 following as minimum services to be provided. Reasonable charges for
22 these services shall be paid in accordance with RCW 41.26.150.

23 (a) Hospital expenses: These are the charges made by a hospital,
24 in its own behalf, for

25 (i) Board and room not to exceed semiprivate room rate unless
26 private room is required by the attending physician due to the
27 condition of the patient.

28 (ii) Necessary hospital services, other than board and room,
29 furnished by the hospital.

1 (b) Other medical expenses: The following charges are considered
2 "other medical expenses", provided that they have not been considered
3 as "hospital expenses".

4 (i) The fees of the following:

5 (A) A physician or surgeon licensed under the provisions of chapter
6 18.71 RCW;

7 (B) An osteopath licensed under the provisions of chapter 18.57
8 RCW;

9 (C) A chiropractor licensed under the provisions of chapter 18.25
10 RCW.

11 (ii) The charges of a registered graduate nurse other than a nurse
12 who ordinarily resides in the member's home, or is a member of the
13 family of either the member or the member's spouse.

14 (iii) The charges for the following medical services and supplies:

15 (A) Drugs and medicines upon a physician's prescription;

16 (B) Diagnostic x-ray and laboratory examinations;

17 (C) X-ray, radium, and radioactive isotopes therapy;

18 (D) Anesthesia and oxygen;

19 (E) Rental of iron lung and other durable medical and surgical
20 equipment;

21 (F) Artificial limbs and eyes, and casts, splints, and trusses;

22 (G) Professional ambulance service when used to transport the
23 member to or from a hospital when he is injured by an accident or
24 stricken by a disease;

25 (H) Dental charges incurred by a member who sustains an accidental
26 injury to his teeth and who commences treatment by a legally licensed
27 dentist within ninety days after the accident;

28 (I) Nursing home confinement or hospital extended care facility;

29 (J) Physical therapy by a registered physical therapist;

1 (K) Blood transfusions, including the cost of blood and blood
2 plasma not replaced by voluntary donors;

3 (L) An optometrist licensed under the provisions of chapter 18.53
4 RCW.

5 (23) "Regular interest" means such rate as the director may
6 determine.

7 (24) "Retiree" for persons who establish membership in the
8 retirement system on or after October 1, 1977, means any member in
9 receipt of a retirement allowance or other benefit provided by this
10 chapter resulting from service rendered to an employer by such member.

11 (25) "Department" means the department of retirement systems
12 created in chapter 41.50 RCW.

13 (26) "Director" means the director of the department.

14 (27) "State actuary" or "actuary" means the person appointed
15 pursuant to RCW 44.44.010(2).

16 (28) "State elective position" means any position held by any
17 person elected or appointed to state-wide office or elected or
18 appointed as a member of the legislature.

19 NEW SECTION. **Sec. 36.** Sections 13 through 17 and 25 of this
20 act are each added to chapter 41.50 RCW.

21 NEW SECTION. **Sec. 37.** If any provision of this act or its
22 application to any person or circumstances is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.