
SENATE BILL 6127

State of Washington 59th Legislature 2005 Regular Session

By Senators Fraser, Jacobsen, Roach, Shin and Regala

Read first time 04/14/2005. Referred to Committee on Ways & Means.

1 AN ACT Relating to the postretirement employment sixty percent cap
2 on retirement allowances under the public employees' and teachers'
3 retirement systems; amending RCW 41.40.185, 41.32.498, 41.32.570, and
4 41.40.037; reenacting and amending RCW 41.40.037; creating a new
5 section; providing effective dates; providing an expiration date; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** People are working until later ages now than
9 they did twenty-eight years ago when plan 1 of the public employees'
10 and teachers' retirement systems was closed to new membership. The
11 design of plan 2 of these systems, which contains no cap on the
12 percentage of a member's salary that the member may receive as a
13 retirement benefit, reflected this altered expectation, which remains
14 true today. The expanded availability of postretirement employment for
15 members of plan 1 was intended to help members who wanted to continue
16 to work and also to help the state meet a growing work force shortage.
17 Opportunities for postretirement employment have not been extended to
18 all members equally, however, and complex administrative procedures are
19 involved in implementing the program. Therefore, there is a need to

1 replace the expanded postretirement employment options with a more
2 effective and equitable approach. It is with these intentions that the
3 legislature is extending the cap on plan 1 members' pension allowances
4 to seventy percent of average final compensation.

5 **Sec. 2.** RCW 41.40.185 and 1991 c 343 s 7 are each amended to read
6 as follows:

7 Upon retirement from service, as provided for in RCW 41.40.180 or
8 41.40.210, a member shall be eligible for a service retirement
9 allowance computed on the basis of the law in effect at the time of
10 retirement, together with such postretirement pension increases as may
11 from time to time be expressly authorized by the legislature. The
12 service retirement allowance payable to members retiring on and after
13 February 25, 1972 shall consist of:

14 (1) An annuity which shall be the actuarial equivalent of his or
15 her additional contributions made pursuant to RCW 41.40.330(2).

16 (2) A membership service pension, subject to the provisions of
17 subsection (4) of this section, which shall be equal to two percent of
18 his or her average final compensation for each service credit year or
19 fraction of a service credit year of membership service.

20 (3) A prior service pension which shall be equal to one-seventieth
21 of his or her average final compensation for each year or fraction of
22 a year of prior service not to exceed thirty years credited to his or
23 her service accounts. In no event, except as provided in this 1972
24 amendatory act or as provided in subsection (5) of this section, shall
25 any member receive a retirement allowance pursuant to subsections (2)
26 and (3) of this section of more than sixty percent of his or her
27 average final compensation: PROVIDED, That no member shall receive a
28 pension under this section of less than nine hundred dollars per annum
29 if such member has twelve or more years of service credit, or less than
30 one thousand and two hundred dollars per annum if such member has
31 sixteen or more years of service credit, or less than one thousand five
32 hundred and sixty dollars per annum if such member has twenty or more
33 years of service credit.

34 (4) Notwithstanding the provisions of subsections (1) through (3)
35 of this section, the retirement allowance payable for service where a
36 member was elected or appointed pursuant to Articles II or III of the
37 Constitution of the state of Washington or RCW 48.02.010 and the

1 implementing statutes shall be a combined pension and annuity. Said
2 retirement allowance shall be equal to three percent of the average
3 final compensation for each year of such service. Any member covered
4 by this subsection who upon retirement has served ten or more years
5 shall receive a retirement allowance of at least one thousand two
6 hundred dollars per annum; such member who has served fifteen or more
7 years shall receive a retirement allowance of at least one thousand
8 eight hundred dollars per annum; and such member who has served twenty
9 or more years shall receive a retirement allowance of at least two
10 thousand four hundred dollars per annum: PROVIDED, That the initial
11 retirement allowance of a member retiring only under the provisions of
12 this subsection shall not exceed the average final compensation upon
13 which the retirement allowance is based. The minimum benefits provided
14 in this subsection shall apply to all retired members or to the
15 surviving spouse of deceased members who were elected to the office of
16 state senator or state representative.

17 (5) Notwithstanding subsection (3) of this section, a member may
18 receive a retirement allowance pursuant to subsection (2) or (3) of
19 this section that is greater than sixty percent of his or her average
20 final compensation as provided in this subsection. The limit of sixty
21 percent of average final compensation shall be lifted by two percent of
22 average final compensation for each year of service credit year of
23 membership service earned after July 1, 2005, up to a maximum
24 retirement allowance of seventy percent of average final compensation.

25 **Sec. 3.** RCW 41.32.498 and 1994 c 197 s 16 are each amended to read
26 as follows:

27 Any person who becomes a member subsequent to April 25, 1973 or who
28 has made the election, provided by RCW 41.32.497, to receive the
29 benefit provided by this section, shall receive a retirement allowance
30 consisting of:

31 (1) An annuity which shall be the actuarial equivalent of his or
32 her additional contributions on full salary as provided by chapter 274,
33 Laws of 1955 and his or her lump sum payment in excess of the required
34 contribution rate made at date of retirement, pursuant to RCW
35 41.32.350, if any; and

36 (2) A combined pension and annuity service retirement allowance
37 which shall be equal to two percent of his or her average earnable

1 compensation for his or her two highest compensated consecutive years
2 of service times the total years of creditable service established with
3 the retirement system, to a maximum of sixty percent of such average
4 earnable compensation, except as provided in subsection (4) of this
5 section: PROVIDED, That any member may irrevocably elect, at time of
6 retirement, to withdraw all or a part of his or her accumulated
7 contributions, other than any amount paid under RCW 41.50.165(2), and
8 to receive, in lieu of the full retirement allowance provided by this
9 subsection, a reduction in the standard two percent allowance, of the
10 actuarially determined amount of monthly annuity which would have been
11 purchased by said contributions: PROVIDED FURTHER, That no member may
12 withdraw an amount of accumulated contributions which would lower his
13 or her retirement allowance below the minimum allowance provided by RCW
14 41.32.497 as now or hereafter amended: AND PROVIDED FURTHER, That said
15 reduced amount may be reduced even further pursuant to the options
16 provided in RCW 41.32.530;

17 (3) Notwithstanding the provisions of subsections (1) and (2) of
18 this section, the retirement allowance payable for service of a member
19 who was state superintendent of public instruction on January 1, 1973
20 shall be equal to three percent of the average earnable compensation of
21 his two highest consecutive years of service for each year of such
22 service;

23 (4) Notwithstanding subsection (2) of this section, a member may
24 receive a retirement allowance pursuant to subsection (2) of this
25 section that is greater than sixty percent of his or her average final
26 compensation as provided in this subsection. The limit of sixty
27 percent of average final compensation shall be lifted by two percent of
28 average final compensation for each year of service credit year of
29 membership service earned after July 1, 2005, up to a maximum
30 retirement allowance of seventy percent of average final compensation.

31 **Sec. 4.** RCW 41.32.570 and 2003 c 295 s 6 are each amended to read
32 as follows:

33 (1)(a) If a retiree enters employment with an employer sooner than
34 one calendar month after his or her accrual date, the retiree's monthly
35 retirement allowance will be reduced by five and one-half percent for
36 every seven hours worked during that month. This reduction will be

1 applied each month until the retiree remains absent from employment
2 with an employer for one full calendar month.

3 (b) The benefit reduction provided in (a) of this subsection will
4 accrue for a maximum of one hundred forty hours per month. Any monthly
5 benefit reduction over one hundred percent will be applied to the
6 benefit the retiree is eligible to receive in subsequent months.

7 (2) Any retired teacher or retired administrator who enters service
8 in any public educational institution in Washington state and who has
9 satisfied the break in employment requirement of subsection (1) of this
10 section shall cease to receive pension payments while engaged in such
11 service, after the retiree has rendered service for more than (~~one~~
12 ~~thousand five hundred~~) eight hundred sixty-seven hours in a school
13 year. (~~(When a retired teacher or administrator renders service beyond~~
14 ~~eight hundred sixty seven hours, the department shall collect from the~~
15 ~~employer the applicable employer retirement contributions for the~~
16 ~~entire duration of the member's employment during that fiscal year.)~~)

17 (3) The department shall collect and provide the state actuary with
18 information relevant to the use of this section for the select
19 committee on pension policy.

20 (4) The legislature reserves the right to amend or repeal this
21 section in the future and no member or beneficiary has a contractual
22 right to be employed for more than five hundred twenty-five hours per
23 year without a reduction of his or her pension.

24 **Sec. 5.** RCW 41.40.037 and 2003 c 412 s 5 and 2003 c 295 s 7 are
25 each reenacted and amended to read as follows:

26 (1)(a) If a retiree enters employment with an employer sooner than
27 one calendar month after his or her accrual date, the retiree's monthly
28 retirement allowance will be reduced by five and one-half percent for
29 every eight hours worked during that month. This reduction will be
30 applied each month until the retiree remains absent from employment
31 with an employer for one full calendar month.

32 (b) The benefit reduction provided in (a) of this subsection will
33 accrue for a maximum of one hundred sixty hours per month. Any benefit
34 reduction over one hundred percent will be applied to the benefit the
35 retiree is eligible to receive in subsequent months.

36 (2)(a) (~~Except as provided in (b) of this subsection,~~) A retiree
37 from plan 1 who enters employment with an employer at least one

1 calendar month after his or her accrual date may continue to receive
2 pension payments while engaged in such service for up to eight hundred
3 sixty-seven hours of service in a calendar year without a reduction of
4 pension.

5 ~~(b) ((A retiree from plan 1 who enters employment with an employer
6 at least three calendar months after his or her accrual date and:~~

7 ~~(i) Is hired into a position for which the employer has documented
8 a justifiable need to hire a retiree into the position;~~

9 ~~(ii) Is hired through the established process for the position with
10 the approval of: A school board for a school district; the chief
11 executive officer of a state agency employer; the secretary of the
12 senate for the senate; the chief clerk of the house of representatives
13 for the house of representatives; the secretary of the senate and the
14 chief clerk of the house of representatives jointly for the joint
15 legislative audit and review committee, the legislative transportation
16 committee, the joint committee on pension policy, the legislative
17 evaluation and accountability program, the legislative systems
18 committee, and the statute law committee; or according to rules adopted
19 for the rehiring of retired plan 1 members for a local government
20 employer;~~

21 ~~(iii) The employer retains records of the procedures followed and
22 decisions made in hiring the retiree, and provides those records in the
23 event of an audit; and~~

24 ~~(iv) The employee has not already rendered a cumulative total of
25 more than one thousand nine hundred hours of service while in receipt
26 of pension payments beyond an annual threshold of eight hundred sixty-
27 seven hours;~~

28 ~~shall cease to receive pension payments while engaged in that service
29 after the retiree has rendered service for more than one thousand five
30 hundred hours in a calendar year. The one thousand nine hundred hour
31 cumulative total under this subsection applies prospectively to those
32 retiring after July 27, 2003, and retroactively to those who retired
33 prior to July 27, 2003, and shall be calculated from the date of
34 retirement.~~

35 ~~(c) When a plan 1 member renders service beyond eight hundred
36 sixty seven hours, the department shall collect from the employer the
37 applicable employer retirement contributions for the entire duration of
38 the member's employment during that calendar year.~~

1 ~~(d)~~) A retiree from plan 2 or plan 3 who has satisfied the break
2 in employment requirement of subsection (1) of this section may work up
3 to eight hundred sixty-seven hours in a calendar year in an eligible
4 position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as
5 a fire fighter or law enforcement officer, as defined in RCW 41.26.030,
6 without suspension of his or her benefit.

7 (3) If the retiree opts to reestablish membership under RCW
8 41.40.023(12), he or she terminates his or her retirement status and
9 becomes a member. Retirement benefits shall not accrue during the
10 period of membership and the individual shall make contributions and
11 receive membership credit. Such a member shall have the right to again
12 retire if eligible in accordance with RCW 41.40.180. However, if the
13 right to retire is exercised to become effective before the member has
14 rendered two uninterrupted years of service, the retirement formula and
15 survivor options the member had at the time of the member's previous
16 retirement shall be reinstated.

17 (4) The department shall collect and provide the state actuary with
18 information relevant to the use of this section for the select
19 committee on pension policy.

20 (5) The legislature reserves the right to amend or repeal this
21 section in the future and no member or beneficiary has a contractual
22 right to be employed for more than five months in a calendar year
23 without a reduction of his or her pension.

24 **Sec. 6.** RCW 41.40.037 and 2004 c 242 s 63 are each amended to read
25 as follows:

26 (1)(a) If a retiree enters employment with an employer sooner than
27 one calendar month after his or her accrual date, the retiree's monthly
28 retirement allowance will be reduced by five and one-half percent for
29 every eight hours worked during that month. This reduction will be
30 applied each month until the retiree remains absent from employment
31 with an employer for one full calendar month.

32 (b) The benefit reduction provided in (a) of this subsection will
33 accrue for a maximum of one hundred sixty hours per month. Any benefit
34 reduction over one hundred percent will be applied to the benefit the
35 retiree is eligible to receive in subsequent months.

36 (2)(a) (~~Except as provided in (b) of this subsection,~~) A retiree
37 from plan 1 who enters employment with an employer at least one

1 calendar month after his or her accrual date may continue to receive
2 pension payments while engaged in such service for up to eight hundred
3 sixty-seven hours of service in a calendar year without a reduction of
4 pension.

5 ~~(b) ((A retiree from plan 1 who enters employment with an employer
6 at least three calendar months after his or her accrual date and:~~

7 ~~(i) Is hired into a position for which the employer has documented
8 a justifiable need to hire a retiree into the position;~~

9 ~~(ii) Is hired through the established process for the position with
10 the approval of: A school board for a school district; the chief
11 executive officer of a state agency employer; the secretary of the
12 senate for the senate; the chief clerk of the house of representatives
13 for the house of representatives; the secretary of the senate and the
14 chief clerk of the house of representatives jointly for the joint
15 legislative audit and review committee, the legislative transportation
16 committee, the joint committee on pension policy, the legislative
17 evaluation and accountability program, the legislative systems
18 committee, and the statute law committee; or according to rules adopted
19 for the rehiring of retired plan 1 members for a local government
20 employer;~~

21 ~~(iii) The employer retains records of the procedures followed and
22 decisions made in hiring the retiree, and provides those records in the
23 event of an audit; and~~

24 ~~(iv) The employee has not already rendered a cumulative total of
25 more than one thousand nine hundred hours of service while in receipt
26 of pension payments beyond an annual threshold of eight hundred sixty-
27 seven hours;~~

28 ~~shall cease to receive pension payments while engaged in that service
29 after the retiree has rendered service for more than one thousand five
30 hundred hours in a calendar year. The one thousand nine hundred hour
31 cumulative total under this subsection applies prospectively to those
32 retiring after July 27, 2003, and retroactively to those who retired
33 prior to July 27, 2003, and shall be calculated from the date of
34 retirement.~~

35 ~~(c) When a plan 1 member renders service beyond eight hundred
36 sixty seven hours, the department shall collect from the employer the
37 applicable employer retirement contributions for the entire duration of
38 the member's employment during that calendar year.~~

1 ~~(d)~~) A retiree from plan 2 or plan 3 who has satisfied the break
2 in employment requirement of subsection (1) of this section may work up
3 to eight hundred sixty-seven hours in a calendar year in an eligible
4 position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or
5 41.40.010, or as a fire fighter or law enforcement officer, as defined
6 in RCW 41.26.030, without suspension of his or her benefit.

7 (3) If the retiree opts to reestablish membership under RCW
8 41.40.023(12), he or she terminates his or her retirement status and
9 becomes a member. Retirement benefits shall not accrue during the
10 period of membership and the individual shall make contributions and
11 receive membership credit. Such a member shall have the right to again
12 retire if eligible in accordance with RCW 41.40.180. However, if the
13 right to retire is exercised to become effective before the member has
14 rendered two uninterrupted years of service, the retirement formula and
15 survivor options the member had at the time of the member's previous
16 retirement shall be reinstated.

17 (4) The department shall collect and provide the state actuary with
18 information relevant to the use of this section for the select
19 committee on pension policy.

20 (5) The legislature reserves the right to amend or repeal this
21 section in the future and no member or beneficiary has a contractual
22 right to be employed for more than five months in a calendar year
23 without a reduction of his or her pension.

24 NEW SECTION. **Sec. 7.** Except for section 6 of this act, this act
25 is necessary for the immediate preservation of the public peace,
26 health, or safety, or support of the state government and its existing
27 public institutions, and takes effect July 1, 2005.

28 NEW SECTION. **Sec. 8.** Section 6 of this act takes effect July 1,
29 2006.

30 NEW SECTION. **Sec. 9.** Section 5 of this act expires July 1, 2006.

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