
SENATE BILL 5333

State of Washington 61st Legislature 2009 Regular Session

By Senators Haugen, Swecker, Delvin, and Parlette

Read first time 01/20/09. Referred to Committee on Transportation.

1 AN ACT Relating to a Washington state patrol retirement system
2 deferred option plan; adding a new section to chapter 43.43 RCW;
3 providing an effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.43 RCW,
6 to be codified between RCW 43.43.120 and 43.43.320, to read as follows:

7 (1) Effective January 1, 2010, in lieu of retiring under RCW
8 43.43.250 and accepting a retirement allowance under RCW 43.43.260, and
9 either RCW 43.43.270 or 43.43.271, as applicable, a regular patrol
10 officer, or a patrol officer who has attained the rank of sergeant, who
11 has been a member of the Washington state patrol retirement system and
12 has not less than twenty-five years of service credit and is eligible
13 to receive a retirement allowance may participate in the Washington
14 state patrol retirement system deferred option plan. A member electing
15 this option shall:

16 (a) Continue his or her employment to a specified date and thereby
17 defer receipt of retirement benefits in accordance with the provisions
18 of this section; and

1 (b) Elect a form of monthly retirement allowance from the
2 Washington state patrol retirement system, which election shall be
3 irrevocable unless otherwise provided under the Washington state patrol
4 retirement system.

5 (2) For purposes of this section, service credit includes service
6 credit recognized under RCW 43.43.230, 43.43.233, 43.43.235, and
7 43.43.260.

8 (3)(a) The number of years of the member's service credit prior to
9 participation in the Washington state patrol retirement system deferred
10 option plan, plus the number of years of participation in the
11 Washington state patrol retirement system deferred option plan, must
12 equal or exceed twenty-eight years. However, the duration of
13 participation in the Washington state patrol retirement system deferred
14 option plan for any member shall not exceed seven years.

15 (b) Participation in the Washington state patrol retirement system
16 deferred option plan must begin on the first day of a month and end on
17 the last day of a month.

18 (c)(i) At the conclusion of a member's participation in the
19 Washington state patrol retirement system deferred option plan, the
20 member shall terminate employment with the Washington state patrol, and
21 shall start receiving the member's accrued monthly retirement allowance
22 from the Washington state patrol retirement system.

23 (ii) Any member who is placed on disability status as set forth in
24 subsection (7) of this section and whose Washington state patrol
25 retirement system deferred option plan account is not reinstated under
26 subsection (7)(b) of this section shall not receive a monthly
27 retirement allowance from the Washington state patrol retirement
28 system.

29 (4)(a) While a member is participating in the Washington state
30 patrol retirement system deferred option plan, the member contributions
31 and the employer contributions shall continue to be paid at the rate
32 computed for the current active members under RCW 41.45.0631, subject
33 to the following:

34 (i) One hundred percent of a member's contributions shall be
35 credited to the member's Washington state patrol retirement system
36 deferred option plan account, and one hundred percent of the employer's
37 contributions shall be credited to the retirement system; and

1 (ii) The monthly retirement benefits that would have been payable
2 had the member retired and begun receiving a retirement allowance shall
3 be paid into the member's Washington state patrol retirement system
4 deferred option plan account.

5 (b) The member shall not earn any additional service credit under
6 the Washington state patrol retirement system, or receive any salary
7 increase adjustments to the member's retirement allowance calculation,
8 during the period of the member's participation in the Washington state
9 patrol retirement system deferred option plan.

10 (5)(a) A member who participates in the deferred option plan is
11 eligible to receive retirement allowance cost-of-living increases from
12 the Washington state patrol retirement system, up to a maximum of three
13 percent per year during the member's period of participation in the
14 deferred option plan.

15 (b) A member's deferred option plan account balance shall be
16 credited on an annual basis with investment earnings at a rate of two
17 percentage points below the rate of return of the investment portfolio
18 of the Washington state patrol retirement system, but not less than
19 zero percent.

20 (c)(i) A member shall forfeit all interest on the deferred option
21 plan account balance if the member terminates participation in the
22 Washington state patrol retirement system deferred option plan before
23 the sum of the member's years of service credit prior to participation
24 in the deferred option plan, plus the number of years of participation
25 in the deferred option plan, equals twenty-eight years. However, this
26 subsection (5)(c) does not apply if the member's participation
27 terminates as a result of the member's death.

28 (ii) If a member forfeits his or her interest under this subsection
29 (5)(c), his or her eligibility for a retirement allowance under this
30 chapter shall be calculated as if he or she had never elected the
31 deferred option plan.

32 (6) If a member is placed on disability leave in accordance with
33 RCW 43.43.040(1)(a) during the period of the member's participation in
34 the Washington state patrol retirement system deferred option plan, the
35 member and the employer contributions shall continue to be made and
36 credited in accordance with subsection (4) of this section for the
37 period of disability leave.

1 (7)(a) A member who, during the period of participation in the
2 Washington state patrol retirement system deferred option plan, is
3 placed on disability status in accordance with RCW 43.43.040(1)(a), and
4 receives compensation in accordance with RCW 43.43.040(2): (i) Is
5 deemed to have terminated participation in the deferred option plan on
6 the last day of the month that coincides with, or next follows, the
7 date of the member's placement on disability status; and (ii) forfeits
8 the entire balance in the member's deferred option plan account as of
9 the termination date under (a)(i) of this subsection (7).

10 (b) A member shall be reinstated in the Washington state patrol
11 retirement system deferred option plan, and the balance previously
12 forfeited from the member's deferred option plan account shall be
13 reinstated, on the first day of the month that coincides with or next
14 follows the date of the member's reemployment if the member:

15 (i) Was receiving disability benefits under RCW 43.43.040;

16 (ii) Was deemed to have terminated participation in the deferred
17 option plan;

18 (iii) Returns to active duty with the Washington state patrol; and

19 (iv) Becomes an active member of the retirement system.

20 (c) A member reemployed and reinstated as provided in (b) of this
21 subsection may elect to acquire service credit for the period of
22 disablement by paying all required contributions in accordance with RCW
23 43.43.290. When payments are made, member and employer contributions
24 shall be credited in accordance with subsection (4) of this section.
25 Service credit shall be applied toward the member's number of years of
26 participation in the Washington state patrol retirement system deferred
27 option plan for purposes of determining the minimum and maximum period
28 of participation described in subsection (3) of this section.

29 (8) Subject to subsection (5)(c) of this section, upon retirement
30 the member shall receive:

31 (a) The member's accrued monthly retirement allowance from the
32 Washington state patrol retirement system, in accordance with
33 subsection (3)(c)(i) of this section, and

34 (b) An amount equal to the member's monthly retirement allowance
35 elected under subsection (1)(b) of this section, multiplied by the
36 number of months the member was in the deferred option plan, adjusted
37 for any cost-of-living increases under subsection (5)(a) of this
38 section, plus the amount of contribution under subsection (4) of this

1 section and the amount of interest under subsection (5) of this
2 section. The amount determined under this subsection shall be paid, at
3 the member's option in:

4 (i) A lump sum payment;

5 (ii) A direct rollover payable to an individual retirement annuity
6 provider selected by the member as a result of the member's own
7 research and investigation; or

8 (iii) A direct rollover to an eligible retirement plan or, if the
9 beneficiary is a nonspouse designated beneficiary, to an individual
10 retirement account or annuity as described in subsection (10)(b)(ii) of
11 this section.

12 (9)(a) If the member dies during the period of participation in the
13 Washington state patrol retirement system deferred option plan, the
14 amount determined in subsection (8) of this section shall be paid:

15 (i) At the option of the designated beneficiary, for the benefit of
16 the designated beneficiary, and in accordance with subsection (8)(a) or
17 (b)(iii) of this section; or

18 (ii) If there is no designated beneficiary or the designated
19 beneficiary predeceases the member, to the estate of the member in
20 accordance with subsection (8)(a) of this section. A payment made
21 under this section is in addition to any death benefits payable under
22 any other statute.

23 (b) For purposes of this section, "designated beneficiary" means
24 the individual designated by the member by written designation duly
25 executed and filed with the department. If the member's lawful spouse
26 or lawful domestic partner is not designated as the sole primary
27 beneficiary, the member must also file with the department the written
28 consent of his or her spouse or domestic partner to the beneficiary
29 designation.

30 (10)(a) At the end of participation, a distributee may elect, at
31 the time and in the manner prescribed by the department, to have any
32 portion of an eligible rollover distribution paid directly to an
33 eligible retirement plan specified by the distributee in a direct
34 rollover.

35 (b) For purposes of this section, the following definitions apply:

36 (i) "Eligible rollover distribution" means any distribution of all
37 or any portion of the balance to the credit of the distributee, except
38 that an eligible rollover distribution does not include any

1 distribution that is one of a series of substantially equal periodic
2 payments (not less frequently than annually) made for the life (or life
3 expectancy) of the distributee or the joint lives (or life
4 expectancies) of the distributee and the distributee's designated
5 beneficiary, or for a specified period of ten years or more; any
6 distribution to the extent such a distribution is required under
7 section 401(a)(9) of the internal revenue code of 1986, as amended, and
8 the portion of any distribution that is not includable in gross income.
9 A portion of a distribution does not fail to be an eligible rollover
10 distribution merely because the portion consists of after-tax member
11 contributions that are not includable in gross income. However, such
12 a portion may be paid only to:

13 (A) An individual retirement account or annuity described in
14 section 408(a) or (b) of the internal revenue code of 1986, as amended;
15 or

16 (B) A qualified trust described in section 401(a) or 403(a) of the
17 internal revenue code of 1986, as amended, or an annuity contract
18 described in section 403(b) of the internal revenue code of 1986, as
19 amended, if such a trust or annuity contract provides for separate
20 accounting for amounts so transferred (and earnings thereon), including
21 separately accounting for the portion of such a distribution that is
22 includable in gross income and the portion of such a distribution which
23 is not includable.

24 (ii) "Eligible retirement plan" means an eligible plan under
25 section 457(b) of the internal revenue code of 1986, as amended, which
26 is maintained by a state, political subdivision of a state, or any
27 agency or instrumentality of a state or political subdivision of a
28 state and which agrees to separately account for amounts transferred
29 into such a plan from the retirement system, an individual retirement
30 account described in section 408(a) of the internal revenue code of
31 1986, as amended, an individual retirement annuity described in section
32 408(b) of the internal revenue code of 1986, as amended, an annuity
33 plan described in section 403(a) of the internal revenue code of 1986,
34 as amended, an annuity contract described in section 403(b) of the
35 internal revenue code of 1986, as amended, or a qualified trust
36 described in section 401(a) of the internal revenue code of 1986, as
37 amended, that accepts the distributee's eligible rollover distribution.

1 (iii) "Distributee" means a member whether or not the member is an
2 active member. In addition, the member's surviving spouse or surviving
3 domestic partner and the member's spouse, former spouse, domestic
4 partner, or former domestic partner who is an obligee under a mandatory
5 benefits assignment order, as provided in RCW 41.50.500, are
6 distributees with regard to the interest of the spouse, former spouse,
7 domestic partner, or former domestic partner. "Distributee" also
8 includes the member's nonspouse designated beneficiary, pursuant to
9 section 401(a)(9)(E) of the internal revenue code of 1986, as amended.
10 In the case of a nonspouse beneficiary, the direct rollover may be made
11 only to an individual retirement account or annuity (other than an
12 endowment contract) described in section 408(a) or (b) of the internal
13 revenue code of 1986, as amended (IRA), that is established on behalf
14 of such a designated beneficiary and that will be treated as an
15 inherited IRA pursuant to the provisions of section 402(c)(11) of the
16 internal revenue code of 1986, as amended. Also, in this case, the
17 determination of any required minimum distribution under section
18 401(a)(9) of the internal revenue code of 1986, as amended, that is
19 ineligible for rollover shall be made in accordance with Notice 2007-7,
20 Q&A 17 and 18, 2007-5 I.R.B. 395. The required minimum distribution
21 rules of section 401(a)(9)(B) (other than clause iv thereof) of the
22 internal revenue code of 1986, as amended, apply to the transferee IRA.

23 (iv) "Direct rollover" means a payment by the retirement system to
24 the eligible retirement plan specified by the distributee or, to a Roth
25 IRA under section 408A of the internal revenue code of 1986, as
26 amended, as specified by the distributee (assuming the distributee
27 otherwise meets the Roth IRA requirements).

28 (c) At least thirty days before, and not more than one hundred
29 eighty days before, the date of distribution, the distributee must be
30 provided with a notice of rights which satisfies section 402(f) of the
31 internal revenue code of 1986, as amended, as to rollover options and
32 tax effects. Such a distribution may commence less than thirty days
33 after the notice is given. However, (i) the department must clearly
34 inform the distributee that the distributee has a right to a period of
35 at least thirty days after receiving the notice to consider the
36 decision of whether or not to elect a distribution; and (ii) the
37 distributee, after receiving the notice, must affirmatively elect a
38 distribution.

1 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 July 1, 2009.

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