

---

ENGROSSED SUBSTITUTE SENATE BILL 6503

---

State of Washington

61st Legislature

2010 Regular Session

By Senate Ways & Means (originally sponsored by Senator Prentice)

READ FIRST TIME 01/22/10.

1 AN ACT Relating to the operations of state agencies; amending RCW  
2 42.04.060 and 41.04.665; reenacting and amending RCW 41.26.030,  
3 41.32.010, 41.37.010, and 43.43.120; adding a new section to chapter  
4 41.80 RCW; creating new sections; providing an expiration date; and  
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature declares that unprecedented  
8 revenue shortfalls necessitate immediate action to reduce expenditures  
9 during the 2009-2011 fiscal biennium. From the effective date of this  
10 section, it is the intent of the legislature that state agencies of the  
11 legislative branch, judicial branch, and executive branch including  
12 institutions of higher education, shall achieve a reduction in  
13 government operating expenses as provided in this act. It is the  
14 legislature's intent that, to the extent that the reductions in  
15 expenditures reduce compensation costs, agencies and institutions shall  
16 strive to preserve family wage jobs by reducing the impact of temporary  
17 layoffs on lower-wage jobs.

1        NEW SECTION.    **Sec. 2.** State agencies and institutions shall  
2 achieve reductions in compensation expenditures for employees employed  
3 by general government state agencies in Washington management services,  
4 or exempt positions as managers, as defined in RCW 41.06.022, as  
5 provided in the omnibus appropriations act. These reductions shall be  
6 sufficient to attain a savings of \$10 million general fund--state for  
7 fiscal year 2011. Savings in other funds and accounts shall be  
8 achieved as provided in the omnibus appropriations act.

9        NEW SECTION.    **Sec. 3.** (1)(a) The office of financial management  
10 shall certify to each executive branch state agency and institution of  
11 higher education the compensation reduction amount to be achieved by  
12 that agency or institution. Each agency and institution shall achieve  
13 compensation expenditure reductions as provided in the omnibus  
14 appropriations act.

15        (b) Each executive branch state agency other than institutions of  
16 higher education may submit to the office of financial management a  
17 compensation reduction plan to achieve the cost reductions as provided  
18 in the omnibus appropriations act. The compensation reduction plan of  
19 each executive branch agency may include, but is not limited to,  
20 employee leave without pay, including additional mandatory and  
21 voluntary temporary layoffs, reductions in the agency workforce,  
22 compensation reductions, and reduced work hours, as well as voluntary  
23 retirement, separation, and other incentive programs authorized by  
24 section 912, chapter 564, Laws of 2009. The amount of compensation  
25 cost reductions to be achieved by each agency shall be adjusted to  
26 reflect voluntary and mandatory temporary layoffs at the agency during  
27 the 2009-2011 fiscal biennium and implemented prior to January 1, 2010,  
28 but not adjusted by other compensation reduction plans adopted as a  
29 result of the enactment of chapter 564, Laws of 2009, or the enactment  
30 of other compensation cost reduction measures applicable to the 2009-  
31 2011 fiscal biennium.

32        (c) Each institution of higher education must submit to the office  
33 of financial management a compensation reduction plan to achieve at  
34 least the cost reductions as provided in the omnibus appropriations  
35 act. For purposes of the compensation reduction plan, the state board  
36 of community and technical colleges shall submit a single plan on  
37 behalf of all community and technical colleges. The compensation

1 reduction plan of each institution may include, but is not limited to,  
2 employee leave without pay, including mandatory and voluntary temporary  
3 layoffs, reductions in the institution workforce, compensation  
4 reductions, and reduced work hours, as well as voluntary retirement,  
5 separation, and other incentive programs authorized by section 912,  
6 chapter 564, Laws of 2009. The amount of compensation cost reductions  
7 to be achieved by each institution shall be adjusted to reflect  
8 voluntary and mandatory temporary layoffs at the institution during the  
9 2009-2011 fiscal biennium and implemented prior to January 1, 2010, but  
10 not adjusted by other compensation reduction plans adopted as a result  
11 of the enactment of chapter 564, Laws of 2009, or the enactment of  
12 other compensation cost reduction measures applicable to the 2009-2011  
13 fiscal biennium.

14 (d) The director of financial management shall review, approve, and  
15 submit to the legislative fiscal committees those executive branch  
16 state agencies and higher education institution compensation reduction  
17 plans that achieve the cost reductions as provided in the omnibus  
18 appropriations act. For those executive branch state agencies and  
19 institutions of higher education that do not have an approved  
20 compensation reduction plan, the institution shall be closed on the  
21 dates specified in subsection (2) of this section.

22 (e) For each agency of the legislative branch, the chief clerk of  
23 the house of representatives and the secretary of the senate shall  
24 review and approve a plan of employee mandatory and voluntary leave for  
25 the 2009-2011 fiscal biennium that achieve the cost reductions as  
26 provided in the omnibus appropriations act. The amount of compensation  
27 cost reductions to be achieved shall be adjusted, if necessary, to  
28 reflect voluntary and mandatory temporary layoffs at the agencies  
29 during the 2009-2011 fiscal biennium and implemented prior to January  
30 1, 2010.

31 (f) For each agency of the judicial branch, the supreme court shall  
32 review and approve a plan of employee mandatory and voluntary leave for  
33 the 2009-2011 fiscal biennium that achieve the cost reductions as  
34 provided in the omnibus appropriations act. The amount of compensation  
35 cost reductions to be achieved shall be adjusted, if necessary, to  
36 reflect voluntary and mandatory temporary layoffs at the agencies  
37 during the 2009-2011 fiscal biennium and implemented prior to January  
38 1, 2010.

1 (2) Each state agency of the executive, legislative, and judicial  
2 branch, and any institution that does not have an approved plan in  
3 accordance with subsection (1) of this section shall be closed on the  
4 following dates in addition to the legal holidays specified in RCW  
5 1.16.050:

- 6 (a) Monday, July 12, 2010;
- 7 (b) Friday, August 6, 2010;
- 8 (c) Tuesday, September 7, 2010;
- 9 (d) Monday, October 11, 2010;
- 10 (e) Monday, December 27, 2010;
- 11 (f) Friday, January 28, 2011;
- 12 (g) Tuesday, February 22, 2011;
- 13 (h) Friday, March 11, 2011;
- 14 (i) Friday, April 22, 2011;
- 15 (j) Friday, June 10, 2011.

16 (3) If the closure of state agencies or institutions under  
17 subsection (2) of this section prevents the performance of any action,  
18 the action shall be considered timely if performed on the next business  
19 day.

20 (4) The following activities of state agencies and institutions of  
21 higher education are exempt from subsections (1) and (2) of this  
22 section:

23 (a) Direct custody, supervision, and patient care in: (i)  
24 Corrections; (ii) juvenile rehabilitation; (iii) institutional care of  
25 veterans, or individuals with mental illness, and individuals with  
26 developmental disabilities; (iv) state hospitals, the University of  
27 Washington medical center, and Harborview medical center; (v) the  
28 special commitment center; (vi) the school for the blind; (vii) the  
29 state center for childhood deafness and hearing loss; and (viii) the  
30 Washington youth academy;

31 (b) Direct protective services to children and other vulnerable  
32 populations, child support enforcement, disability determination  
33 services, complaint investigators, and residential care licensors and  
34 surveyors in the department of social and health services and the  
35 department of health;

36 (c) Washington state patrol investigative services and field  
37 enforcement;

38 (d) Hazardous materials response or emergency response and cleanup;

- 1 (e) Emergency public health and patient safety response and the  
2 public health laboratory;
- 3 (f) Military operations and emergency management within the  
4 military department;
- 5 (g) Firefighting;
- 6 (h) Enforcement officers in the department of fish and wildlife,  
7 the liquor control board, the gambling commission, the department of  
8 financial institutions, and the department of natural resources;
- 9 (i) State parks operated by the parks and recreation commission;
- 10 (j) In institutions of higher education, classroom instruction,  
11 operations not funded from state funds or tuition, campus police and  
12 security, emergency management and response, work performed by student  
13 employees if the duties were not previously assigned to nonstudents  
14 during the current or prior school year, and student health care;
- 15 (k) Operations of liquor control board business enterprises and  
16 games conducted by the state lottery;
- 17 (l) Agricultural commodity commissions and boards, and agricultural  
18 inspection programs operated by the department of agriculture;
- 19 (m) The unemployment insurance program and reemployment services of  
20 the employment security department;
- 21 (n) The workers' compensation program and workplace safety and  
22 health compliance activities of the department of labor and industries;
- 23 (o) The operation, maintenance, and construction of state ferries  
24 and state highways;
- 25 (p) The department of revenue;
- 26 (q) Licensing service offices in the department of licensing that  
27 are open no more than two days per week, and no licensing service  
28 office closures may occur on Saturdays as a result of this section;
- 29 (r) The governor, lieutenant governor, and legislative agencies,  
30 during sessions of the legislature under Article II, section 12 of the  
31 state Constitution and the twenty-day veto period under Article IV,  
32 section 12 of the state Constitution; and
- 33 (s) The minimal use of state employees on the specified closure  
34 dates as necessary to protect public assets and information technology  
35 systems, and to maintain public safety.
- 36 (5)(a) The closure of an office of a state agency or institution of  
37 higher education under this section shall result in the temporary  
38 layoff of the employees of the agency or institution. The compensation

1 of the employees shall be reduced proportionately to the duration of  
2 the temporary layoff. Temporary layoffs under this section shall not  
3 affect the employees' vacation leave accrual, seniority, health  
4 insurance, or sick leave credits. For the purposes of chapter 430,  
5 Laws of 2009, the compensation reductions under this section are deemed  
6 to be an integral part of an employer's expenditure reduction efforts  
7 and shall not result in the loss of retirement benefits in any state  
8 defined benefit retirement plan for an employee whose period of average  
9 final compensation includes a portion of the period from the effective  
10 date of this section through June 30, 2011.

11 (b)(i) During the closure of an office or institution under this  
12 section, any employee with a monthly full-time equivalent salary of two  
13 thousand five hundred dollars or less may, at the employee's option,  
14 use accrued vacation leave in lieu of temporary layoff during the  
15 closure. Solely for this purpose, and during the 2009-2011 fiscal  
16 biennium only, the department of personnel shall adopt rules to permit  
17 employees with less than six months of continuous state employment to  
18 use accrued vacation leave.

19 (ii) If an employee with a monthly full-time equivalent salary of  
20 two thousand five hundred dollars or less has no accrued vacation  
21 leave, that employee may use shared leave, if approved by the agency  
22 director, and if made available through donations under RCW 41.04.665  
23 in lieu of temporary layoff during the closure.

24 (6) Except as provided in subsection (4) of this section, for  
25 employees not scheduled to work on a day specified in subsection (2) of  
26 this section, the employing agency must designate an alternative day  
27 during that month on which the employee is scheduled to work that the  
28 employee will take temporary leave without pay.

29 (7) To the extent that the implementation of this section is  
30 subject to collective bargaining under chapter 41.80 RCW, the  
31 bargaining shall be conducted pursuant to section 4 of this act. To  
32 the extent that the implementation of this section is subject to  
33 collective bargaining under chapters 28B.52, 41.56, 41.76, or 47.64  
34 RCW, the bargaining shall be conducted pursuant to these chapters.

35 (8) For all or a portion of the employees of an agency of the  
36 executive branch, the office of financial management may approve the  
37 substitution of temporary layoffs on an alternative date during that

1 month for any date specified in subsection (2) of this section as  
2 necessary for the critical work of any agency.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.80 RCW  
4 to read as follows:

5 (1) To the extent that the implementation of section 3 of this act  
6 is subject to collective bargaining:

7 (a) For institutions of higher education that have elected to have  
8 negotiations conducted by the governor or governor's designee in  
9 accordance with RCW 41.80.010(4), and that have an approved  
10 compensation reduction plan under section 3(1) of this act,  
11 negotiations regarding impacts of the compensation reduction plan shall  
12 be conducted between the governor or governor's designee and a  
13 coalition at each college, college district, or university of all of  
14 the exclusive bargaining representatives subject to chapter 41.80 RCW;

15 (b) For institutions of higher education that have elected to have  
16 negotiations conducted by the governor or governor's designee in  
17 accordance with RCW 41.80.010(4), and that do not have an approved  
18 compensation reduction plan under section 3(1) of this act,  
19 negotiations regarding impacts of the temporary layoffs under section  
20 3(2) of this act shall be conducted between the governor or governor's  
21 designee and one coalition of all of the exclusive bargaining  
22 representatives subject to chapter 41.80 RCW;

23 (c) For institutions of higher education that have not elected to  
24 have negotiations conducted by the governor or governor's designee  
25 under RCW 41.80.010(4), negotiations regarding impacts of section 3 of  
26 this act shall be conducted between each institution of higher  
27 education and the exclusive bargaining representatives;

28 (d) For agencies that have an approved compensation reduction plan  
29 under section 3(1) of this act, negotiations regarding impacts of the  
30 compensation reduction plan shall be conducted between the governor or  
31 governor's designee and a coalition at each agency of all of the  
32 exclusive bargaining representatives subject to chapter 41.80 RCW; and

33 (e) For agencies that do not have an approved compensation  
34 reduction plan under section 3(1) of this act, negotiations regarding  
35 impacts of the temporary layoffs under section 3(2) of this act shall  
36 be conducted between the governor or governor's designee and one

1 coalition of all of the exclusive bargaining representatives subject to  
2 chapter 41.80 RCW.

3 (2) This section expires June 30, 2011.

4 **Sec. 5.** RCW 42.04.060 and 2009 c 428 s 1 are each amended to read  
5 as follows:

6 Except as provided in section 3 of this act, all state elective and  
7 appointive officers shall keep their offices open for the transaction  
8 of business for a minimum of forty hours per week, except weeks that  
9 include state legal holidays. Customary business hours must be posted  
10 on the agency or office's web site and made known by other means  
11 designed to provide the public with notice.

12 ~~((This section shall not apply to the courts of record of this~~  
13 ~~state or to their officers nor to the office of the attorney general~~  
14 ~~and the lieutenant governor.))~~

15 **Sec. 6.** RCW 41.26.030 and 2009 c 523 s 3 are each reenacted and  
16 amended to read as follows:

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

19 (1) "Accumulated contributions" means the employee's contributions  
20 made by a member, including any amount paid under RCW 41.50.165(2),  
21 plus accrued interest credited thereon.

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

27 (3) "Actuarial valuation" means a mathematical determination of the  
28 financial condition of a retirement plan. It includes the computation  
29 of the present monetary value of benefits payable to present members,  
30 and the present monetary value of future employer and employee  
31 contributions, giving effect to mortality among active and retired  
32 members and also to the rates of disability, retirement, withdrawal  
33 from service, salary and interest earned on investments.

34 (4)(a) "Basic salary" for plan 1 members, means the basic monthly  
35 rate of salary or wages, including longevity pay but not including



1 overtime earnings or special salary or wages, upon which pension or  
2 retirement benefits will be computed and upon which employer  
3 contributions and salary deductions will be based.

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

14 (i) The basic salary the member would have received had such member  
15 not served in the legislature; or

16 (ii) Such member's actual basic salary received for nonlegislative  
17 public employment and legislative service combined. Any additional  
18 contributions to the retirement system required because basic salary  
19 under (b)(i) of this subsection is greater than basic salary under  
20 (b)(ii) of this subsection shall be paid by the member for both member  
21 and employer contributions.

22 (5)(a) "Beneficiary" for plan 1 members, 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 plan 2 members, means any person in receipt  
26 of a retirement allowance or other benefit provided by this chapter  
27 resulting from service rendered to an employer by another person.

28 (6)(a) "Child" or "children" means an unmarried person who is under  
29 the age of eighteen or mentally or physically disabled as determined by  
30 the department, except a person who is disabled and in the full time  
31 care of a state institution, who is:

32 (i) A natural born child;

33 (ii) A stepchild where that relationship was in existence prior to  
34 the date benefits are payable under this chapter;

35 (iii) A posthumous child;

36 (iv) A child legally adopted or made a legal ward of a member prior  
37 to the date benefits are payable under this chapter; or

1 (v) An illegitimate child legitimized prior to the date any  
2 benefits are payable under this chapter.

3 (b) A person shall also be deemed to be a child up to and including  
4 the age of twenty years and eleven months while attending any high  
5 school, college, or vocational or other educational institution  
6 accredited, licensed, or approved by the state, in which it is located,  
7 including the summer vacation months and all other normal and regular  
8 vacation periods at the particular educational institution after which  
9 the child returns to school.

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

12 (8) "Director" means the director of the department.

13 (9) "Disability board" for plan 1 members means either the county  
14 disability board or the city disability board established in RCW  
15 41.26.110.

16 (10) "Disability leave" means the period of six months or any  
17 portion thereof during which a member is on leave at an allowance equal  
18 to the member's full salary prior to the commencement of disability  
19 retirement. The definition contained in this subsection shall apply  
20 only to plan 1 members.

21 (11) "Disability retirement" for plan 1 members, means the period  
22 following termination of a member's disability leave, during which the  
23 member is in receipt of a disability retirement allowance.

24 (12) "Domestic partners" means two adults who have registered as  
25 domestic partners under RCW 26.60.020.

26 (13) "Employee" means any law enforcement officer or firefighter as  
27 defined in subsections (16) and (18) of this section.

28 (14)(a) "Employer" for plan 1 members, means the legislative  
29 authority of any city, town, county, or district or the elected  
30 officials of any municipal corporation that employs any law enforcement  
31 officer and/or firefighter, any authorized association of such  
32 municipalities, and, except for the purposes of RCW 41.26.150, any  
33 labor guild, association, or organization, which represents the  
34 firefighters or law enforcement officers of at least seven cities of  
35 over 20,000 population and the membership of each local lodge or  
36 division of which is composed of at least sixty percent law enforcement  
37 officers or firefighters as defined in this chapter.

1 (b) "Employer" for plan 2 members, means the following entities to  
2 the extent that the entity employs any law enforcement officer and/or  
3 firefighter:

4 (i) The legislative authority of any city, town, county, or  
5 district;

6 (ii) The elected officials of any municipal corporation;

7 (iii) The governing body of any other general authority law  
8 enforcement agency; or

9 (iv) A four-year institution of higher education having a fully  
10 operational fire department as of January 1, 1996.

11 (15)(a) "Final average salary" for plan 1 members, means (i) for a  
12 member holding the same position or rank for a minimum of twelve months  
13 preceding the date of retirement, the basic salary attached to such  
14 same position or rank at time of retirement; (ii) for any other member,  
15 including a civil service member who has not served a minimum of twelve  
16 months in the same position or rank preceding the date of retirement,  
17 the average of the greatest basic salaries payable to such member  
18 during any consecutive twenty-four month period within such member's  
19 last ten years of service for which service credit is allowed, computed  
20 by dividing the total basic salaries payable to such member during the  
21 selected twenty-four month period by twenty-four; (iii) in the case of  
22 disability of any member, the basic salary payable to such member at  
23 the time of disability retirement; (iv) in the case of a member who  
24 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to  
25 such member at the time of vesting.

26 (b) "Final average salary" for plan 2 members, means the monthly  
27 average of the member's basic salary for the highest consecutive sixty  
28 service credit months of service prior to such member's retirement,  
29 termination, or death. Periods constituting authorized unpaid leaves  
30 of absence may not be used in the calculation of final average salary.

31 (c) In calculating final average salary under (a) or (b) of this  
32 subsection, the department of retirement systems shall include any  
33 compensation forgone by a member employed by a state agency or  
34 institution during the 2009-2011 fiscal biennium as a result of reduced  
35 work hours, mandatory or voluntary leave without pay, or temporary  
36 layoffs if the reduced compensation is an integral part of the  
37 employer's expenditure reduction efforts, as certified by the employer.

38 (16) "Firefighter" means:

1 (a) Any person who is serving on a full time, fully compensated  
2 basis as a member of a fire department of an employer and who is  
3 serving in a position which requires passing a civil service  
4 examination for firefighter, and who is actively employed as such;

5 (b) Anyone who is actively employed as a full time firefighter  
6 where the fire department does not have a civil service examination;

7 (c) Supervisory firefighter personnel;

8 (d) Any full time executive secretary of an association of fire  
9 protection districts authorized under RCW 52.12.031. The provisions of  
10 this subsection (16)(d) shall not apply to plan 2 members;

11 (e) The executive secretary of a labor guild, association or  
12 organization (which is an employer under (~~RCW 41.26.030(14) as now or~~  
13 ~~hereafter amended~~)) subsection (14) of this section, if such  
14 individual has five years previous membership in a retirement system  
15 established in chapter 41.16 or 41.18 RCW. The provisions of this  
16 subsection (16)(e) shall not apply to plan 2 members;

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

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

25 (h) Any person who is employed on a full-time, fully compensated  
26 basis by an employer as an emergency medical technician.

27 (17) "General authority law enforcement agency" means any agency,  
28 department, or division of a municipal corporation, political  
29 subdivision, or other unit of local government of this state, and any  
30 agency, department, or division of state government, having as its  
31 primary function the detection and apprehension of persons committing  
32 infractions or violating the traffic or criminal laws in general, but  
33 not including the Washington state patrol. Such an agency, department,  
34 or division is distinguished from a limited authority law enforcement  
35 agency having as one of its functions the apprehension or detection of  
36 persons committing infractions or violating the traffic or criminal  
37 laws relating to limited subject areas, including but not limited to,  
38 the state departments of natural resources and social and health

1 services, the state gambling commission, the state lottery commission,  
2 the state parks and recreation commission, the state utilities and  
3 transportation commission, the state liquor control board, and the  
4 state department of corrections.

5 (18) "Law enforcement officer" beginning January 1, 1994, means any  
6 person who is commissioned and employed by an employer on a full time,  
7 fully compensated basis to enforce the criminal laws of the state of  
8 Washington generally, with the following qualifications:

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

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

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

24 (d) The term "law enforcement officer" also includes the executive  
25 secretary of a labor guild, association or organization (which is an  
26 employer under (~~RCW 41.26.030(14)~~) subsection (14) of this section)  
27 if that individual has five years previous membership in the retirement  
28 system established in chapter 41.20 RCW. The provisions of this  
29 subsection (18)(d) shall not apply to plan 2 members; and

30 (e) The term "law enforcement officer" also includes a person  
31 employed on or after January 1, 1993, as a public safety officer or  
32 director of public safety, so long as the job duties substantially  
33 involve only either police or fire duties, or both, and no other duties  
34 in a city or town with a population of less than ten thousand. The  
35 provisions of this subsection (18)(e) shall not apply to any public  
36 safety officer or director of public safety who is receiving a  
37 retirement allowance under this chapter as of May 12, 1993.

1 (19) "Medical services" for plan 1 members, shall include the  
2 following as minimum services to be provided. Reasonable charges for  
3 these services shall be paid in accordance with RCW 41.26.150.

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

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

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

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

14 (i) The fees of the following:

15 (A) A physician or surgeon licensed under the provisions of chapter  
16 18.71 RCW;

17 (B) An osteopathic physician and surgeon licensed under the  
18 provisions of chapter 18.57 RCW;

19 (C) A chiropractor licensed under the provisions of chapter 18.25  
20 RCW.

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

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

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

26 (B) Diagnostic X-ray and laboratory examinations;

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

28 (D) Anesthesia and oxygen;

29 (E) Rental of iron lung and other durable medical and surgical  
30 equipment;

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

32 (G) Professional ambulance service when used to transport the  
33 member to or from a hospital when injured by an accident or stricken by  
34 a disease;

35 (H) Dental charges incurred by a member who sustains an accidental  
36 injury to his or her teeth and who commences treatment by a legally  
37 licensed dentist within ninety days after the accident;

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

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

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

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

6 (20) "Member" means any firefighter, law enforcement officer, or  
7 other person as would apply under subsections (16) or (18) of this  
8 section whose membership is transferred to the Washington law  
9 enforcement officers' and firefighters' retirement system on or after  
10 March 1, 1970, and every law enforcement officer and firefighter who is  
11 employed in that capacity on or after such date.

12 (21) "Plan 1" means the law enforcement officers' and firefighters'  
13 retirement system, plan 1 providing the benefits and funding provisions  
14 covering persons who first became members of the system prior to  
15 October 1, 1977.

16 (22) "Plan 2" means the law enforcement officers' and firefighters'  
17 retirement system, plan 2 providing the benefits and funding provisions  
18 covering persons who first became members of the system on and after  
19 October 1, 1977.

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

22 (24) "Regular interest" means such rate as the director may  
23 determine.

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

28 (26) "Retirement fund" means the "Washington law enforcement  
29 officers' and firefighters' retirement system fund" as provided for  
30 herein.

31 (27) "Retirement system" means the "Washington law enforcement  
32 officers' and firefighters' retirement system" provided herein.

33 (28)(a) "Service" for plan 1 members, means all periods of  
34 employment for an employer as a firefighter or law enforcement officer,  
35 for which compensation is paid, together with periods of suspension not  
36 exceeding thirty days in duration. For the purposes of this chapter  
37 service shall also include service in the armed forces of the United  
38 States as provided in RCW 41.26.190. Credit shall be allowed for all

1 service credit months of service rendered by a member from and after  
2 the member's initial commencement of employment as a firefighter or law  
3 enforcement officer, during which the member worked for seventy or more  
4 hours, or was on disability leave or disability retirement. Only  
5 service credit months of service shall be counted in the computation of  
6 any retirement allowance or other benefit provided for in this chapter.

7 (i) For members retiring after May 21, 1971 who were employed under  
8 the coverage of a prior pension act before March 1, 1970, "service"  
9 shall also include (A) such military service not exceeding five years  
10 as was creditable to the member as of March 1, 1970, under the member's  
11 particular prior pension act, and (B) such other periods of service as  
12 were then creditable to a particular member under the provisions of RCW  
13 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit  
14 be allowed for any service rendered prior to March 1, 1970, where the  
15 member at the time of rendition of such service was employed in a  
16 position covered by a prior pension act, unless such service, at the  
17 time credit is claimed therefor, is also creditable under the  
18 provisions of such prior act.

19 (ii) A member who is employed by two employers at the same time  
20 shall only be credited with service to one such employer for any month  
21 during which the member rendered such dual service.

22 (b) "Service" for plan 2 members, means periods of employment by a  
23 member for one or more employers for which basic salary is earned for  
24 ninety or more hours per calendar month which shall constitute a  
25 service credit month. Periods of employment by a member for one or  
26 more employers for which basic salary is earned for at least seventy  
27 hours but less than ninety hours per calendar month shall constitute  
28 one-half service credit month. Periods of employment by a member for  
29 one or more employers for which basic salary is earned for less than  
30 seventy hours shall constitute a one-quarter service credit month.

31 Members of the retirement system who are elected or appointed to a  
32 state elective position may elect to continue to be members of this  
33 retirement system.

34 Service credit years of service shall be determined by dividing the  
35 total number of service credit months of service by twelve. Any  
36 fraction of a service credit year of service as so determined shall be  
37 taken into account in the computation of such retirement allowance or  
38 benefits.



1 If a member receives basic salary from two or more employers during  
2 any calendar month, the individual shall receive one service credit  
3 month's service credit during any calendar month in which multiple  
4 service for ninety or more hours is rendered; or one-half service  
5 credit month's service credit during any calendar month in which  
6 multiple service for at least seventy hours but less than ninety hours  
7 is rendered; or one-quarter service credit month during any calendar  
8 month in which multiple service for less than seventy hours is  
9 rendered.

10 (29) "Service credit month" means a full service credit month or an  
11 accumulation of partial service credit months that are equal to one.

12 (30) "Service credit year" means an accumulation of months of  
13 service credit which is equal to one when divided by twelve.

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

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

19 (33) "Surviving spouse" means the surviving widow or widower of a  
20 member. "Surviving spouse" shall not include the divorced spouse of a  
21 member except as provided in RCW 41.26.162.

22 **Sec. 7.** RCW 41.32.010 and 2008 c 204 s 1 and 2008 c 175 s 1 are  
23 each reenacted and amended to read as follows:

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

26 (1)(a) "Accumulated contributions" for plan 1 members, means the  
27 sum of all regular annuity contributions and, except for the purpose of  
28 withdrawal at the time of retirement, any amount paid under RCW  
29 41.50.165(2) with regular interest thereon.

30 (b) "Accumulated contributions" for plan 2 members, means the sum  
31 of all contributions standing to the credit of a member in the member's  
32 individual account, including any amount paid under RCW 41.50.165(2),  
33 together with the regular interest thereon.

34 (2) "Actuarial equivalent" means a benefit of equal value when  
35 computed upon the basis of such mortality tables and regulations as  
36 shall be adopted by the director and regular interest.

1 (3) "Annuity" means the moneys payable per year during life by  
2 reason of accumulated contributions of a member.

3 (4) "Member reserve" means the fund in which all of the accumulated  
4 contributions of members are held.

5 (5)(a) "Beneficiary" for plan 1 members, means any person in  
6 receipt of a retirement allowance or other benefit provided by this  
7 chapter.

8 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
9 in receipt of a retirement allowance or other benefit provided by this  
10 chapter resulting from service rendered to an employer by another  
11 person.

12 (6) "Contract" means any agreement for service and compensation  
13 between a member and an employer.

14 (7) "Creditable service" means membership service plus prior  
15 service for which credit is allowable. This subsection shall apply  
16 only to plan 1 members.

17 (8) "Dependent" means receiving one-half or more of support from a  
18 member.

19 (9) "Disability allowance" means monthly payments during  
20 disability. This subsection shall apply only to plan 1 members.

21 (10)(a) "Earnable compensation" for plan 1 members, means:

22 (i) All salaries and wages paid by an employer to an employee  
23 member of the retirement system for personal services rendered during  
24 a fiscal year. In all cases where compensation includes maintenance  
25 the employer shall fix the value of that part of the compensation not  
26 paid in money.

27 (ii) For an employee member of the retirement system teaching in an  
28 extended school year program, two consecutive extended school years, as  
29 defined by the employer school district, may be used as the annual  
30 period for determining earnable compensation in lieu of the two fiscal  
31 years.

32 (iii) "Earnable compensation" for plan 1 members also includes the  
33 following actual or imputed payments, which are not paid for personal  
34 services:

35 (A) Retroactive payments to an individual by an employer on  
36 reinstatement of the employee in a position, or payments by an employer  
37 to an individual in lieu of reinstatement in a position which are  
38 awarded or granted as the equivalent of the salary or wages which the

1 individual would have earned during a payroll period shall be  
2 considered earnable compensation and the individual shall receive the  
3 equivalent service credit.

4 (B) If a leave of absence, without pay, is taken by a member for  
5 the purpose of serving as a member of the state legislature, and such  
6 member has served in the legislature five or more years, the salary  
7 which would have been received for the position from which the leave of  
8 absence was taken shall be considered as compensation earnable if the  
9 employee's contribution thereon is paid by the employee. In addition,  
10 where a member has been a member of the state legislature for five or  
11 more years, earnable compensation for the member's two highest  
12 compensated consecutive years of service shall include a sum not to  
13 exceed thirty-six hundred dollars for each of such two consecutive  
14 years, regardless of whether or not legislative service was rendered  
15 during those two years.

16 (iv) For members employed less than full time under written  
17 contract with a school district, or community college district, in an  
18 instructional position, for which the member receives service credit of  
19 less than one year in all of the years used to determine the earnable  
20 compensation used for computing benefits due under RCW 41.32.497,  
21 41.32.498, and 41.32.520, the member may elect to have earnable  
22 compensation defined as provided in RCW 41.32.345. For the purposes of  
23 this subsection, the term "instructional position" means a position in  
24 which more than seventy-five percent of the member's time is spent as  
25 a classroom instructor (including office hours), a librarian, a  
26 psychologist, a social worker, a nurse, a physical therapist, an  
27 occupational therapist, a speech language pathologist or audiologist,  
28 or a counselor. Earnable compensation shall be so defined only for the  
29 purpose of the calculation of retirement benefits and only as necessary  
30 to insure that members who receive fractional service credit under RCW  
31 41.32.270 receive benefits proportional to those received by members  
32 who have received full-time service credit.

33 (v) "Earnable compensation" does not include:

34 (A) Remuneration for unused sick leave authorized under RCW  
35 41.04.340, 28A.400.210, or 28A.310.490;

36 (B) Remuneration for unused annual leave in excess of thirty days  
37 as authorized by RCW 43.01.044 and 43.01.041.

1 (b) "Earnable compensation" for plan 2 and plan 3 members, means  
2 salaries or wages earned by a member during a payroll period for  
3 personal services, including overtime payments, and shall include wages  
4 and salaries deferred under provisions established pursuant to sections  
5 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
6 shall exclude lump sum payments for deferred annual sick leave, unused  
7 accumulated vacation, unused accumulated annual leave, or any form of  
8 severance pay.

9 "Earnable compensation" for plan 2 and plan 3 members also includes  
10 the following actual or imputed payments which, except in the case of  
11 (b)(ii)(B) of this subsection, are not paid for personal services:

12 (i) Retroactive payments to an individual by an employer on  
13 reinstatement of the employee in a position or payments by an employer  
14 to an individual in lieu of reinstatement in a position which are  
15 awarded or granted as the equivalent of the salary or wages which the  
16 individual would have earned during a payroll period shall be  
17 considered earnable compensation, to the extent provided above, and the  
18 individual shall receive the equivalent service credit.

19 (ii) In any year in which a member serves in the legislature the  
20 member shall have the option of having such member's earnable  
21 compensation be the greater of:

22 (A) The earnable compensation the member would have received had  
23 such member not served in the legislature; or

24 (B) Such member's actual earnable compensation received for  
25 teaching and legislative service combined. Any additional  
26 contributions to the retirement system required because compensation  
27 earnable under (b)(ii)(A) of this subsection is greater than  
28 compensation earnable under (b)(ii)(B) of this subsection shall be paid  
29 by the member for both member and employer contributions.

30 (c) In calculating earnable compensation under (a) or (b) of this  
31 subsection, the department of retirement systems shall include any  
32 compensation forgone by a member employed by a state agency or  
33 institution during the 2009-2011 fiscal biennium as a result of reduced  
34 work hours, mandatory or voluntary leave without pay, or temporary  
35 layoffs if the reduced compensation is an integral part of the  
36 employer's expenditure reduction efforts, as certified by the employer.

37 (11) "Employer" means the state of Washington, the school district,  
38 or any agency of the state of Washington by which the member is paid.

- 1 (12) "Fiscal year" means a year which begins July 1st and ends June  
2 30th of the following year.
- 3 (13) "Former state fund" means the state retirement fund in  
4 operation for teachers under chapter 187, Laws of 1923, as amended.
- 5 (14) "Local fund" means any of the local retirement funds for  
6 teachers operated in any school district in accordance with the  
7 provisions of chapter 163, Laws of 1917 as amended.
- 8 (15) "Member" means any teacher included in the membership of the  
9 retirement system who has not been removed from membership under RCW  
10 41.32.878 or 41.32.768. Also, any other employee of the public schools  
11 who, on July 1, 1947, had not elected to be exempt from membership and  
12 who, prior to that date, had by an authorized payroll deduction,  
13 contributed to the member reserve.
- 14 (16) "Membership service" means service rendered subsequent to the  
15 first day of eligibility of a person to membership in the retirement  
16 system: PROVIDED, That where a member is employed by two or more  
17 employers the individual shall receive no more than one service credit  
18 month during any calendar month in which multiple service is rendered.  
19 The provisions of this subsection shall apply only to plan 1 members.
- 20 (17) "Pension" means the moneys payable per year during life from  
21 the pension reserve.
- 22 (18) "Pension reserve" is a fund in which shall be accumulated an  
23 actuarial reserve adequate to meet present and future pension  
24 liabilities of the system and from which all pension obligations are to  
25 be paid.
- 26 (19) "Prior service" means service rendered prior to the first date  
27 of eligibility to membership in the retirement system for which credit  
28 is allowable. The provisions of this subsection shall apply only to  
29 plan 1 members.
- 30 (20) "Prior service contributions" means contributions made by a  
31 member to secure credit for prior service. The provisions of this  
32 subsection shall apply only to plan 1 members.
- 33 (21) "Public school" means any institution or activity operated by  
34 the state of Washington or any instrumentality or political subdivision  
35 thereof employing teachers, except the University of Washington and  
36 Washington State University.
- 37 (22) "Regular contributions" means the amounts required to be

1 deducted from the compensation of a member and credited to the member's  
2 individual account in the member reserve. This subsection shall apply  
3 only to plan 1 members.

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

6 (24)(a) "Retirement allowance" for plan 1 members, means monthly  
7 payments based on the sum of annuity and pension, or any optional  
8 benefits payable in lieu thereof.

9 (b) "Retirement allowance" for plan 2 and plan 3 members, means  
10 monthly payments to a retiree or beneficiary as provided in this  
11 chapter.

12 (25) "Retirement system" means the Washington state teachers'  
13 retirement system.

14 (26)(a) "Service" for plan 1 members means the time during which a  
15 member has been employed by an employer for compensation.

16 (i) If a member is employed by two or more employers the individual  
17 shall receive no more than one service credit month during any calendar  
18 month in which multiple service is rendered.

19 (ii) As authorized by RCW 28A.400.300, up to forty-five days of  
20 sick leave may be creditable as service solely for the purpose of  
21 determining eligibility to retire under RCW 41.32.470.

22 (iii) As authorized in RCW 41.32.065, service earned in an out-of-  
23 state retirement system that covers teachers in public schools may be  
24 applied solely for the purpose of determining eligibility to retire  
25 under RCW 41.32.470.

26 (b) "Service" for plan 2 and plan 3 members, means periods of  
27 employment by a member for one or more employers for which earnable  
28 compensation is earned subject to the following conditions:

29 (i) A member employed in an eligible position or as a substitute  
30 shall receive one service credit month for each month of September  
31 through August of the following year if he or she earns earnable  
32 compensation for eight hundred ten or more hours during that period and  
33 is employed during nine of those months, except that a member may not  
34 receive credit for any period prior to the member's employment in an  
35 eligible position except as provided in RCW 41.32.812 and  
36 41.50.132((+)).

37 (ii) Any other member employed in an eligible position or as a  
38 substitute who earns earnable compensation during the period from

1 September through August shall receive service credit according to one  
2 of the following methods, whichever provides the most service credit to  
3 the member:

4 (A) If a member is employed either in an eligible position or as a  
5 substitute teacher for nine months of the twelve month period between  
6 September through August of the following year but earns earnable  
7 compensation for less than eight hundred ten hours but for at least six  
8 hundred thirty hours, he or she will receive one-half of a service  
9 credit month for each month of the twelve month period;

10 (B) If a member is employed in an eligible position or as a  
11 substitute teacher for at least five months of a six-month period  
12 between September through August of the following year and earns  
13 earnable compensation for six hundred thirty or more hours within the  
14 six-month period, he or she will receive a maximum of six service  
15 credit months for the school year, which shall be recorded as one  
16 service credit month for each month of the six-month period;

17 (C) All other members employed in an eligible position or as a  
18 substitute teacher shall receive service credit as follows:

19 (I) A service credit month is earned in those calendar months where  
20 earnable compensation is earned for ninety or more hours;

21 (II) A half-service credit month is earned in those calendar months  
22 where earnable compensation is earned for at least seventy hours but  
23 less than ninety hours; and

24 (III) A quarter-service credit month is earned in those calendar  
25 months where earnable compensation is earned for less than seventy  
26 hours.

27 (iii) Any person who is a member of the teachers' retirement system  
28 and who is elected or appointed to a state elective position may  
29 continue to be a member of the retirement system and continue to  
30 receive a service credit month for each of the months in a state  
31 elective position by making the required member contributions.

32 (iv) When an individual is employed by two or more employers the  
33 individual shall only receive one month's service credit during any  
34 calendar month in which multiple service for ninety or more hours is  
35 rendered.

36 (v) As authorized by RCW 28A.400.300, up to forty-five days of sick  
37 leave may be creditable as service solely for the purpose of  
38 determining eligibility to retire under RCW 41.32.470. For purposes of

1 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
2 to two service credit months. Use of less than forty-five days of sick  
3 leave is creditable as allowed under this subsection as follows:

4 (A) Less than eleven days equals one-quarter service credit month;

5 (B) Eleven or more days but less than twenty-two days equals one-  
6 half service credit month;

7 (C) Twenty-two days equals one service credit month;

8 (D) More than twenty-two days but less than thirty-three days  
9 equals one and one-quarter service credit month;

10 (E) Thirty-three or more days but less than forty-five days equals  
11 one and one-half service credit month.

12 (vi) As authorized in RCW 41.32.065, service earned in an out-of-  
13 state retirement system that covers teachers in public schools may be  
14 applied solely for the purpose of determining eligibility to retire  
15 under RCW 41.32.470.

16 (vii) The department shall adopt rules implementing this  
17 subsection.

18 (27) "Service credit year" means an accumulation of months of  
19 service credit which is equal to one when divided by twelve.

20 (28) "Service credit month" means a full service credit month or an  
21 accumulation of partial service credit months that are equal to one.

22 (29) "Teacher" means any person qualified to teach who is engaged  
23 by a public school in an instructional, administrative, or supervisory  
24 capacity. The term includes state, educational service district, and  
25 school district superintendents and their assistants and all employees  
26 certificated by the superintendent of public instruction; and in  
27 addition thereto any full time school doctor who is employed by a  
28 public school and renders service of an instructional or educational  
29 nature.

30 (30) "Average final compensation" for plan 2 and plan 3 members,  
31 means the member's average earnable compensation of the highest  
32 consecutive sixty service credit months prior to such member's  
33 retirement, termination, or death. Periods constituting authorized  
34 leaves of absence may not be used in the calculation of average final  
35 compensation except under RCW 41.32.810(2).

36 (31) "Retiree" means any person who has begun accruing a retirement  
37 allowance or other benefit provided by this chapter resulting from  
38 service rendered to an employer while a member.



1 (32) "Department" means the department of retirement systems  
2 created in chapter 41.50 RCW.

3 (33) "Director" means the director of the department.

4 (34) "State elective position" means any position held by any  
5 person elected or appointed to statewide office or elected or appointed  
6 as a member of the legislature.

7 (35) "State actuary" or "actuary" means the person appointed  
8 pursuant to RCW 44.44.010(2).

9 (36) "Substitute teacher" means:

10 (a) A teacher who is hired by an employer to work as a temporary  
11 teacher, except for teachers who are annual contract employees of an  
12 employer and are guaranteed a minimum number of hours; or

13 (b) Teachers who either (i) work in ineligible positions for more  
14 than one employer or (ii) work in an ineligible position or positions  
15 together with an eligible position.

16 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,  
17 through September 1, 1991, means a position which normally requires two  
18 or more uninterrupted months of creditable service during September  
19 through August of the following year.

20 (b) "Eligible position" for plan 2 and plan 3 on and after  
21 September 1, 1991, means a position that, as defined by the employer,  
22 normally requires five or more months of at least seventy hours of  
23 earnable compensation during September through August of the following  
24 year.

25 (c) For purposes of this chapter an employer shall not define  
26 "position" in such a manner that an employee's monthly work for that  
27 employer is divided into more than one position.

28 (d) The elected position of the superintendent of public  
29 instruction is an eligible position.

30 (38) "Plan 1" means the teachers' retirement system, plan 1  
31 providing the benefits and funding provisions covering persons who  
32 first became members of the system prior to October 1, 1977.

33 (39) "Plan 2" means the teachers' retirement system, plan 2  
34 providing the benefits and funding provisions covering persons who  
35 first became members of the system on and after October 1, 1977, and  
36 prior to July 1, 1996.

37 (40) "Plan 3" means the teachers' retirement system, plan 3

1 providing the benefits and funding provisions covering persons who  
2 first become members of the system on and after July 1, 1996, or who  
3 transfer under RCW 41.32.817.

4 (41) "Index" means, for any calendar year, that year's annual  
5 average consumer price index, Seattle, Washington area, for urban wage  
6 earners and clerical workers, all items compiled by the bureau of labor  
7 statistics, United States department of labor.

8 (42) "Index A" means the index for the year prior to the  
9 determination of a postretirement adjustment.

10 (43) "Index B" means the index for the year prior to index A.

11 (44) "Index year" means the earliest calendar year in which the  
12 index is more than sixty percent of index A.

13 (45) "Adjustment ratio" means the value of index A divided by index  
14 B.

15 (46) "Annual increase" means, initially, fifty-nine cents per month  
16 per year of service which amount shall be increased each July 1st by  
17 three percent, rounded to the nearest cent.

18 (47) "Member account" or "member's account" for purposes of plan 3  
19 means the sum of the contributions and earnings on behalf of the member  
20 in the defined contribution portion of plan 3.

21 (48) "Separation from service or employment" occurs when a person  
22 has terminated all employment with an employer. Separation from  
23 service or employment does not occur, and if claimed by an employer or  
24 employee may be a violation of RCW 41.32.055, when an employee and  
25 employer have a written or oral agreement to resume employment with the  
26 same employer following termination. Mere expressions or inquiries  
27 about postretirement employment by an employer or employee that do not  
28 constitute a commitment to reemploy the employee after retirement are  
29 not an agreement under this section.

30 (49) "Employed" or "employee" means a person who is providing  
31 services for compensation to an employer, unless the person is free  
32 from the employer's direction and control over the performance of work.  
33 The department shall adopt rules and interpret this subsection  
34 consistent with common law.

35 **Sec. 8.** RCW 41.37.010 and 2007 c 492 s 11 and 2007 c 294 s 1 are  
36 each reenacted and amended to read as follows:

1 The definitions in this section apply throughout this chapter,  
2 unless the context clearly requires otherwise.

3 (1) "Retirement system" means the Washington public safety  
4 employees' retirement system provided for in this chapter.

5 (2) "Department" means the department of retirement systems created  
6 in chapter 41.50 RCW.

7 (3) "State treasurer" means the treasurer of the state of  
8 Washington.

9 (4) "Employer" means the Washington state department of  
10 corrections, the Washington state parks and recreation commission, the  
11 Washington state gambling commission, the Washington state patrol, the  
12 Washington state department of natural resources, and the Washington  
13 state liquor control board; any county corrections department; or any  
14 city corrections department not covered under chapter 41.28 RCW.

15 (5) "Member" means any employee employed by an employer on a full-  
16 time basis:

17 (a) Who is in a position that requires completion of a certified  
18 criminal justice training course and is authorized by their employer to  
19 arrest, conduct criminal investigations, enforce the criminal laws of  
20 the state of Washington, and carry a firearm as part of the job;

21 (b) Whose primary responsibility is to ensure the custody and  
22 security of incarcerated or probationary individuals as a corrections  
23 officer, probation officer, or jailer;

24 (c) Who is a limited authority Washington peace officer, as defined  
25 in RCW 10.93.020, for an employer; or

26 (d) Whose primary responsibility is to supervise members eligible  
27 under this subsection.

28 (6)(a) "Compensation earnable" for members, means salaries or wages  
29 earned by a member during a payroll period for personal services,  
30 including overtime payments, and shall include wages and salaries  
31 deferred under provisions established pursuant to sections 403(b),  
32 414(h), and 457 of the United States internal revenue code, but shall  
33 exclude nonmoney maintenance compensation and lump sum or other  
34 payments for deferred annual sick leave, unused accumulated vacation,  
35 unused accumulated annual leave, or any form of severance pay.

36 (b) "Compensation earnable" for members also includes the following  
37 actual or imputed payments, which are not paid for personal services:

1 (i) Retroactive payments to an individual by an employer on  
2 reinstatement of the employee in a position, or payments by an employer  
3 to an individual in lieu of reinstatement, which are awarded or granted  
4 as the equivalent of the salary or wage which the individual would have  
5 earned during a payroll period shall be considered compensation  
6 earnable to the extent provided in this subsection, and the individual  
7 shall receive the equivalent service credit;

8 (ii) In any year in which a member serves in the legislature, the  
9 member shall have the option of having such member's compensation  
10 earnable be the greater of:

11 (A) The compensation earnable the member would have received had  
12 such member not served in the legislature; or

13 (B) Such member's actual compensation earnable received for  
14 nonlegislative public employment and legislative service combined. Any  
15 additional contributions to the retirement system required because  
16 compensation earnable under (b)(ii)(A) of this subsection is greater  
17 than compensation earnable under (b)(ii)(B) of this subsection shall be  
18 paid by the member for both member and employer contributions;

19 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
20 and 72.09.240;

21 (iv) Compensation that a member would have received but for a  
22 disability occurring in the line of duty only as authorized by RCW  
23 41.37.060;

24 (v) Compensation that a member receives due to participation in the  
25 leave sharing program only as authorized by RCW 41.04.650 through  
26 41.04.670; and

27 (vi) Compensation that a member receives for being in standby  
28 status. For the purposes of this section, a member is in standby  
29 status when not being paid for time actually worked and the employer  
30 requires the member to be prepared to report immediately for work, if  
31 the need arises, although the need may not arise.

32 (7) "Service" means periods of employment by a member on or after  
33 July 1, 2006, for one or more employers for which compensation earnable  
34 is paid. Compensation earnable earned for ninety or more hours in any  
35 calendar month shall constitute one service credit month. Compensation  
36 earnable earned for at least seventy hours but less than ninety hours  
37 in any calendar month shall constitute one-half service credit month of  
38 service. Compensation earnable earned for less than seventy hours in

1 any calendar month shall constitute one-quarter service credit month of  
2 service. Time spent in standby status, whether compensated or not, is  
3 not service.

4 Any fraction of a year of service shall be taken into account in  
5 the computation of such retirement allowance or benefits.

6 (a) Service in any state elective position shall be deemed to be  
7 full-time service.

8 (b) A member shall receive a total of not more than twelve service  
9 credit months of service for such calendar year. If an individual is  
10 employed in an eligible position by one or more employers the  
11 individual shall receive no more than one service credit month during  
12 any calendar month in which multiple service for ninety or more hours  
13 is rendered.

14 (8) "Service credit year" means an accumulation of months of  
15 service credit which is equal to one when divided by twelve.

16 (9) "Service credit month" means a month or an accumulation of  
17 months of service credit which is equal to one.

18 (10) "Membership service" means all service rendered as a member.

19 (11) "Beneficiary" means any person in receipt of a retirement  
20 allowance or other benefit provided by this chapter resulting from  
21 service rendered to an employer by another person.

22 (12) "Regular interest" means such rate as the director may  
23 determine.

24 (13) "Accumulated contributions" means the sum of all contributions  
25 standing to the credit of a member in the member's individual account,  
26 including any amount paid under RCW 41.50.165(2), together with the  
27 regular interest thereon.

28 (14)(a) "Average final compensation" means the member's average  
29 compensation earnable of the highest consecutive sixty months of  
30 service credit months prior to such member's retirement, termination,  
31 or death. Periods constituting authorized leaves of absence may not be  
32 used in the calculation of average final compensation except under RCW  
33 41.37.290.

34 (b) In calculating average final compensation under (a) of this  
35 subsection, the department of retirement systems shall include any  
36 compensation forgone by a member employed by a state agency or  
37 institution during the 2009-2011 fiscal biennium as a result of reduced

1 work hours, mandatory or voluntary leave without pay, or temporary  
2 layoffs if the reduced compensation is an integral part of the  
3 employer's expenditure reduction efforts, as certified by the employer.

4 (15) "Final compensation" means the annual rate of compensation  
5 earnable by a member at the time of termination of employment.

6 (16) "Annuity" means payments for life derived from accumulated  
7 contributions of a member. All annuities shall be paid in monthly  
8 installments.

9 (17) "Pension" means payments for life derived from contributions  
10 made by the employer. All pensions shall be paid in monthly  
11 installments.

12 (18) "Retirement allowance" means monthly payments to a retiree or  
13 beneficiary as provided in this chapter.

14 (19) "Employee" or "employed" means a person who is providing  
15 services for compensation to an employer, unless the person is free  
16 from the employer's direction and control over the performance of work.  
17 The department shall adopt rules and interpret this subsection  
18 consistent with common law.

19 (20) "Actuarial equivalent" means a benefit of equal value when  
20 computed upon the basis of such mortality and other tables as may be  
21 adopted by the director.

22 (21) "Retirement" means withdrawal from active service with a  
23 retirement allowance as provided by this chapter.

24 (22) "Eligible position" means any permanent, full-time position  
25 included in subsection (5) of this section.

26 (23) "Ineligible position" means any position which does not  
27 conform with the requirements set forth in subsection (22) of this  
28 section.

29 (24) "Leave of absence" means the period of time a member is  
30 authorized by the employer to be absent from service without being  
31 separated from membership.

32 (25) "Retiree" means any person who has begun accruing a retirement  
33 allowance or other benefit provided by this chapter resulting from  
34 service rendered to an employer while a member.

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

36 (27) "State elective position" means any position held by any  
37 person elected or appointed to statewide office or elected or appointed  
38 as a member of the legislature.

1 (28) "State actuary" or "actuary" means the person appointed  
2 pursuant to RCW 44.44.010(2).

3 (29) "Plan" means the Washington public safety employees'  
4 retirement system plan 2.

5 (30) "Index" means, for any calendar year, that year's annual  
6 average consumer price index, Seattle, Washington area, for urban wage  
7 earners and clerical workers, all items, compiled by the bureau of  
8 labor statistics, United States department of labor.

9 (31) "Index A" means the index for the year prior to the  
10 determination of a postretirement adjustment.

11 (32) "Index B" means the index for the year prior to index A.

12 (33) "Adjustment ratio" means the value of index A divided by index  
13 B.

14 (34) "Separation from service" occurs when a person has terminated  
15 all employment with an employer.

16 **Sec. 9.** RCW 43.43.120 and 2009 c 549 s 5124 and 2009 c 522 s 1 are  
17 each reenacted and amended to read as follows:

18 As used in ((~~RCW 43.43.120~~)) this section and RCW 43.43.130 through  
19 43.43.320, unless a different meaning is plainly required by the  
20 context:

21 (1) "Actuarial equivalent" shall mean a benefit of equal value when  
22 computed upon the basis of such mortality table as may be adopted and  
23 such interest rate as may be determined by the director.

24 (2) "Annual increase" means as of July 1, 1999, seventy-seven cents  
25 per month per year of service which amount shall be increased each  
26 subsequent July 1st by three percent, rounded to the nearest cent.

27 (3)(a) "Average final salary," for members commissioned prior to  
28 January 1, 2003, shall mean the average monthly salary received by a  
29 member during the member's last two years of service or any consecutive  
30 two-year period of service, whichever is the greater, as an employee of  
31 the Washington state patrol; or if the member has less than two years  
32 of service, then the average monthly salary received by the member  
33 during the member's total years of service.

34 (b) "Average final salary," for members commissioned on or after  
35 January 1, 2003, shall mean the average monthly salary received by a  
36 member for the highest consecutive sixty service credit months; or if

1 the member has less than sixty months of service, then the average  
2 monthly salary received by the member during the member's total months  
3 of service.

4 (c) In calculating average final salary under (a) or (b) of this  
5 subsection, the department of retirement systems shall include any  
6 compensation forgone by the member during the 2009-2011 fiscal biennium  
7 as a result of reduced work hours, mandatory or voluntary leave without  
8 pay, or temporary layoffs if the reduced compensation is an integral  
9 part of the employer's expenditure reduction efforts, as certified by  
10 the chief.

11 (4) "Beneficiary" means any person in receipt of retirement  
12 allowance or any other benefit allowed by this chapter.

13 (5)(a) "Cadet," for a person who became a member of the retirement  
14 system after June 12, 1980, is a person who has passed the Washington  
15 state patrol's entry-level oral, written, physical performance, and  
16 background examinations and is, thereby, appointed by the chief as a  
17 candidate to be a commissioned officer of the Washington state patrol.

18 (b) "Cadet," for a person who became a member of the retirement  
19 system before June 12, 1980, is a trooper cadet, patrol cadet, or  
20 employee of like classification, employed for the express purpose of  
21 receiving the on-the-job training required for attendance at the state  
22 patrol academy and for becoming a commissioned trooper. "Like  
23 classification" includes: Radio operators or dispatchers; persons  
24 providing security for the governor or legislature; patrol officers;  
25 drivers' license examiners; weighmasters; vehicle safety inspectors;  
26 central wireless operators; and warehouse workers.

27 (6) "Contributions" means the deduction from the compensation of  
28 each member in accordance with the contribution rates established under  
29 chapter 41.45 RCW.

30 (7) "Current service" shall mean all service as a member rendered  
31 on or after August 1, 1947.

32 (8) "Department" means the department of retirement systems created  
33 in chapter 41.50 RCW.

34 (9) "Director" means the director of the department of retirement  
35 systems.

36 (10) "Domestic partners" means two adults who have registered as  
37 domestic partners under RCW ((~~26.60.020~~)) 26.60.040.



- 1 (11) "Employee" means any commissioned employee of the Washington  
2 state patrol.
- 3 (12) "Insurance commissioner" means the insurance commissioner of  
4 the state of Washington.
- 5 (13) "Lieutenant governor" means the lieutenant governor of the  
6 state of Washington.
- 7 (14) "Member" means any person included in the membership of the  
8 retirement fund.
- 9 (15) "Plan 2" means the Washington state patrol retirement system  
10 plan 2, providing the benefits and funding provisions covering  
11 commissioned employees who first become members of the system on or  
12 after January 1, 2003.
- 13 (16) "Prior service" shall mean all services rendered by a member  
14 to the state of Washington, or any of its political subdivisions prior  
15 to August 1, 1947, unless such service has been credited in another  
16 public retirement or pension system operating in the state of  
17 Washington.
- 18 (17) "Regular interest" means interest compounded annually at such  
19 rates as may be determined by the director.
- 20 (18) "Retirement board" means the board provided for in this  
21 chapter.
- 22 (19) "Retirement fund" means the Washington state patrol retirement  
23 fund.
- 24 (20) "Retirement system" means the Washington state patrol  
25 retirement system.
- 26 (21)(a) "Salary," for members commissioned prior to July 1, 2001,  
27 shall exclude any overtime earnings related to RCW 47.46.040, or any  
28 voluntary overtime, earned on or after July 1, 2001.
- 29 (b) "Salary," for members commissioned on or after July 1, 2001,  
30 shall exclude any overtime earnings related to RCW 47.46.040 or any  
31 voluntary overtime, lump sum payments for deferred annual sick leave,  
32 unused accumulated vacation, unused accumulated annual leave, holiday  
33 pay, or any form of severance pay.
- 34 (22) "Service" shall mean services rendered to the state of  
35 Washington or any political subdivisions thereof for which compensation  
36 has been paid. Full time employment for seventy or more hours in any  
37 given calendar month shall constitute one month of service. An  
38 employee who is reinstated in accordance with RCW 43.43.110 shall

1 suffer no loss of service for the period reinstated subject to the  
2 contribution requirements of this chapter. Only months of service  
3 shall be counted in the computation of any retirement allowance or  
4 other benefit provided for herein. Years of service shall be  
5 determined by dividing the total number of months of service by twelve.  
6 Any fraction of a year of service as so determined shall be taken into  
7 account in the computation of such retirement allowance or benefit.

8 (23) "State actuary" or "actuary" means the person appointed  
9 pursuant to RCW 44.44.010(2).

10 (24) "State treasurer" means the treasurer of the state of  
11 Washington.

12 ~~((25))~~ Unless the context expressly indicates otherwise, words  
13 importing the masculine gender shall be extended to include the  
14 feminine gender and words importing the feminine gender shall be  
15 extended to include the masculine gender.

16 **Sec. 10.** RCW 41.04.665 and 2008 c 36 s 3 are each amended to read  
17 as follows:

18 (1) An agency head may permit an employee to receive leave under  
19 this section if:

20 (a)(i) The employee suffers from, or has a relative or household  
21 member suffering from, an illness, injury, impairment, or physical or  
22 mental condition which is of an extraordinary or severe nature;

23 (ii) The employee has been called to service in the uniformed  
24 services;

25 (iii) A state of emergency has been declared anywhere within the  
26 United States by the federal or any state government and the employee  
27 has needed skills to assist in responding to the emergency or its  
28 aftermath and volunteers his or her services to either a governmental  
29 agency or to a nonprofit organization engaged in humanitarian relief in  
30 the devastated area, and the governmental agency or nonprofit  
31 organization accepts the employee's offer of volunteer services; ~~((or))~~

32 (iv) The employee is a victim of domestic violence, sexual assault,  
33 or stalking; or

34 (v) During the 2009-2011 fiscal biennium only, the employee is  
35 eligible to use leave in lieu of temporary layoff under section 3(5) of  
36 this act;

1 (b) The illness, injury, impairment, condition, call to service,  
2 emergency volunteer service, or consequence of domestic violence,  
3 sexual assault, temporary layoff under section 3(5) of this act, or  
4 stalking has caused, or is likely to cause, the employee to:

5 (i) Go on leave without pay status; or

6 (ii) Terminate state employment;

7 (c) The employee's absence and the use of shared leave are  
8 justified;

9 (d) The employee has depleted or will shortly deplete his or her:

10 (i) Annual leave and sick leave reserves if he or she qualifies  
11 under (a)(i) of this subsection;

12 (ii) Annual leave and paid military leave allowed under RCW  
13 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

14 (iii) Annual leave if he or she qualifies under (a)(iii) (~~(e)~~),  
15 (iv), or (v) of this subsection;

16 (e) The employee has abided by agency rules regarding:

17 (i) Sick leave use if he or she qualifies under (a)(i) or (iv) of  
18 this subsection; or

19 (ii) Military leave if he or she qualifies under (a)(ii) of this  
20 subsection; and

21 (f) The employee has diligently pursued and been found to be  
22 ineligible for benefits under chapter 51.32 RCW if he or she qualifies  
23 under (a)(i) of this subsection.

24 (2) The agency head shall determine the amount of leave, if any,  
25 which an employee may receive under this section. However, an employee  
26 shall not receive a total of more than two hundred sixty-one days of  
27 leave, except that shared leave received under the uniformed service  
28 shared leave pool in RCW 41.04.685 is not included in this total.

29 (3) An employee may transfer annual leave, sick leave, and his or  
30 her personal holiday, as follows:

31 (a) An employee who has an accrued annual leave balance of more  
32 than ten days may request that the head of the agency for which the  
33 employee works transfer a specified amount of annual leave to another  
34 employee authorized to receive leave under subsection (1) of this  
35 section. In no event may the employee request a transfer of an amount  
36 of leave that would result in his or her annual leave account going  
37 below ten days. For purposes of this subsection (3)(a), annual leave

1 does not accrue if the employee receives compensation in lieu of  
2 accumulating a balance of annual leave.

3 (b) An employee may transfer a specified amount of sick leave to an  
4 employee requesting shared leave only when the donating employee  
5 retains a minimum of one hundred seventy-six hours of sick leave after  
6 the transfer.

7 (c) An employee may transfer, under the provisions of this section  
8 relating to the transfer of leave, all or part of his or her personal  
9 holiday, as that term is defined under RCW 1.16.050, or as such  
10 holidays are provided to employees by agreement with a school  
11 district's board of directors if the leave transferred under this  
12 subsection does not exceed the amount of time provided for personal  
13 holidays under RCW 1.16.050.

14 (4) An employee of an institution of higher education under RCW  
15 28B.10.016, school district, or educational service district who does  
16 not accrue annual leave but does accrue sick leave and who has an  
17 accrued sick leave balance of more than twenty-two days may request  
18 that the head of the agency for which the employee works transfer a  
19 specified amount of sick leave to another employee authorized to  
20 receive leave under subsection (1) of this section. In no event may  
21 such an employee request a transfer that would result in his or her  
22 sick leave account going below twenty-two days. Transfers of sick  
23 leave under this subsection are limited to transfers from employees who  
24 do not accrue annual leave. Under this subsection, "sick leave" also  
25 includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1)  
26 with compensation for illness, injury, and emergencies.

27 (5) Transfers of leave made by an agency head under subsections (3)  
28 and (4) of this section shall not exceed the requested amount.

29 (6) Leave transferred under this section may be transferred from  
30 employees of one agency to an employee of the same agency or, with the  
31 approval of the heads of both agencies, to an employee of another state  
32 agency. However, leave transferred to or from employees of school  
33 districts or educational service districts is limited to transfers to  
34 or from employees within the same employing district.

35 (7) While an employee is on leave transferred under this section,  
36 he or she shall continue to be classified as a state employee and shall  
37 receive the same treatment in respect to salary, wages, and employee

1 benefits as the employee would normally receive if using accrued annual  
2 leave or sick leave.

3 (a) All salary and wage payments made to employees while on leave  
4 transferred under this section shall be made by the agency employing  
5 the person receiving the leave. The value of leave transferred shall  
6 be based upon the leave value of the person receiving the leave.

7 (b) In the case of leave transferred by an employee of one agency  
8 to an employee of another agency, the agencies involved shall arrange  
9 for the transfer of funds and credit for the appropriate value of  
10 leave.

11 (i) Pursuant to rules adopted by the office of financial  
12 management, funds shall not be transferred under this section if the  
13 transfer would violate any constitutional or statutory restrictions on  
14 the funds being transferred.

15 (ii) The office of financial management may adjust the  
16 appropriation authority of an agency receiving funds under this section  
17 only if and to the extent that the agency's existing appropriation  
18 authority would prevent it from expending the funds received.

19 (iii) Where any questions arise in the transfer of funds or the  
20 adjustment of appropriation authority, the director of financial  
21 management shall determine the appropriate transfer or adjustment.

22 (8) Leave transferred under this section shall not be used in any  
23 calculation to determine an agency's allocation of full time equivalent  
24 staff positions.

25 (9) The value of any leave transferred under this section which  
26 remains unused shall be returned at its original value to the employee  
27 or employees who transferred the leave when the agency head finds that  
28 the leave is no longer needed or will not be needed at a future time in  
29 connection with the illness or injury for which the leave was  
30 transferred or for any other qualifying condition. Before the agency  
31 head makes a determination to return unused leave in connection with an  
32 illness or injury, or any other qualifying condition, he or she must  
33 receive from the affected employee a statement from the employee's  
34 doctor verifying that the illness or injury is resolved. To the extent  
35 administratively feasible, the value of unused leave which was  
36 transferred by more than one employee shall be returned on a pro rata  
37 basis.

1           (10) An employee who uses leave that is transferred to him or her  
2 under this section may not be required to repay the value of the leave  
3 that he or she used.

4           NEW SECTION. **Sec. 11.** If any part of this act is found to be in  
5 conflict with federal requirements that are a prescribed condition to  
6 the allocation of federal funds to the state, the conflicting part of  
7 this act is inoperative solely to the extent of the conflict and with  
8 respect to the agencies directly affected, and this finding does not  
9 affect the operation of the remainder of this act in its application to  
10 the agencies concerned. Rules adopted under this act must meet federal  
11 requirements that are a necessary condition to the receipt of federal  
12 funds by the state.

13           NEW SECTION. **Sec. 12.** If any provision of this act or its  
14 application to any person or circumstance is held invalid, the  
15 remainder of the act or the application of the provision to other  
16 persons or circumstances is not affected.

17           NEW SECTION. **Sec. 13.** This act is necessary for the immediate  
18 preservation of the public peace, health, or safety, or support of the  
19 state government and its existing public institutions, and takes effect  
20 immediately.

--- END ---