
ENGROSSED SENATE BILL 6378

State of Washington 62nd Legislature 2012 Regular Session

By Senators Zarelli, Baumgartner, Parlette, Hill, and Tom

Read first time 01/19/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to the state retirement plans; and amending RCW
2 41.32.835, 41.32.875, 41.35.610, 41.35.680, 41.40.785, 41.40.820, and
3 41.45.150.

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

5 **Sec. 1.** RCW 41.32.835 and 2007 c 491 s 3 are each amended to read
6 as follows:

7 (1) All teachers who first become employed by an employer in an
8 eligible position on or after July 1, 2007, but before July 1, 2012,
9 shall have a period of ninety days to make an irrevocable choice to
10 become a member of plan 2 or plan 3. At the end of ninety days, if the
11 member has not made a choice to become a member of plan 2, he or she
12 becomes a member of plan 3. All teachers who first become employed by
13 an employer in an eligible position on or after July 1, 2012, shall
14 become members of plan 3.

15 (2) For administrative efficiency, until a member elects to become
16 a member of plan 3, or becomes a member of plan 3 by default under
17 subsection (1) of this section, the member shall be reported to the
18 department in plan 2, with member and employer contributions. Upon
19 becoming a member of plan 3 by election or by default, all service

1 credit shall be transferred to the member's plan 3 defined benefit, and
2 all employee accumulated contributions shall be transferred to the
3 member's plan 3 defined contribution account.

4 ~~((3) The plan choice provision as set forth in section 3, chapter
5 491, Laws of 2007 was intended by the legislature as a replacement
6 benefit for gain sharing. Until there is legal certainty with respect
7 to the repeal of chapter 41.31A RCW, the right to plan choice under
8 this section is noncontractual, and the legislature reserves the right
9 to amend or repeal this section. Legal certainty includes, but is not
10 limited to, the expiration of any: Applicable limitations on actions;
11 and periods of time for seeking appellate review, up to and including
12 reconsideration by the Washington supreme court and the supreme court
13 of the United States. Until that time, all teachers who first become
14 employed by an employer in an eligible position on or after July 1,
15 2007, may choose either plan 2 or plan 3 under this section. If the
16 repeal of chapter 41.31A RCW is held to be invalid in a final
17 determination of a court of law, and the court orders reinstatement of
18 gain sharing or other alternate benefits as a remedy, then all teachers
19 who first become employed by an employer in an eligible position on or
20 after the date of such reinstatement shall be members of plan 3.))~~

21 **Sec. 2.** RCW 41.32.875 and 2007 c 491 s 4 are each amended to read
22 as follows:

23 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five
24 and who has:

25 (a) Completed ten service credit years; or

26 (b) Completed five service credit years, including twelve service
27 credit months after attaining age forty-four; or

28 (c) Completed five service credit years by July 1, 1996, under plan
29 2 and who transferred to plan 3 under RCW 41.32.817;
30 shall be eligible to retire and to receive a retirement allowance
31 computed according to the provisions of RCW 41.32.840.

32 (2) EARLY RETIREMENT. Any member who has attained at least age
33 fifty-five and has completed at least ten years of service shall be
34 eligible to retire and to receive a retirement allowance computed
35 according to the provisions of RCW 41.32.840, except that a member
36 retiring pursuant to this subsection shall have the retirement

1 allowance actuarially reduced to reflect the difference in the number
2 of years between age at retirement and the attainment of age sixty-
3 five.

4 (3) ALTERNATE EARLY RETIREMENT.

5 (a) Any member who has completed at least thirty service credit
6 years and has attained age fifty-five shall be eligible to retire and
7 to receive a retirement allowance computed according to the provisions
8 of RCW 41.32.840, except that a member retiring pursuant to this
9 subsection shall have the retirement allowance reduced by three percent
10 per year to reflect the difference in the number of years between age
11 at retirement and the attainment of age sixty-five.

12 (b) On or after September 1, 2008, any member who has completed at
13 least thirty service credit years and has attained age fifty-five shall
14 be eligible to retire and to receive a retirement allowance computed
15 according to the provisions of RCW 41.32.840, except that a member
16 retiring pursuant to this subsection shall have the retirement
17 allowance reduced as follows:

18	Retirement	Percent
19	Age	Reduction
20	55	20%
21	56	17%
22	57	14%
23	58	11%
24	59	8%
25	60	5%
26	61	2%
27	62	0%
28	63	0%
29	64	0%

30 Any member who retires under the provisions of this subsection is
31 ineligible for the postretirement employment provisions of RCW
32 41.32.862(2) until the retired member has reached sixty-five years of
33 age. For purposes of this subsection, employment with an employer also
34 includes any personal service contract, service by an employer as a

1 temporary or project employee, or any other similar compensated
2 relationship with any employer included under the provisions of RCW
3 41.32.860(1).

4 The subsidized reductions for alternate early retirement in this
5 subsection as set forth in section 4, chapter 491, Laws of 2007 were
6 intended by the legislature as replacement benefits for gain-sharing.
7 Until there is legal certainty with respect to the repeal of chapter
8 41.31A RCW, the right to retire under this subsection is
9 noncontractual, and the legislature reserves the right to amend or
10 repeal this subsection. Legal certainty includes, but is not limited
11 to, the expiration of any: Applicable limitations on actions; and
12 periods of time for seeking appellate review, up to and including
13 reconsideration by the Washington supreme court and the supreme court
14 of the United States. Until that time, eligible members may still
15 retire under this subsection, and upon receipt of the first installment
16 of a retirement allowance computed under this subsection, the resulting
17 benefit becomes contractual for the recipient. If the repeal of
18 chapter 41.31A RCW is held to be invalid in a final determination of a
19 court of law, and the court orders reinstatement of gain-sharing or
20 other alternate benefits as a remedy, then retirement benefits for any
21 member who has completed at least thirty service credit years and has
22 attained age fifty-five but has not yet received the first installment
23 of a retirement allowance under this subsection shall be computed using
24 the reductions in (a) of this subsection.

25 (c) Members who first become employed by an employer in an eligible
26 position on or after July 1, 2012, are not eligible for the alternate
27 early retirement provisions of this subsection.

28 **Sec. 3.** RCW 41.35.610 and 2007 c 491 s 7 are each amended to read
29 as follows:

30 (1) All classified employees who first become employed by an
31 employer in an eligible position on or after July 1, 2007, but before
32 July 1, 2012, shall have a period of ninety days to make an irrevocable
33 choice to become a member of plan 2 or plan 3. At the end of ninety
34 days, if the member has not made a choice to become a member of plan 2,
35 he or she becomes a member of plan 3. All classified employees who
36 first become employed by an employer in an eligible position on or
37 after July 1, 2012, shall become members of plan 3.

1 (2) For administrative efficiency, until a member elects to become
2 a member of plan 3, or becomes a member of plan 3 by default under
3 subsection (1) of this section, the member shall be reported to the
4 department in plan 2, with member and employer contributions. Upon
5 becoming a member of plan 3 by election or by default, all service
6 credit shall be transferred to the member's plan 3 defined benefit, and
7 all employee accumulated contributions shall be transferred to the
8 member's plan 3 defined contribution account.

9 ~~((3) The plan choice provision as set forth in section 7, chapter
10 491, Laws of 2007 was intended by the legislature as a replacement
11 benefit for gain sharing. Until there is legal certainty with respect
12 to the repeal of chapter 41.31A RCW, the right to plan choice under
13 this section is noncontractual, and the legislature reserves the right
14 to amend or repeal this section. Legal certainty includes, but is not
15 limited to, the expiration of any: Applicable limitations on actions;
16 and periods of time for seeking appellate review, up to and including
17 reconsideration by the Washington supreme court and the supreme court
18 of the United States. Until that time, all classified employees who
19 first become employed by an employer in an eligible position on or
20 after July 1, 2007, may choose either plan 2 or plan 3 under this
21 section. If the repeal of chapter 41.31A RCW is held to be invalid in
22 a final determination of a court of law, and the court orders
23 reinstatement of gain sharing or other alternate benefits as a remedy,
24 then all classified employees who first become employed by an employer
25 in an eligible position on or after the date of such reinstatement
26 shall be members of plan 3.))~~

27 **Sec. 4.** RCW 41.35.680 and 2007 c 491 s 8 are each amended to read
28 as follows:

29 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five
30 and who has:

31 (a) Completed ten service credit years; or

32 (b) Completed five service credit years, including twelve service
33 credit months after attaining age forty-four; or

34 (c) Completed five service credit years by September 1, 2000, under
35 the public employees' retirement system plan 2 and who transferred to
36 plan 3 under RCW 41.35.510;

1 shall be eligible to retire and to receive a retirement allowance
2 computed according to the provisions of RCW 41.35.620.

3 (2) EARLY RETIREMENT. Any member who has attained at least age
4 fifty-five and has completed at least ten years of service shall be
5 eligible to retire and to receive a retirement allowance computed
6 according to the provisions of RCW 41.35.620, except that a member
7 retiring pursuant to this subsection shall have the retirement
8 allowance actuarially reduced to reflect the difference in the number
9 of years between age at retirement and the attainment of age sixty-
10 five.

11 (3) ALTERNATE EARLY RETIREMENT.

12 (a) Any member who has completed at least thirty service credit
13 years and has attained age fifty-five shall be eligible to retire and
14 to receive a retirement allowance computed according to the provisions
15 of RCW 41.35.620, except that a member retiring pursuant to this
16 subsection shall have the retirement allowance reduced by three percent
17 per year to reflect the difference in the number of years between age
18 at retirement and the attainment of age sixty-five.

19 (b) On or after September 1, 2008, any member who has completed at
20 least thirty service credit years and has attained age fifty-five shall
21 be eligible to retire and to receive a retirement allowance computed
22 according to the provisions of RCW 41.35.620, except that a member
23 retiring pursuant to this subsection shall have the retirement
24 allowance reduced as follows:

Retirement	Percent
Age	Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

1 Any member who retires under the provisions of this subsection is
2 ineligible for the postretirement employment provisions of RCW
3 41.35.060(2) until the retired member has reached sixty-five years of
4 age. For purposes of this subsection, employment with an employer also
5 includes any personal service contract, service by an employer as a
6 temporary or project employee, or any other similar compensated
7 relationship with any employer included under the provisions of RCW
8 41.35.230(1).

9 The subsidized reductions for alternate early retirement in this
10 subsection as set forth in section 8, chapter 491, Laws of 2007 were
11 intended by the legislature as replacement benefits for gain-sharing.
12 Until there is legal certainty with respect to the repeal of chapter
13 41.31A RCW, the right to retire under this subsection is
14 noncontractual, and the legislature reserves the right to amend or
15 repeal this subsection. Legal certainty includes, but is not limited
16 to, the expiration of any: Applicable limitations on actions; and
17 periods of time for seeking appellate review, up to and including
18 reconsideration by the Washington supreme court and the supreme court
19 of the United States. Until that time, eligible members may still
20 retire under this subsection, and upon receipt of the first installment
21 of a retirement allowance computed under this subsection, the resulting
22 benefit becomes contractual for the recipient. If the repeal of
23 chapter 41.31A RCW is held to be invalid in a final determination of a
24 court of law, and the court orders reinstatement of gain-sharing or
25 other alternate benefits as a remedy, then retirement benefits for any
26 member who has completed at least thirty service credit years and has
27 attained age fifty-five but has not yet received the first installment
28 of a retirement allowance under this subsection shall be computed using
29 the reductions in (a) of this subsection.

30 (c) Members who first become employed by an employer in an eligible
31 position on or after July 1, 2012, are not eligible for the alternate
32 early retirement provisions of this subsection.

33 **Sec. 5.** RCW 41.40.785 and 2000 c 247 s 302 are each amended to
34 read as follows:

35 (1) All employees who first become employed by an employer in an
36 eligible position on or after March 1, 2002, for state agencies or
37 institutes of higher education, or September 1, 2002, for other

1 employers, and who first become employed by an employer in an eligible
2 position before July 1, 2012, shall have a period of ninety days to
3 make an irrevocable choice to become a member of plan 2 or plan 3. At
4 the end of ninety days, if the member has not made a choice to become
5 a member of plan 2, he or she becomes a member of plan 3. All
6 employees who first become employed by an employer in an eligible
7 position on or after July 1, 2012, shall become members of plan 3.

8 (2) For administrative efficiency, until a member elects to become
9 a member of plan 3, or becomes a member of plan 3 by default pursuant
10 to subsection (1) of this section, the member shall be reported to the
11 department in plan 2, with member and employer contributions. Upon
12 becoming a member of plan 3 by election or by default, all service
13 credit shall be transferred to the member's plan 3 defined benefit, and
14 all employee accumulated contributions shall be transferred to the
15 member's plan 3 defined contribution account.

16 **Sec. 6.** RCW 41.40.820 and 2007 c 491 s 10 are each amended to read
17 as follows:

18 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five
19 and who has:

20 (a) Completed ten service credit years; or

21 (b) Completed five service credit years, including twelve service
22 credit months after attaining age forty-four; or

23 (c) Completed five service credit years by the transfer payment
24 date specified in RCW 41.40.795, under the public employees' retirement
25 system plan 2 and who transferred to plan 3 under RCW 41.40.795;
26 shall be eligible to retire and to receive a retirement allowance
27 computed according to the provisions of RCW 41.40.790.

28 (2) EARLY RETIREMENT. Any member who has attained at least age
29 fifty-five and has completed at least ten years of service shall be
30 eligible to retire and to receive a retirement allowance computed
31 according to the provisions of RCW 41.40.790, except that a member
32 retiring pursuant to this subsection shall have the retirement
33 allowance actuarially reduced to reflect the difference in the number
34 of years between age at retirement and the attainment of age sixty-
35 five.

36 (3) ALTERNATE EARLY RETIREMENT.

1 (a) Any member who has completed at least thirty service credit
2 years and has attained age fifty-five shall be eligible to retire and
3 to receive a retirement allowance computed according to the provisions
4 of RCW 41.40.790, except that a member retiring pursuant to this
5 subsection shall have the retirement allowance reduced by three percent
6 per year to reflect the difference in the number of years between age
7 at retirement and the attainment of age sixty-five.

8 (b) On or after July 1, 2008, any member who has completed at least
9 thirty service credit years and has attained age fifty-five shall be
10 eligible to retire and to receive a retirement allowance computed
11 according to the provisions of RCW 41.40.790, except that a member
12 retiring pursuant to this subsection shall have the retirement
13 allowance reduced as follows:

14	Retirement	Percent
15	Age	Reduction
16	55	20%
17	56	17%
18	57	14%
19	58	11%
20	59	8%
21	60	5%
22	61	2%
23	62	0%
24	63	0%
25	64	0%

26 Any member who retires under the provisions of this subsection is
27 ineligible for the postretirement employment provisions of RCW
28 41.40.037(~~(2)(d)~~) until the retired member has reached sixty-five
29 years of age. For purposes of this subsection, employment with an
30 employer also includes any personal service contract, service by an
31 employer as a temporary or project employee, or any other similar
32 compensated relationship with any employer included under the
33 provisions of RCW 41.40.850(1).

34 The subsidized reductions for alternate early retirement in this
35 subsection as set forth in section 10, chapter 491, Laws of 2007 were

1 intended by the legislature as replacement benefits for gain-sharing.
2 Until there is legal certainty with respect to the repeal of chapter
3 41.31A RCW, the right to retire under this subsection is
4 noncontractual, and the legislature reserves the right to amend or
5 repeal this subsection. Legal certainty includes, but is not limited
6 to, the expiration of any: Applicable limitations on actions; and
7 periods of time for seeking appellate review, up to and including
8 reconsideration by the Washington supreme court and the supreme court
9 of the United States. Until that time, eligible members may still
10 retire under this subsection, and upon receipt of the first installment
11 of a retirement allowance computed under this subsection, the resulting
12 benefit becomes contractual for the recipient. If the repeal of
13 chapter 41.31A RCW is held to be invalid in a final determination of a
14 court of law, and the court orders reinstatement of gain-sharing or
15 other alternate benefits as a remedy, then retirement benefits for any
16 member who has completed at least thirty service credit years and has
17 attained age fifty-five but has not yet received the first installment
18 of a retirement allowance under this subsection shall be computed using
19 the reductions in (a) of this subsection.

20 (c) Members who first become employed by an employer in an eligible
21 position on or after July 1, 2012, are not eligible for the alternate
22 early retirement provisions of this subsection.

23 **Sec. 7.** RCW 41.45.150 and 2011 c 362 s 8 are each amended to read
24 as follows:

25 (1) Beginning July 1, 2009, and ending June 30, 2015, maximum
26 annual contribution rates are established for the portion of the
27 employer contribution rate for the public employees' retirement system
28 and the public safety employees' retirement system that is used for the
29 sole purpose of amortizing that portion of the unfunded actuarial
30 accrued liability in the public employees' retirement system plan 1
31 that excludes any amounts required to amortize plan 1 benefit
32 improvements effective after June 30, 2009. The maximum rates are:

33 Fiscal Year ending:
34 2010 2011 2012 2013 2014 2015

1 1.25% 1.25% 3.75% ((~~4.50%~~))5.25% 6.00%

2 0.00%

3 (2) Beginning September 1, 2009, and ending August 31, 2015,
4 maximum annual contribution rates are established for the portion of
5 the employer contribution rate for the school employees' retirement
6 system that is used for the sole purpose of amortizing that portion of
7 the unfunded actuarial accrued liability in the public employees'
8 retirement system plan 1 that excludes any amounts required to amortize
9 plan 1 benefit improvements effective after June 30, 2009. The maximum
10 rates are:

11	
12	Fiscal Yearendig:
13	2010 2011 2012 2013 2014 2015
14	1.25% 1.25% 3.75% ((4.50%))5.25% 6.00%
15	<u>0.00%</u>

16 (3) Beginning September 1, 2009, and ending August 31, 2015,
17 maximum annual contribution rates are established for the portion of
18 the employer contribution rate for the teachers' retirement system that
19 is used for the sole purpose of amortizing that portion of the unfunded
20 actuarial accrued liability in the teachers' retirement system plan 1
21 that excludes any amounts required to amortize plan 1 benefit
22 improvements effective after June 30, 2009. The maximum rates are:

23	Fiscal Yearendig:
24	2010 2011 2012 2013 2014 2015
25	2.04% 2.04% 6.50% ((7.50%))8.50% 9.50%
26	<u>0.00%</u>

27 (4) Beginning July 1, 2015, a minimum 3.50 percent contribution is
28 established as part of the basic employer contribution rate for the
29 public employees' retirement system and the public safety employees'
30 retirement system, to be used for the sole purpose of amortizing that
31 portion of the unfunded actuarial accrued liability in the public

1 employees' retirement system plan 1 that excludes any amounts required
2 to amortize plan 1 benefit improvements effective after June 30, 2009.
3 This minimum contribution rate shall remain effective until the
4 actuarial value of assets in plan 1 of the public employees' retirement
5 system equals one hundred percent of the actuarial accrued liability.

6 (5) Beginning September 1, 2015, a minimum 3.50 percent
7 contribution is established as part of the basic employer contribution
8 rate for the school employees' retirement system, to be used for the
9 sole purpose of amortizing that portion of the unfunded actuarial
10 accrued liability in the public employees' retirement system plan 1
11 that excludes any amounts required to amortize plan 1 benefit
12 improvements effective after June 30, 2009. This minimum contribution
13 rate shall remain effective until the actuarial value of assets in plan
14 1 of the public employees' retirement system equals one hundred percent
15 of the actuarial accrued liability.

16 (6) Beginning September 1, 2015, a minimum 5.75 percent
17 contribution is established as part of the basic employer contribution
18 rate for the teachers' retirement system, to be used for the sole
19 purpose of amortizing that portion of the unfunded actuarial accrued
20 liability in the teachers' retirement system plan 1 that excludes any
21 amounts required to amortize plan 1 benefit improvements effective
22 after June 30, 2009. This minimum contribution rate shall remain
23 effective until the actuarial value of assets in plan 1 of the
24 teachers' retirement system equals one hundred percent of the actuarial
25 accrued liability.

26 (7) Upon completion of each biennial actuarial valuation, the state
27 actuary shall review the appropriateness of the minimum contribution
28 rates and recommend to the council any adjustments as may be needed due
29 to material changes in benefits or actuarial assumptions, methods, or
30 experience. Any changes adopted by the council shall be subject to
31 revision by the legislature.

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