

CERTIFICATION OF ENROLLMENT

SENATE BILL 5021

67th Legislature
2021 Regular Session

Passed by the Senate February 23,
2021

Yeas 29 Nays 20

President of the Senate

Passed by the House March 24, 2021

Yeas 65 Nays 32

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5021** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5021

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By Senators Hunt, Conway, Saldaña, and Wilson, C.; by request of Department of Retirement Systems

Prefiled 12/17/20. Read first time 01/11/21. Referred to Committee on Ways & Means.

1 AN ACT Relating to the effect of expenditure reduction efforts on
2 retirement benefits for public employees, including those
3 participating in the shared work program; amending RCW 41.26.030,
4 41.32.010, 41.34.040, 41.35.010, 41.37.010, 41.40.010, and 43.43.120;
5 adding a new section to chapter 41.50 RCW; and creating a new
6 section.

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

8 NEW SECTION. **Sec. 1.** It is the intent of the legislature that
9 this act be curative, remedial, and retroactively applied.

10 **Sec. 2.** RCW 41.26.030 and 2020 c 107 s 6 are each amended to
11 read as follows:

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

14 (1) "Accumulated contributions" means the employee's
15 contributions made by a member, including any amount paid under RCW
16 41.50.165(2), plus accrued interest credited thereon.

17 (2) "Actuarial reserve" means a method of financing a pension or
18 retirement plan wherein reserves are accumulated as the liabilities
19 for benefit payments are incurred in order that sufficient funds will

1 be available on the date of retirement of each member to pay the
2 member's future benefits during the period of retirement.

3 (3) "Actuarial valuation" means a mathematical determination of
4 the financial condition of a retirement plan. It includes the
5 computation of the present monetary value of benefits payable to
6 present members, and the present monetary value of future employer
7 and employee contributions, giving effect to mortality among active
8 and retired members and also to the rates of disability, retirement,
9 withdrawal from service, salary and interest earned on investments.

10 (4) (a) "Basic salary" for plan 1 members, means the basic monthly
11 rate of salary or wages, including longevity pay but not including
12 overtime earnings or special salary or wages, upon which pension or
13 retirement benefits will be computed and upon which employer
14 contributions and salary deductions will be based.

15 (b) "Basic salary" for plan 2 members, means salaries or wages
16 earned by a member during a payroll period for personal services,
17 including overtime payments, and shall include wages and salaries
18 deferred under provisions established pursuant to sections 403(b),
19 414(h), and 457 of the United States Internal Revenue Code, but shall
20 exclude lump sum payments for deferred annual sick leave, unused
21 accumulated vacation, unused accumulated annual leave, or any form of
22 severance pay. In any year in which a member serves in the
23 legislature the member shall have the option of having such member's
24 basic salary be the greater of:

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

27 (ii) Such member's actual basic salary received for
28 nonlegislative public employment and legislative service combined.
29 Any additional contributions to the retirement system required
30 because basic salary under (b) (i) of this subsection is greater than
31 basic salary under (b) (ii) of this subsection shall be paid by the
32 member for both member and employer contributions.

33 (5) (a) "Beneficiary" for plan 1 members, means any person in
34 receipt of a retirement allowance, disability allowance, death
35 benefit, or any other benefit described herein.

36 (b) "Beneficiary" for plan 2 members, means any person in receipt
37 of a retirement allowance or other benefit provided by this chapter
38 resulting from service rendered to an employer by another person.

39 (6) (a) "Child" or "children" means an unmarried person who is
40 under the age of eighteen or mentally or physically disabled as

1 determined by the department, except a person who is disabled and in
2 the full time care of a state institution, who is:

3 (i) A natural born child;

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

6 (iii) A posthumous child;

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

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

11 (b) A person shall also be deemed to be a child up to and
12 including the age of twenty years and eleven months while attending
13 any high school, college, or vocational or other educational
14 institution accredited, licensed, or approved by the state, in which
15 it is located, including the summer vacation months and all other
16 normal and regular vacation periods at the particular educational
17 institution after which the child returns to school.

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

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

21 (9) "Disability board" for plan 1 members means either the county
22 disability board or the city disability board established in RCW
23 41.26.110.

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

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

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

34 (13) "Employee" means any law enforcement officer or firefighter
35 as defined in subsections (17) and (19) of this section.

36 (14)(a) "Employer" for plan 1 members, means the legislative
37 authority of any city, town, county, district, or regional fire
38 protection service authority or the elected officials of any
39 municipal corporation that employs any law enforcement officer and/or
40 firefighter, any authorized association of such municipalities, and,

1 except for the purposes of RCW 41.26.150, any labor guild,
2 association, or organization, which represents the firefighters or
3 law enforcement officers of at least seven cities of over 20,000
4 population and the membership of each local lodge or division of
5 which is composed of at least sixty percent law enforcement officers
6 or firefighters as defined in this chapter.

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

10 (i) The legislative authority of any city, town, county,
11 district, public corporation, or regional fire protection service
12 authority established under RCW 35.21.730 to provide emergency
13 medical services as defined in RCW 18.73.030;

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

15 (iii) The governing body of any other general authority law
16 enforcement agency;

17 (iv) A four-year institution of higher education having a fully
18 operational fire department as of January 1, 1996; or

19 (v) The department of social and health services or the
20 department of corrections when employing firefighters serving at a
21 prison or civil commitment center on an island.

22 (c) Except as otherwise specifically provided in this chapter,
23 "employer" does not include a government contractor. For purposes of
24 this subsection, a "government contractor" is any entity, including a
25 partnership, limited liability company, for-profit or nonprofit
26 corporation, or person, that provides services pursuant to a contract
27 with an "employer." The determination whether an employer-employee
28 relationship has been established is not based on the relationship
29 between a government contractor and an "employer," but is based
30 solely on the relationship between a government contractor's employee
31 and an "employer" under this chapter.

32 (15)(a) "Final average salary" for plan 1 members, means (i) for
33 a member holding the same position or rank for a minimum of twelve
34 months preceding the date of retirement, the basic salary attached to
35 such same position or rank at time of retirement; (ii) for any other
36 member, including a civil service member who has not served a minimum
37 of twelve months in the same position or rank preceding the date of
38 retirement, the average of the greatest basic salaries payable to
39 such member during any consecutive twenty-four month period within
40 such member's last ten years of service for which service credit is

1 allowed, computed by dividing the total basic salaries payable to
2 such member during the selected twenty-four month period by twenty-
3 four; (iii) in the case of disability of any member, the basic salary
4 payable to such member at the time of disability retirement; (iv) in
5 the case of a member who hereafter vests pursuant to RCW 41.26.090,
6 the basic salary payable to such member at the time of vesting.

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

13 (c) In calculating final average salary under (a) or (b) of this
14 subsection, the department of retirement systems shall include:

15 (i) Any compensation forgone by a member employed by a state
16 agency or institution during the 2009-2011 fiscal biennium as a
17 result of reduced work hours, mandatory or voluntary leave without
18 pay, temporary reduction in pay implemented prior to December 11,
19 2010, or temporary layoffs if the reduced compensation is an integral
20 part of the employer's expenditure reduction efforts, as certified by
21 the employer; (~~and~~)

22 (ii) Any compensation forgone by a member employed by the state
23 or a local government employer during the 2011-2013 fiscal biennium
24 as a result of reduced work hours, mandatory leave without pay,
25 temporary layoffs, or reductions to current pay if the reduced
26 compensation is an integral part of the employer's expenditure
27 reduction efforts, as certified by the employer. Reductions to
28 current pay shall not include elimination of previously agreed upon
29 future salary increases; and

30 (iii) Any compensation forgone by a member employed by the state
31 or a local government employer during the 2019-2021 and 2021-2023
32 fiscal biennia as a result of reduced work hours, mandatory leave
33 without pay, temporary layoffs, furloughs, reductions to current pay,
34 or other similar measures resulting from the COVID-19 budgetary
35 crisis, if the reduced compensation is an integral part of the
36 employer's expenditure reduction efforts, as certified by the
37 employer. Reductions to current pay shall not include elimination of
38 previously agreed upon future salary increases.

39 (16) "Fire department" includes a fire station operated by the
40 department of social and health services or the department of

1 corrections when employing firefighters serving a prison or civil
2 commitment center on an island.

3 (17) "Firefighter" means:

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

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

10 (c) Supervisory firefighter personnel;

11 (d) Any full time executive secretary of an association of fire
12 protection districts authorized under RCW 52.12.031. The provisions
13 of this subsection (17)(d) shall not apply to plan 2 members;

14 (e) The executive secretary of a labor guild, association or
15 organization (which is an employer under subsection (14) of this
16 section), if such individual has five years previous membership in a
17 retirement system established in chapter 41.16 or 41.18 RCW. The
18 provisions of this subsection (17)(e) shall not apply to plan 2
19 members;

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

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

28 (h) Any person who is employed on a full-time, fully compensated
29 basis by an employer as an emergency medical technician that meets
30 the requirements of RCW 18.71.200 or 18.73.030(12), and whose duties
31 include providing emergency medical services as defined in RCW
32 18.73.030.

33 (18) "General authority law enforcement agency" means any agency,
34 department, or division of a municipal corporation, political
35 subdivision, or other unit of local government of this state, and any
36 agency, department, or division of state government, having as its
37 primary function the detection and apprehension of persons committing
38 infractions or violating the traffic or criminal laws in general, but
39 not including the Washington state patrol. Such an agency,
40 department, or division is distinguished from a limited authority law

1 enforcement agency having as one of its functions the apprehension or
2 detection of persons committing infractions or violating the traffic
3 or criminal laws relating to limited subject areas, including but not
4 limited to, the state departments of natural resources and social and
5 health services, the state gambling commission, the state lottery
6 commission, the state parks and recreation commission, the state
7 utilities and transportation commission, the state liquor and
8 cannabis board, and the state department of corrections. A general
9 authority law enforcement agency under this chapter does not include
10 a government contractor.

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

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

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

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

31 (d) The term "law enforcement officer" also includes the
32 executive secretary of a labor guild, association or organization
33 (which is an employer under subsection (14) of this section) if that
34 individual has five years previous membership in the retirement
35 system established in chapter 41.20 RCW. The provisions of this
36 subsection (19)(d) shall not apply to plan 2 members; and

37 (e) The term "law enforcement officer" also includes a person
38 employed on or after January 1, 1993, as a public safety officer or
39 director of public safety, so long as the job duties substantially
40 involve only either police or fire duties, or both, and no other

1 duties in a city or town with a population of less than ten thousand.
2 The provisions of this subsection (19)(e) shall not apply to any
3 public safety officer or director of public safety who is receiving a
4 retirement allowance under this chapter as of May 12, 1993.

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

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

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

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

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

18 (i) The fees of the following:

19 (A) A physician or surgeon licensed under the provisions of
20 chapter 18.71 RCW;

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

23 (C) A chiropractor licensed under the provisions of chapter 18.25
24 RCW.

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

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

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

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

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

33 (D) Anesthesia and oxygen;

34 (E) Rental of iron lung and other durable medical and surgical
35 equipment;

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

37 (G) Professional ambulance service when used to transport the
38 member to or from a hospital when injured by an accident or stricken
39 by a disease;

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

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

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

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

8 (L) An optometrist licensed under the provisions of chapter 18.53
9 RCW.

10 (21) "Member" means any firefighter, law enforcement officer, or
11 other person as would apply under subsection (17) or (19) of this
12 section whose membership is transferred to the Washington law
13 enforcement officers' and firefighters' retirement system on or after
14 March 1, 1970, and every law enforcement officer and firefighter who
15 is employed in that capacity on or after such date.

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

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

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

26 (25) "Regular interest" means such rate as the director may
27 determine.

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

33 (27) "Retirement fund" means the "Washington law enforcement
34 officers' and firefighters' retirement system fund" as provided for
35 herein.

36 (28) "Retirement system" means the "Washington law enforcement
37 officers' and firefighters' retirement system" provided herein.

38 (29)(a) "Service" for plan 1 members, means all periods of
39 employment for an employer as a firefighter or law enforcement
40 officer, for which compensation is paid, together with periods of

1 suspension not exceeding thirty days in duration. For the purposes of
2 this chapter service shall also include service in the armed forces
3 of the United States as provided in RCW 41.26.190. Credit shall be
4 allowed for all service credit months of service rendered by a member
5 from and after the member's initial commencement of employment as a
6 firefighter or law enforcement officer, during which the member
7 worked for seventy or more hours, or was on disability leave or
8 disability retirement. Only service credit months of service shall be
9 counted in the computation of any retirement allowance or other
10 benefit provided for in this chapter.

11 (i) For members retiring after May 21, 1971 who were employed
12 under the coverage of a prior pension act before March 1, 1970,
13 "service" shall also include (A) such military service not exceeding
14 five years as was creditable to the member as of March 1, 1970, under
15 the member's particular prior pension act, and (B) such other periods
16 of service as were then creditable to a particular member under the
17 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no
18 event shall credit be allowed for any service rendered prior to March
19 1, 1970, where the member at the time of rendition of such service
20 was employed in a position covered by a prior pension act, unless
21 such service, at the time credit is claimed therefor, is also
22 creditable under the provisions of such prior act.

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

26 (iii) Reduction efforts such as furloughs, reduced work hours,
27 mandatory leave without pay, temporary layoffs, or other similar
28 situations as contemplated by subsection (15)(c)(iii) of this section
29 do not result in a reduction in service credit that otherwise would
30 have been earned for that month of work, and the member shall receive
31 the full service credit for the hours that were scheduled to be
32 worked before the reduction.

33 (b) (i) "Service" for plan 2 members, means periods of employment
34 by a member for one or more employers for which basic salary is
35 earned for ninety or more hours per calendar month which shall
36 constitute a service credit month. Periods of employment by a member
37 for one or more employers for which basic salary is earned for at
38 least seventy hours but less than ninety hours per calendar month
39 shall constitute one-half service credit month. Periods of employment
40 by a member for one or more employers for which basic salary is

1 earned for less than seventy hours shall constitute a one-quarter
2 service credit month.

3 (ii) Members of the retirement system who are elected or
4 appointed to a state elective position may elect to continue to be
5 members of this retirement system.

6 (iii) Service credit years of service shall be determined by
7 dividing the total number of service credit months of service by
8 twelve. Any fraction of a service credit year of service as so
9 determined shall be taken into account in the computation of such
10 retirement allowance or benefits.

11 (iv) If a member receives basic salary from two or more employers
12 during any calendar month, the individual shall receive one service
13 credit month's service credit during any calendar month in which
14 multiple service for ninety or more hours is rendered; or one-half
15 service credit month's service credit during any calendar month in
16 which multiple service for at least seventy hours but less than
17 ninety hours is rendered; or one-quarter service credit month during
18 any calendar month in which multiple service for less than seventy
19 hours is rendered.

20 (v) Reduction efforts such as furloughs, reduced work hours,
21 mandatory leave without pay, temporary layoffs, or other similar
22 situations as contemplated by subsection (15)(c)(iii) of this section
23 do not result in a reduction in service credit that otherwise would
24 have been earned for that month of work, and the member shall receive
25 the full service credit for the hours that were scheduled to be
26 worked before the reduction.

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

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

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

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

37 (34) "Surviving spouse" means the surviving widow or widower of a
38 member. "Surviving spouse" shall not include the divorced spouse of a
39 member except as provided in RCW 41.26.162.

1 **Sec. 3.** RCW 41.32.010 and 2018 c 257 s 2 are each amended to
2 read as follows:

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

5 (1) (a) "Accumulated contributions" for plan 1 members, means the
6 sum of all regular annuity contributions and, except for the purpose
7 of withdrawal at the time of retirement, any amount paid under RCW
8 41.50.165(2) with regular interest thereon.

9 (b) "Accumulated contributions" for plan 2 members, means the sum
10 of all contributions standing to the credit of a member in the
11 member's individual account, including any amount paid under RCW
12 41.50.165(2), together with the regular interest thereon.

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

16 (3) "Adjustment ratio" means the value of index A divided by
17 index B.

18 (4) "Annual increase" means, initially, fifty-nine cents per
19 month per year of service which amount shall be increased each July
20 1st by three percent, rounded to the nearest cent.

21 (5) "Annuity" means the moneys payable per year during life by
22 reason of accumulated contributions of a member.

23 (6) "Average final compensation" for plan 2 and plan 3 members,
24 means the member's average earnable compensation of the highest
25 consecutive sixty service credit months prior to such member's
26 retirement, termination, or death. Periods constituting authorized
27 leaves of absence may not be used in the calculation of average final
28 compensation except under RCW 41.32.810(2).

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

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

36 (8) "Contract" means any agreement for service and compensation
37 between a member and an employer.

38 (9) "Creditable service" means membership service plus prior
39 service for which credit is allowable. This subsection shall apply
40 only to plan 1 members.

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

3 (11) "Dependent" means receiving one-half or more of support from
4 a member.

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

6 (13) "Disability allowance" means monthly payments during
7 disability. This subsection shall apply only to plan 1 members.

8 (14)(a) "Earnable compensation" for plan 1 members, means:

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

14 (ii) For an employee member of the retirement system teaching in
15 an extended school year program, two consecutive extended school
16 years, as defined by the employer school district, may be used as the
17 annual period for determining earnable compensation in lieu of the
18 two fiscal years.

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

22 (A) Retroactive payments to an individual by an employer on
23 reinstatement of the employee in a position, or payments by an
24 employer to an individual in lieu of reinstatement in a position
25 which are awarded or granted as the equivalent of the salary or wages
26 which the individual would have earned during a payroll period shall
27 be considered earnable compensation and the individual shall receive
28 the equivalent service credit.

29 (B) If a leave of absence, without pay, is taken by a member for
30 the purpose of serving as a member of the state legislature, and such
31 member has served in the legislature five or more years, the salary
32 which would have been received for the position from which the leave
33 of absence was taken shall be considered as compensation earnable if
34 the employee's contribution thereon is paid by the employee. In
35 addition, where a member has been a member of the state legislature
36 for five or more years, earnable compensation for the member's two
37 highest compensated consecutive years of service shall include a sum
38 not to exceed thirty-six hundred dollars for each of such two
39 consecutive years, regardless of whether or not legislative service
40 was rendered during those two years.

1 (iv) For members employed less than full time under written
2 contract with a school district, or community college district, in an
3 instructional position, for which the member receives service credit
4 of less than one year in all of the years used to determine the
5 earnable compensation used for computing benefits due under RCW
6 41.32.497, 41.32.498, and 41.32.520, the member may elect to have
7 earnable compensation defined as provided in RCW 41.32.345. For the
8 purposes of this subsection, the term "instructional position" means
9 a position in which more than seventy-five percent of the member's
10 time is spent as a classroom instructor (including office hours), a
11 librarian, a psychologist, a social worker, a nurse, a physical
12 therapist, an occupational therapist, a speech language pathologist
13 or audiologist, or a counselor. Earnable compensation shall be so
14 defined only for the purpose of the calculation of retirement
15 benefits and only as necessary to insure that members who receive
16 fractional service credit under RCW 41.32.270 receive benefits
17 proportional to those received by members who have received full-time
18 service credit.

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

20 (A) Remuneration for unused sick leave authorized under RCW
21 41.04.340, 28A.400.210, or 28A.310.490;

22 (B) Remuneration for unused annual leave in excess of two hundred
23 forty hours as authorized by RCW 43.01.044 and 43.01.041.

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

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

36 (i) Retroactive payments to an individual by an employer on
37 reinstatement of the employee in a position or payments by an
38 employer to an individual in lieu of reinstatement in a position
39 which are awarded or granted as the equivalent of the salary or wages
40 which the individual would have earned during a payroll period shall

1 be considered earnable compensation, to the extent provided above,
2 and the individual shall receive the equivalent service credit.

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

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

8 (B) Such member's actual earnable compensation received for
9 teaching and legislative service combined. Any additional
10 contributions to the retirement system required because compensation
11 earnable under (b)(ii)(A) of this subsection is greater than
12 compensation earnable under (b)(ii)(B) of this subsection shall be
13 paid by the member for both member and employer contributions.

14 (c) In calculating earnable compensation under (a) or (b) of this
15 subsection, the department of retirement systems shall include:

16 (i) Any compensation forgone by a member employed by a state
17 agency or institution during the 2009-2011 fiscal biennium as a
18 result of reduced work hours, mandatory or voluntary leave without
19 pay, temporary reduction in pay implemented prior to December 11,
20 2010, or temporary layoffs if the reduced compensation is an integral
21 part of the employer's expenditure reduction efforts, as certified by
22 the employer; ~~((and))~~

23 (ii) Any compensation forgone by a member during the 2011-2013
24 fiscal biennium as a result of reduced work hours, mandatory leave
25 without pay, temporary layoffs, or reductions to current pay if the
26 reduced compensation is an integral part of the employer's
27 expenditure reduction efforts, as certified by the employer.
28 Reductions to current pay shall not include elimination of previously
29 agreed upon future salary reductions; and

30 (iii) Any compensation forgone by a member during the 2019-2021
31 and 2021-2023 fiscal biennia as a result of reduced work hours,
32 mandatory leave without pay, temporary layoffs, furloughs, reductions
33 to current pay, or other similar measures resulting from the COVID-19
34 budgetary crisis, if the reduced compensation is an integral part of
35 the employer's expenditure reduction efforts, as certified by the
36 employer. Reductions to current pay shall not include elimination of
37 previously agreed upon future salary increases.

38 (15)(a) "Eligible position" for plan 2 members from June 7, 1990,
39 through September 1, 1991, means a position which normally requires

1 two or more uninterrupted months of creditable service during
2 September through August of the following year.

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

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

11 (d) The elected position of the superintendent of public
12 instruction is an eligible position.

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

18 (17) "Employer" means the state of Washington, the school
19 district, or any agency of the state of Washington by which the
20 member is paid. Except as otherwise specifically provided in this
21 chapter, "employer" does not include a government contractor. For
22 purposes of this subsection, a "government contractor" is any entity,
23 including a partnership, limited liability company, for-profit or
24 nonprofit corporation, or person, that provides services pursuant to
25 a contract with an employer. The determination whether an employer-
26 employee relationship has been established is not based on the
27 relationship between a government contractor and an employer, but is
28 based solely on the relationship between a government contractor's
29 employee and an employer under this chapter. For the purposes of
30 retirement plan membership, this subsection includes tribal schools
31 who have chosen to participate in the retirement system and satisfied
32 the requirements of RCW 28A.715.010(7).

33 (18) "Fiscal year" means a year which begins July 1st and ends
34 June 30th of the following year.

35 (19) "Former state fund" means the state retirement fund in
36 operation for teachers under chapter 187, Laws of 1923, as amended.

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

1 (21) "Index A" means the index for the year prior to the
2 determination of a postretirement adjustment.

3 (22) "Index B" means the index for the year prior to index A.

4 (23) "Index year" means the earliest calendar year in which the
5 index is more than sixty percent of index A.

6 (24) "Local fund" means any of the local retirement funds for
7 teachers operated in any school district in accordance with the
8 provisions of chapter 163, Laws of 1917 as amended.

9 (25) "Member" means any teacher included in the membership of the
10 retirement system who has not been removed from membership under RCW
11 41.32.878 or 41.32.768. Also, any other employee of the public
12 schools who, on July 1, 1947, had not elected to be exempt from
13 membership and who, prior to that date, had by an authorized payroll
14 deduction, contributed to the member reserve.

15 (26) "Member account" or "member's account" for purposes of plan
16 3 means the sum of the contributions and earnings on behalf of the
17 member in the defined contribution portion of plan 3.

18 (27) "Member reserve" means the fund in which all of the
19 accumulated contributions of members are held.

20 (28) "Membership service" means service rendered subsequent to
21 the first day of eligibility of a person to membership in the
22 retirement system: PROVIDED, That where a member is employed by two
23 or more employers the individual shall receive no more than one
24 service credit month during any calendar month in which multiple
25 service is rendered. The provisions of this subsection shall apply
26 only to plan 1 members.

27 (29) "Pension" means the moneys payable per year during life from
28 the pension reserve.

29 (30) "Pension reserve" is a fund in which shall be accumulated an
30 actuarial reserve adequate to meet present and future pension
31 liabilities of the system and from which all pension obligations are
32 to be paid.

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

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

1 (33) "Plan 3" means the teachers' retirement system, plan 3
2 providing the benefits and funding provisions covering persons who
3 first become members of the system on and after July 1, 1996, or who
4 transfer under RCW 41.32.817.

5 (34) "Prior service" means service rendered prior to the first
6 date of eligibility to membership in the retirement system for which
7 credit is allowable. The provisions of this subsection shall apply
8 only to plan 1 members.

9 (35) "Prior service contributions" means contributions made by a
10 member to secure credit for prior service. The provisions of this
11 subsection shall apply only to plan 1 members.

12 (36) "Public school" means any institution or activity operated
13 by the state of Washington or any instrumentality or political
14 subdivision thereof employing teachers, except the University of
15 Washington and Washington State University. For the purposes of
16 retirement plan membership, this subsection includes tribal schools
17 who have chosen to participate in the retirement system and satisfied
18 the requirements of RCW 28A.715.010(7).

19 (37) "Regular contributions" means the amounts required to be
20 deducted from the compensation of a member and credited to the
21 member's individual account in the member reserve. This subsection
22 shall apply only to plan 1 members.

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

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

28 (40)(a) "Retirement allowance" for plan 1 members, means monthly
29 payments based on the sum of annuity and pension, or any optional
30 benefits payable in lieu thereof.

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

34 (41) "Retirement system" means the Washington state teachers'
35 retirement system.

36 (42) "Separation from service or employment" occurs when a person
37 has terminated all employment with an employer. Separation from
38 service or employment does not occur, and if claimed by an employer
39 or employee may be a violation of RCW 41.32.055, when an employee and
40 employer have a written or oral agreement to resume employment with

1 the same employer following termination. Mere expressions or
2 inquiries about postretirement employment by an employer or employee
3 that do not constitute a commitment to reemploy the employee after
4 retirement are not an agreement under this section.

5 (43)(a) "Service" for plan 1 members means the time during which
6 a member has been employed by an employer for compensation.

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

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

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

17 (iv) Reduction efforts such as furloughs, reduced work hours,
18 mandatory leave without pay, temporary layoffs, or other similar
19 situations as contemplated by subsection (14)(c)(iii) of this section
20 do not result in a reduction in service credit that otherwise would
21 have been earned for that month of work, and the member shall receive
22 the full service credit for the hours that were scheduled to be
23 worked before the reduction.

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

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

35 (ii) Any other member employed in an eligible position or as a
36 substitute who earns earnable compensation during the period from
37 September through August shall receive service credit according to
38 one of the following methods, whichever provides the most service
39 credit to the member:

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

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

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

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

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

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

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

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

33 (v) As authorized by RCW 28A.400.300, up to forty-five days of
34 sick leave may be creditable as service solely for the purpose of
35 determining eligibility to retire under RCW 41.32.470. For purposes
36 of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is
37 equal to two service credit months. Use of less than forty-five days
38 of sick leave is creditable as allowed under this subsection as
39 follows:

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

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

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

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

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

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

14 (vii) Reduction efforts such as furloughs, reduced work hours,
15 mandatory leave without pay, temporary layoffs, or other similar
16 situations as contemplated by subsection (14)(c)(iii) of this section
17 do not result in a reduction in service credit that otherwise would
18 have been earned for that month of work, and the member shall receive
19 the full service credit for the hours that were scheduled to be
20 worked before the reduction.

21 (viii) The department shall adopt rules implementing this
22 subsection.

23 (44) "Service credit month" means a full service credit month or
24 an accumulation of partial service credit months that are equal to
25 one.

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

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

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

33 (48) "Substitute teacher" means:

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

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

1 (49) "Teacher" means any person qualified to teach who is engaged
2 by a public school in an instructional, administrative, or
3 supervisory capacity. The term includes state, educational service
4 district, and school district superintendents and their assistants
5 and all employees certificated by the superintendent of public
6 instruction; and in addition thereto any full time school doctor who
7 is employed by a public school and renders service of an
8 instructional or educational nature.

9 **Sec. 4.** RCW 41.34.040 and 2014 c 95 s 1 are each amended to read
10 as follows:

11 (1) A member shall contribute from (~~his or her~~) the member's
12 compensation according to one of the following rate structures in
13 addition to the mandatory minimum five percent:

14	Option A	Contribution Rate
15	All Ages	0.0% fixed
16	Option B	
17	Up to Age 35	0.0%
18	Age 35 to 44	1.0%
19	Age 45 and above	2.5%
20	Option C	
21	Up to Age 35	1.0%
22	Age 35 to 44	2.5%
23	Age 45 and above	3.5%
24	Option D	
25	All Ages	2.0%
26	Option E	
27	All Ages	5.0%
28	Option F	
29	All Ages	10.0%

30 (2) The department shall have the right to offer contribution
31 rate options in addition to those listed in subsection (1) of this
32 section, provided that no significant additional administrative costs
33 are created. All options offered by the department shall conform to
34 the requirements stated in subsections (3) and (5) of this section.

1 (3) (a) For members of the teachers' retirement system entering
2 plan 3 under RCW 41.32.835 or members of the school employees'
3 retirement system entering plan 3 under RCW 41.35.610, within ninety
4 days of becoming a member (~~he or she~~) the member has an option to
5 choose one of the above contribution rate structures. If the member
6 does not select an option within the ninety-day period, (~~he or she~~)
7 the member shall be assigned option A.

8 (b) For members of the public employees' retirement system
9 entering plan 3 under RCW 41.40.785, within the ninety days described
10 in RCW 41.40.785 an employee who irrevocably chooses plan 3 shall
11 select one of the above contribution rate structures. If the member
12 does not select an option within the ninety-day period, (~~he or she~~)
13 the member shall be assigned option A.

14 (c) For members of the teachers' retirement system transferring
15 to plan 3 under RCW 41.32.817, members of the school employees'
16 retirement system transferring to plan 3 under RCW 41.35.510, or
17 members of the public employees' retirement system transferring to
18 plan 3 under RCW 41.40.795, upon election to plan 3 (~~he or she~~) the
19 member must choose one of the above contribution rate structures.

20 (d) Within ninety days of the date that an employee changes
21 employers, (~~he or she~~) the member has an option to choose one of
22 the above contribution rate structures. If the member does not select
23 an option within this ninety-day period, (~~he or she~~) the member
24 shall be assigned option A.

25 (4) Each year, through January of 2015, members of plan 3 of the
26 teachers' retirement system may change their contribution rate option
27 by notifying their employer in writing during the month of January.
28 After January of 2015, a member of plan 3 of the teachers' retirement
29 system may only change their contribution rate option under
30 subsection (3)(d) of this section. The termination of this annual
31 contribution rate change option in January 2015 is required to meet
32 the plan qualification requirements in section 401(a) of the internal
33 revenue code. Consistent with plan qualification requirements in the
34 internal revenue code, this annual contribution rate change has never
35 been available to plan 3 members of the public employees' retirement
36 system and the school employees' retirement system.

37 (5) Contributions shall begin the first day of the pay cycle in
38 which the rate option is made, or the first day of the pay cycle in
39 which the end of the ninety-day period occurs.

1 (6) The contribution of plan 3 members is not affected by any
2 reduction in hours worked because of participation of their employer
3 in a shared work program under chapter 50.60 RCW. Plan 3 members
4 shall continue to make contributions as if the member did not incur a
5 reduction in hours through participating in an approved shared work
6 compensation plan under chapter 50.60 RCW.

7 **Sec. 5.** RCW 41.35.010 and 2018 c 257 s 3 are each amended to
8 read as follows:

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

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

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

18 (3) "Adjustment ratio" means the value of index A divided by
19 index B.

20 (4) "Annuity" means payments for life derived from accumulated
21 contributions of a member. All annuities shall be paid in monthly
22 installments.

23 (5) (a) "Average final compensation" for plan 2 and plan 3 members
24 means the member's average compensation earnable of the highest
25 consecutive sixty months of service credit months prior to such
26 member's retirement, termination, or death. Periods constituting
27 authorized leaves of absence may not be used in the calculation of
28 average final compensation except under RCW 41.40.710(2).

29 (b) In calculating average final compensation under (a) of this
30 subsection, the department of retirement systems shall include
31 ~~((any))~~:

32 (i) Any compensation forgone by a member during the 2011-2013
33 fiscal biennium as a result of reduced work hours, mandatory leave
34 without pay, temporary layoffs, or reductions to current pay if the
35 reduced compensation is an integral part of the employer's
36 expenditure reduction efforts, as certified by the employer.
37 Reductions to current pay shall not include elimination of previously
38 agreed upon future salary reductions; and

1 (ii) Any compensation forgone by a member during the 2019-2021
2 and 2021-2023 fiscal biennia as a result of reduced work hours,
3 mandatory leave without pay, temporary layoffs, furloughs, reductions
4 to current pay, or other similar measures resulting from the COVID-19
5 budgetary crisis, if the reduced compensation is an integral part of
6 the employer's expenditure reduction efforts, as certified by the
7 employer. Reductions to current pay shall not include elimination of
8 previously agreed upon future salary increases.

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

13 (7) "Classified employee" means an employee of a school district
14 or an educational service district who is not eligible for membership
15 in the teachers' retirement system established under chapter 41.32
16 RCW.

17 (8)(a) "Compensation earnable" for plan 2 and plan 3 members,
18 means salaries or wages earned by a member during a payroll period
19 for personal services, including overtime payments, and shall include
20 wages and salaries deferred under provisions established pursuant to
21 sections 403(b), 414(h), and 457 of the United States internal
22 revenue code, but shall exclude nonmoney maintenance compensation and
23 lump sum or other payments for deferred annual sick leave, unused
24 accumulated vacation, unused accumulated annual leave, or any form of
25 severance pay.

26 (b) "Compensation earnable" for plan 2 and plan 3 members also
27 includes the following actual or imputed payments, which are not paid
28 for personal services:

29 (i) Retroactive payments to an individual by an employer on
30 reinstatement of the employee in a position, or payments by an
31 employer to an individual in lieu of reinstatement, which are awarded
32 or granted as the equivalent of the salary or wage which the
33 individual would have earned during a payroll period shall be
34 considered compensation earnable to the extent provided in this
35 subsection, and the individual shall receive the equivalent service
36 credit;

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

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

3 (B) Such member's actual compensation earnable received for
4 nonlegislative public employment and legislative service combined.
5 Any additional contributions to the retirement system required
6 because compensation earnable under (b)(ii)(A) of this subsection is
7 greater than compensation earnable under this (b)(ii)(B) of this
8 subsection shall be paid by the member for both member and employer
9 contributions;

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

12 (iv) Compensation that a member would have received but for a
13 disability occurring in the line of duty only as authorized by RCW
14 41.40.038;

15 (v) Compensation that a member receives due to participation in
16 the leave sharing program only as authorized by RCW 41.04.650 through
17 41.04.670; and

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

23 (9) "Department" means the department of retirement systems
24 created in chapter 41.50 RCW.

25 (10) "Director" means the director of the department.

26 (11) "Eligible position" means any position that, as defined by
27 the employer, normally requires five or more months of service a year
28 for which regular compensation for at least seventy hours is earned
29 by the occupant thereof. For purposes of this chapter an employer
30 shall not define "position" in such a manner that an employee's
31 monthly work for that employer is divided into more than one
32 position.

33 (12) "Employee" or "employed" means a person who is providing
34 services for compensation to an employer, unless the person is free
35 from the employer's direction and control over the performance of
36 work. The department shall adopt rules and interpret this subsection
37 consistent with common law.

38 (13) "Employer," for plan 2 and plan 3 members, means a school
39 district, an educational service district, or tribal school that has
40 chosen to participate in the retirement system and has satisfied the

1 requirements of RCW 28A.715.010(7). Except as otherwise specifically
2 provided in this chapter, "employer" does not include a government
3 contractor. For purposes of this subsection, a "government
4 contractor" is any entity, including a partnership, limited liability
5 company, for-profit or nonprofit corporation, or person, that
6 provides services pursuant to a contract with an employer. The
7 determination whether an employer-employee relationship has been
8 established is not based on the relationship between a government
9 contractor and an employer, but is based solely on the relationship
10 between a government contractor's employee and an employer under this
11 chapter.

12 (14) "Final compensation" means the annual rate of compensation
13 earnable by a member at the time of termination of employment.

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

18 (16) "Index A" means the index for the year prior to the
19 determination of a postretirement adjustment.

20 (17) "Index B" means the index for the year prior to index A.

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

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

27 (20) "Member" means any employee included in the membership of
28 the retirement system, as provided for in RCW 41.35.030.

29 (21) "Member account" or "member's account" for purposes of plan
30 3 means the sum of the contributions and earnings on behalf of the
31 member in the defined contribution portion of plan 3.

32 (22) "Membership service" means all service rendered as a member.

33 (23) "Pension" means payments for life derived from contributions
34 made by the employer. All pensions shall be paid in monthly
35 installments.

36 (24) "Plan 2" means the Washington school employees' retirement
37 system plan 2 providing the benefits and funding provisions covering
38 persons who first became members of the public employees' retirement
39 system on and after October 1, 1977, and transferred to the
40 Washington school employees' retirement system under RCW 41.40.750.

1 (25) "Plan 3" means the Washington school employees' retirement
2 system plan 3 providing the benefits and funding provisions covering
3 persons who first became members of the system on and after September
4 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

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

7 (27) "Retiree" means any person who has begun accruing a
8 retirement allowance or other benefit provided by this chapter
9 resulting from service rendered to an employer while a member.

10 (28) "Retirement" means withdrawal from active service with a
11 retirement allowance as provided by this chapter.

12 (29) "Retirement allowance" for plan 2 and plan 3 members means
13 monthly payments to a retiree or beneficiary as provided in this
14 chapter.

15 (30) "Retirement system" means the Washington school employees'
16 retirement system provided for in this chapter.

17 (31) "Separation from service" occurs when a person has
18 terminated all employment with an employer.

19 (32) "Service" for plan 2 and plan 3 members means periods of
20 employment by a member in an eligible position or positions for one
21 or more employers for which compensation earnable is paid.
22 Compensation earnable earned for ninety or more hours in any calendar
23 month shall constitute one service credit month except as provided in
24 RCW 41.35.180. Compensation earnable earned for at least seventy
25 hours but less than ninety hours in any calendar month shall
26 constitute one-half service credit month of service. Compensation
27 earnable earned for less than seventy hours in any calendar month
28 shall constitute one-quarter service credit month of service. Time
29 spent in standby status, whether compensated or not, is not service.

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

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

34 (b) A member shall receive a total of not more than twelve
35 service credit months of service for such calendar year. If an
36 individual is employed in an eligible position by one or more
37 employers the individual shall receive no more than one service
38 credit month during any calendar month in which multiple service for
39 ninety or more hours is rendered.

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

5 (i) Less than eleven days equals one-quarter service credit
6 month;

7 (ii) Eleven or more days but less than twenty-two days equals
8 one-half service credit month;

9 (iii) Twenty-two days equals one service credit month;

10 (iv) More than twenty-two days but less than thirty-three days
11 equals one and one-quarter service credit month; and

12 (v) Thirty-three or more days but less than forty-five days
13 equals one and one-half service credit month.

14 (d) Reduction efforts such as furloughs, reduced work hours,
15 mandatory leave without pay, temporary layoffs, or other similar
16 situations as contemplated by subsection (5)(b)(ii) of this section
17 do not result in a reduction in service credit that otherwise would
18 have been earned for that month of work, and the member shall receive
19 the full service credit for the hours that were scheduled to be
20 worked before the reduction.

21 (33) "Service credit month" means a month or an accumulation of
22 months of service credit which is equal to one.

23 (34) "Service credit year" means an accumulation of months of
24 service credit which is equal to one when divided by twelve.

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

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

30 (37) "State treasurer" means the treasurer of the state of
31 Washington.

32 (38) "Substitute employee" means a classified employee who is
33 employed by an employer exclusively as a substitute for an absent
34 employee.

35 **Sec. 6.** RCW 41.37.010 and 2020 c 108 s 1 are each amended to
36 read as follows:

37 The definitions in this section apply throughout this chapter
38 unless the context clearly requires otherwise.

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

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

8 (3) "Adjustment ratio" means the value of index A divided by
9 index B.

10 (4) "Annuity" means payments for life derived from accumulated
11 contributions of a member. All annuities shall be paid in monthly
12 installments.

13 (5)(a) "Average final compensation" means the member's average
14 compensation earnable of the highest consecutive sixty months of
15 service credit months prior to such member's retirement, termination,
16 or death. Periods constituting authorized leaves of absence may not
17 be used in the calculation of average final compensation except under
18 RCW 41.37.290.

19 (b) In calculating average final compensation under (a) of this
20 subsection, the department of retirement systems shall include:

21 (i) Any compensation forgone by a member employed by a state
22 agency or institution during the 2009-2011 fiscal biennium as a
23 result of reduced work hours, mandatory or voluntary leave without
24 pay, temporary reduction in pay implemented prior to December 11,
25 2010, or temporary layoffs if the reduced compensation is an integral
26 part of the employer's expenditure reduction efforts, as certified by
27 the employer; (~~and~~)

28 (ii) Any compensation forgone by a member employed by the state
29 or a local government employer during the 2011-2013 fiscal biennium
30 as a result of reduced work hours, mandatory leave without pay,
31 temporary layoffs, or reductions to current pay if the reduced
32 compensation is an integral part of the employer's expenditure
33 reduction efforts, as certified by the employer. Reductions to
34 current pay shall not include elimination of previously agreed upon
35 future salary increases; and

36 (iii) Any compensation forgone by a member during the 2019-2021
37 and 2021-2023 fiscal biennia as a result of reduced work hours,
38 mandatory leave without pay, temporary layoffs, furloughs, reductions
39 to current pay, or other similar measures resulting from the COVID-19
40 budgetary crisis, if the reduced compensation is an integral part of

1 the employer's expenditure reduction efforts, as certified by the
2 employer. Reductions to current pay shall not include elimination of
3 previously agreed upon future salary increases.

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

7 (7) (a) "Compensation earnable" for members, means salaries or
8 wages earned by a member during a payroll period for personal
9 services, including overtime payments, and shall include wages and
10 salaries deferred under provisions established pursuant to sections
11 403(b), 414(h), and 457 of the United States internal revenue code,
12 but shall exclude nonmoney maintenance compensation and lump sum or
13 other payments for deferred annual sick leave, unused accumulated
14 vacation, unused accumulated annual leave, or any form of severance
15 pay.

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

19 (i) Retroactive payments to an individual by an employer on
20 reinstatement of the employee in a position, or payments by an
21 employer to an individual in lieu of reinstatement, which are awarded
22 or granted as the equivalent of the salary or wage which the
23 individual would have earned during a payroll period shall be
24 considered compensation earnable to the extent provided in this
25 subsection, and the individual shall receive the equivalent service
26 credit;

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

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

32 (B) Such member's actual compensation earnable received for
33 nonlegislative public employment and legislative service combined.
34 Any additional contributions to the retirement system required
35 because compensation earnable under (b) (ii) (A) of this subsection is
36 greater than compensation earnable under (b) (ii) (B) of this
37 subsection shall be paid by the member for both member and employer
38 contributions;

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

1 (iv) Compensation that a member would have received but for a
2 disability occurring in the line of duty only as authorized by RCW
3 41.37.060;

4 (v) Compensation that a member receives due to participation in
5 the leave sharing program only as authorized by RCW 41.04.650 through
6 41.04.670; and

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

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

14 (9) "Director" means the director of the department.

15 (10) "Eligible position" means any permanent, full-time position
16 included in subsection (19) of this section.

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

22 (12) "Employer" means the Washington state department of
23 corrections, the Washington state parks and recreation commission,
24 the Washington state gambling commission, the Washington state
25 patrol, the Washington state department of natural resources, the
26 Washington state liquor and cannabis board, the Washington state
27 department of veterans affairs, the Washington state department of
28 children, youth, and families, and the Washington state department of
29 social and health services; any county corrections department; any
30 city corrections department not covered under chapter 41.28 RCW; and
31 any public corrections entity created under RCW 39.34.030 by
32 counties, cities not covered under chapter 41.28 RCW, or both. Except
33 as otherwise specifically provided in this chapter, "employer" does
34 not include a government contractor. For purposes of this subsection,
35 a "government contractor" is any entity, including a partnership,
36 limited liability company, for-profit or nonprofit corporation, or
37 person, that provides services pursuant to a contract with an
38 employer. The determination whether an employer-employee relationship
39 has been established is not based on the relationship between a
40 government contractor and an employer, but is based solely on the

1 relationship between a government contractor's employee and an
2 employer under this chapter.

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

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

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

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

12 (17) "Ineligible position" means any position which does not
13 conform with the requirements set forth in subsection (10) of this
14 section.

15 (18) "Leave of absence" means the period of time a member is
16 authorized by the employer to be absent from service without being
17 separated from membership.

18 (19) "Member" means any employee employed by an employer on a
19 full-time basis:

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

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

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

29 (d) Whose primary responsibility is to provide nursing care to,
30 or to ensure the custody and safety of, offender, adult probationary,
31 or patient populations; and who is in a position that requires
32 completion of defensive tactics training or de-escalation training;
33 and who is employed by one of the following state institutions or
34 centers operated by the department of social and health services or
35 the department of children, youth, and families:

36 (i) Juvenile rehabilitation administration institutions, not
37 including community facilities;

38 (ii) Mental health hospitals;

39 (iii) Child study and treatment centers; or

1 (iv) Institutions or residential sites that serve developmentally
2 disabled patients or offenders, or perform competency restoration
3 services, except for state-operated living alternatives facilities;

4 (e) Whose primary responsibility is to provide nursing care to
5 offender and patient populations in institutions and centers operated
6 by the following employers: A city or county corrections department
7 as set forth in subsection (12) of this section, a public corrections
8 entity as set forth in subsection (12) of this section, the
9 Washington state department of corrections, or the Washington state
10 department of veterans affairs; or

11 (f) Whose primary responsibility is to supervise members eligible
12 under this subsection.

13 (20) "Membership service" means all service rendered as a member.

14 (21) "Pension" means payments for life derived from contributions
15 made by the employer. All pensions shall be paid in monthly
16 installments.

17 (22) "Plan" means the Washington public safety employees'
18 retirement system plan 2.

19 (23) "Regular interest" means such rate as the director may
20 determine.

21 (24) "Retiree" means any person who has begun accruing a
22 retirement allowance or other benefit provided by this chapter
23 resulting from service rendered to an employer while a member.

24 (25) "Retirement" means withdrawal from active service with a
25 retirement allowance as provided by this chapter.

26 (26) "Retirement allowance" means monthly payments to a retiree
27 or beneficiary as provided in this chapter.

28 (27) "Retirement system" means the Washington public safety
29 employees' retirement system provided for in this chapter.

30 (28) "Separation from service" occurs when a person has
31 terminated all employment with an employer.

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

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

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

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

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

13 (c) Reduction efforts such as furloughs, reduced work hours,
14 mandatory leave without pay, temporary layoffs, or other similar
15 situations as contemplated by subsection (5)(b)(iii) of this section
16 do not result in a reduction in service credit that otherwise would
17 have been earned for that month of work, and the member shall receive
18 the full service credit for the hours that were scheduled to be
19 worked before the reduction.

20 (30) "Service credit month" means a month or an accumulation of
21 months of service credit which is equal to one.

22 (31) "Service credit year" means an accumulation of months of
23 service credit which is equal to one when divided by twelve.

24 (32) "State actuary" or "actuary" means the person appointed
25 pursuant to RCW 44.44.010(2).

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

29 (34) "State treasurer" means the treasurer of the state of
30 Washington.

31 **Sec. 7.** RCW 41.40.010 and 2012 c 236 s 6 are each amended to
32 read as follows:

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

35 (1) "Accumulated contributions" means the sum of all
36 contributions standing to the credit of a member in the member's
37 individual account, including any amount paid under RCW 41.50.165(2),
38 together with the regular interest thereon.

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

4 (3) "Adjustment ratio" means the value of index A divided by
5 index B.

6 (4) "Annual increase" means, initially, fifty-nine cents per
7 month per year of service which amount shall be increased each July
8 1st by three percent, rounded to the nearest cent.

9 (5) "Annuity" means payments for life derived from accumulated
10 contributions of a member. All annuities shall be paid in monthly
11 installments.

12 (6)(a) "Average final compensation" for plan 1 members, means the
13 annual average of the greatest compensation earnable by a member
14 during any consecutive two year period of service credit months for
15 which service credit is allowed; or if the member has less than two
16 years of service credit months then the annual average compensation
17 earnable during the total years of service for which service credit
18 is allowed.

19 (b) "Average final compensation" for plan 2 and plan 3 members,
20 means the member's average compensation earnable of the highest
21 consecutive sixty months of service credit months prior to such
22 member's retirement, termination, or death. Periods constituting
23 authorized leaves of absence may not be used in the calculation of
24 average final compensation except under RCW 41.40.710(2) or (c) of
25 this subsection.

26 (c) In calculating average final compensation under this
27 subsection for a member of plan 1, 2, or 3, the department of
28 retirement systems shall include:

29 (i) Any compensation forgone by the member during the 2009-2011
30 fiscal biennium as a result of reduced work hours, voluntary leave
31 without pay, temporary reduction in pay implemented prior to December
32 11, 2010, or temporary furloughs if the reduced compensation is an
33 integral part of the employer's expenditure reduction efforts, as
34 certified by the employer; (~~and~~)

35 (ii) Any compensation forgone by a member employed by the state
36 or a local government during the 2011-2013 fiscal biennium as a
37 result of reduced work hours, mandatory leave without pay, temporary
38 layoffs, or reductions to current pay if the reduced compensation is
39 an integral part of the employer's expenditure reduction efforts, as
40 certified by the employer. Reductions to current pay shall not

1 include elimination of previously agreed upon future salary
2 increases; and

3 (iii) Any compensation forgone by a member during the 2019-2021
4 and 2021-2023 fiscal biennia as a result of reduced work hours,
5 mandatory leave without pay, temporary layoffs, furloughs, reductions
6 to current pay, or other similar measures resulting from the COVID-19
7 budgetary crisis, if the reduced compensation is an integral part of
8 the employer's expenditure reduction efforts, as certified by the
9 employer. Reductions to current pay shall not include elimination of
10 previously agreed upon future salary increases.

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

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

18 (8) (a) "Compensation earnable" for plan 1 members, means salaries
19 or wages earned during a payroll period for personal services and
20 where the compensation is not all paid in money, maintenance
21 compensation shall be included upon the basis of the schedules
22 established by the member's employer.

23 (i) "Compensation earnable" for plan 1 members also includes the
24 following actual or imputed payments, which are not paid for personal
25 services:

26 (A) Retroactive payments to an individual by an employer on
27 reinstatement of the employee in a position, or payments by an
28 employer to an individual in lieu of reinstatement in a position
29 which are awarded or granted as the equivalent of the salary or wage
30 which the individual would have earned during a payroll period shall
31 be considered compensation earnable and the individual shall receive
32 the equivalent service credit;

33 (B) If a leave of absence is taken by an individual for the
34 purpose of serving in the state legislature, the salary which would
35 have been received for the position from which the leave of absence
36 was taken, shall be considered as compensation earnable if the
37 employee's contribution is paid by the employee and the employer's
38 contribution is paid by the employer or employee;

39 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
40 and 72.09.240;

1 (D) Compensation that a member would have received but for a
2 disability occurring in the line of duty only as authorized by RCW
3 41.40.038;

4 (E) Compensation that a member receives due to participation in
5 the leave sharing program only as authorized by RCW 41.04.650 through
6 41.04.670; and

7 (F) Compensation that a member receives for being in standby
8 status. For the purposes of this section, a member is in standby
9 status when not being paid for time actually worked and the employer
10 requires the member to be prepared to report immediately for work, if
11 the need arises, although the need may not arise.

12 (ii) "Compensation earnable" does not include:

13 (A) Remuneration for unused sick leave authorized under RCW
14 41.04.340, 28A.400.210, or 28A.310.490;

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

17 (b) "Compensation earnable" for plan 2 and plan 3 members, means
18 salaries or wages earned by a member during a payroll period for
19 personal services, including overtime payments, and shall include
20 wages and salaries deferred under provisions established pursuant to
21 sections 403(b), 414(h), and 457 of the United States Internal
22 Revenue Code, but shall exclude nonmoney maintenance compensation and
23 lump sum or other payments for deferred annual sick leave, unused
24 accumulated vacation, unused accumulated annual leave, or any form of
25 severance pay.

26 "Compensation earnable" for plan 2 and plan 3 members also
27 includes the following actual or imputed payments, which are not paid
28 for personal services:

29 (i) Retroactive payments to an individual by an employer on
30 reinstatement of the employee in a position, or payments by an
31 employer to an individual in lieu of reinstatement in a position
32 which are awarded or granted as the equivalent of the salary or wage
33 which the individual would have earned during a payroll period shall
34 be considered compensation earnable to the extent provided above, and
35 the individual shall receive the equivalent service credit;

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

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

1 (B) Such member's actual compensation earnable received for
2 nonlegislative public employment and legislative service combined.
3 Any additional contributions to the retirement system required
4 because compensation earnable under (b)(ii)(A) of this subsection is
5 greater than compensation earnable under (b)(ii)(B) of this
6 subsection shall be paid by the member for both member and employer
7 contributions;

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

10 (iv) Compensation that a member would have received but for a
11 disability occurring in the line of duty only as authorized by RCW
12 41.40.038;

13 (v) Compensation that a member receives due to participation in
14 the leave sharing program only as authorized by RCW 41.04.650 through
15 41.04.670; and

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

21 (9) "Department" means the department of retirement systems
22 created in chapter 41.50 RCW.

23 (10) "Director" means the director of the department.

24 (11) "Eligible position" means:

25 (a) Any position that, as defined by the employer, normally
26 requires five or more months of service a year for which regular
27 compensation for at least seventy hours is earned by the occupant
28 thereof. For purposes of this chapter an employer shall not define
29 "position" in such a manner that an employee's monthly work for that
30 employer is divided into more than one position;

31 (b) Any position occupied by an elected official or person
32 appointed directly by the governor, or appointed by the chief justice
33 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
34 compensation is paid.

35 (12) "Employee" or "employed" means a person who is providing
36 services for compensation to an employer, unless the person is free
37 from the employer's direction and control over the performance of
38 work. The department shall adopt rules and interpret this subsection
39 consistent with common law.

1 (13) (a) "Employer" for plan 1 members, means every branch,
2 department, agency, commission, board, and office of the state, any
3 political subdivision or association of political subdivisions of the
4 state admitted into the retirement system, and legal entities
5 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and
6 the term shall also include any labor guild, association, or
7 organization the membership of a local lodge or division of which is
8 comprised of at least forty percent employees of an employer (other
9 than such labor guild, association, or organization) within this
10 chapter. The term may also include any city of the first class that
11 has its own retirement system.

12 (b) "Employer" for plan 2 and plan 3 members, means every branch,
13 department, agency, commission, board, and office of the state, and
14 any political subdivision and municipal corporation of the state
15 admitted into the retirement system, including public agencies
16 created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except
17 that after August 31, 2000, school districts and educational service
18 districts will no longer be employers for the public employees'
19 retirement system plan 2.

20 (c) Except as otherwise specifically provided in this chapter,
21 "employer" does not include a government contractor. For purposes of
22 this subsection, a "government contractor" is any entity, including a
23 partnership, limited liability company, for-profit or nonprofit
24 corporation, or person, that provides services pursuant to a contract
25 with an "employer." The determination whether an employer-employee
26 relationship has been established is not based on the relationship
27 between a government contractor and an "employer," but is based
28 solely on the relationship between a government contractor's employee
29 and an "employer" under this chapter.

30 (14) "Final compensation" means the annual rate of compensation
31 earnable by a member at the time of termination of employment.

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

36 (16) "Index A" means the index for the year prior to the
37 determination of a postretirement adjustment.

38 (17) "Index B" means the index for the year prior to index A.

39 (18) "Index year" means the earliest calendar year in which the
40 index is more than sixty percent of index A.

1 (19) "Ineligible position" means any position which does not
2 conform with the requirements set forth in subsection (11) of this
3 section.

4 (20) "Leave of absence" means the period of time a member is
5 authorized by the employer to be absent from service without being
6 separated from membership.

7 (21) "Member" means any employee included in the membership of
8 the retirement system, as provided for in RCW 41.40.023. RCW
9 41.26.045 does not prohibit a person otherwise eligible for
10 membership in the retirement system from establishing such membership
11 effective when he or she first entered an eligible position.

12 (22) "Member account" or "member's account" for purposes of plan
13 3 means the sum of the contributions and earnings on behalf of the
14 member in the defined contribution portion of plan 3.

15 (23) "Membership service" means:

16 (a) All service rendered, as a member, after October 1, 1947;

17 (b) All service after October 1, 1947, to any employer prior to
18 the time of its admission into the retirement system for which member
19 and employer contributions, plus interest as required by RCW
20 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

21 (c) Service not to exceed six consecutive months of probationary
22 service rendered after April 1, 1949, and prior to becoming a member,
23 in the case of any member, upon payment in full by such member of the
24 total amount of the employer's contribution to the retirement fund
25 which would have been required under the law in effect when such
26 probationary service was rendered if the member had been a member
27 during such period, except that the amount of the employer's
28 contribution shall be calculated by the director based on the first
29 month's compensation earnable as a member;

30 (d) Service not to exceed six consecutive months of probationary
31 service, rendered after October 1, 1947, and before April 1, 1949,
32 and prior to becoming a member, in the case of any member, upon
33 payment in full by such member of five percent of such member's
34 salary during said period of probationary service, except that the
35 amount of the employer's contribution shall be calculated by the
36 director based on the first month's compensation earnable as a
37 member.

38 (24) "New member" means a person who becomes a member on or after
39 April 1, 1949, except as otherwise provided in this section.

40 (25) "Original member" of this retirement system means:

1 (a) Any person who became a member of the system prior to April
2 1, 1949;

3 (b) Any person who becomes a member through the admission of an
4 employer into the retirement system on and after April 1, 1949, and
5 prior to April 1, 1951;

6 (c) Any person who first becomes a member by securing employment
7 with an employer prior to April 1, 1951, provided the member has
8 rendered at least one or more years of service to any employer prior
9 to October 1, 1947;

10 (d) Any person who first becomes a member through the admission
11 of an employer into the retirement system on or after April 1, 1951,
12 provided, such person has been in the regular employ of the employer
13 for at least six months of the twelve-month period preceding the said
14 admission date;

15 (e) Any member who has restored all contributions that may have
16 been withdrawn as provided by RCW 41.40.150 and who on the effective
17 date of the individual's retirement becomes entitled to be credited
18 with ten years or more of membership service except that the
19 provisions relating to the minimum amount of retirement allowance for
20 the member upon retirement at age seventy as found in RCW
21 41.40.190(4) shall not apply to the member;

22 (f) Any member who has been a contributor under the system for
23 two or more years and who has restored all contributions that may
24 have been withdrawn as provided by RCW 41.40.150 and who on the
25 effective date of the individual's retirement has rendered five or
26 more years of service for the state or any political subdivision
27 prior to the time of the admission of the employer into the system;
28 except that the provisions relating to the minimum amount of
29 retirement allowance for the member upon retirement at age seventy as
30 found in RCW 41.40.190(4) shall not apply to the member.

31 (26) "Pension" means payments for life derived from contributions
32 made by the employer. All pensions shall be paid in monthly
33 installments.

34 (27) "Plan 1" means the public employees' retirement system, plan
35 1 providing the benefits and funding provisions covering persons who
36 first became members of the system prior to October 1, 1977.

37 (28) "Plan 2" means the public employees' retirement system, plan
38 2 providing the benefits and funding provisions covering persons who
39 first became members of the system on and after October 1, 1977, and
40 are not included in plan 3.

1 (29) "Plan 3" means the public employees' retirement system, plan
2 3 providing the benefits and funding provisions covering persons who:

3 (a) First become a member on or after:

4 (i) March 1, 2002, and are employed by a state agency or
5 institute of higher education and who did not choose to enter plan 2;
6 or

7 (ii) September 1, 2002, and are employed by other than a state
8 agency or institute of higher education and who did not choose to
9 enter plan 2; or

10 (b) Transferred to plan 3 under RCW 41.40.795.

11 (30) "Prior service" means all service of an original member
12 rendered to any employer prior to October 1, 1947.

13 (31) "Regular interest" means such rate as the director may
14 determine.

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

18 (33) "Retirement" means withdrawal from active service with a
19 retirement allowance as provided by this chapter.

20 (34) "Retirement allowance" means the sum of the annuity and the
21 pension.

22 (35) "Retirement system" means the public employees' retirement
23 system provided for in this chapter.

24 (36) "Separation from service" occurs when a person has
25 terminated all employment with an employer. Separation from service
26 or employment does not occur, and if claimed by an employer or
27 employee may be a violation of RCW 41.40.055, when an employee and
28 employer have a written or oral agreement to resume employment with
29 the same employer following termination. Mere expressions or
30 inquiries about postretirement employment by an employer or employee
31 that do not constitute a commitment to reemploy the employee after
32 retirement are not an agreement under this subsection.

33 (37)(a) "Service" for plan 1 members, except as provided in RCW
34 41.40.088, means periods of employment in an eligible position or
35 positions for one or more employers rendered to any employer for
36 which compensation is paid, and includes time spent in office as an
37 elected or appointed official of an employer. Compensation earnable
38 earned in full time work for seventy hours or more in any given
39 calendar month shall constitute one service credit month except as
40 provided in RCW 41.40.088. Compensation earnable earned for less than

1 seventy hours in any calendar month shall constitute one-quarter
2 service credit month of service except as provided in RCW 41.40.088.
3 Only service credit months and one-quarter service credit months
4 shall be counted in the computation of any retirement allowance or
5 other benefit provided for in this chapter. Any fraction of a year of
6 service shall be taken into account in the computation of such
7 retirement allowance or benefits. Time spent in standby status,
8 whether compensated or not, is not service.

9 (i) Service by a state employee officially assigned by the state
10 on a temporary basis to assist another public agency, shall be
11 considered as service as a state employee: PROVIDED, That service to
12 any other public agency shall not be considered service as a state
13 employee if such service has been used to establish benefits in any
14 other public retirement system.

15 (ii) An individual shall receive no more than a total of twelve
16 service credit months of service during any calendar year. If an
17 individual is employed in an eligible position by one or more
18 employers the individual shall receive no more than one service
19 credit month during any calendar month in which multiple service for
20 seventy or more hours is rendered.

21 (iii) A school district employee may count up to forty-five days
22 of sick leave as creditable service solely for the purpose of
23 determining eligibility to retire under RCW 41.40.180 as authorized
24 by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used
25 in RCW 28A.400.300 is equal to two service credit months. Use of less
26 than forty-five days of sick leave is creditable as allowed under
27 this subsection as follows:

28 (A) Less than twenty-two days equals one-quarter service credit
29 month;

30 (B) Twenty-two days equals one service credit month;

31 (C) More than twenty-two days but less than forty-five days
32 equals one and one-quarter service credit month.

33 (iv) Reduction efforts such as furloughs, reduced work hours,
34 mandatory leave without pay, temporary layoffs, or other similar
35 situations as contemplated by subsection (6)(c)(iii) of this section
36 do not result in a reduction in service credit that otherwise would
37 have been earned for that month of work, and the member shall receive
38 the full service credit for the hours that were scheduled to be
39 worked before the reduction.

1 (b) "Service" for plan 2 and plan 3 members, means periods of
2 employment by a member in an eligible position or positions for one
3 or more employers for which compensation earnable is paid.
4 Compensation earnable earned for ninety or more hours in any calendar
5 month shall constitute one service credit month except as provided in
6 RCW 41.40.088. Compensation earnable earned for at least seventy
7 hours but less than ninety hours in any calendar month shall
8 constitute one-half service credit month of service. Compensation
9 earnable earned for less than seventy hours in any calendar month
10 shall constitute one-quarter service credit month of service. Time
11 spent in standby status, whether compensated or not, is not service.

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

14 (i) Service in any state elective position shall be deemed to be
15 full time service, except that persons serving in state elective
16 positions who are members of the Washington school employees'
17 retirement system, teachers' retirement system, public safety
18 employees' retirement system, or law enforcement officers' and
19 firefighters' retirement system at the time of election or
20 appointment to such position may elect to continue membership in the
21 Washington school employees' retirement system, teachers' retirement
22 system, public safety employees' retirement system, or law
23 enforcement officers' and firefighters' retirement system.

24 (ii) A member shall receive a total of not more than twelve
25 service credit months of service for such calendar year. If an
26 individual is employed in an eligible position by one or more
27 employers the individual shall receive no more than one service
28 credit month during any calendar month in which multiple service for
29 ninety or more hours is rendered.

30 (iii) Up to forty-five days of sick leave may be creditable as
31 service solely for the purpose of determining eligibility to retire
32 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
33 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is
34 equal to two service credit months. Use of less than forty-five days
35 of sick leave is creditable as allowed under this subsection as
36 follows:

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

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

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

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

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

6 (iv) Reduction efforts such as furloughs, reduced work hours,
7 mandatory leave without pay, temporary layoffs, or other similar
8 situations as contemplated by subsection (6)(c)(iii) of this section
9 do not result in a reduction in service credit that otherwise would
10 have been earned for that month of work, and the member shall receive
11 the full service credit for the hours that were scheduled to be
12 worked before the reduction.

13 (38) "Service credit month" means a month or an accumulation of
14 months of service credit which is equal to one.

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

17 (40) "State actuary" or "actuary" means the person appointed
18 pursuant to RCW 44.44.010(2).

19 (41) "State elective position" means any position held by any
20 person elected or appointed to statewide office or elected or
21 appointed as a member of the legislature.

22 (42) "State treasurer" means the treasurer of the state of
23 Washington.

24 (43) "Totally incapacitated for duty" means total inability to
25 perform the duties of a member's employment or office or any other
26 work for which the member is qualified by training or experience.

27 **Sec. 8.** RCW 43.43.120 and 2020 c 97 s 2 are each amended to read
28 as follows:

29 As used in this section and RCW 43.43.130 through 43.43.320,
30 unless a different meaning is plainly required by the context:

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

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

38 (3)(a) "Average final salary," for members commissioned prior to
39 January 1, 2003, shall mean the average monthly salary received by a

1 member during the member's last two years of service or any
2 consecutive two-year period of service, whichever is the greater, as
3 an employee of the Washington state patrol; or if the member has less
4 than two years of service, then the average monthly salary received
5 by the member during the member's total years of service.

6 (b) "Average final salary," for members commissioned on or after
7 January 1, 2003, shall mean the average monthly salary received by a
8 member for the highest consecutive sixty service credit months; or if
9 the member has less than sixty months of service, then the average
10 monthly salary received by the member during the member's total
11 months of service.

12 (c) In calculating average final salary under (a) or (b) of this
13 subsection, the department of retirement systems shall include:

14 (i) Any compensation forgone by the member during the 2009-2011
15 fiscal biennium as a result of reduced work hours, mandatory or
16 voluntary leave without pay, temporary reduction in pay implemented
17 prior to December 11, 2010, or temporary layoffs if the reduced
18 compensation is an integral part of the employer's expenditure
19 reduction efforts, as certified by the chief; (~~and~~)

20 (ii) Any compensation forgone by a member during the 2011-2013
21 fiscal biennium as a result of reduced work hours, mandatory leave
22 without pay, temporary layoffs, or reductions to current pay if the
23 reduced compensation is an integral part of the employer's
24 expenditure reduction efforts, as certified by the chief. Reductions
25 to current pay shall not include elimination of previously agreed
26 upon future salary reductions; and

27 (iii) Any compensation forgone by a member during the 2019-2021
28 and 2021-2023 fiscal biennia as a result of reduced work hours,
29 mandatory leave without pay, temporary layoffs, furloughs, reductions
30 to current pay, or other similar measures resulting from the COVID-19
31 budgetary crisis, if the reduced compensation is an integral part of
32 the employer's expenditure reduction efforts, as certified by the
33 chief. Reductions to current pay shall not include elimination of
34 previously agreed upon future salary increases.

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

37 (5) (a) "Cadet," for a person who became a member of the
38 retirement system after June 12, 1980, is a person who has passed the
39 Washington state patrol's entry-level oral, written, physical
40 performance, and background examinations and is, thereby, appointed

1 by the chief as a candidate to be a commissioned officer of the
2 Washington state patrol.

3 (b) "Cadet," for a person who became a member of the retirement
4 system before June 12, 1980, is a trooper cadet, patrol cadet, or
5 employee of like classification, employed for the express purpose of
6 receiving the on-the-job training required for attendance at the
7 state patrol academy and for becoming a commissioned trooper. "Like
8 classification" includes: Radio operators or dispatchers; persons
9 providing security for the governor or legislature; patrol officers;
10 drivers' license examiners; weighmasters; vehicle safety inspectors;
11 central wireless operators; and warehouse workers.

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

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

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

19 (9) "Director" means the director of the department of retirement
20 systems.

21 (10) "Domestic partners" means two adults who have registered as
22 domestic partners under RCW 26.60.040.

23 (11) "Employee" means any commissioned employee of the Washington
24 state patrol.

25 (12) "Insurance commissioner" means the insurance commissioner of
26 the state of Washington.

27 (13) "Lieutenant governor" means the lieutenant governor of the
28 state of Washington.

29 (14) "Member" means any person included in the membership of the
30 retirement fund.

31 (15) "Plan 2" means the Washington state patrol retirement system
32 plan 2, providing the benefits and funding provisions covering
33 commissioned employees who first become members of the system on or
34 after January 1, 2003.

35 (16) "Prior service" shall mean all services rendered by a member
36 to the state of Washington, or any of its political subdivisions
37 prior to August 1, 1947, unless such service has been credited in
38 another public retirement or pension system operating in the state of
39 Washington.

1 (17) "Regular interest" means interest compounded annually at
2 such rates as may be determined by the director.

3 (18) "Retirement board" means the board provided for in this
4 chapter.

5 (19) "Retirement fund" means the Washington state patrol
6 retirement fund.

7 (20) "Retirement system" means the Washington state patrol
8 retirement system.

9 (21)(a) "Salary," for members commissioned prior to July 1, 2001,
10 shall exclude any overtime earnings related to RCW 47.46.040, or any
11 voluntary overtime, earned on or after July 1, 2001, and prior to
12 July 1, 2017. On or after July 1, 2017, salary shall exclude overtime
13 earnings in excess of seventy hours per year in total related to
14 either RCW 47.46.040 or any voluntary overtime.

15 (b) "Salary," for members commissioned from July 1, 2001, to
16 December 31, 2002, shall exclude any overtime earnings related to RCW
17 47.46.040 or any voluntary overtime, earned prior to July 1, 2017,
18 lump sum payments for deferred annual sick leave, or any form of
19 severance pay. On or after July 1, 2017, salary shall exclude
20 overtime earnings in excess of seventy hours per year in total
21 related to either RCW 47.46.040 or any voluntary overtime.

22 (c) "Salary," for members commissioned on or after January 1,
23 2003, shall exclude any overtime earnings related to RCW 47.46.040 or
24 any voluntary overtime, earned prior to July 1, 2017, lump sum
25 payments for deferred annual sick leave, unused accumulated vacation,
26 unused accumulated annual leave, holiday pay, or any form of
27 severance pay. On or after July 1, 2017, salary shall exclude
28 overtime earnings in excess of seventy hours per year in total
29 related to either RCW 47.46.040 or any voluntary overtime.

30 (d) The addition of overtime earnings related to RCW 47.46.040 or
31 any voluntary overtime earned on or after July 1, 2017, in chapter
32 181, Laws of 2017 is a benefit improvement that increases the member
33 maximum contribution rate under RCW 41.45.0631(1) by 1.10 percent.

34 (22)(a) "Service" shall mean services rendered to the state of
35 Washington or any political subdivisions thereof for which
36 compensation has been paid. Full time employment for seventy or more
37 hours in any given calendar month shall constitute one month of
38 service. An employee who is reinstated in accordance with RCW
39 43.43.110 shall suffer no loss of service for the period reinstated
40 subject to the contribution requirements of this chapter. Only months

1 of service shall be counted in the computation of any retirement
2 allowance or other benefit provided for herein. Years of service
3 shall be determined by dividing the total number of months of service
4 by twelve. Any fraction of a year of service as so determined shall
5 be taken into account in the computation of such retirement allowance
6 or benefit.

7 (b) Reduction efforts such as furloughs, reduced work hours,
8 mandatory leave without pay, temporary layoffs, or other similar
9 situations as contemplated by subsection (3)(c)(iii) of this section
10 do not result in a reduction in service credit that otherwise would
11 have been earned for that month of work, and the member shall receive
12 the full service credit for the hours that were scheduled to be
13 worked before the reduction.

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

16 (24) "State treasurer" means the treasurer of the state of
17 Washington.

18 Unless the context expressly indicates otherwise, words importing
19 the masculine gender shall be extended to include the feminine gender
20 and words importing the feminine gender shall be extended to include
21 the masculine gender.

22 NEW SECTION. Sec. 9. A new section is added to chapter 41.50
23 RCW to read as follows:

24 (1) With respect to plans administered by the department:

25 (a) If an employer participates in the shared work program under
26 chapter 50.60 RCW, any reduction in hours worked by a member as a
27 result of the employer's participation in the program does not impact
28 the retirement benefit the member would otherwise be entitled to
29 receive had the member's hours not been reduced. A member's benefit
30 will be calculated as if the member did not incur a reduction in
31 hours through participating in an approved shared work compensation
32 plan under chapter 50.60 RCW.

33 (b) This section does not apply to deferred compensation plans.

34 (2) This section applies both prospectively and retroactively to
35 July 28, 2013, the date that chapter 79, Laws of 2013 became
36 effective.

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