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HOUSE BILL 1295

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Carlson, Sommers, Sehlin and Basich; by request of Department of Retirement Systems

Read first time 01/20/95. Referred to Committee on Appropriations.

1 AN ACT Relating to payment of retirement system benefits upon death  
2 of a member or retiree; amending RCW 41.40.188, 41.40.220, 41.40.250,  
3 41.40.270, 41.40.660, 41.40.670, 41.40.700, 41.32.520, 41.32.522,  
4 41.32.523, 41.32.530, 41.32.550, 41.32.785, 41.32.790, 41.32.805,  
5 41.26.460, 41.26.470, 41.26.510, 2.10.144, and 2.10.146; and reenacting  
6 and amending RCW 41.40.235.

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

8 **Sec. 1.** RCW 41.40.188 and 1990 c 249 s 9 are each amended to read  
9 as follows:

10 (1) Upon retirement for service as prescribed in RCW 41.40.180 or  
11 retirement for disability under RCW 41.40.210 or 41.40.230, a member  
12 shall elect to have the retirement allowance paid pursuant to one of  
13 the following options calculated so as to be actuarially equivalent to  
14 each other.

15 (a) Standard allowance. A member electing this option shall  
16 receive a retirement allowance payable throughout such member's life.  
17 However, if the retiree dies before the total of the retirement  
18 allowance paid to such retiree equals the amount of such retiree's  
19 accumulated contributions at the time of retirement, then the balance

1 shall be paid to the member's estate, or such person or persons  
2 ~~((having an insurable interest in the retiree's life))~~, trust, or  
3 organization as the retiree shall have nominated by written designation  
4 duly executed and filed with the department; or if there be no such  
5 designated person or persons still living at the time of the retiree's  
6 death, then to the surviving spouse; or if there be neither such  
7 designated person or persons still living at the time of death nor a  
8 surviving spouse, then to the retiree's legal representative.

9 (b) The department shall adopt rules that allow a member to select  
10 a retirement option that pays the member a reduced retirement allowance  
11 and upon death, such portion of the member's reduced retirement  
12 allowance as the department by rule designates shall be continued  
13 throughout the life of and paid to a person ~~((who has an insurable~~  
14 ~~interest in the member's life. Such person shall be))~~ nominated by the  
15 member by written designation duly executed and filed with the  
16 department at the time of retirement. The options adopted by the  
17 department shall include, but are not limited to, a joint and one  
18 hundred percent survivor option and a joint and fifty percent survivor  
19 option.

20 (c) A member may elect to include the benefit provided under RCW  
21 41.40.640 along with the retirement options available under this  
22 section. This retirement allowance option shall be calculated so as to  
23 be actuarially equivalent to the options offered under this subsection.

24 (2) A member, if married, must provide the written consent of his  
25 or her spouse to the option selected under this section. If a member  
26 is married and both the member and the member's spouse do not ~~((given~~  
27 ~~{give}))~~ give written consent to an option under this section, the  
28 department shall pay a joint and fifty percent survivor benefit  
29 calculated to be actuarially equivalent to the benefit options  
30 available under subsection (1) of this section.

31 **Sec. 2.** RCW 41.40.220 and 1991 c 35 s 81 are each amended to read  
32 as follows:

33 Upon retirement for disability, as provided in RCW 41.40.200, a  
34 member who has not attained age sixty shall receive the following  
35 benefits, subject to the provisions of RCW 41.40.310 and 41.40.320:

36 (1) A disability retirement pension of two-thirds of his or her  
37 average final compensation to his or her attainment of age sixty,  
38 subject to the provisions of RCW 41.40.310. The disability retirement

1 pension provided by the employer shall not exceed forty-two hundred  
2 dollars per annum, and

3 (2) Upon attainment of age sixty, the disabled member shall receive  
4 a service retirement allowance as provided in RCW 41.40.210. The  
5 department shall grant the disabled member membership service for the  
6 period of time prior to age sixty he or she was out of such service due  
7 to disability.

8 (3) During the period a disabled member is receiving a disability  
9 pension, as provided for in subsection (1) of this section, his or her  
10 contributions to the employees' savings fund shall be suspended and his  
11 or her balance in the employees' savings fund, standing to his or her  
12 credit as of the date his or her disability pension is to begin, shall  
13 remain in the employees' savings fund. If the disabled member should  
14 die before attaining age sixty, while a disability beneficiary, upon  
15 receipt by the department of proper proof of death, the member's  
16 accumulated contributions standing to his or her credit in the  
17 employees' savings fund, shall be paid to the member's estate, or such  
18 person or persons, ((having an insurable interest in his or her life,))  
19 trust, or organization as he or she shall have nominated by written  
20 designation duly executed and filed with the department. If there is  
21 no designated person or persons still living at the time of the  
22 member's death, the accumulated contributions standing to the member's  
23 credit in the employees' savings fund shall be paid to his or her  
24 surviving spouse, or if there is no surviving spouse, then to the  
25 member's legal representative.

26 **Sec. 3.** RCW 41.40.235 and 1991 c 343 s 8 and 1991 c 35 s 83 are  
27 each reenacted and amended to read as follows:

28 (1) Upon retirement, a member shall receive a nonduty disability  
29 retirement allowance equal to two percent of average final compensation  
30 for each service credit year of service: PROVIDED, That this allowance  
31 shall be reduced by two percent of itself for each year or fraction  
32 thereof that his or her age is less than fifty-five years: PROVIDED  
33 FURTHER, That in no case may the allowance provided by this section  
34 exceed sixty percent of average final compensation.

35 (2) If the recipient of a retirement allowance under this section  
36 dies before the total of the retirement allowance paid to the recipient  
37 equals the amount of the accumulated contributions at the date of  
38 retirement, then the balance shall be paid to the member's estate, or

1 the person or persons ((having an insurable interest in his or her  
2 life)), trust, or organization as the recipient has nominated by  
3 written designation duly executed and filed with the director or, if  
4 there is no designated person or persons still living at the time of  
5 the recipient's death, then to the surviving spouse or, if there is  
6 neither a designated person or persons still living at the time of his  
7 or her death nor a surviving spouse, then to his or her legal  
8 representative.

9 **Sec. 4.** RCW 41.40.250 and 1991 c 35 s 84 are each amended to read  
10 as follows:

11 An individual who was a member on February 25, 1972, may upon  
12 qualifying pursuant to RCW 41.40.230, make an irrevocable election to  
13 receive the nonduty disability retirement allowance provided in  
14 subsections (1) and (2) of this section subject to the provisions of  
15 RCW 41.40.310 and 41.40.320. Upon attaining or becoming disabled after  
16 age sixty the member shall receive a service retirement allowance as  
17 provided for in RCW 41.40.190 except that the annuity portion thereof  
18 shall consist of a continuation of the cash refund annuity previously  
19 provided to him or her. The disability retirement allowance prior to  
20 age sixty shall consist of:

21 (1) A cash refund annuity which shall be the actuarial equivalent  
22 of the member's accumulated contributions at the time of his or her  
23 retirement; and

24 (2) A pension, in addition to the annuity, equal to one one-  
25 hundredth of the member's average final compensation for each year of  
26 service. If the recipient of a retirement allowance under this section  
27 dies before the total of the annuity portions of the retirement  
28 allowance paid to him or her equals the amount of his or her  
29 accumulated contributions at the date of retirement, then the balance  
30 shall be paid to the member's estate, or the person or persons ((having  
31 an insurable interest in his or her life)), trust, or organization as  
32 he or she shall have nominated by written designation duly executed and  
33 filed with the department, or if there is no designated person or  
34 persons, still living at the time of his or her death, then to his or  
35 her surviving spouse, or if there is no designated person or persons  
36 still living at the time of his or her death nor a surviving spouse,  
37 then to his or her legal representatives.

1       **Sec. 5.** RCW 41.40.270 and 1991 c 365 s 27 are each amended to read  
2 as follows:

3       (1) Should a member die before the date of retirement the amount of  
4 the accumulated contributions standing to the member's credit in the  
5 employees' savings fund, less any amount identified as owing to an  
6 obligee upon withdrawal of accumulated contributions pursuant to a  
7 court order filed under RCW 41.50.670, at the time of death:

8       (a) Shall be paid to the member's estate, or such person or  
9 persons, (~~having an insurable interest in the member's life,~~) trust,  
10 or organization as the member shall have nominated by written  
11 designation duly executed and filed with the department; or

12       (b) If there be no such designated person or persons still living  
13 at the time of the member's death, or if a member fails to file a new  
14 beneficiary designation subsequent to marriage, remarriage, dissolution  
15 of marriage, divorce, or reestablishment of membership following  
16 termination by withdrawal or retirement, such accumulated  
17 contributions, less any amount identified as owing to an obligee upon  
18 withdrawal of accumulated contributions pursuant to a court order filed  
19 under RCW 41.50.670, shall be paid to the surviving spouse as if in  
20 fact such spouse had been nominated by written designation as  
21 aforesaid, or if there be no such surviving spouse, then to the  
22 member's legal representatives.

23       (2) Upon the death in service, or while on authorized leave of  
24 absence for a period not to exceed one hundred and twenty days from the  
25 date of payroll separation, of any member who is qualified but has not  
26 applied for a service retirement allowance or has completed ten years  
27 of service at the time of death, the designated beneficiary, or the  
28 surviving spouse as provided in subsection (1) of this section, may  
29 elect to waive the payment provided by subsection (1) of this section.  
30 Upon such an election, a joint and one hundred percent survivor option  
31 under RCW 41.40.188, calculated under the retirement allowance  
32 described in RCW 41.40.185 or 41.40.190, whichever is greater,  
33 actuarially reduced by the amount of any lump sum benefit identified as  
34 owing to an obligee upon withdrawal of accumulated contributions  
35 pursuant to a court order filed under RCW 41.50.670 shall automatically  
36 be given effect as if selected for the benefit of the (~~surviving~~  
37 ~~spouse or dependent who is the~~) designated beneficiary. If the member  
38 is not then qualified for a service retirement allowance, such benefit  
39 shall be based upon the actuarial equivalent of the sum necessary to

1 pay the accrued regular retirement allowance commencing when the  
2 deceased member would have first qualified for a service retirement  
3 allowance.

4 (3) Subsection (1) of this section, unless elected, shall not apply  
5 to any member who has applied for service retirement in RCW 41.40.180,  
6 as now or hereafter amended, and thereafter dies between the date of  
7 separation from service and the member's effective retirement date,  
8 where the member has selected a survivorship option under RCW  
9 41.40.188. In those cases the beneficiary named in the member's final  
10 application for service retirement may elect to receive either a cash  
11 refund, less any amount identified as owing to an obligee upon  
12 withdrawal of accumulated contributions pursuant to a court order filed  
13 under RCW 41.50.670, or monthly payments according to the option  
14 selected by the member.

15 **Sec. 6.** RCW 41.40.660 and 1990 c 249 s 10 are each amended to read  
16 as follows:

17 (1) Upon retirement for service as prescribed in RCW 41.40.630 or  
18 retirement for disability under RCW 41.40.670, a member shall elect to  
19 have the retirement allowance paid pursuant to one of the following  
20 options, calculated so as to be actuarially equivalent to each other.

21 (a) Standard allowance. A member electing this option shall  
22 receive a retirement allowance payable throughout such member's life.  
23 However, if the retiree dies before the total of the retirement  
24 allowance paid to such retiree equals the amount of such retiree's  
25 accumulated contributions at the time of retirement, then the balance  
26 shall be paid to the member's estate, or such person or persons  
27 ~~((having an insurable interest in the retiree's life)), trust, or~~  
28 organization as the retiree shall have nominated by written designation  
29 duly executed and filed with the department; or if there be no such  
30 designated person or persons still living at the time of the retiree's  
31 death, then to the surviving spouse; or if there be neither such  
32 designated person or persons still living at the time of death nor a  
33 surviving spouse, then to the retiree's legal representative.

34 (b) The department shall adopt rules that allow a member to select  
35 a retirement option that pays the member a reduced retirement allowance  
36 and upon death, such portion of the member's reduced retirement  
37 allowance as the department by rule designates shall be continued  
38 throughout the life of and paid to a person (~~who has an insurable~~

1 ~~interest in the member's life. Such person shall be~~) nominated by the  
2 member by written designation duly executed and filed with the  
3 department at the time of retirement. The options adopted by the  
4 department shall include, but are not limited to, a joint and one  
5 hundred percent survivor option and a joint and fifty percent survivor  
6 option.

7 (2) A member, if married, must provide the written consent of his  
8 or her spouse to the option selected under this section. If a member  
9 is married and both the member and the member's spouse do not (~~given~~  
10 ~~{give}~~) give written consent to an option under this section, the  
11 department shall pay a joint and fifty percent survivor benefit  
12 calculated to be actuarially equivalent to the benefit options  
13 available under subsection (1) of this section.

14 **Sec. 7.** RCW 41.40.670 and 1991 c 35 s 99 are each amended to read  
15 as follows:

16 (1) A member of the retirement system who becomes totally  
17 incapacitated for continued employment by an employer as determined by  
18 the department upon recommendation of the department shall be eligible  
19 to receive an allowance under the provisions of RCW 41.40.610 through  
20 41.40.740. The member shall receive a monthly disability allowance  
21 computed as provided for in RCW 41.40.620 and shall have this allowance  
22 actuarially reduced to reflect the difference in the number of years  
23 between age at disability and the attainment of age sixty-five.

24 Any member who receives an allowance under the provisions of this  
25 section shall be subject to comprehensive medical examinations as  
26 required by the department. If these medical examinations reveal that  
27 a member has recovered from the incapacitating disability and the  
28 member is offered reemployment by an employer at a comparable  
29 compensation, the member shall cease to be eligible for the allowance.

30 (2) The retirement for disability of a judge, who is a member of  
31 the retirement system, by the supreme court under Article IV, section  
32 31 of the Constitution of the state of Washington (Amendment 71), with  
33 the concurrence of the department, shall be considered a retirement  
34 under subsection (1) of this section.

35 (3)(a) If the recipient of a monthly retirement allowance under  
36 this section dies before the total of the retirement allowance paid to  
37 the recipient equals the amount of the accumulated contributions at the  
38 date of retirement, then the balance shall be paid to the member's

1 estate, or the person or persons (~~having an insurable interest in his~~  
2 ~~or her life~~)), trust, or organization as the recipient has nominated by  
3 written designation duly executed and filed with the director, or, if  
4 there is no designated person or persons still living at the time of  
5 the recipient's death, then to the surviving spouse, or, if there is no  
6 designated person or persons still living at the time of his or her  
7 death nor a surviving spouse, then to his or her legal representative.

8 (b) If a recipient of a monthly retirement allowance under this  
9 section died before April 27, 1989, and before the total of the  
10 retirement allowance paid to the recipient equaled the amount of his or  
11 her accumulated contributions at the date of retirement, then the  
12 department shall pay the balance of the accumulated contributions to  
13 the member's surviving spouse or, if there is no surviving spouse, then  
14 in equal shares to the member's children. If there is no surviving  
15 spouse or children, the department shall retain the contributions.

16 **Sec. 8.** RCW 41.40.700 and 1993 c 236 s 5 are each amended to read  
17 as follows:

18 (1) Except as provided in RCW 11.07.010, if a member or a vested  
19 member who has not completed at least ten years of service dies, the  
20 amount of the accumulated contributions standing to such member's  
21 credit in the retirement system at the time of such member's death,  
22 less any amount identified as owing to an obligee upon withdrawal of  
23 accumulated contributions pursuant to a court order filed under RCW  
24 41.50.670, shall be paid to the member's estate, or such person or  
25 ~~persons~~ (~~having an insurable interest in such member's life~~)), trust,  
26 or organization as the member shall have nominated by written  
27 designation duly executed and filed with the department. If there be  
28 no such designated person or persons still living at the time of the  
29 member's death, such member's accumulated contributions standing to  
30 such member's credit in the retirement system, less any amount  
31 identified as owing to an obligee upon withdrawal of accumulated  
32 contributions pursuant to a court order filed under RCW 41.50.670,  
33 shall be paid to the member's surviving spouse as if in fact such  
34 spouse had been nominated by written designation, or if there be no  
35 such surviving spouse, then to such member's legal representatives.

36 (2) If a member who is eligible for retirement or a member who has  
37 completed at least ten years of service dies, the surviving spouse or  
38 eligible child or children shall elect to receive either:



1 (a) A retirement allowance computed as provided for in RCW  
2 41.40.630(1), actuarially reduced by the amount of any lump sum benefit  
3 identified as owing to an obligee upon withdrawal of accumulated  
4 contributions pursuant to a court order filed under RCW 41.50.670 and  
5 actuarially adjusted to reflect a joint and one hundred percent  
6 survivor option under RCW 41.40.660 and if the member was not eligible  
7 for normal retirement at the date of death a further reduction as  
8 described in RCW 41.40.630(2); if a surviving spouse who is receiving  
9 a retirement allowance dies leaving a child or children of the member  
10 under the age of majority, then such child or children shall continue  
11 to receive an allowance in an amount equal to that which was being  
12 received by the surviving spouse, share and share alike, until such  
13 child or children reach the age of majority; if there is no surviving  
14 spouse eligible to receive an allowance at the time of the member's  
15 death, such member's child or children under the age of majority shall  
16 receive an allowance share and share alike calculated as herein  
17 provided making the assumption that the ages of the spouse and member  
18 were equal at the time of the member's death; or

19 (b) The member's accumulated contributions, less any amount  
20 identified as owing to an obligee upon withdrawal of accumulated  
21 contributions pursuant to a court order filed under RCW 41.50.670.

22 (3) If a member who is eligible for retirement or a member who has  
23 completed at least ten years of service dies after October 1, 1977, and  
24 is not survived by a spouse or an eligible child, then the accumulated  
25 contributions standing to the member's credit, less any amount  
26 identified as owing to an obligee upon withdrawal of accumulated  
27 contributions pursuant to a court order filed under RCW 41.50.670,  
28 shall be paid:

29 (a) To a person or persons, (~~having an insurable interest in the~~  
30 ~~member's life,~~) estate, trust, or organization as the member shall  
31 have nominated by written designation duly executed and filed with the  
32 department; or

33 (b) If there is no such designated person or persons still living  
34 at the time of the member's death, then to the member's legal  
35 representatives.

36 **Sec. 9.** RCW 41.32.520 and 1993 c 16 s 1 are each amended to read  
37 as follows:

1 (1) Except as specified in subsection (3) of this section, upon  
2 receipt of proper proofs of death of any member before retirement or  
3 before the first installment of his or her retirement allowance shall  
4 become due his or her accumulated contributions, less any amount  
5 identified as owing to an obligee upon withdrawal of accumulated  
6 contributions pursuant to a court order filed under RCW 41.50.670, and/  
7 or other benefits payable upon his or her death shall be paid to his or  
8 her estate or to such persons, trust, or organization as he or she  
9 shall have nominated by written designation duly executed and filed  
10 with the department. If a member fails to file a new beneficiary  
11 designation subsequent to marriage, divorce, or reestablishment of  
12 membership following termination by withdrawal, lapsation, or  
13 retirement, payment of his or her accumulated contributions, less any  
14 amount identified as owing to an obligee upon withdrawal of accumulated  
15 contributions pursuant to a court order filed under RCW 41.50.670, and/  
16 or other benefits upon death before retirement shall be made to the  
17 surviving spouse, if any; otherwise, to his or her estate. If a member  
18 had established ten or more years of Washington membership service  
19 credit or was eligible for retirement, the beneficiary or the surviving  
20 spouse if otherwise eligible may elect, in lieu of a cash refund of the  
21 member's accumulated contributions, the following survivor benefit plan  
22 actuarially reduced by the amount of any lump sum benefit identified as  
23 owing to an obligee upon withdrawal of accumulated contributions  
24 pursuant to a court order filed under RCW 41.50.670:

25 (a) A widow or widower, without a child or children under eighteen  
26 years of age, may elect a monthly payment of fifty dollars to become  
27 effective at age fifty, provided the member had fifteen or more years  
28 of Washington membership service credit. A benefit paid under this  
29 subsection (1)(a) shall terminate at the marriage of the beneficiary.

30 (b) The beneficiary, if a surviving spouse or a dependent (as that  
31 term is used in computing the dependent exemption for federal internal  
32 revenue purposes) may elect to receive a joint and one hundred percent  
33 retirement allowance under RCW 41.32.530.

34 (i) In the case of a dependent child the allowance shall continue  
35 until attainment of majority or so long as the department judges that  
36 the circumstances which created his or her dependent status continue to  
37 exist. In any case, if at the time dependent status ceases, an amount  
38 equal to the amount of accumulated contributions of the deceased member

1 has not been paid to the beneficiary, the remainder shall then be paid  
2 in a lump sum to the beneficiary.

3 (ii) If at the time of death, the member was not then qualified for  
4 a service retirement allowance, the benefit shall be based upon the  
5 actuarial equivalent of the sum necessary to pay the accrued regular  
6 retirement allowance commencing when the deceased member would have  
7 first qualified for a service retirement allowance.

8 (2) If no qualified beneficiary survives a member, at his or her  
9 death his or her accumulated contributions, less any amount identified  
10 as owing to an obligee upon withdrawal of accumulated contributions  
11 pursuant to a court order filed under RCW 41.50.670, shall be paid to  
12 his or her estate, or his or her dependents may qualify for survivor  
13 benefits under benefit plan (1)(b) in lieu of a cash refund of the  
14 members accumulated contributions in the following order: Widow or  
15 widower, guardian of a dependent child or children under age eighteen,  
16 or dependent parent or parents.

17 (3) If a member who has received a determination of disability as  
18 specified in RCW 41.32.550 and selected a retirement option under RCW  
19 41.32.530(1)(b) dies before the first retirement allowance installment  
20 becomes due, he or she shall receive the benefit provided under the  
21 selected retirement option.

22 **Sec. 10.** RCW 41.32.522 and 1992 c 212 s 4 are each amended to read  
23 as follows:

24 (1) The department shall pay a death benefit of six hundred dollars  
25 to a member's estate or to the persons, trust, or organization the  
26 member nominates by written designation duly executed and filed with  
27 the department or to the persons as may otherwise qualify as the  
28 beneficiary pursuant to RCW 41.32.520 upon receipt of proper proof of  
29 death of the member if he or she:

30 (a) Was employed on a full time basis during the fiscal year in  
31 which his or her death occurs;

32 (b) Was under contract for full time employment in a Washington  
33 public school;

34 (c) Submits an application for a retirement allowance to be  
35 approved by the department immediately following termination of his or  
36 her full-time Washington public school service and who dies before the  
37 first installment of his or her retirement allowance becomes due;

1 (d) Is receiving or is entitled to receive temporary disability  
2 payments; or

3 (e) Upon becoming eligible for a disability retirement allowance  
4 submits an application for an allowance to be approved by the  
5 department immediately following the date of his or her eligibility for  
6 a disability retirement allowance and dies before the first installment  
7 of such allowance becomes due.

8 (2) In order to receive a death benefit under this section a  
9 deceased member:

10 (a) Must have established at least one year of credit with the  
11 retirement system for full time Washington membership service;

12 (b) Who was not employed full time in Washington public school  
13 service during the fiscal year immediately preceding the year of his or  
14 her death must have been employed full time in Washington public school  
15 service for at least fifty consecutive days during the fiscal year of  
16 his or her death.

17 **Sec. 11.** RCW 41.32.523 and 1992 c 212 s 5 are each amended to read  
18 as follows:

19 Upon receipt of proper proof of death of a member who does not  
20 qualify for the death benefit of six hundred dollars under RCW  
21 41.32.522, or a former member who was retired for age, service, or  
22 disability, a death benefit of four hundred dollars shall be paid to  
23 the member's estate or to the persons, trust, or organization as he or  
24 she shall have nominated by written designation duly executed and filed  
25 with the department or to the persons as may otherwise qualify as the  
26 beneficiary pursuant to RCW 41.32.520: PROVIDED, That the member or the  
27 retired former member had established not less than ten years of credit  
28 with the retirement system for full time Washington membership service.

29 **Sec. 12.** RCW 41.32.530 and 1990 c 249 s 5 are each amended to read  
30 as follows:

31 (1) Upon an application for retirement for service under RCW  
32 41.32.480 or retirement for disability under RCW 41.32.550, approved by  
33 the department, every member shall receive the maximum retirement  
34 allowance available to him or her throughout life unless prior to the  
35 time the first installment thereof becomes due he or she has elected,  
36 by executing the proper application therefor, to receive the actuarial

1 equivalent of his or her retirement allowance in reduced payments  
2 throughout his or her life with the following options:

3 (a) Standard allowance. If he or she dies before he or she has  
4 received the present value of his or her accumulated contributions at  
5 the time of his or her retirement in annuity payments, the unpaid  
6 balance shall be paid to his or her estate or to such person, trust, or  
7 organization as he or she shall have nominated by written designation  
8 executed and filed with the department.

9 (b) The department shall adopt rules that allow a member to select  
10 a retirement option that pays the member a reduced retirement allowance  
11 and upon death, such portion of the member's reduced retirement  
12 allowance as the department by rule designates shall be continued  
13 throughout the life of and paid to a person who has an insurable  
14 interest in the member's life. Such person shall be nominated by the  
15 member by written designation duly executed and filed with the  
16 department at the time of retirement. The options adopted by the  
17 department shall include, but are not limited to, a joint and one  
18 hundred percent survivor option and a joint and fifty percent survivor  
19 option.

20 (c) Such other benefits shall be paid to a member receiving a  
21 retirement allowance under RCW 41.32.497 as the member may designate  
22 for himself, herself, or others equal to the actuarial value of his or  
23 her retirement annuity at the time of his retirement: PROVIDED, That  
24 the board of trustees shall limit withdrawals of accumulated  
25 contributions to such sums as will not reduce the member's retirement  
26 allowance below one hundred and twenty dollars per month.

27 (d) A member whose retirement allowance is calculated under RCW  
28 41.32.498 may also elect to receive a retirement allowance based on  
29 options available under this subsection that includes the benefit  
30 provided under RCW 41.32.770. This retirement allowance option shall  
31 also be calculated so as to be actuarially equivalent to the maximum  
32 retirement allowance and to the options available under this  
33 subsection.

34 (2) A member, if married, must provide the written consent of his  
35 or her spouse to the option selected under this section. If a member  
36 is married and both the member and the member's spouse do not give  
37 written consent to an option under this section, the department will  
38 pay the member a joint and fifty percent survivor benefit and record  
39 the member's spouse as the beneficiary. Such benefit shall be

1 calculated to be actuarially equivalent to the benefit options  
2 available under subsection (1) of this section.

3       **Sec. 13.** RCW 41.32.550 and 1991 sp.s. c 11 s 6 are each amended to  
4 read as follows:

5       (1) Should the director determine from the report of the medical  
6 director that a member employed under an annual contract with an  
7 employer has become permanently disabled for the performance of his or  
8 her duties or at any time while a member is receiving temporary  
9 disability benefits that a member's disability will be permanent, a  
10 member shall have the option of then receiving (a) all of the  
11 accumulated contributions in a lump sum payment and canceling his or  
12 her membership, or (b) of accepting a retirement allowance based on  
13 service or age, if eligible under RCW 41.32.480, or (c) if the member  
14 had five or more years of Washington membership service credit  
15 established with the retirement system, a retirement allowance because  
16 of disability.

17       (2) Any member applying for a retirement allowance who is eligible  
18 for benefits on the basis of service or age shall receive a retirement  
19 allowance based on the provision of law governing retirement for  
20 service or age. If the member qualifies to receive a retirement  
21 allowance because of disability he or she shall be paid the maximum  
22 annuity which shall be the actuarial equivalent of the accumulated  
23 contributions at his or her age of retirement and a pension equal to  
24 the service pension to which he or she would be entitled under RCW  
25 41.32.497. If the member dies before he or she has received in annuity  
26 payments the present value of the accumulated contributions at the time  
27 of retirement, the unpaid balance shall be paid to the estate or to the  
28 persons, trust, or organization nominated by written designation  
29 executed and filed with the department.

30       (3) A member retired for disability may be required at any time to  
31 submit to reexamination. If medical findings reveal that the  
32 individual is no longer disabled for the performance of public school  
33 service, the retirement allowance granted because of disability may be  
34 terminated by action of the director or upon written request of the  
35 member. In case of termination, the individual shall be restored to  
36 full membership in the retirement system.

1       **Sec. 14.** RCW 41.32.785 and 1990 c 249 s 6 are each amended to read  
2 as follows:

3       (1) Upon retirement for service as prescribed in RCW 41.32.765 or  
4 retirement for disability under RCW 41.32.790, a member shall elect to  
5 have the retirement allowance paid pursuant to the following options,  
6 calculated so as to be actuarially equivalent to each other.

7       (a) Standard allowance. A member electing this option shall  
8 receive a retirement allowance payable throughout such member's life.  
9 However, if the retiree dies before the total of the retirement  
10 allowance paid to such retiree equals the amount of such retiree's  
11 accumulated contributions at the time of retirement, then the balance  
12 shall be paid to the member's estate, or such person or persons  
13 ~~((having an insurable interest in the retiree's life)),~~ trust, or  
14 organization as the retiree shall have nominated by written designation  
15 duly executed and filed with the department; or if there be no such  
16 designated person or persons still living at the time of the retiree's  
17 death, then to the surviving spouse; or if there be neither such  
18 designated person or persons still living at the time of death nor a  
19 surviving spouse, then to the retiree's legal representative.

20       (b) The department shall adopt rules that allow a member to select  
21 a retirement option that pays the member a reduced retirement allowance  
22 and upon death, such portion of the member's reduced retirement  
23 allowance as the department by rule designates shall be continued  
24 throughout the life of and paid to a designated person ~~((who has an~~  
25 ~~insurable interest in the member's life))~~. Such person shall be  
26 nominated by the member by written designation duly executed and filed  
27 with the department at the time of retirement. The options adopted by  
28 the department shall include, but are not limited to, a joint and one  
29 hundred percent survivor option and a joint and fifty percent survivor  
30 option.

31       (2) A member, if married, must provide the written consent of his  
32 or her spouse to the option selected under this section. If a member  
33 is married and both the member and member's spouse do not give written  
34 consent to an option under this section, the department will pay the  
35 member a joint and fifty percent survivor benefit and record the  
36 member's spouse as the beneficiary. Such benefit shall be calculated  
37 to be actuarially equivalent to the benefit options available under  
38 subsection (1) of this section.

1       **Sec. 15.** RCW 41.32.790 and 1991 c 35 s 68 are each amended to read  
2 as follows:

3       (1) A member of the retirement system who becomes totally  
4 incapacitated for continued employment by an employer as determined by  
5 the department upon recommendation of the department shall be eligible  
6 to receive an allowance under the provisions of RCW 41.32.755 through  
7 41.32.825. The member shall receive a monthly disability allowance  
8 computed as provided for in RCW 41.32.760 and shall have the allowance  
9 actuarially reduced to reflect the difference in the number of years  
10 between age at disability and the attainment of age sixty-five.

11       Any member who receives an allowance under the provisions of this  
12 section shall be subject to comprehensive medical examinations as  
13 required by the department. If medical examinations reveal that a  
14 member has recovered from the incapacitating disability and the member  
15 is offered reemployment by an employer at a comparable compensation,  
16 the member shall cease to be eligible for the allowance.

17       (2)(a) If the recipient of a monthly retirement allowance under  
18 this section dies before the total of the retirement allowance paid to  
19 the recipient equals the amount of the accumulated contributions at the  
20 date of retirement, then the balance shall be paid to the member's  
21 estate, or the person or persons ((~~having an insurable interest in his~~  
22 ~~or her life~~)), trust, or organization as the recipient has nominated by  
23 written designation duly executed and filed with the director, or, if  
24 there is no designated person or persons still living at the time of  
25 the recipient's death, then to the surviving spouse, or, if there is  
26 neither a designated person or persons still living at the time of his  
27 or her death nor a surviving spouse, then to his or her legal  
28 representative.

29       (b) If a recipient of a monthly retirement allowance under this  
30 section died before April 27, 1989, and before the total of the  
31 retirement allowance paid to the recipient equaled the amount of his or  
32 her accumulated contributions at the date of retirement, then the  
33 department shall pay the balance of the accumulated contributions to  
34 the member's surviving spouse or, if there is no surviving spouse, then  
35 in equal shares to the member's children. If there is no surviving  
36 spouse or children, the department shall retain the contributions.

37       **Sec. 16.** RCW 41.32.805 and 1993 c 236 s 4 are each amended to read  
38 as follows:



1 (1) Except as provided in RCW 11.07.010, if a member or a vested  
2 member who has not completed at least ten years of service dies, the  
3 amount of the accumulated contributions standing to such member's  
4 credit in the retirement system, less any amount identified as owing to  
5 an obligee upon withdrawal of accumulated contributions pursuant to a  
6 court order filed under RCW 41.50.670, at the time of such member's  
7 death shall be paid to the member's estate, or such person or persons  
8 ~~((having an insurable interest in such member's life)), trust, or~~  
9 organization as the member shall have nominated by written designation  
10 duly executed and filed with the department. If there be no such  
11 designated person or persons still living at the time of the member's  
12 death, such member's accumulated contributions standing to such  
13 member's credit in the retirement system, less any amount identified as  
14 owing to an obligee upon withdrawal of accumulated contributions  
15 pursuant to a court order filed under RCW 41.50.670, shall be paid to  
16 the member's surviving spouse as if in fact such spouse had been  
17 nominated by written designation, or if there be no such surviving  
18 spouse, then to such member's legal representatives.

19 (2) If a member who is eligible for retirement or a member who has  
20 completed at least ten years of service dies, the surviving spouse or  
21 eligible children shall elect to receive either:

22 (a) A retirement allowance computed as provided for in RCW  
23 41.32.765(1), actuarially reduced by the amount of any lump sum benefit  
24 identified as owing to an obligee upon withdrawal of accumulated  
25 contributions pursuant to a court order filed under RCW 41.50.670 and  
26 actuarially adjusted to reflect a joint and one hundred percent  
27 survivor option under RCW 41.32.785 and if the member was not eligible  
28 for normal retirement at the date of death a further reduction as  
29 described in RCW 41.32.765(2); if a surviving spouse who is receiving  
30 a retirement allowance dies leaving a child or children of the member  
31 under the age of majority, then such child or children shall continue  
32 to receive an allowance in an amount equal to that which was being  
33 received by the surviving spouse, share and share alike, until such  
34 child or children reach the age of majority; if there is no surviving  
35 spouse eligible to receive an allowance at the time of the member's  
36 death, such member's child or children under the age of majority shall  
37 receive an allowance share and share alike calculated as herein  
38 provided making the assumption that the ages of the spouse and member  
39 were equal at the time of the member's death; or

1 (b) The member's accumulated contributions, less any amount  
2 identified as owing to an obligee upon withdrawal of accumulated  
3 contributions pursuant to a court order filed under RCW 41.50.670.

4 (3) If a member who is eligible for retirement or a member who has  
5 completed at least ten years of service dies after October 1, 1977, and  
6 is not survived by a spouse or an eligible child, then the accumulated  
7 contributions standing to the member's credit, less any amount  
8 identified as owing to an obligee upon withdrawal of accumulated  
9 contributions pursuant to a court order filed under RCW 41.50.670,  
10 shall be paid:

11 (a) To an estate, a person or persons, (~~((having an insurable~~  
12 ~~interest in the member's life,))~~ trust, or organization as the member  
13 shall have nominated by written designation duly executed and filed  
14 with the department; or

15 (b) If there is no such designated person or persons still living  
16 at the time of the member's death, then to the member's legal  
17 representatives.

18 **Sec. 17.** RCW 41.26.460 and 1990 c 249 s 3 are each amended to read  
19 as follows:

20 (1) Upon retirement for service as prescribed in RCW 41.26.430 or  
21 disability retirement under RCW 41.26.470, a member shall elect to have  
22 the retirement allowance paid pursuant to the following options,  
23 calculated so as to be actuarially equivalent to each other.

24 (a) Standard allowance. A member electing this option shall  
25 receive a retirement allowance payable throughout such member's life.  
26 However, if the retiree dies before the total of the retirement  
27 allowance paid to such retiree equals the amount of such retiree's  
28 accumulated contributions at the time of retirement, then the balance  
29 shall be paid to the member's estate, or such person or persons  
30 (~~((having an insurable interest in the retiree's life))~~), trust, or  
31 organization as the retiree shall have nominated by written designation  
32 duly executed and filed with the department; or if there be no such  
33 designated person or persons still living at the time of the retiree's  
34 death, then to the surviving spouse; or if there be neither such  
35 designated person or persons still living at the time of death nor a  
36 surviving spouse, then to the retiree's legal representative.

37 (b) The department shall adopt rules that allow a member to select  
38 a retirement option that pays the member a reduced retirement allowance

1 and upon death, such portion of the member's reduced retirement  
2 allowance as the department by rule designates shall be continued  
3 throughout the life of and paid to a designated person (~~who has an~~  
4 ~~insurable interest in the member's life~~). Such person shall be  
5 nominated by the member by written designation duly executed and filed  
6 with the department at the time of retirement. The options adopted by  
7 the department shall include, but are not limited to, a joint and one  
8 hundred percent survivor option and a joint and fifty percent survivor  
9 option.

10 (2) A member, if married, must provide the written consent of his  
11 or her spouse to the option selected under this section. If a member  
12 is married and both the member and member's spouse do not give written  
13 consent to an option under this section, the department will pay the  
14 member a joint and fifty percent survivor benefit and record the  
15 member's spouse as the beneficiary. Such benefit shall be calculated  
16 to be actuarially equivalent to the benefit options available under  
17 subsection (1) of this section.

18 **Sec. 18.** RCW 41.26.470 and 1993 c 517 s 4 are each amended to read  
19 as follows:

20 (1) A member of the retirement system who becomes totally  
21 incapacitated for continued employment by an employer as determined by  
22 the director shall be eligible to receive an allowance under the  
23 provisions of RCW 41.26.410 through 41.26.550. Such member shall  
24 receive a monthly disability allowance computed as provided for in RCW  
25 41.26.420 and shall have such allowance actuarially reduced to reflect  
26 the difference in the number of years between age at disability and the  
27 attainment of age fifty-five.

28 (2) Any member who receives an allowance under the provisions of  
29 this section shall be subject to such comprehensive medical  
30 examinations as required by the department. If such medical  
31 examinations reveal that such a member has recovered from the  
32 incapacitating disability and the member is no longer entitled to  
33 benefits under Title 51 RCW, the retirement allowance shall be canceled  
34 and the member shall be restored to duty in the same civil service  
35 rank, if any, held by the member at the time of retirement or, if  
36 unable to perform the duties of the rank, then, at the member's  
37 request, in such other like or lesser rank as may be or become open and  
38 available, the duties of which the member is then able to perform. In

1 no event shall a member previously drawing a disability allowance be  
2 returned or be restored to duty at a salary or rate of pay less than  
3 the current salary attached to the rank or position held by the member  
4 at the date of the retirement for disability. If the department  
5 determines that the member is able to return to service, the member is  
6 entitled to notice and a hearing. Both the notice and the hearing  
7 shall comply with the requirements of chapter 34.05 RCW, the  
8 Administrative Procedure Act.

9 (3) Those members subject to this chapter who became disabled in  
10 the line of duty on or after July 23, 1989, and who receive benefits  
11 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW  
12 41.04.535 shall receive or continue to receive service credit subject  
13 to the following:

14 (a) No member may receive more than one month's service credit in  
15 a calendar month.

16 (b) No service credit under this section may be allowed after a  
17 member separates or is separated without leave of absence.

18 (c) Employer contributions shall be paid by the employer at the  
19 rate in effect for the period of the service credited.

20 (d) Employee contributions shall be collected by the employer and  
21 paid to the department at the rate in effect for the period of service  
22 credited.

23 (e) State contributions shall be as provided in RCW 41.26.450.

24 (f) Contributions shall be based on the regular compensation which  
25 the member would have received had the disability not occurred.

26 (g) The service and compensation credit under this section shall be  
27 granted for a period not to exceed six consecutive months.

28 (h) Should the legislature revoke the service credit authorized  
29 under this section or repeal this section, no affected employee is  
30 entitled to receive the credit as a matter of contractual right.

31 (4)(a) If the recipient of a monthly retirement allowance under  
32 this section dies before the total of the retirement allowance paid to  
33 the recipient equals the amount of the accumulated contributions at the  
34 date of retirement, then the balance shall be paid to the member's  
35 estate, or such person or persons ((having an insurable interest in his  
36 or her life)), trust, or organization as the recipient has nominated by  
37 written designation duly executed and filed with the director, or, if  
38 there is no such designated person or persons still living at the time  
39 of the recipient's death, then to the surviving spouse, or, if there is

1 neither such designated person or persons still living at the time of  
2 his or her death nor a surviving spouse, then to his or her legal  
3 representative.

4 (b) If a recipient of a monthly retirement allowance under this  
5 section died before April 27, 1989, and before the total of the  
6 retirement allowance paid to the recipient equaled the amount of his or  
7 her accumulated contributions at the date of retirement, then the  
8 department shall pay the balance of the accumulated contributions to  
9 the member's surviving spouse or, if there is no surviving spouse, then  
10 in equal shares to the member's children. If there is no surviving  
11 spouse or children, the department shall retain the contributions.

12 **Sec. 19.** RCW 41.26.510 and 1993 c 236 s 3 are each amended to read  
13 as follows:

14 (1) Except as provided in RCW 11.07.010, if a member or a vested  
15 member who has not completed at least ten years of service dies, the  
16 amount of the accumulated contributions standing to such member's  
17 credit in the retirement system at the time of such member's death,  
18 less any amount identified as owing to an obligee upon withdrawal of  
19 accumulated contributions pursuant to a court order filed under RCW  
20 41.50.670, shall be paid to the member's estate, or such person or  
21 persons ((having an insurable interest in such member's life)), trust,  
22 or organization as the member shall have nominated by written  
23 designation duly executed and filed with the department. If there be  
24 no such designated person or persons still living at the time of the  
25 member's death, such member's accumulated contributions standing to  
26 such member's credit in the retirement system, less any amount  
27 identified as owing to an obligee upon withdrawal of accumulated  
28 contributions pursuant to a court order filed under RCW 41.50.670,  
29 shall be paid to the member's surviving spouse as if in fact such  
30 spouse had been nominated by written designation, or if there be no  
31 such surviving spouse, then to such member's legal representatives.

32 (2) If a member who is eligible for retirement or a member who has  
33 completed at least ten years of service dies, the surviving spouse or  
34 eligible child or children shall elect to receive either:

35 (a) A retirement allowance computed as provided for in RCW  
36 41.26.430(1), actuarially reduced by the amount of any lump sum benefit  
37 identified as owing to an obligee upon withdrawal of accumulated  
38 contributions pursuant to a court order filed under RCW 41.50.670 and

1 actuarially adjusted to reflect a joint and one hundred percent  
2 survivor option under RCW 41.26.460 and if the member was not eligible  
3 for normal retirement at the date of death a further reduction as  
4 described in RCW 41.26.430(2); if a surviving spouse who is receiving  
5 a retirement allowance dies leaving a child or children of the member  
6 under the age of majority, then such child or children shall continue  
7 to receive an allowance in an amount equal to that which was being  
8 received by the surviving spouse, share and share alike, until such  
9 child or children reach the age of majority; if there is no surviving  
10 spouse eligible to receive an allowance at the time of the member's  
11 death, such member's child or children under the age of majority shall  
12 receive an allowance share and share alike calculated as herein  
13 provided making the assumption that the ages of the spouse and member  
14 were equal at the time of the member's death; or

15 (b) The member's accumulated contributions, less any amount  
16 identified as owing to an obligee upon withdrawal of accumulated  
17 contributions pursuant to a court order filed under RCW 41.50.670.

18 (3) If a member who is eligible for retirement or a member who has  
19 completed at least ten years of service dies after October 1, 1977, and  
20 is not survived by a spouse or an eligible child, then the accumulated  
21 contributions standing to the member's credit, less any amount  
22 identified as owing to an obligee upon withdrawal of accumulated  
23 contributions pursuant to a court order filed under RCW 41.50.670,  
24 shall be paid:

25 (a) To an estate, a person or persons, (~~((having an insurable~~  
26 ~~interest in the member's life,))~~ trust, or organization as the member  
27 shall have nominated by written designation duly executed and filed  
28 with the department; or

29 (b) If there is no such designated person or persons still living  
30 at the time of the member's death, then to the member's legal  
31 representatives.

32 **Sec. 20.** RCW 2.10.144 and 1990 c 249 s 13 are each amended to read  
33 as follows:

34 (1) If a judge dies before the date of retirement, the amount of  
35 the accumulated contributions standing to the judge's credit at the  
36 time of death shall be paid to the member's estate, or such person or  
37 persons, (~~((having an insurable interest in the judge's life,))~~ trust,  
38 or organization as the judge has nominated by written designation duly

1 executed and filed with the department of retirement systems. If there  
2 is no such designated person or persons still living at the time of the  
3 judge's death, or if the judge fails to file a new beneficiary  
4 designation subsequent to marriage, remarriage, dissolution of  
5 marriage, divorce, or reestablishment of membership following  
6 termination by withdrawal or retirement, the judge's credited  
7 accumulated contributions shall be paid to the surviving spouse as if  
8 in fact the spouse had been nominated by written designation or, if  
9 there is no such surviving spouse, then to the judge's legal  
10 representatives.

11 (2) Upon the death in service of any judge who is qualified but has  
12 not applied for a service retirement allowance or has completed ten  
13 years of service at the time of death, the designated beneficiary, or  
14 the surviving spouse as provided in subsection (1) of this section, may  
15 elect to waive the payment provided by subsection (1) of this section.  
16 Upon such an election, a joint and one hundred percent survivor option  
17 under RCW 2.10.146 shall automatically be given effect as if selected  
18 for the benefit of the surviving spouse or dependent who is the  
19 designated beneficiary, except that if the judge is not then qualified  
20 for a service retirement allowance, the option II benefit shall be  
21 based upon the actuarial equivalent of the sum necessary to pay the  
22 accrued regular retirement allowance commencing when the deceased judge  
23 would have first qualified for a service retirement allowance.  
24 However, subsection (1) of this section, unless elected, shall not  
25 apply to any judge who has applied for a service retirement and  
26 thereafter dies between the date of separation from service and the  
27 judge's effective retirement date, where the judge has selected a  
28 survivorship option under RCW 2.10.146(1)(b). In those cases, the  
29 beneficiary named in the judge's final application for service  
30 retirement may elect to receive either a cash refund or monthly  
31 payments according to the option selected by the judge.

32 **Sec. 21.** RCW 2.10.146 and 1990 c 249 s 2 are each amended to read  
33 as follows:

34 (1) Upon making application for a service retirement allowance  
35 under RCW 2.10.100 or a disability allowance under RCW 2.10.120, a  
36 judge who is eligible therefor shall make an election as to the manner  
37 in which such service retirement shall be paid from among the following

1 designated options, calculated so as to be actuarially equivalent to  
2 each other:

3 (a) Standard allowance. A member selecting this option shall  
4 receive a retirement allowance, which shall be computed as provided in  
5 RCW 2.10.110. The retirement allowance shall be payable throughout the  
6 judge's life. However, if the judge dies before the total of the  
7 retirement allowance paid to the judge equals the amount of the judge's  
8 accumulated contributions at the time of retirement, then the balance  
9 shall be paid to the member's estate, or such person or persons  
10 ~~((having an insurable interest in the judge's life))~~, trust, or  
11 organization as the judge has nominated by written designation duly  
12 executed and filed with the department of retirement systems or, if  
13 there is no such designated person or persons still living at the time  
14 of the judge's death, then to the surviving spouse or, if there is  
15 neither such designated person or persons still living at the time of  
16 death nor a surviving spouse, then to the judge's legal representative.

17 (b) The department shall adopt rules that allow a judge to select  
18 a retirement option that pays the judge a reduced retirement allowance  
19 and upon death, such portion of the judge's reduced retirement  
20 allowance as the department by rule designates shall be continued  
21 throughout the life of and paid to a designated person ~~((who has an~~  
22 ~~insurable interest in the judge's life))~~. Such person shall be  
23 nominated by the judge by written designation duly executed and filed  
24 with the department at the time of retirement. The options adopted by  
25 the department shall include, but are not limited to, a joint and one  
26 hundred percent survivor option and a joint and fifty percent survivor  
27 option.

28 (2) A judge, if married, must provide the written consent of his or  
29 her spouse to the option selected under this section. If a judge is  
30 married and both the judge and the judge's spouse do not give written  
31 consent to an option under this section, the department will pay the  
32 judge a joint and fifty percent survivor benefit and record the judge's  
33 spouse as the beneficiary. Such benefit shall be calculated to be  
34 actuarially equivalent to the benefit options available under  
35 subsection (1) of this section.

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