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HOUSE BILL 2191

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State of Washington

54th Legislature

1996 Regular Session

By Representatives Cooke, Ogden, Carlson, Sehlin, H. Sommers, Dickerson, Conway and Kessler; by request of Joint Committee on Pension Policy

Read first time 01/08/96. Referred to Committee on Appropriations.

1 AN ACT Relating to admitting fire fighters for institutions of  
2 higher education into the law enforcement officers' and fire fighters'  
3 retirement system; amending RCW 41.26.450; reenacting and amending RCW  
4 41.26.030; creating a new section; and decodifying RCW 41.40.093.

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

6 NEW SECTION. **Sec. 1.** (1) An employee who was a member of the  
7 public employees' retirement system on or before January 1, 1996, and,  
8 on the effective date of this act, is employed by an institution of  
9 higher education as a fire fighter as defined in RCW 41.26.030, has the  
10 following options:

11 (a) Remain a member of the public employees' retirement system; or

12 (b) Make an irrevocable choice, filed in writing with the  
13 department of retirement systems no later than January 1, 1997, to  
14 transfer to the law enforcement officers' and fire fighters' retirement  
15 system plan II as defined in RCW 41.26.030. An employee transferring  
16 membership under this subsection (1)(b) shall be a dual member as  
17 provided in RCW 41.54.010 unless the employee exercises the option to  
18 transfer service credit under subsection (2) of this section.

1 (2)(a) An employee who transferred membership under subsection  
2 (1)(b) of this section may choose to transfer service credit as a fire  
3 fighter previously earned under the public employees' retirement  
4 system, to the law enforcement officers' and fire fighters' retirement  
5 system plan II, by making an irrevocable choice filed in writing with  
6 the department of retirement systems within one year of the  
7 department's announcement of the ability to make such a transfer.

8 (b) Prior to the transfer of the applicable period of service, the  
9 employee shall pay the difference between the contributions such  
10 employee paid to the retirement system, and the contributions which  
11 would have been paid by the employee had the employee been a member of  
12 the law enforcement officers' and fire fighters' retirement system,  
13 plus interest as determined by the director of the department of  
14 retirement systems.

15 (c) Any fire fighter choosing to transfer under this subsection and  
16 having made the payments under (b) of this subsection shall have  
17 transferred from the retirement system to the law enforcement officers'  
18 and fire fighters' retirement system plan II:

19 (i) All the employee's applicable accumulated contributions and  
20 employer contributions attributed to such employee; and

21 (ii) All applicable months of service, as defined in RCW  
22 41.26.030(14)(b), credited to the employee under chapter 41.40 RCW, as  
23 though such service was rendered as a member of the law enforcement  
24 officers' and fire fighters' retirement system.

25 (d) After the transfer of the applicable period of service, the  
26 employer shall pay:

27 (i) The difference between the employer contributions paid to the  
28 public employees' retirement system, and the combined employer and  
29 state contributions which would have been payable to the law  
30 enforcement officers' and fire fighters' retirement system; and

31 (ii) An amount sufficient to ensure that the contribution level of  
32 current members of the law enforcement officers' and fire fighters'  
33 retirement system will not increase due to this transfer.

34 For the purpose of this subsection (2)(d), the state contribution  
35 shall not include the contribution related to the amortization of the  
36 costs of the law enforcement officers' and fire fighters' retirement  
37 system plan I as required by chapter 41.45 RCW.

1 (e) An individual who transfers service credit and contributions  
2 under this subsection shall be permanently excluded from the public  
3 employees' retirement system for all service as a fire fighter.

4 **Sec. 2.** RCW 41.26.030 and 1994 c 264 s 14 and 1994 c 197 s 5 are  
5 each reenacted and amended to read as follows:

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

8 (1) "Retirement system" means the "Washington law enforcement  
9 officers' and fire fighters' retirement system" provided herein.

10 (2)(a) "Employer" for plan I members, means the legislative  
11 authority of any city, town, county, or district or the elected  
12 officials of any municipal corporation that employs any law enforcement  
13 officer and/or fire fighter, any authorized association of such  
14 municipalities, and, except for the purposes of RCW 41.26.150, any  
15 labor guild, association, or organization, which represents the fire  
16 fighters or law enforcement officers of at least seven cities of over  
17 20,000 population and the membership of each local lodge or division of  
18 which is composed of at least sixty percent law enforcement officers or  
19 fire fighters as defined in this chapter.

20 (b) "Employer" for plan II members, means the following entities to  
21 the extent that the entity employs any law enforcement officer and/or  
22 fire fighter:

23 (i) The legislative authority of any city, town, county, or  
24 district;

25 (ii) The elected officials of any municipal corporation; (~~(or)~~)

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

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

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

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

37 (b) Only those deputy sheriffs, including those serving under a  
38 different title pursuant to county charter, who have successfully

1 completed a civil service examination for deputy sheriff or the  
2 equivalent position, where a different title is used, and those persons  
3 serving in unclassified positions authorized by RCW 41.14.070 except a  
4 private secretary will be considered law enforcement officers;

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

11 (d) The term "law enforcement officer" also includes the executive  
12 secretary of a labor guild, association or organization (which is an  
13 employer under RCW 41.26.030(2) as now or hereafter amended) if that  
14 individual has five years previous membership in the retirement system  
15 established in chapter 41.20 RCW. The provisions of this subsection  
16 (3)(d) shall not apply to plan II members; and

17 (e) The term "law enforcement officer" also includes a person  
18 employed on or after January 1, 1993, as a public safety officer or  
19 director of public safety, so long as the job duties substantially  
20 involve only either police or fire duties, or both, and no other duties  
21 in a city or town with a population of less than ten thousand. The  
22 provisions of this subsection (3)(e) shall not apply to any public  
23 safety officer or director of public safety who is receiving a  
24 retirement allowance under this chapter as of May 12, 1993.

25 (4) "Fire fighter" means:

26 (a) Any person who is serving on a full time, fully compensated  
27 basis as a member of a fire department of an employer and who is  
28 serving in a position which requires passing a civil service  
29 examination for fire fighter, and who is actively employed as such;

30 (b) Anyone who is actively employed as a full time fire fighter  
31 where the fire department does not have a civil service examination;

32 (c) Supervisory fire fighter personnel;

33 (d) Any full time executive secretary of an association of fire  
34 protection districts authorized under RCW 52.12.031. The provisions of  
35 this subsection (4)(d) shall not apply to plan II members;

36 (e) The executive secretary of a labor guild, association or  
37 organization (which is an employer under RCW 41.26.030(2) as now or  
38 hereafter amended), if such individual has five years previous  
39 membership in a retirement system established in chapter 41.16 or 41.18

1 RCW. The provisions of this subsection (4)(e) shall not apply to plan  
2 II members;

3 (f) Any person who is serving on a full time, fully compensated  
4 basis for an employer, as a fire dispatcher, in a department in which,  
5 on March 1, 1970, a dispatcher was required to have passed a civil  
6 service examination for fire fighter; (~~and~~)

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

11 (h) Any person who is employed by an employer on January 1, 1996,  
12 and did not elect to remain a member of the public employees'  
13 retirement system under section 1(1)(a) of this act.

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

16 (6) "Surviving spouse" means the surviving widow or widower of a  
17 member. "Surviving spouse" shall not include the divorced spouse of a  
18 member except as provided in RCW 41.26.162.

19 (7)(a) "Child" or "children" means an unmarried person who is under  
20 the age of eighteen or mentally or physically handicapped as determined  
21 by the department, except a handicapped person in the full time care of  
22 a state institution, who is:

23 (i) A natural born child;

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

26 (iii) A posthumous child;

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

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

31 (b) A person shall also be deemed to be a child up to and including  
32 the age of twenty years and eleven months while attending any high  
33 school, college, or vocational or other educational institution  
34 accredited, licensed, or approved by the state, in which it is located,  
35 including the summer vacation months and all other normal and regular  
36 vacation periods at the particular educational institution after which  
37 the child returns to school.

38 (8) "Member" means any fire fighter, law enforcement officer, or  
39 other person as would apply under subsections (3) or (4) of this

1 section whose membership is transferred to the Washington law  
2 enforcement officers' and fire fighters' retirement system on or after  
3 March 1, 1970, and every law enforcement officer and fire fighter who  
4 is employed in that capacity on or after such date.

5 (9) "Retirement fund" means the "Washington law enforcement  
6 officers' and fire fighters' retirement system fund" as provided for  
7 herein.

8 (10) "Employee" means any law enforcement officer or fire fighter  
9 as defined in subsections (3) and (4) of this section.

10 (11)(a) "Beneficiary" for plan I members, means any person in  
11 receipt of a retirement allowance, disability allowance, death benefit,  
12 or any other benefit described herein.

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

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

31 (b) "Final average salary" for plan II members, means the monthly  
32 average of the member's basic salary for the highest consecutive sixty  
33 service credit months of service prior to such member's retirement,  
34 termination, or death. Periods constituting authorized unpaid leaves  
35 of absence may not be used in the calculation of final average salary.

36 (13)(a) "Basic salary" for plan I members, means the basic monthly  
37 rate of salary or wages, including longevity pay but not including  
38 overtime earnings or special salary or wages, upon which pension or

1 retirement benefits will be computed and upon which employer  
2 contributions and salary deductions will be based.

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

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

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

21 (14)(a) "Service" for plan I members, means all periods of  
22 employment for an employer as a fire fighter or law enforcement  
23 officer, for which compensation is paid, together with periods of  
24 suspension not exceeding thirty days in duration. For the purposes of  
25 this chapter service shall also include service in the armed forces of  
26 the United States as provided in RCW 41.26.190. Credit shall be  
27 allowed for all service credit months of service rendered by a member  
28 from and after the member's initial commencement of employment as a  
29 fire fighter or law enforcement officer, during which the member worked  
30 for seventy or more hours, or was on disability leave or disability  
31 retirement. Only service credit months of service shall be counted in  
32 the computation of any retirement allowance or other benefit provided  
33 for in this chapter.

34 (i) For members retiring after May 21, 1971 who were employed under  
35 the coverage of a prior pension act before March 1, 1970, "service"  
36 shall also include (A) such military service not exceeding five years  
37 as was creditable to the member as of March 1, 1970, under the member's  
38 particular prior pension act, and (B) such other periods of service as  
39 were then creditable to a particular member under the provisions of RCW

1 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit  
2 be allowed for any service rendered prior to March 1, 1970, where the  
3 member at the time of rendition of such service was employed in a  
4 position covered by a prior pension act, unless such service, at the  
5 time credit is claimed therefor, is also creditable under the  
6 provisions of such prior act.

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

10 (b) "Service" for plan II members, means periods of employment by  
11 a member for one or more employers for which basic salary is earned for  
12 ninety or more hours per calendar month which shall constitute a  
13 service credit month. Periods of employment by a member for one or  
14 more employers for which basic salary is earned for at least seventy  
15 hours but less than ninety hours per calendar month shall constitute  
16 one-half service credit month. Periods of employment by a member for  
17 one or more employers for which basic salary is earned for less than  
18 seventy hours shall constitute a one-quarter service credit month.

19 Members of the retirement system who are elected or appointed to a  
20 state elective position may elect to continue to be members of this  
21 retirement system.

22 Service credit years of service shall be determined by dividing the  
23 total number of service credit months of service by twelve. Any  
24 fraction of a service credit year of service as so determined shall be  
25 taken into account in the computation of such retirement allowance or  
26 benefits.

27 If a member receives basic salary from two or more employers during  
28 any calendar month, the individual shall receive one service credit  
29 month's service credit during any calendar month in which multiple  
30 service for ninety or more hours is rendered; or one-half service  
31 credit month's service credit during any calendar month in which  
32 multiple service for at least seventy hours but less than ninety hours  
33 is rendered; or one-quarter service credit month during any calendar  
34 month in which multiple service for less than seventy hours is  
35 rendered.

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



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

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

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

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

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

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

26 (22) "Medical services" for plan I members, shall include the  
27 following as minimum services to be provided. Reasonable charges for  
28 these services shall be paid in accordance with RCW 41.26.150.

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

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

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

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

39 (i) The fees of the following:

1 (A) A physician or surgeon licensed under the provisions of chapter  
2 18.71 RCW;

3 (B) An (~~osteopath~~ [~~osteopathic~~ ~~physician~~ ~~and~~ ~~surgeon~~])  
4 osteopathic physician and surgeon licensed under the provisions of  
5 chapter 18.57 RCW;

6 (C) A chiropractor licensed under the provisions of chapter 18.25  
7 RCW.

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

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

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

13 (B) Diagnostic x-ray and laboratory examinations;

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

15 (D) Anesthesia and oxygen;

16 (E) Rental of iron lung and other durable medical and surgical  
17 equipment;

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

19 (G) Professional ambulance service when used to transport the  
20 member to or from a hospital when injured by an accident or stricken by  
21 a disease;

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

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

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

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

29 (L) An optometrist licensed under the provisions of chapter 18.53  
30 RCW.

31 (23) "Regular interest" means such rate as the director may  
32 determine.

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

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

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

1 (27) "State elective position" means any position held by any  
2 person elected or appointed to state-wide office or elected or  
3 appointed as a member of the legislature.

4 (28) "Plan I" means the law enforcement officers' and fire  
5 fighters' retirement system, plan I providing the benefits and funding  
6 provisions covering persons who first became members of the system  
7 prior to October 1, 1977.

8 (29) "Plan II" means the law enforcement officers' and fire  
9 fighters' retirement system, plan II providing the benefits and funding  
10 provisions covering persons who first became members of the system on  
11 and after October 1, 1977.

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

14 (31) "Service credit month" means a full service credit month or an  
15 accumulation of partial service credit months that are equal to one.

16 (32) "General authority law enforcement agency" means any agency,  
17 department, or division of a municipal corporation, political  
18 subdivision, or other unit of local government of this state, and any  
19 agency, department, or division of state government, having as its  
20 primary function the detection and apprehension of persons committing  
21 infractions or violating the traffic or criminal laws in general, but  
22 not including the Washington state patrol. Such an agency, department,  
23 or division is distinguished from a limited authority law enforcement  
24 agency having as one of its functions the apprehension or detection of  
25 persons committing infractions or violating the traffic or criminal  
26 laws relating to limited subject areas, including but not limited to,  
27 the state departments of natural resources, fish and wildlife, and  
28 social and health services, the state gambling commission, the state  
29 lottery commission, the state parks and recreation commission, the  
30 state utilities and transportation commission, the state liquor control  
31 board, and the state department of corrections.

32 **Sec. 3.** RCW 41.26.450 and 1993 c 502 s 2 are each amended to read  
33 as follows:

34 (1) The required contribution rates to the plan II system for  
35 members, employers, and the state of Washington shall be established by  
36 the director from time to time as may be necessary upon the advice of  
37 the state actuary. The state actuary shall use the aggregate actuarial  
38 cost method to calculate contribution rates.

1        (2) Except as provided in subsection (3) of this section, the  
2 member, the employer and the state shall each contribute the following  
3 shares of the cost of the retirement system:

4        Member	50%
5        Employer	30%
6        State	20%

7        ~~((However,))~~ (3) Port districts established under Title 53 RCW and  
8 institutions of higher education as defined in RCW 28B.10.016 shall  
9 contribute both the employer and state shares of the cost of the  
10 retirement system ~~((for any of their employees who are law enforcement~~  
11 ~~officers))~~.

12        (4) Effective January 1, 1987, however, no member or employer  
13 contributions are required for any calendar month in which the member  
14 is not granted service credit.

15        (5) Any adjustments in contribution rates required from time to  
16 time for future costs shall likewise be shared proportionally by the  
17 members, employers, and the state.

18        (6) Any increase in the contribution rate required as the result of  
19 a failure of the state or of an employer to make any contribution  
20 required by this section shall be borne in full by the state or by that  
21 employer not making the contribution.

22        (7) The director shall notify all employers of any pending  
23 adjustment in the required contribution rate and such increase shall be  
24 announced at least thirty days prior to the effective date of the  
25 change.

26        (8) Members' contributions required by this section shall be  
27 deducted from the members basic salary each payroll period. The  
28 members contribution and the employers contribution shall be remitted  
29 directly to the department within fifteen days following the end of the  
30 calendar month during which the payroll period ends. The state's  
31 contribution required by this section shall be transferred to the plan  
32 II fund from the total contributions transferred by the state treasurer  
33 under RCW 41.45.060 and 41.45.070.

34        NEW SECTION. Sec. 4. RCW 41.40.093 is decodified.

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