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SENATE BILL 5119

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State of Washington

54th Legislature

1995 Regular Session

By Senators Bauer, Long, Winsley, Loveland, Newhouse, Fraser, Gaspard, Haugen, Sutherland and McAuliffe

Read first time 01/11/95. Referred to Committee on Ways & Means.

1 AN ACT Relating to cost-of-living allowances for retirement  
2 purposes; reenacting and amending RCW 41.32.010 and 41.40.010; adding  
3 new sections to chapter 41.32 RCW; adding new sections to chapter 41.40  
4 RCW; creating a new section; repealing RCW 41.32.487, 41.32.4871,  
5 41.32.488, 41.32.499, 41.32.575, 41.40.195, 41.40.198, 41.40.1981,  
6 41.40.1983, and 41.40.325; providing an effective date; and declaring  
7 an emergency.

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

9 NEW SECTION. **Sec. 1.** The intent of this act is to:

10 (1) Simplify the calculation of postretirement adjustments so that  
11 they can be more easily communicated to plan I active and retired  
12 members;

13 (2) Provide postretirement adjustments based on years of service  
14 rather than size of benefit;

15 (3) Provide postretirement adjustments at an earlier age;

16 (4) Provide postretirement adjustments to a larger segment of plan  
17 I retirees; and

18 (5) Simplify administration by reducing the number of plan I  
19 postretirement adjustments to one.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 41.32 RCW  
2 under the subchapter heading "Plan I" to read as follows:

3        (1) Beginning July 1, 1995, and annually thereafter, the retirement  
4 allowance of a person meeting the requirements of this section shall be  
5 increased by the annual increase amount.

6        (2) The following persons shall be eligible for the benefit  
7 provided in subsection (1) of this section:

8        (a) A beneficiary who has received a retirement allowance for at  
9 least one year and has attained at least age sixty-six by July 1st in  
10 the calendar year in which the annual increase is given; or

11        (b) A beneficiary whose retirement allowance is lower than the  
12 minimum benefit provided under section 3 of this act.

13        (3) The following persons shall also be eligible for the benefit  
14 provided in subsection (1) of this section:

15        (a) A beneficiary receiving the minimum benefit on June 30, 1995,  
16 under RCW 41.32.485; or

17        (b) A recipient of a survivor benefit on June 30, 1995, which has  
18 been increased by RCW 41.32.575.

19        (4) If otherwise eligible, those receiving an annual adjustment  
20 under RCW 41.32.530(1)(d) shall be eligible for the annual increase  
21 adjustment in addition to the benefit that would have been received  
22 absent this section.

23        (5) Those receiving a temporary disability benefit under RCW  
24 41.32.540 shall not be eligible for the benefit provided by this  
25 section.

26        (6) The legislature reserves the right to amend or repeal this  
27 section in the future and no member or beneficiary has a contractual  
28 right to receive this postretirement adjustment not granted prior to  
29 that time.

30        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 41.32 RCW  
31 under the subchapter heading "Plan I" to read as follows:

32        (1) No one who becomes a beneficiary after June 30, 1995, shall  
33 receive a monthly retirement allowance of less than twenty-four dollars  
34 and twenty-two cents times the number of years of service creditable to  
35 the person whose service is the basis of such retirement allowance.

36        (2) If the retirement allowance payable was adjusted at the time  
37 benefit payments to the beneficiary commenced, the minimum allowance

1 provided in this section shall be adjusted in a manner consistent with  
2 that adjustment.

3 (3) Beginning July 1, 1996, the minimum benefit set forth in  
4 subsection (1) of this section shall be adjusted annually by the annual  
5 increase.

6 (4) Those receiving a temporary disability benefit under RCW  
7 41.32.540 shall not be eligible for the benefit provided by this  
8 section.

9 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.32 RCW  
10 under the subchapter heading "Plan I" to read as follows:

11 (1) The amount of the July 1, 1993, increase to the retirement  
12 allowance of beneficiaries under this chapter as a result of the  
13 temporary adjustment authorized by section 2, chapter 519, Laws of  
14 1993, shall be made a permanent adjustment on July 1, 1995.

15 (2) Beneficiaries receiving a benefit under RCW 41.32.485 who are  
16 at least age seventy-nine shall receive on July 1, 1995, a permanent  
17 adjustment of one dollar and eighteen cents per month per year of  
18 service.

19 (3) Beneficiaries under this chapter who are not subject to  
20 subsection (1) of this section and not receiving a benefit under RCW  
21 41.32.485 shall receive the following permanent adjustment to their  
22 retirement allowance on July 1, 1995:

23 (a) Those who are age seventy, thirty-nine cents per month per year  
24 of service;

25 (b) Those who are age seventy-one, seventy-nine cents per month per  
26 year of service; and

27 (c) Those who are at least age seventy-two, one dollar and eighteen  
28 cents per month per year of service.

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.40 RCW  
30 under the subchapter heading "Plan I" to read as follows:

31 (1) Beginning July 1, 1995, and annually thereafter, the retirement  
32 allowance of a person meeting the requirements of this section shall be  
33 increased by the annual increase amount.

34 (2) The following persons shall be eligible for the benefit  
35 provided in subsection (1) of this section:

1 (a) A beneficiary who has received a retirement allowance for at  
2 least one year and has attained at least age sixty-six by July 1st in  
3 the calendar year in which the annual increase is given; or

4 (b) A beneficiary whose retirement allowance is lower than the  
5 minimum benefit provided under section 6 of this act.

6 (3) The following persons shall also be eligible for the benefit  
7 provided in subsection (1) of this section:

8 (a) A beneficiary receiving the minimum benefit on June 30, 1995,  
9 under RCW 41.40.198; or

10 (b) A recipient of a survivor benefit on June 30, 1995, which has  
11 been increased by RCW 41.40.325.

12 (4) Those receiving an annual adjustment under RCW 41.40.188(1)(c)  
13 shall be eligible for the annual increase adjustment in addition to the  
14 benefit that would have been received absent this section.

15 (5) If otherwise eligible, those receiving a benefit under RCW  
16 41.40.220(1), or a survivor of a disabled member under RCW 41.44.170(5)  
17 shall be eligible for the benefit provided by this section.

18 (6) The legislature reserves the right to amend or repeal this  
19 section in the future and no member or beneficiary has a contractual  
20 right to receive this postretirement adjustment not granted prior to  
21 that time.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.40 RCW  
23 under the subchapter heading "Plan I" to read as follows:

24 (1) No one who becomes a beneficiary after June 30, 1995, shall  
25 receive a monthly retirement allowance of less than twenty-four dollars  
26 and twenty-two cents times the number of years of service creditable to  
27 the person whose service is the basis of such retirement allowance.

28 (2) Where the retirement allowance payable was adjusted at the time  
29 benefit payments to the beneficiary commenced, the minimum allowance  
30 provided in this section shall be adjusted in a manner consistent with  
31 that adjustment.

32 (3) Beginning July 1, 1996, the minimum benefit set forth in  
33 subsection (1) of this section shall be adjusted annually by the annual  
34 increase.

35 (4) Those receiving a benefit under RCW 41.40.220(1), or a survivor  
36 of a disabled member under RCW 41.44.170(5) shall be eligible for the  
37 benefit provided by this section.

1        NEW SECTION.    **Sec. 7.** A new section is added to chapter 41.40 RCW  
2 under the subchapter heading "Plan I" to read as follows:

3        (1) The amount of the July 1, 1993, increase to the retirement  
4 allowance of beneficiaries under this chapter as a result of the  
5 temporary adjustment authorized by section 2, chapter 519, Laws of  
6 1993, shall be made a permanent adjustment on July 1, 1995.

7        (2) Beneficiaries receiving a benefit under RCW 41.40.198 who are  
8 at least age seventy-nine shall receive on July 1, 1995, a permanent  
9 adjustment of one dollar and eighteen cents per month per year of  
10 service.

11        (3) Beneficiaries under this chapter who are not subject to  
12 subsection (1) of this section and are not receiving a benefit under  
13 RCW 41.40.198 shall receive the following permanent adjustment to their  
14 retirement allowance on July 1, 1995:

15        (a) Those who are age seventy, thirty-nine cents per month per year  
16 of service;

17        (b) Those who are age seventy-one, seventy-nine cents per month per  
18 year of service; and

19        (c) Those who are at least age seventy-two, one dollar and eighteen  
20 cents per month per year of service.

21        **Sec. 8.** RCW 41.32.010 and 1994 c 298 s 3, 1994 c 247 s 2, and 1994  
22 c 197 s 12 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

11 (7) "Creditable service" means membership service plus prior  
12 service for which credit is allowable. This subsection shall apply  
13 only to plan I members.

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

16 (9) "Disability allowance" means monthly payments during  
17 disability. This subsection shall apply only to plan I members.

18 (10)(a) "Earnable compensation" for plan I members, means:

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

24 (ii) "Earnable compensation" for plan I members also includes the  
25 following actual or imputed payments, which are not paid for personal  
26 services:

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

34 (B) If a leave of absence, without pay, is taken by a member for  
35 the purpose of serving as a member of the state legislature, and such  
36 member has served in the legislature five or more years, the salary  
37 which would have been received for the position from which the leave of  
38 absence was taken shall be considered as compensation earnable if the  
39 employee's contribution thereon is paid by the employee. In addition,

1 where a member has been a member of the state legislature for five or  
2 more years, earnable compensation for the member's two highest  
3 compensated consecutive years of service shall include a sum not to  
4 exceed thirty-six hundred dollars for each of such two consecutive  
5 years, regardless of whether or not legislative service was rendered  
6 during those two years.

7 (iii) For members employed less than full time under written  
8 contract with a school district, or community college district, in an  
9 instructional position, for which the member receives service credit of  
10 less than one year in all of the years used to determine the earnable  
11 compensation used for computing benefits due under RCW 41.32.497,  
12 41.32.498, and 41.32.520, the member may elect to have earnable  
13 compensation defined as provided in RCW 41.32.345. For the purposes of  
14 this subsection, the term "instructional position" means a position in  
15 which more than seventy-five percent of the member's time is spent as  
16 a classroom instructor (including office hours), a librarian, or a  
17 counselor. Earnable compensation shall be so defined only for the  
18 purpose of the calculation of retirement benefits and only as necessary  
19 to insure that members who receive fractional service credit under RCW  
20 41.32.270 receive benefits proportional to those received by members  
21 who have received full-time service credit.

22 (iv) "Earnable compensation" does not include:

23 (A) Remuneration for unused sick leave authorized under RCW  
24 41.04.340, 28A.400.210, or 28A.310.490;

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

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

35 "Earnable compensation" for plan II members also includes the  
36 following actual or imputed payments which, except in the case of  
37 (b)(ii)(B) of this subsection, are not paid for personal services:

38 (i) Retroactive payments to an individual by an employer on  
39 reinstatement of the employee in a position or payments by an employer

1 to an individual in lieu of reinstatement in a position which are  
2 awarded or granted as the equivalent of the salary or wages which the  
3 individual would have earned during a payroll period shall be  
4 considered earnable compensation, to the extent provided above, and the  
5 individual shall receive the equivalent service credit.

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

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

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

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

19 (12) "Fiscal year" means a year which begins July 1st and ends June  
20 30th of the following year.

21 (13) "Former state fund" means the state retirement fund in  
22 operation for teachers under chapter 187, Laws of 1923, as amended.

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

26 (15) "Member" means any teacher included in the membership of the  
27 retirement system. Also, any other employee of the public schools who,  
28 on July 1, 1947, had not elected to be exempt from membership and who,  
29 prior to that date, had by an authorized payroll deduction, contributed  
30 to the member reserve.

31 (16) "Membership service" means service rendered subsequent to the  
32 first day of eligibility of a person to membership in the retirement  
33 system: PROVIDED, That where a member is employed by two or more  
34 employers the individual shall receive no more than one service credit  
35 month during any calendar month in which multiple service is rendered.  
36 The provisions of this subsection shall apply only to plan I members.

37 (17) "Pension" means the moneys payable per year during life from  
38 the pension reserve.



1 (18) "Pension reserve" is a fund in which shall be accumulated an  
2 actuarial reserve adequate to meet present and future pension  
3 liabilities of the system and from which all pension obligations are to  
4 be paid.

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

9 (20) "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 I members.

12 (21) "Public school" means any institution or activity operated by  
13 the state of Washington or any instrumentality or political subdivision  
14 thereof employing teachers, except the University of Washington and  
15 Washington State University.

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

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

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

25 (b) "Retirement allowance" for plan II members, means monthly  
26 payments to a retiree or beneficiary as provided in this chapter.

27 (25) "Retirement system" means the Washington state teachers'  
28 retirement system.

29 (26)(a) "Service" for plan I members means the time during which a  
30 member has been employed by an employer for compensation.

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

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

37 (iii) As authorized in RCW 41.32.065, service earned in an out-of-  
38 state retirement system that covers teachers in public schools may be

1 applied solely for the purpose of determining eligibility to retire  
2 under RCW 41.32.470.

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

6 (i) A member employed in an eligible position or as a substitute  
7 shall receive one service credit month for each month of September  
8 through August of the following year if he or she earns earnable  
9 compensation for eight hundred ten or more hours during that period and  
10 is employed during nine of those months, except that a member may not  
11 receive credit for any period prior to the member's employment in an  
12 eligible position except as provided in RCW 41.32.812 and 41.50.132;

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

19 (iii) All other members in an eligible position or as a substitute  
20 teacher shall receive service credit as follows:

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

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

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

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

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

38 (vi) As authorized by RCW 28A.400.300, up to forty-five days of  
39 sick leave may be creditable as service solely for the purpose of

1 determining eligibility to retire under RCW 41.32.470. For purposes of  
2 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two  
3 service credit months. Use of less than forty-five days of sick leave  
4 is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

17 (viii) The department shall adopt rules implementing this  
18 subsection.

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

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

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

31 (30) "Average final compensation" for plan II members, means the  
32 member's average earnable compensation of the highest consecutive sixty  
33 service credit months prior to such member's retirement, termination,  
34 or death. Periods constituting authorized leaves of absence may not be  
35 used in the calculation of average final compensation except under RCW  
36 41.32.810(2).

37 (31) "Retiree" means any person in receipt of a retirement  
38 allowance or other benefit provided by this chapter resulting from  
39 service rendered to an employer while a member. A person is in receipt

1 of a retirement allowance as defined in subsection (24) of this section  
2 or other benefit as provided by this chapter when the department mails,  
3 causes to be mailed, or otherwise transmits the retirement allowance  
4 warrant.

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

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

8 (34) "State elective position" means any position held by any  
9 person elected or appointed to state-wide office or elected or  
10 appointed as a member of the legislature.

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

13 (36) "Substitute teacher" means:

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

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

20 (37)(a) "Eligible position" for plan II members from June 7, 1990,  
21 through September 1, 1991, means a position which normally requires two  
22 or more uninterrupted months of creditable service during September  
23 through August of the following year.

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

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

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

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

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

5 (41) "Index A" means the index for the year prior to the  
6 determination of a postretirement adjustment.

7 (42) "Index B" means the index for the year prior to index A.

8 (43) "Index year" means the earliest calendar year in which the  
9 index is more than sixty percent of index A.

10 (44) "Adjustment ratio" means the value of index A divided by index  
11 B.

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

15 **Sec. 9.** RCW 41.40.010 and 1994 c 298 s 2, 1994 c 247 s 5, 1994 c  
16 197 s 23, and 1994 c 177 s 8 are each reenacted and amended to read as  
17 follows:

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

20 (1) "Retirement system" means the public employees' retirement  
21 system provided for in this chapter.

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

24 (3) "State treasurer" means the treasurer of the state of  
25 Washington.

26 (4)(a) "Employer" for plan I members, means every branch,  
27 department, agency, commission, board, and office of the state, any  
28 political subdivision or association of political subdivisions of the  
29 state admitted into the retirement system, and legal entities  
30 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the  
31 term shall also include any labor guild, association, or organization  
32 the membership of a local lodge or division of which is comprised of at  
33 least forty percent employees of an employer (other than such labor  
34 guild, association, or organization) within this chapter. The term may  
35 also include any city of the first class that has its own retirement  
36 system.

37 (b) "Employer" for plan II members, means every branch, department,  
38 agency, commission, board, and office of the state, and any political

1 subdivision and municipal corporation of the state admitted into the  
2 retirement system, including public agencies created pursuant to RCW  
3 35.63.070, 36.70.060, and 39.34.030.

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

9 (6) "Original member" of this retirement system means:

10 (a) Any person who became a member of the system prior to April 1,  
11 1949;

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

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

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

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

31 (f) Any member who has been a contributor under the system for two  
32 or more years and who has restored all contributions that may have been  
33 withdrawn as provided by RCW 41.40.150 and who on the effective date of  
34 the individual's retirement has rendered five or more years of service  
35 for the state or any political subdivision prior to the time of the  
36 admission of the employer into the system; except that the provisions  
37 relating to the minimum amount of retirement allowance for the member  
38 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
39 apply to the member.

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

3 (8)(a) "Compensation earnable" for plan I members, means salaries  
4 or wages earned during a payroll period for personal services and where  
5 the compensation is not all paid in money, maintenance compensation  
6 shall be included upon the basis of the schedules established by the  
7 member's employer. Compensation that a member receives for being in  
8 standby status is also compensation earnable, subject to the conditions  
9 of this subsection. A member is in standby status when not being paid  
10 for time actually worked and only when both of the following conditions  
11 exist: (i) The member is required to be present at, or in the  
12 immediate vicinity of, a specified location; and (ii) the employer  
13 requires the member to be prepared to report immediately for work, if  
14 the need arises, although the need may not arise. Standby compensation  
15 is regular salary for the purposes of RCW 41.50.150(2).

16 (A) "Compensation earnable" for plan I 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 employer  
21 to an individual in lieu of reinstatement in a position which are  
22 awarded 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 and the individual shall receive the  
25 equivalent service credit;

26 (II) If a leave of absence is taken by an individual for the  
27 purpose of serving in the state legislature, the salary which would  
28 have been received for the position from which the leave of absence was  
29 taken, shall be considered as compensation earnable if the employee's  
30 contribution is paid by the employee and the employer's contribution is  
31 paid by the employer or employee.

32 (III) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
33 and 72.09.240;

34 (IV) Compensation that a member would have received but for a  
35 disability occurring in the line of duty only as authorized by RCW  
36 41.40.038; and

37 (V) Compensation that a member receives due to participation in the  
38 leave sharing program only as authorized by RCW 41.04.650 through  
39 41.04.670.

1 (B) "Compensation earnable" does not include:

2 (I) Remuneration for unused sick leave authorized under RCW  
3 41.04.340, 28A.400.210, or 28A.310.490;

4 (II) Remuneration for unused annual leave in excess of thirty days  
5 as authorized by RCW 43.01.044 and 43.01.041.

6 (b) "Compensation earnable" for plan II members, means salaries or  
7 wages earned by a member during a payroll period for personal services,  
8 including overtime payments, and shall include wages and salaries  
9 deferred under provisions established pursuant to sections 403(b),  
10 414(h), and 457 of the United States Internal Revenue Code, but shall  
11 exclude nonmoney maintenance compensation and lump sum or other  
12 payments for deferred annual sick leave, unused accumulated vacation,  
13 unused accumulated annual leave, or any form of severance pay.  
14 Compensation that a member receives for being in standby status is also  
15 compensation earnable, subject to the conditions of this subsection.  
16 A member is in standby status when not being paid for time actually  
17 worked and only when both of the following conditions exist: (i) The  
18 member is required to be present at, or in the immediate vicinity of,  
19 a specified location; and (ii) the employer requires the member to be  
20 prepared to report immediately for work, if the need arises, although  
21 the need may not arise. Standby compensation is regular salary for the  
22 purposes of RCW 41.50.150(2).

23 "Compensation earnable" for plan II 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 employer  
28 to an individual in lieu of reinstatement in a position which are  
29 awarded or granted as the equivalent of the salary or wage which the  
30 individual would have earned during a payroll period shall be  
31 considered compensation earnable to the extent provided above, and the  
32 individual shall receive the equivalent service credit;

33 (B) In any year in which a member serves in the legislature, the  
34 member shall have the option of having such member's compensation  
35 earnable be the greater of:

36 (I) The compensation earnable the member would have received had  
37 such member not served in the legislature; or

38 (II) Such member's actual compensation earnable received for  
39 nonlegislative public employment and legislative service combined. Any



1 additional contributions to the retirement system required because  
2 compensation earnable under (b)(ii)(B)(II) of this subsection is  
3 greater than compensation earnable under (b)(ii)(B)(I) of this  
4 subsection shall be paid by the member for both member and employer  
5 contributions;

6 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
7 72.09.240;

8 (D) Compensation that a member would have received but for a  
9 disability occurring in the line of duty only as authorized by RCW  
10 41.40.038; and

11 (E) Compensation that a member receives due to participation in the  
12 leave sharing program only as authorized by RCW 41.04.650 through  
13 41.04.670.

14 (9)(a) "Service" for plan I members, except as provided in RCW  
15 41.40.088, means periods of employment in an eligible position or  
16 positions for one or more employers rendered to any employer for which  
17 compensation is paid, and includes time spent in office as an elected  
18 or appointed official of an employer. Compensation earnable earned in  
19 full time work for seventy hours or more in any given calendar month  
20 shall constitute one service credit month except as provided in RCW  
21 41.40.088. Compensation earnable earned for less than seventy hours in  
22 any calendar month shall constitute one-quarter service credit month of  
23 service except as provided in RCW 41.40.088. Only service credit  
24 months and one-quarter service credit months shall be counted in the  
25 computation of any retirement allowance or other benefit provided for  
26 in this chapter. Any fraction of a year of service shall be taken into  
27 account in the computation of such retirement allowance or benefits.  
28 Time spent in standby status, whether compensated or not, is not  
29 service.

30 (i) Service by a state employee officially assigned by the state on  
31 a temporary basis to assist another public agency, shall be considered  
32 as service as a state employee: PROVIDED, That service to any other  
33 public agency shall not be considered service as a state employee if  
34 such service has been used to establish benefits in any other public  
35 retirement system.

36 (ii) An individual shall receive no more than a total of twelve  
37 service credit months of service during any calendar year. If an  
38 individual is employed in an eligible position by one or more employers  
39 the individual shall receive no more than one service credit month

1 during any calendar month in which multiple service for seventy or more  
2 hours is rendered.

3 (iii) A school district employee may count up to forty-five days of  
4 sick leave as creditable service solely for the purpose of determining  
5 eligibility to retire under RCW 41.40.180 as authorized by RCW  
6 28A.400.300. For purposes of plan I "forty-five days" as used in RCW  
7 28A.400.300 is equal to two service credit months. Use of less than  
8 forty-five days of sick leave is creditable as allowed under this  
9 subsection as follows:

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

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

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

15 (b) "Service" for plan II members, means periods of employment by  
16 a member in an eligible position or positions for one or more employers  
17 for which compensation earnable is paid. Compensation earnable earned  
18 for ninety or more hours in any calendar month shall constitute one  
19 service credit month except as provided in RCW 41.40.088. Compensation  
20 earnable earned for at least seventy hours but less than ninety hours  
21 in any calendar month shall constitute one-half service credit month of  
22 service. Compensation earnable earned for less than seventy hours in  
23 any calendar month shall constitute one-quarter service credit month of  
24 service. Time spent in standby status, whether compensated or not, is  
25 not service.

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

28 (i) Service in any state elective position shall be deemed to be  
29 full time service, except that persons serving in state elective  
30 positions who are members of the teachers' retirement system or law  
31 enforcement officers' and fire fighters' retirement system at the time  
32 of election or appointment to such position may elect to continue  
33 membership in the teachers' retirement system or law enforcement  
34 officers' and fire fighters' retirement system.

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

1 any calendar month in which multiple service for ninety or more hours  
2 is rendered.

3 (iii) Up to forty-five days of sick leave may be creditable as  
4 service solely for the purpose of determining eligibility to retire  
5 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
6 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two  
7 service credit months. Use of less than forty-five days of sick leave  
8 is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

23 (13) "Membership service" means:

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

25 (b) All service after October 1, 1947, to any employer prior to the  
26 time of its admission into the retirement system: PROVIDED, That an  
27 amount equal to the employer and employee contributions which would  
28 have been paid to the retirement system on account of such service  
29 shall have been paid to the retirement system with interest (as  
30 computed by the department) on the employee's portion prior to  
31 retirement of such person, by the employee or his or her employer,  
32 except as qualified by RCW 41.40.023: PROVIDED FURTHER, That employer  
33 contributions plus employee contributions with interest submitted by  
34 the employee under this subsection shall be placed in the employee's  
35 individual account in the employees' savings fund and be treated as any  
36 other contribution made by the employee, with the exception that the  
37 contributions submitted by the employee in payment of the employer's  
38 obligation, together with the interest the director may apply to the  
39 employer's contribution, shall be excluded from the calculation of the

1 member's annuity in the event the member selects a benefit with an  
2 annuity option;

3 (c) Service not to exceed six consecutive months of probationary  
4 service rendered after April 1, 1949, and prior to becoming a member,  
5 in the case of any member, upon payment in full by such member of the  
6 total amount of the employer's contribution to the retirement fund  
7 which would have been required under the law in effect when such  
8 probationary service was rendered if the member had been a member  
9 during such period, except that the amount of the employer's  
10 contribution shall be calculated by the director based on the first  
11 month's compensation earnable as a member;

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

19 (14)(a) "Beneficiary" for plan I members, means any person in  
20 receipt of a retirement allowance, pension or other benefit provided by  
21 this chapter.

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

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

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

31 (17)(a) "Average final compensation" for plan I members, means the  
32 annual average of the greatest compensation earnable by a member during  
33 any consecutive two year period of service credit months for which  
34 service credit is allowed; or if the member has less than two years of  
35 service credit months then the annual average compensation earnable  
36 during the total years of service for which service credit is allowed.

37 (b) "Average final compensation" for plan II members, means the  
38 member's average compensation earnable of the highest consecutive sixty  
39 months of service credit months prior to such member's retirement,

1 termination, or death. Periods constituting authorized leaves of  
2 absence may not be used in the calculation of average final  
3 compensation except under RCW 41.40.710(2).

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

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

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

12 (21) "Retirement allowance" means the sum of the annuity and the  
13 pension.

14 (22) "Employee" means any person who may become eligible for  
15 membership under this chapter, as set forth in RCW 41.40.023.

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

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

21 (25) "Eligible position" means:

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

28 (b) Any position occupied by an elected official or person  
29 appointed directly by the governor for which compensation is paid.

30 (26) "Ineligible position" means any position which does not  
31 conform with the requirements set forth in subsection (25) of this  
32 section.

33 (27) "Leave of absence" means the period of time a member is  
34 authorized by the employer to be absent from service without being  
35 separated from membership.

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

1 (29) "Retiree" means any person in receipt of a retirement  
2 allowance or other benefit provided by this chapter resulting from  
3 service rendered to an employer while a member. A person is in receipt  
4 of a retirement allowance as defined in subsection (21) of this section  
5 or other benefit as provided by this chapter when the department mails,  
6 causes to be mailed, or otherwise transmits the retirement allowance  
7 warrant.

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

9 (31) "State elective position" means any position held by any  
10 person elected or appointed to state-wide office or elected or  
11 appointed as a member of the legislature.

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

14 (33) "Plan I" means the public employees' retirement system, plan  
15 I providing the benefits and funding provisions covering persons who  
16 first became members of the system prior to October 1, 1977.

17 (34) "Plan II" means the public employees' retirement system, plan  
18 II providing the benefits and funding provisions covering persons who  
19 first became members of the system on and after October 1, 1977.

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

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

26 (37) "Index B" means the index for the year prior to index A.

27 (38) "Index year" means the earliest calendar year in which the  
28 index is more than sixty percent of index A.

29 (39) "Adjustment ratio" means the value of index A divided by index  
30 B.

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

34 NEW SECTION. Sec. 10. The following acts or parts of acts are  
35 each repealed:

36 (1) RCW 41.32.487 and 1989 c 272 s 6 & 1987 c 455 s 3;

37 (2) RCW 41.32.4871 and 1993 c 519 s 2;

38 (3) RCW 41.32.488 and 1987 c 455 s 5;

- 1 (4) RCW 41.32.499 and 1991 c 35 s 56, 1973 2nd ex.s. c 32 s 1, &  
2 1973 1st ex.s. c 189 s 9;  
3 (5) RCW 41.32.575 and 1994 c 247 s 3 & 1989 c 272 s 3;  
4 (6) RCW 41.40.195 and 1991 c 35 s 79, 1973 2nd ex.s. c 14 s 1, 1973  
5 1st ex.s. c 190 s 11, 1971 ex.s. c 271 s 6, & 1970 ex.s. c 68 s 1;  
6 (7) RCW 41.40.198 and 1989 c 272 s 8, 1987 c 455 s 2, 1986 c 306 s  
7 3, & 1979 ex.s. c 96 s 1;  
8 (8) RCW 41.40.1981 and 1989 c 272 s 9 & 1987 c 455 s 4;  
9 (9) RCW 41.40.1983 and 1993 c 519 s 3; and  
10 (10) RCW 41.40.325 and 1994 c 247 s 6 & 1989 c 272 s 2.

11 NEW SECTION. **Sec. 11.** If any provision of this act or its  
12 application to any person or circumstance is held invalid, the  
13 remainder of the act or the application of the provision to other  
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 12.** This act shall take effect on July 1, 1995.

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