
SENATE BILL 5672

State of Washington

54th Legislature

1995 Regular Session

By Senators Quigley, Prince, Drew, Hargrove, West, Gaspard, Long and Sutherland; by request of Department of Information Services and Office of Financial Management

Read first time 01/31/95. Referred to Committee on Ways & Means.

1 AN ACT Relating to the powers and duties of the department of
2 information services and the office of financial management to
3 establish a state-owned nonprofit corporation; amending RCW 43.105.052,
4 41.05.011, and 39.34.020; reenacting and amending RCW 41.40.010 and
5 41.32.010; adding a new section to chapter 41.06 RCW; adding a new
6 section to chapter 43.41 RCW; and declaring an emergency.

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

8 **Sec. 1.** RCW 43.105.052 and 1993 c 281 s 53 are each amended to
9 read as follows:

10 The department shall:

11 (1) Perform all duties and responsibilities the board delegates to
12 the department, including but not limited to:

13 (a) The review of agency acquisition plans and requests; and

14 (b) Implementation of state-wide and interagency policies,
15 standards, and guidelines;

16 (2) Make available information services to state (~~agencies and~~
17 ~~local governments~~) local, federal, tribal, and nonprofit organizations
18 directly or through the nonprofit corporation authorized in subsection

1 (13) of this section on a full cost-recovery basis. These services may
2 include, but are not limited to:

3 (a) Telecommunications services for voice, data, and video;

4 (b) Mainframe computing services;

5 (c) Support for departmental and microcomputer evaluation,
6 installation, and use;

7 (d) Equipment acquisition assistance, including leasing, brokering,
8 and establishing master contracts;

9 (e) Facilities management services for information technology
10 equipment, equipment repair, and maintenance service;

11 (f) Negotiation with local cable companies and local governments to
12 provide for connection to local cable services to allow for access to
13 these public and educational channels in the state;

14 (g) Office automation services;

15 (h) System development services; and

16 (i) Training.

17 These services are for discretionary use by customers and customers
18 may elect other alternatives for service if those alternatives are more
19 cost-effective or provide better service(~~(. Agencies may be required~~
20 ~~to use the backbone network portions of the telecommunications services~~
21 ~~during an initial start-up period not to exceed three years))~~);

22 (3) Establish rates and fees for services provided by the
23 department to assure that the services component of the department is
24 self-supporting. (~~(A billing rate plan shall be developed for a two-~~
25 ~~year period to coincide with the budgeting process. The rate plan~~
26 ~~shall be subject to review at least annually by the customer oversight~~
27 ~~committees. The rate plan shall show the proposed rates by each cost~~
28 ~~center and will show the components of the rate structure as mutually~~
29 ~~determined by the department and the customer oversight committees.~~
30 ~~The same rate structure will apply to all user agencies of each cost~~
31 ~~center. The rate plan and any adjustments to rates shall be approved~~
32 ~~by the office of financial management.)) The services component shall
33 not subsidize the operations of the planning component;~~

34 (4) With the advice of the information services board and agencies,
35 develop a state strategic information technology plan and performance
36 reports as required under RCW 43.105.160;

37 (5) Develop plans for the department's achievement of state-wide
38 goals and objectives set forth in the state strategic information
39 technology plan required under RCW 43.105.160. These plans shall

1 address such services as telecommunications, central and distributed
2 computing, local area networks, office automation, and end user
3 computing. The department shall seek the advice of customer
4 (~~oversight~~) committees and the board in the development of these
5 plans;

6 (6) Under direction of the information services board and in
7 collaboration with the department of personnel, and other agencies as
8 may be appropriate, develop training plans and coordinate training
9 programs that are responsive to the needs of agencies;

10 (7) Identify opportunities for the effective use of information
11 services and coordinate appropriate responses to those opportunities;

12 (8) Assess agencies' projects, acquisitions, plans, or overall
13 information processing performance as requested by the board, agencies,
14 the director of financial management, or the legislature. Agencies may
15 be required to reimburse the department for agency-requested reviews;

16 (9) Develop planning, budgeting, and expenditure reporting
17 requirements, in conjunction with the office of financial management,
18 for agencies to follow;

19 (10) Assist the office of financial management with budgetary and
20 policy review of agency plans for information services;

21 (11) Provide staff support from the planning component to the board
22 for:

23 (a) Meeting preparation, notices, and minutes;

24 (b) Promulgation of policies, standards, and guidelines adopted by
25 the board;

26 (c) Supervision of studies and reports requested by the board;

27 (d) Conducting reviews and assessments as directed by the board;

28 (12) Be the lead agency in coordinating video telecommunications
29 services for all state agencies and develop, pursuant to board
30 policies, standards and common specifications for leased and purchased
31 telecommunications equipment. The department shall not evaluate the
32 merits of school curriculum, higher education course offerings, or
33 other education and training programs proposed for transmission and/or
34 reception using video telecommunications resources. Nothing in this
35 section shall abrogate or abridge the legal responsibilities of
36 licensees of telecommunications facilities as licensed by the federal
37 communication commission on March 27, 1990; (~~and~~)

1 (13) Have the authority jointly with the office of financial
2 management to create a state-owned, nonprofit corporation pursuant to
3 chapter 24.03 RCW.

4 (a) The corporation:

5 (i) May contract with the department to provide information
6 services or may contract directly with other state, local, federal,
7 tribal, and nonprofit organizations for the provision of information
8 services;

9 (ii) Is a public agency as defined in RCW 39.34.020 solely for the
10 purposes of that chapter, and may enter into agreements with other
11 public agencies under the provisions of chapter 39.34 RCW. In entering
12 into the contracts, public agencies are exempt from any limitations
13 imposed by RCW 41.06.380 or 41.06.382 or by any other statute or common
14 law principle that would otherwise limit their ability to contract for
15 services outside of their agencies;

16 (iii) May incur debts and liabilities on its behalf, but may not
17 obligate the state for payment, nor shall the state otherwise be liable
18 for debts or obligations of the corporation;

19 (iv) Shall be governed by a board of no fewer than five and no more
20 than nine directors, who shall be representative of state government
21 and the business and information services sectors, and who shall be
22 appointed by the governor;

23 (v) Shall be subject to annual audit by a certified public
24 accounting firm. The state auditor may review the corporation's
25 audited financial reports;

26 (vi) Shall be an employer, as defined in chapters 41.32 and 41.40
27 RCW, solely for the purpose of employee eligibility to participate in
28 the retirement systems administered by the department of retirement
29 systems. The employees of the corporation shall be employees as
30 defined in RCW 41.05.011(6) solely for the purpose of eligibility to
31 participate in programs administered by the health care authority. For
32 all other purposes, the corporation and its employees shall be exempt
33 from the provisions of chapter 41.06 RCW and rules adopted thereunder;
34 and

35 (vii) Shall, upon voluntary dissolution of the corporation,
36 transfer its assets and liabilities to the department. If, after
37 voluntary or involuntary dissolution, the department resumes providing
38 the services that were provided by the corporation, corporate employees
39 shall be offered equivalent positions of employment with the

1 department, if the positions are created by the department. Employees
2 accepting positions with the department after dissolution of the
3 corporation will be subject to the provisions of chapter 41.06 RCW
4 after appointment.

5 (b) With respect to the corporation, the department:

6 (i) May contract with the corporation to provide information
7 services to state, local, federal, tribal, and nonprofit organizations;

8 (ii) May transfer assets and liabilities of the department relating
9 to future operation of the corporation;

10 (iii) May allow the corporation to assume the department's
11 contractual rights and responsibilities as a successor in interest;

12 (iv) May transfer employees of the department to the corporation,
13 with the exception of employees of the director's office, policy and
14 regulation division, and state information operators. This transfer
15 shall be treated as a reduction in force for a good faith
16 reorganization for efficiency purposes pursuant to RCW 41.06.150(10)
17 and rules adopted thereunder. In transferring employees to the
18 corporation, the department is exempt from limitations imposed by RCW
19 41.06.380 or 41.06.382 or by other statute or common law principle that
20 would otherwise limit its ability to contract for services outside the
21 department; and

22 (v) Is exempt from the requirements of RCW 41.06.150 (2) through
23 (4), (7), and (10) and rules adopted thereunder in appointing employees
24 of the department after dissolution of the corporation pursuant to
25 (a)(vii) of this subsection; and

26 (14) Perform all other matters and things necessary to carry out
27 the purposes and provisions of this chapter.

28 NEW SECTION. Sec. 2. A new section is added to chapter 41.06 RCW
29 to read as follows:

30 Chapter 41.06 RCW does not apply to any corporation created under
31 RCW 43.105.052(13), or to the corporation's employees.

32 NEW SECTION. Sec. 3. A new section is added to chapter 43.41 RCW
33 to read as follows:

34 The director of the office of financial management may jointly
35 create, with the department of information services, a state-owned
36 nonprofit corporation as authorized by RCW 43.105.052(13).

1 **Sec. 4.** RCW 41.05.011 and 1994 c 153 s 2 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section shall apply throughout this chapter.

5 (1) "Administrator" means the administrator of the authority.

6 (2) "State purchased health care" or "health care" means medical
7 and health care, pharmaceuticals, and medical equipment purchased with
8 state and federal funds by the department of social and health
9 services, the department of health, the basic health plan, the state
10 health care authority, the department of labor and industries, the
11 department of corrections, the department of veterans affairs, and
12 local school districts.

13 (3) "Authority" means the Washington state health care authority.

14 (4) "Insuring entity" means an insurer as defined in chapter 48.01
15 RCW, a health care service contractor as defined in chapter 48.44 RCW,
16 or a health maintenance organization as defined in chapter 48.46 RCW.
17 On and after July 1, 1995, "insuring entity" means a certified health
18 plan, as defined in RCW 43.72.010.

19 (5) "Flexible benefit plan" means a benefit plan that allows
20 employees to choose the level of health care coverage provided and the
21 amount of employee contributions from among a range of choices offered
22 by the authority.

23 (6) "Employee" includes all full-time and career seasonal employees
24 of the state, whether or not covered by civil service; elected and
25 appointed officials of the executive branch of government, including
26 full-time members of boards, commissions, or committees; and includes
27 any or all part-time and temporary employees under the terms and
28 conditions established under this chapter by the authority; justices of
29 the supreme court and judges of the court of appeals and the superior
30 courts; and members of the state legislature or of the legislative
31 authority of any county, city, or town who are elected to office after
32 February 20, 1970. "Employee" also includes: (a) By October 1, 1995,
33 all employees of school districts and educational service districts.
34 Between October 1, 1994, and September 30, 1995, "employee" includes
35 employees of those school districts and educational service districts
36 for whom the authority has undertaken the purchase of insurance
37 benefits. The transition to insurance benefits purchasing by the
38 authority may not disrupt existing insurance contracts between school
39 district or educational service district employees and insurers.

1 However, except to the extent provided in RCW 28A.400.200, any such
2 contract that provides for health insurance benefits coverage after
3 October 1, 1995, shall be void as of that date if the contract was
4 entered into, renewed, or extended after July 1, 1993. Prior to
5 October 1, 1994, "employee" includes employees of a school district if
6 the board of directors of the school district seeks and receives the
7 approval of the authority to provide any of its insurance programs by
8 contract with the authority; (b) employees of a county, municipality,
9 or other political subdivision of the state if the legislative
10 authority of the county, municipality, or other political subdivision
11 of the state seeks and receives the approval of the authority to
12 provide any of its insurance programs by contract with the authority,
13 as provided in RCW 41.04.205; (c) employees of employee organizations
14 representing state civil service employees, at the option of each such
15 employee organization, and, effective October 1, 1995, employees of
16 employee organizations currently pooled with employees of school
17 districts for the purpose of purchasing insurance benefits, at the
18 option of each such employee organization; (d) employees of a nonprofit
19 corporation created by the department of information services and the
20 office of financial management under RCW 43.105.052.

21 (7) "Board" means the public employees' benefits board established
22 under RCW 41.05.055.

23 (8) "Retired or disabled school employee" means:

24 (a) Persons who separated from employment with a school district or
25 educational service district and are receiving a retirement allowance
26 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

27 (b) Persons who separate from employment with a school district or
28 educational service district on or after October 1, 1993, and
29 immediately upon separation receive a retirement allowance under
30 chapter 41.32 or 41.40 RCW;

31 (c) Persons who separate from employment with a school district or
32 educational service district due to a total and permanent disability,
33 and are eligible to receive a deferred retirement allowance under
34 chapter 41.32 or 41.40 RCW.

35 **Sec. 5.** RCW 41.40.010 and 1994 c 298 s 2, 1994 c 247 s 5, 1994 c
36 197 s 23, and 1994 c 177 s 8 are each reenacted and amended to read as
37 follows:

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

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

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

7 (3) "State treasurer" means the treasurer of the state of
8 Washington.

9 (4)(a) "Employer" for plan I members, means every branch,
10 department, agency, commission, board, and office of the state, any
11 political subdivision or association of political subdivisions of the
12 state admitted into the retirement system, and legal entities
13 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
14 term shall also include any labor guild, association, or organization
15 the membership of a local lodge or division of which is comprised of at
16 least forty percent employees of an employer (other than such labor
17 guild, association, or organization) within this chapter. The term may
18 also include any city of the first class that has its own retirement
19 system. The term employer shall also include a nonprofit corporation
20 created by the department of information services and the office of
21 financial management under RCW 43.105.052.

22 (b) "Employer" for plan II members, means every branch, department,
23 agency, commission, board, and office of the state, and any political
24 subdivision and municipal corporation of the state admitted into the
25 retirement system, including public agencies created pursuant to RCW
26 35.63.070, 36.70.060, and 39.34.030. The term employer shall also
27 include a nonprofit corporation created by the department of
28 information services and the office of financial management under RCW
29 43.105.052.

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

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

36 (a) Any person who became a member of the system prior to April 1,
37 1949;

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

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

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

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

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

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

31 (8)(a) "Compensation earnable" for plan I members, means salaries
32 or wages earned during a payroll period for personal services and where
33 the compensation is not all paid in money, maintenance compensation
34 shall be included upon the basis of the schedules established by the
35 member's employer. Compensation that a member receives for being in
36 standby status is also compensation earnable, subject to the conditions
37 of this subsection. A member is in standby status when not being paid
38 for time actually worked and only when both of the following conditions
39 exist: (i) The member is required to be present at, or in the

1 immediate vicinity of, a specified location; and (ii) the employer
2 requires the member to be prepared to report immediately for work, if
3 the need arises, although the need may not arise. Standby compensation
4 is regular salary for the purposes of RCW 41.50.150(2).

5 (A) "Compensation earnable" for plan I members also includes the
6 following actual or imputed payments, which are not paid for personal
7 services:

8 (I) Retroactive payments to an individual by an employer on
9 reinstatement of the employee in a position, or payments by an employer
10 to an individual in lieu of reinstatement in a position which are
11 awarded or granted as the equivalent of the salary or wage which the
12 individual would have earned during a payroll period shall be
13 considered compensation earnable and the individual shall receive the
14 equivalent service credit;

15 (II) If a leave of absence is taken by an individual for the
16 purpose of serving in the state legislature, the salary which would
17 have been received for the position from which the leave of absence was
18 taken, shall be considered as compensation earnable if the employee's
19 contribution is paid by the employee and the employer's contribution is
20 paid by the employer or employee.

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

23 (IV) Compensation that a member would have received but for a
24 disability occurring in the line of duty only as authorized by RCW
25 41.40.038; and

26 (V) Compensation that a member receives due to participation in the
27 leave sharing program only as authorized by RCW 41.04.650 through
28 41.04.670.

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

30 (I) Remuneration for unused sick leave authorized under RCW
31 41.04.340, 28A.400.210, or 28A.310.490;

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

34 (b) "Compensation earnable" for plan II members, means salaries or
35 wages earned by a member during a payroll period for personal services,
36 including overtime payments, and shall include wages and salaries
37 deferred under provisions established pursuant to sections 403(b),
38 414(h), and 457 of the United States Internal Revenue Code, but shall
39 exclude nonmoney maintenance compensation and lump sum or other

1 payments for deferred annual sick leave, unused accumulated vacation,
2 unused accumulated annual leave, or any form of severance pay.
3 Compensation that a member receives for being in standby status is also
4 compensation earnable, subject to the conditions of this subsection.
5 A member is in standby status when not being paid for time actually
6 worked and only when both of the following conditions exist: (i) The
7 member is required to be present at, or in the immediate vicinity of,
8 a specified location; and (ii) the employer requires the member to be
9 prepared to report immediately for work, if the need arises, although
10 the need may not arise. Standby compensation is regular salary for the
11 purposes of RCW 41.50.150(2).

12 "Compensation earnable" for plan II members also includes the
13 following actual or imputed payments, which are not paid for personal
14 services:

15 (A) Retroactive payments to an individual by an employer on
16 reinstatement of the employee in a position, or payments by an employer
17 to an individual in lieu of reinstatement in a position which are
18 awarded or granted as the equivalent of the salary or wage which the
19 individual would have earned during a payroll period shall be
20 considered compensation earnable to the extent provided above, and the
21 individual shall receive the equivalent service credit;

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

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

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

34 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
35 72.09.240;

36 (D) Compensation that a member would have received but for a
37 disability occurring in the line of duty only as authorized by RCW
38 41.40.038; and

1 (E) Compensation that a member receives due to participation in the
2 leave sharing program only as authorized by RCW 41.04.650 through
3 41.04.670.

4 (9)(a) "Service" for plan I members, except as provided in RCW
5 41.40.088, means periods of employment in an eligible position or
6 positions for one or more employers rendered to any employer for which
7 compensation is paid, and includes time spent in office as an elected
8 or appointed official of an employer. Compensation earnable earned in
9 full time work for seventy hours or more in any given calendar month
10 shall constitute one service credit month except as provided in RCW
11 41.40.088. Compensation earnable earned for less than seventy hours in
12 any calendar month shall constitute one-quarter service credit month of
13 service except as provided in RCW 41.40.088. Only service credit
14 months and one-quarter service credit months shall be counted in the
15 computation of any retirement allowance or other benefit provided for
16 in this chapter. Any fraction of a year of service shall be taken into
17 account in the computation of such retirement allowance or benefits.
18 Time spent in standby status, whether compensated or not, is not
19 service.

20 (i) Service by a state employee officially assigned by the state on
21 a temporary basis to assist another public agency, shall be considered
22 as service as a state employee: PROVIDED, That service to any other
23 public agency shall not be considered service as a state employee if
24 such service has been used to establish benefits in any other public
25 retirement system.

26 (ii) An individual shall receive no more than a total of twelve
27 service credit months of service during any calendar year. If an
28 individual is employed in an eligible position by one or more employers
29 the individual shall receive no more than one service credit month
30 during any calendar month in which multiple service for seventy or more
31 hours is rendered.

32 (iii) A school district employee may count up to forty-five days of
33 sick leave as creditable service solely for the purpose of determining
34 eligibility to retire under RCW 41.40.180 as authorized by RCW
35 28A.400.300. For purposes of plan I "forty-five days" as used in RCW
36 28A.400.300 is equal to two service credit months. Use of less than
37 forty-five days of sick leave is creditable as allowed under this
38 subsection as follows:

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

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

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

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

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

19 (i) Service in any state elective position shall be deemed to be
20 full time service, except that persons serving in state elective
21 positions who are members of the teachers' retirement system or law
22 enforcement officers' and fire fighters' retirement system at the time
23 of election or appointment to such position may elect to continue
24 membership in the teachers' retirement system or law enforcement
25 officers' and fire fighters' retirement system.

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

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

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

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

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

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

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

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

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

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

14 (13) "Membership service" means:

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

16 (b) All service after October 1, 1947, to any employer prior to the
17 time of its admission into the retirement system: PROVIDED, That an
18 amount equal to the employer and employee contributions which would
19 have been paid to the retirement system on account of such service
20 shall have been paid to the retirement system with interest (as
21 computed by the department) on the employee's portion prior to
22 retirement of such person, by the employee or his or her employer,
23 except as qualified by RCW 41.40.023: PROVIDED FURTHER, That employer
24 contributions plus employee contributions with interest submitted by
25 the employee under this subsection shall be placed in the employee's
26 individual account in the employees' savings fund and be treated as any
27 other contribution made by the employee, with the exception that the
28 contributions submitted by the employee in payment of the employer's
29 obligation, together with the interest the director may apply to the
30 employer's contribution, shall be excluded from the calculation of the
31 member's annuity in the event the member selects a benefit with an
32 annuity option;

33 (c) Service not to exceed six consecutive months of probationary
34 service rendered after April 1, 1949, and prior to becoming a member,
35 in the case of any member, upon payment in full by such member of the
36 total amount of the employer's contribution to the retirement fund
37 which would have been required under the law in effect when such
38 probationary service was rendered if the member had been a member
39 during such period, except that the amount of the employer's

1 contribution shall be calculated by the director based on the first
2 month's compensation earnable as a member;

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

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

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

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

22 (17)(a) "Average final compensation" for plan I members, means the
23 annual average of the greatest compensation earnable by a member during
24 any consecutive two year period of service credit months for which
25 service credit is allowed; or if the member has less than two years of
26 service credit months then the annual average compensation earnable
27 during the total years of service for which service credit is allowed.

28 (b) "Average final compensation" for plan II members, means the
29 member's average compensation earnable of the highest consecutive sixty
30 months of service credit months prior to such member's retirement,
31 termination, or death. Periods constituting authorized leaves of
32 absence may not be used in the calculation of average final
33 compensation except under RCW 41.40.710(2).

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

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

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

4 (21) "Retirement allowance" means the sum of the annuity and the
5 pension.

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

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

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

13 (25) "Eligible position" means:

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

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

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

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

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

31 (29) "Retiree" means any person in receipt of a retirement
32 allowance or other benefit provided by this chapter resulting from
33 service rendered to an employer while a member. A person is in receipt
34 of a retirement allowance as defined in subsection (21) of this section
35 or other benefit as provided by this chapter when the department mails,
36 causes to be mailed, or otherwise transmits the retirement allowance
37 warrant.

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

1 (31) "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 (32) "State actuary" or "actuary" means the person appointed
5 pursuant to RCW 44.44.010(2).

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

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

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

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

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

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

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

23 **Sec. 6.** RCW 41.32.010 and 1994 c 298 s 3, 1994 c 247 s 2, and 1994
24 c 197 s 12 are each reenacted and amended to read as follows:

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

27 (1)(a) "Accumulated contributions" for plan I members, means the
28 sum of all regular annuity contributions and, except for the purpose of
29 withdrawal at the time of retirement, any amount paid under RCW
30 41.50.165(2) with regular interest thereon.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) If a leave of absence, without pay, is taken by a member for
37 the purpose of serving as a member of the state legislature, and such
38 member has served in the legislature five or more years, the salary
39 which would have been received for the position from which the leave of

1 absence was taken shall be considered as compensation earnable if the
2 employee's contribution thereon is paid by the employee. In addition,
3 where a member has been a member of the state legislature for five or
4 more years, earnable compensation for the member's two highest
5 compensated consecutive years of service shall include a sum not to
6 exceed thirty-six hundred dollars for each of such two consecutive
7 years, regardless of whether or not legislative service was rendered
8 during those two years.

9 (iii) For members employed less than full time under written
10 contract with a school district, or community college district, in an
11 instructional position, for which the member receives service credit of
12 less than one year in all of the years used to determine the earnable
13 compensation used for computing benefits due under RCW 41.32.497,
14 41.32.498, and 41.32.520, the member may elect to have earnable
15 compensation defined as provided in RCW 41.32.345. For the purposes of
16 this subsection, the term "instructional position" means a position in
17 which more than seventy-five percent of the member's time is spent as
18 a classroom instructor (including office hours), a librarian, or a
19 counselor. Earnable compensation shall be so defined only for the
20 purpose of the calculation of retirement benefits and only as necessary
21 to insure that members who receive fractional service credit under RCW
22 41.32.270 receive benefits proportional to those received by members
23 who have received full-time service credit.

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

25 (A) Remuneration for unused sick leave authorized under RCW
26 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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

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

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

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

19 (11) "Employer" means the state of Washington, the school district,
20 or any agency of the state of Washington by which the member is paid.
21 "Employer" also includes a nonprofit corporation created by the
22 department of information services and the office of financial
23 management under RCW 43.105.052, provided that an employee included
24 under this definition shall have been a member of the teachers'
25 retirement system prior to employment with the nonprofit corporation.

26 (12) "Fiscal year" means a year which begins July 1st and ends June
27 30th of the following year.

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

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

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

38 (16) "Membership service" means service rendered subsequent to the
39 first day of eligibility of a person to membership in the retirement

1 system: PROVIDED, That where a member is employed by two or more
2 employers the individual shall receive no more than one service credit
3 month during any calendar month in which multiple service is rendered.
4 The provisions of this subsection shall apply only to plan I members.

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

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

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

15 (20) "Prior service contributions" means contributions made by a
16 member to secure credit for prior service. The provisions of this
17 subsection shall apply only to plan I members.

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

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

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

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

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

33 (25) "Retirement system" means the Washington state teachers'
34 retirement system.

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

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

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

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

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

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

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

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

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

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

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

34 (iv) Any person who is a member of the teachers' retirement system
35 and who is elected or appointed to a state elective position may
36 continue to be a member of the retirement system and continue to
37 receive a service credit month for each of the months in a state
38 elective position by making the required member contributions.

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

5 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
6 sick leave may be creditable as service solely for the purpose of
7 determining eligibility to retire under RCW 41.32.470. For purposes of
8 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two
9 service credit months. Use of less than forty-five days of sick leave
10 is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

23 (viii) The department shall adopt rules implementing this
24 subsection.

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

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

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

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

1 or death. Periods constituting authorized leaves of absence may not be
2 used in the calculation of average final compensation except under RCW
3 41.32.810(2).

4 (31) "Retiree" means any person in receipt of a retirement
5 allowance or other benefit provided by this chapter resulting from
6 service rendered to an employer while a member. A person is in receipt
7 of a retirement allowance as defined in subsection (24) of this section
8 or other benefit as provided by this chapter when the department mails,
9 causes to be mailed, or otherwise transmits the retirement allowance
10 warrant.

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

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

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

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

19 (36) "Substitute teacher" means:

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

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

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

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

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

37 (d) The elected position of the superintendent of public
38 instruction is an eligible position.

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

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

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

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

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

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

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

18 **Sec. 7.** RCW 39.34.020 and 1985 c 33 s 1 are each amended to read
19 as follows:

20 For the purposes of this chapter, the term "public agency" shall
21 mean any agency, political subdivision, or unit of local government of
22 this state including, but not limited to, municipal corporations, quasi
23 municipal corporations, special purpose districts, and local service
24 districts; any agency of the state government; any agency of the United
25 States; any Indian tribe recognized as such by the federal government;
26 ~~((and))~~ any political subdivision of another state; and the nonprofit
27 corporation established under RCW 43.105.052(13).

28 The term "state" shall mean a state of the United States.

29 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and shall take
32 effect immediately.

--- END ---