
SENATE BILL 5970

State of Washington 54th Legislature 1995 Regular Session

By Senators Fraser, Roach, Pelz, Prentice, Winsley, Heavey and Hargrove

Read first time 02/20/95. Referred to Committee on Ways & Means.

1 AN ACT Relating to membership in the law enforcement officers' and
2 fire fighters' retirement system for law enforcement officers employed
3 by the state liquor control board or the state parks and recreation
4 commission; amending RCW 41.54.010; reenacting and amending RCW
5 41.26.030 and 41.54.040; adding a new section to chapter 41.40 RCW; and
6 providing an effective date.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.40 RCW
9 to read as follows:

10 (1) An employee who was a member on or before July 1, 1996, and, on
11 July 1, 1996, is employed by the Washington state liquor control board
12 or the state parks and recreation commission as a law enforcement
13 officer as defined in RCW 41.26.030, has the following options:

14 (a) The employee may remain a member of the retirement system,
15 notwithstanding the definition of law enforcement officer under RCW
16 41.26.030; or

17 (b) The member may make an irrevocable choice, filed in writing
18 with the department no later than July 1, 1997, to transfer to the law
19 enforcement officers' and fire fighters' retirement system under plan

1 I or plan II as defined in RCW 41.26.030. An employee transferring
2 membership under this subsection (1)(b) shall be a dual member as
3 provided in RCW 41.54.010.

4 (c)(i) Except under (c)(ii) of this subsection, a member of the
5 retirement system plan I or plan II may only transfer to the law
6 enforcement officers' and fire fighters' retirement system plan I or
7 plan II, respectively.

8 (ii) A law enforcement officer under this section who became an
9 employee after July 1, 1996, is a member of the law enforcement
10 officers' and fire fighters' retirement system plan II, unless he or
11 she earned service in the law enforcement officers' and fire fighters'
12 retirement system plan I or the retirement system plan I prior to
13 October 1, 1977.

14 (2)(a) If the department determines that transfers of service
15 credit and accumulated contributions between the state's retirement
16 systems are permitted by federal law without the employee or the
17 retirement system fund incurring adverse income tax liability as a
18 result of the transfer, an employee who transferred membership under
19 subsection (1)(b) of this section may choose to transfer service credit
20 as a law enforcement officer previously earned under the retirement
21 system, to the law enforcement officers' and fire fighters' retirement
22 system, by making an irrevocable choice filed in writing with the
23 department within one year of the department's announcement of the
24 ability to make such a transfer.

25 (b) Any law enforcement officer choosing to transfer under this
26 subsection shall have transferred from the retirement system to the law
27 enforcement officers' and fire fighters' retirement system: (i) All
28 the employee's applicable accumulated contributions and employer
29 contributions attributed to such employee; and (ii) all applicable
30 months of service, as defined in RCW 41.26.030, credited to the
31 employee under this chapter, as though such service was rendered as a
32 member of the law enforcement officers' and fire fighters' retirement
33 system.

34 (c) For the applicable period of service, the employee shall pay
35 the difference between the contributions such employee paid to the
36 retirement system, and the contributions which would have been paid by
37 the employee had the employee been a member of the law enforcement
38 officers' and fire fighters' retirement system, plus interest as
39 determined by the director.

1 (d) For the applicable period of service, the employer shall pay
2 the difference between the employer contributions paid to the
3 retirement system, and the combined employer and state contributions
4 which would have been payable to the law enforcement officers' and fire
5 fighters' retirement system, plus interest as determined by the
6 director. The amount of interest determined by the director to be paid
7 by the employer shall be sufficient to ensure that the contribution
8 level of current members of the law enforcement officers' and fire
9 fighters' retirement system will not increase due to this transfer.
10 For the purpose of this subsection (2)(d), the state contribution shall
11 not include the contribution related to the amortization of the costs
12 of the law enforcement officers' and fire fighters' retirement system
13 plan I as required by chapter 41.45 RCW.

14 (e) An individual who transfers service credit and contributions
15 under this subsection shall be permanently excluded from the retirement
16 system for all service as a law enforcement officer.

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

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

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

23 (2)(a)(i) "Employer" for plan I members, means the legislative
24 authority of any city, town, county, or district or the elected
25 officials of any municipal corporation that employs any law enforcement
26 officer and/or fire fighter, any authorized association of such
27 municipalities, and, except for the purposes of RCW 41.26.150, any
28 labor guild, association, or organization, which represents the fire
29 fighters or law enforcement officers of at least seven cities of over
30 20,000 population and the membership of each local lodge or division of
31 which is composed of at least sixty percent law enforcement officers or
32 fire fighters as defined in this chapter.

33 (ii) "Employer" for plan I members, also means the state liquor
34 control board and the state parks and recreation commission.

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

1 (i) The legislative authority of any city, town, county, or
2 district;

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

4 (iii) The governing body of any other general authority law
5 enforcement agency.

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

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

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

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

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

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

1 (f) The term "law enforcement officer" also includes a person
2 employed as a commissioned liquor enforcement officer by the liquor
3 control board and a park ranger employed by the state parks and
4 recreation commission.

5 (4) "Fire fighter" means:

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

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

12 (c) Supervisory fire fighter personnel;

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

16 (e) The executive secretary of a labor guild, association or
17 organization (which is an employer under RCW 41.26.030(2) as now or
18 hereafter amended), if such individual has five years previous
19 membership in a retirement system established in chapter 41.16 or 41.18
20 RCW. The provisions of this subsection (4)(e) shall not apply to plan
21 II members;

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

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

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

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

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

39 (i) A natural born child;

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

3 (iii) A posthumous child;

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

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

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

15 (8) "Member" means any fire fighter, law enforcement officer, or
16 other person as would apply under subsections (3) or (4) of this
17 section whose membership is transferred to the Washington law
18 enforcement officers' and fire fighters' retirement system on or after
19 March 1, 1970, and every law enforcement officer and fire fighter who
20 is employed in that capacity on or after such date.

21 (9) "Retirement fund" means the "Washington law enforcement
22 officers' and fire fighters' retirement system fund" as provided for
23 herein.

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

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

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

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

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

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

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

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

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

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

36 (14)(a) "Service" for plan I members, means all periods of
37 employment for an employer as a fire fighter or law enforcement
38 officer, for which compensation is paid, together with periods of
39 suspension not exceeding thirty days in duration. For the purposes of

1 this chapter service shall also include service in the armed forces of
2 the United States as provided in RCW 41.26.190. Credit shall be
3 allowed for all service credit months of service rendered by a member
4 from and after the member's initial commencement of employment as a
5 fire fighter or law enforcement officer, during which the member worked
6 for seventy or more hours, or was on disability leave or disability
7 retirement. Only service credit months of service shall be counted in
8 the computation of any retirement allowance or other benefit provided
9 for in this chapter.

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

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

25 (b) "Service" for plan II members, means periods of employment by
26 a member for one or more employers for which basic salary is earned for
27 ninety or more hours per calendar month which shall constitute a
28 service credit month. Periods of employment by a member for one or
29 more employers for which basic salary is earned for at least seventy
30 hours but less than ninety hours per calendar month shall constitute
31 one-half service credit month. Periods of employment by a member for
32 one or more employers for which basic salary is earned for less than
33 seventy hours shall constitute a one-quarter service credit month.

34 Members of the retirement system who are elected or appointed to a
35 state elective position may elect to continue to be members of this
36 retirement system.

37 Service credit years of service shall be determined by dividing the
38 total number of service credit months of service by twelve. Any
39 fraction of a service credit year of service as so determined shall be

1 taken into account in the computation of such retirement allowance or
2 benefits.

3 If a member receives basic salary from two or more employers during
4 any calendar month, the individual shall receive one service credit
5 month's service credit during any calendar month in which multiple
6 service for ninety or more hours is rendered; or one-half service
7 credit month's service credit during any calendar month in which
8 multiple service for at least seventy hours but less than ninety hours
9 is rendered; or one-quarter service credit month during any calendar
10 month in which multiple service for less than seventy hours is
11 rendered.

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

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

20 (17) "Actuarial valuation" means a mathematical determination of
21 the financial condition of a retirement plan. It includes the
22 computation of the present monetary value of benefits payable to
23 present members, and the present monetary value of future employer and
24 employee contributions, giving effect to mortality among active and
25 retired members and also to the rates of disability, retirement,
26 withdrawal from service, salary and interest earned on investments.

27 (18) "Disability board" for plan I members means either the county
28 disability board or the city disability board established in RCW
29 41.26.110.

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

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

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

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

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

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

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

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

14 (i) The fees of the following:

15 (A) A physician or surgeon licensed under the provisions of chapter
16 18.71 RCW;

17 (B) An osteopath licensed under the provisions of chapter 18.57
18 RCW;

19 (C) A chiropractor licensed under the provisions of chapter 18.25
20 RCW.

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

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

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

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

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

28 (D) Anesthesia and oxygen;

29 (E) Rental of iron lung and other durable medical and surgical
30 equipment;

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

32 (G) Professional ambulance service when used to transport the
33 member to or from a hospital when injured by an accident or stricken by
34 a disease;

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

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

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

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

3 (L) An optometrist licensed under the provisions of chapter 18.53
4 RCW.

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

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

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

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

14 (27) "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 (28) "Plan I" means the law enforcement officers' and fire
18 fighters' retirement system, plan I providing the benefits and funding
19 provisions covering persons who first became members of the system
20 prior to October 1, 1977.

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

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

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

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

1 violating the traffic or criminal laws relating to limited subject
2 areas, including but not limited to, the state departments of natural
3 resources, fish and wildlife, and social and health services, the state
4 gambling commission, the state lottery commission, (~~the state parks
5 and recreation commission,~~) the state utilities and transportation
6 commission, (~~the state liquor control board,~~) and the state
7 department of corrections.

8 **Sec. 3.** RCW 41.54.010 and 1993 c 517 s 8 are each amended to read
9 as follows:

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

12 (1) "Base salary" means salaries or wages earned by a member of a
13 system during a payroll period for personal services and includes wages
14 and salaries deferred under provisions of the United States internal
15 revenue code, but shall exclude overtime payments, nonmoney maintenance
16 compensation, and lump sum payments for deferred annual sick leave,
17 unused accumulated vacation, unused accumulated annual leave, any form
18 of severance pay, any bonus for voluntary retirement, any other form of
19 leave, or any similar lump sum payment.

20 (2) "Department" means the department of retirement systems.

21 (3) "Director" means the director of the department of retirement
22 systems.

23 (4) "Dual member" means a person who (a) is or becomes a member of
24 a system on or after July 1, 1988, (b) has been a member of one or more
25 other systems, and (c) has never been retired for service from a
26 retirement system and is not receiving a disability retirement or
27 disability leave benefit from any retirement system listed in RCW
28 41.50.030 or subsection (6) of this section.

29 (5) "Service" means the same as it may be defined in each
30 respective system. For the purposes of RCW 41.54.030, military service
31 granted under RCW 41.40.170(3) or 43.43.260 may only be based on
32 service accrued under chapter 41.40 or 43.43 RCW, respectively.

33 (6) "System" means the retirement systems established under
34 chapters 41.26, 41.32, 41.40, 41.44, and 43.43 RCW; (~~plan II of the
35 system established under chapter 41.26 RCW;~~) and the city employee
36 retirement systems for Seattle, Tacoma, and Spokane. The inclusion of
37 an individual first class city system is subject to the procedure set
38 forth in RCW 41.54.061.

1 **Sec. 4.** RCW 41.54.040 and 1993 c 519 s 16 and 1993 c 517 s 9 are
2 each reenacted and amended to read as follows:

3 (1) The retirement allowances calculated under RCW 41.54.030 shall
4 be paid separately by each respective current and prior system. Any
5 deductions from such separate payments shall be according to the
6 provisions of the respective systems.

7 (2) Postretirement adjustments, if any, shall be applied by the
8 respective systems based on the payments made under subsection (1) of
9 this section.

10 (3) If a dual member dies in service in any system, the surviving
11 spouse shall receive the same benefit from each system that would have
12 been received if the member were active in the system at the time of
13 death based on service actually established in that system. However,
14 this subsection does not make a surviving spouse eligible for the
15 survivor benefits provided in RCW 43.43.270.

16 (4) The department shall adopt rules under chapter 34.05 RCW to
17 ensure that where a dual member has service in a system established
18 under chapter 41.26, 41.32, 41.40, 41.44, or 43.43 RCW; (~~service in~~
19 ~~plan II of the system established under chapter 41.26 RCW;~~) and
20 service under the city employee retirement system for Seattle, Tacoma,
21 or Spokane, the additional cost incurred as a result of the dual member
22 receiving a benefit under this chapter shall be borne by the retirement
23 system incurring the additional cost.

24 NEW SECTION. **Sec. 5.** This act shall take effect July 1, 1996.

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