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SENATE BILL 6233

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State of Washington

54th Legislature

1996 Regular Session

By Senators Long and Oke; by request of Department of Retirement Systems

Read first time 01/09/96. Referred to Committee on Ways & Means.

1 AN ACT Relating to implementing the military service credit  
2 requirements of the federal uniformed services employment and  
3 reemployment act; amending RCW 41.26.520, 41.32.810, 41.32.865, and  
4 41.40.710; and providing an effective date.

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

6 **Sec. 1.** RCW 41.26.520 and 1994 c 197 s 10 are each amended to read  
7 as follows:

8 (1) A member who is on a paid leave of absence authorized by a  
9 member's employer shall continue to receive service credit as provided  
10 for under the provisions of RCW 41.26.410 through 41.26.550.

11 (2) A member who receives compensation from an employer while on an  
12 authorized leave of absence to serve as an elected official of a labor  
13 organization, and whose employer is reimbursed by the labor  
14 organization for the compensation paid to the member during the period  
15 of absence, may also be considered to be on a paid leave of absence.  
16 This subsection shall only apply if the member's leave of absence is  
17 authorized by a collective bargaining agreement that provides that the  
18 member retains seniority rights with the employer during the period of  
19 leave. The basic salary reported for a member who establishes service

1 credit under this subsection may not be greater than the salary paid to  
2 the highest paid job class covered by the collective bargaining  
3 agreement.

4 (3) Except as specified in subsection (6) of this section, a member  
5 shall be eligible to receive a maximum of two years service credit  
6 during a member's entire working career for those periods when a member  
7 is on an unpaid leave of absence authorized by an employer. Such  
8 credit may be obtained only if the member makes the employer, member,  
9 and state contributions plus interest as determined by the department  
10 for the period of the authorized leave of absence within five years of  
11 resumption of service or prior to retirement whichever comes sooner.

12 (4) If a member fails to meet the time limitations of subsection  
13 (3) of this section, the member may receive a maximum of two years of  
14 service credit during a member's working career for those periods when  
15 a member is on unpaid leave of absence authorized by an employer. This  
16 may be done by paying the amount required under RCW 41.50.165(2) prior  
17 to retirement.

18 (5) For the purpose of subsection (3) of this section the  
19 contribution shall not include the contribution for the unfunded  
20 supplemental present value as required by RCW 41.26.450. The  
21 contributions required shall be based on the average of the member's  
22 basic salary at both the time the authorized leave of absence was  
23 granted and the time the member resumed employment.

24 (6) A member who leaves the employ of an employer to enter the  
25 armed forces of the United States shall be entitled to retirement  
26 system service credit for up to ~~((four))~~ five years of military  
27 service. This subsection shall be administered in a manner consistent  
28 with the requirements of the federal uniformed services employment and  
29 reemployment rights act.

30 (a) The member qualifies for service credit under this subsection  
31 if:

32 (i) Within ninety days of the member's honorable discharge from the  
33 United States armed forces, the member applies for reemployment with  
34 the employer who employed the member immediately prior to the member  
35 entering the United States armed forces; and

36 (ii) The member makes the employee contributions required under RCW  
37 41.26.450 ~~((plus interest as determined by the department))~~ within five  
38 years of resumption of service or prior to retirement, whichever comes  
39 sooner; or

1 (iii) Prior to retirement and not within ninety days of the  
2 member's honorable discharge or five years of resumption of service the  
3 member pays the amount required under RCW 41.50.165(2).

4 (b) Upon receipt of member contributions under (a)(ii) of this  
5 subsection, the department shall establish the member's service credit  
6 and shall bill the employer and the state for their respective  
7 contributions required under RCW 41.26.450 for the period of military  
8 service, plus interest as determined by the department.

9 (c) The contributions required under (a)(ii) of this subsection  
10 shall be based on the ~~((average of the member's basic salary at both~~  
11 ~~the time the member left the employ of the employer to enter the armed~~  
12 ~~forces and the time the member resumed employment))~~ compensation the  
13 member would have earned if not on leave, or if that cannot be  
14 estimated with reasonable certainty, the compensation reported for the  
15 member in the year prior to when the member went on military leave.

16 (7) A member receiving benefits under Title 51 RCW who is not  
17 receiving benefits under this chapter shall be deemed to be on unpaid,  
18 authorized leave of absence.

19 **Sec. 2.** RCW 41.32.810 and 1994 c 197 s 20 are each amended to read  
20 as follows:

21 (1) A member who is on a paid leave of absence authorized by a  
22 member's employer shall continue to receive service credit as provided  
23 for under the provisions of RCW 41.32.755 through 41.32.825.

24 (2) A member who receives compensation from an employer while on an  
25 authorized leave of absence to serve as an elected official of a labor  
26 organization, and whose employer is reimbursed by the labor  
27 organization for the compensation paid to the member during the period  
28 of absence, may also be considered to be on a paid leave of absence.  
29 This subsection shall only apply if the member's leave of absence is  
30 authorized by a collective bargaining agreement that provides that the  
31 member retains seniority rights with the employer during the period of  
32 leave. The earnable compensation reported for a member who establishes  
33 service credit under this subsection may not be greater than the salary  
34 paid to the highest paid job class covered by the collective bargaining  
35 agreement.

36 (3) Except as specified in subsection (6) of this section, a member  
37 shall be eligible to receive a maximum of two years service credit  
38 during a member's entire working career for those periods when a member

1 is on an unpaid leave of absence authorized by an employer. Such  
2 credit may be obtained only if the member makes both the employer and  
3 member contributions plus interest as determined by the department for  
4 the period of the authorized leave of absence within five years of  
5 resumption of service or prior to retirement whichever comes sooner.

6 (4) If a member fails to meet the time limitations of subsection  
7 (3) of this section, the member may receive a maximum of two years of  
8 service credit during a member's working career for those periods when  
9 a member is on unpaid leave of absence authorized by an employer. This  
10 may be done by paying the amount required under RCW 41.50.165(2) prior  
11 to retirement.

12 (5) For the purpose of subsection (3) of this section, the  
13 contribution shall not include the contribution for the unfunded  
14 supplemental present value as required by RCW 41.32.775. The  
15 contributions required shall be based on the average of the member's  
16 earnable compensation at both the time the authorized leave of absence  
17 was granted and the time the member resumed employment.

18 (6) A member who leaves the employ of an employer to enter the  
19 armed forces of the United States shall be entitled to retirement  
20 system service credit for up to (~~four~~) five years of military  
21 service. This subsection shall be administered in a manner consistent  
22 with the requirements of the federal uniformed services employment and  
23 reemployment rights act.

24 (a) The member qualifies for service credit under this subsection  
25 if:

26 (i) Within ninety days of the member's honorable discharge from the  
27 United States armed forces, the member applies for reemployment with  
28 the employer who employed the member immediately prior to the member  
29 entering the United States armed forces; and

30 (ii) The member makes the employee contributions required under RCW  
31 41.32.775 (~~plus interest as determined by the department~~) within five  
32 years of resumption of service or prior to retirement, whichever comes  
33 sooner; or

34 (iii) Prior to retirement and not within ninety days of the  
35 member's honorable discharge or five years of resumption of service the  
36 member pays the amount required under RCW 41.50.165(2).

37 (b) Upon receipt of member contributions under (a)(ii) of this  
38 subsection, the department shall establish the member's service credit  
39 and shall bill the employer for its contribution required under RCW

1 41.32.775 for the period of military service, plus interest as  
2 determined by the department.

3 (c) The contributions required under (a)(ii) of this subsection  
4 shall be based on the ~~((average of the member's earnable compensation~~  
5 ~~at both the time the member left the employ of the employer to enter~~  
6 ~~the armed forces and the time the member resumed employment))~~  
7 compensation the member would have earned if not on leave, or if that  
8 cannot be estimated with reasonable certainty, the compensation  
9 reported for the member in the year prior to when the member went on  
10 military leave.

11 **Sec. 3.** RCW 41.32.865 and 1995 c 239 s 111 are each amended to  
12 read as follows:

13 (1) A member who is on a paid leave of absence authorized by a  
14 member's employer shall continue to receive service credit.

15 (2) A member who receives compensation from an employer while on an  
16 authorized leave of absence to serve as an elected official of a labor  
17 organization, and whose employer is reimbursed by the labor  
18 organization for the compensation paid to the member during the period  
19 of absence, may also be considered to be on a paid leave of absence.  
20 This subsection shall only apply if the member's leave of absence is  
21 authorized by a collective bargaining agreement that provides that the  
22 member retains seniority rights with the employer during the period of  
23 leave. The earnable compensation reported for a member who establishes  
24 service credit under this subsection may not be greater than the salary  
25 paid to the highest paid job class covered by the collective bargaining  
26 agreement.

27 (3) Except as specified in subsection (4) of this section, a member  
28 shall be eligible to receive a maximum of two years service credit  
29 during a member's entire working career for those periods when a member  
30 is on an unpaid leave of absence authorized by an employer. Such  
31 credit may be obtained only if:

32 (a) The member makes the contribution on behalf of the employer,  
33 plus interest, as determined by the department; and

34 (b) The member makes the employee contribution, plus interest, as  
35 determined by the department, to the defined contribution portion.

36 The contributions required shall be based on the average of the  
37 member's earnable compensation at both the time the authorized leave of  
38 absence was granted and the time the member resumed employment.

1 (4) A member who leaves the employ of an employer to enter the  
2 armed forces of the United States shall be entitled to retirement  
3 system service credit for up to (~~four~~) five years of military service  
4 if within ninety days of the member's honorable discharge from the  
5 United States armed forces, the member applies for reemployment with  
6 the employer who employed the member immediately prior to the member  
7 entering the United States armed forces. This subsection shall be  
8 administered in a manner consistent with the requirements of the  
9 federal uniformed services employment and reemployment rights act.

10 The department shall establish the member's service credit and  
11 shall bill the employer for its contribution required under chapter  
12 239, Laws of 1995 for the period of military service, plus interest as  
13 determined by the department. Service credit under this subsection may  
14 be obtained only if the member makes the employee contribution (~~plus~~  
15 interest)) to the defined contribution portion as determined by the  
16 department.

17 The contributions required shall be based on the (~~average of the~~  
18 ~~member's earnable compensation at both the time the member left the~~  
19 ~~employ of the employer to enter the armed forces and the time the~~  
20 ~~member resumed employment)) compensation the member would have earned  
21 if not on leave, or if that cannot be estimated with reasonable  
22 certainty, the compensation reported for the member in the year prior  
23 to when the member went on military leave.~~

24 **Sec. 4.** RCW 41.40.710 and 1994 c 197 s 28 are each amended to read  
25 as follows:

26 (1) A member who is on a paid leave of absence authorized by a  
27 member's employer shall continue to receive service credit as provided  
28 for under the provisions of RCW 41.40.610 through 41.40.740.

29 (2) A member who receives compensation from an employer while on an  
30 authorized leave of absence to serve as an elected official of a labor  
31 organization, and whose employer is reimbursed by the labor  
32 organization for the compensation paid to the member during the period  
33 of absence, may also be considered to be on a paid leave of absence.  
34 This subsection shall only apply if the member's leave of absence is  
35 authorized by a collective bargaining agreement that provides that the  
36 member retains seniority rights with the employer during the period of  
37 leave. The compensation earnable reported for a member who establishes  
38 service credit under this subsection may not be greater than the salary

1 paid to the highest paid job class covered by the collective bargaining  
2 agreement.

3 (3) Except as specified in subsection (4) of this section, a member  
4 shall be eligible to receive a maximum of two years service credit  
5 during a member's entire working career for those periods when a member  
6 is on an unpaid leave of absence authorized by an employer. Such  
7 credit may be obtained only if:

8 (a) The member makes both the plan II employer and member  
9 contributions plus interest as determined by the department for the  
10 period of the authorized leave of absence within five years of  
11 resumption of service or prior to retirement whichever comes sooner; or

12 (b) If not within five years of resumption of service but prior to  
13 retirement, pay the amount required under RCW 41.50.165(2).

14 The contributions required under (a) of this subsection shall be  
15 based on the average of the member's compensation earnable at both the  
16 time the authorized leave of absence was granted and the time the  
17 member resumed employment.

18 (4) A member who leaves the employ of an employer to enter the  
19 armed forces of the United States shall be entitled to retirement  
20 system service credit for up to (~~four~~) five years of military  
21 service. This subsection shall be administered in a manner consistent  
22 with the requirements of the federal uniformed services employment and  
23 reemployment rights act.

24 (a) The member qualifies for service credit under this subsection  
25 if:

26 (i) Within ninety days of the member's honorable discharge from the  
27 United States armed forces, the member applies for reemployment with  
28 the employer who employed the member immediately prior to the member  
29 entering the United States armed forces; and

30 (ii) The member makes the employee contributions required under RCW  
31 41.40.650 (~~plus interest as determined by the department~~) within five  
32 years of resumption of service or prior to retirement, whichever comes  
33 sooner; or

34 (iii) Prior to retirement and not within ninety days of the  
35 member's honorable discharge or five years of resumption of service the  
36 member pays the amount required under RCW 41.50.165(2).

37 (b) Upon receipt of member contributions under (a)(ii) of this  
38 subsection, the department shall establish the member's service credit  
39 and shall bill the employer for its contribution required under RCW

1 41.40.650 for the period of military service, plus interest as  
2 determined by the department.

3 (c) The contributions required under (a)(ii) of this subsection  
4 shall be based on the ~~((average of the member's compensation earnable  
5 at both the time the member left the employ of the employer to enter  
6 the armed forces and the time the member resumed employment))~~  
7 compensation the member would have earned if not on leave, or if that  
8 cannot be estimated with reasonable certainty, the compensation  
9 reported for the member in the year prior to when the member went on  
10 military leave.

11 NEW SECTION. **Sec. 5.** Section 3 of this act shall take effect July  
12 1, 1996.

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