
HOUSE BILL 2196

State of Washington 55th Legislature 1997 Regular Session

By Representatives Costa, Cooper, Carrell, O'Brien, Blalock and Sullivan

Read first time 02/26/97. Referred to Committee on Appropriations.

1 AN ACT Relating to access to the retirement system for substitute
2 and temporary school employees; amending RCW 41.56.030; reenacting and
3 amending RCW 41.40.010 and 41.40.023; adding a new section to chapter
4 41.40 RCW; and adding a new section to chapter 41.56 RCW.

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

6 **Sec. 1.** RCW 41.40.010 and 1995 c 345 s 10, 1995 c 286 s 1, and
7 1995 c 244 s 3 are each reenacted and amended to read as follows:

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

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

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

14 (3) "State treasurer" means the treasurer of the state of
15 Washington.

16 (4)(a) "Employer" for plan I members, means every branch,
17 department, agency, commission, board, and office of the state, any
18 political subdivision or association of political subdivisions of the
19 state admitted into the retirement system, and legal entities

1 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
2 term shall also include any labor guild, association, or organization
3 the membership of a local lodge or division of which is comprised of at
4 least forty percent employees of an employer (other than such labor
5 guild, association, or organization) within this chapter. The term may
6 also include any city of the first class that has its own retirement
7 system.

8 (b) "Employer" for plan II members, means every branch, department,
9 agency, commission, board, and office of the state, and any political
10 subdivision and municipal corporation of the state admitted into the
11 retirement system, including public agencies created pursuant to RCW
12 35.63.070, 36.70.060, and 39.34.030.

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

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

19 (a) Any person who became a member of the system prior to April 1,
20 1949;

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

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

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

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

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

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

12 (8)(a) "Compensation earnable" for plan I members, means salaries
13 or wages earned during a payroll period for personal services and where
14 the compensation is not all paid in money, maintenance compensation
15 shall be included upon the basis of the schedules established by the
16 member's employer.

17 (i) "Compensation earnable" for plan I members also includes the
18 following actual or imputed payments, which are not paid for personal
19 services:

20 (A) Retroactive payments to an individual by an employer on
21 reinstatement of the employee in a position, or payments by an employer
22 to an individual in lieu of reinstatement in a position which are
23 awarded or granted as the equivalent of the salary or wage which the
24 individual would have earned during a payroll period shall be
25 considered compensation earnable and the individual shall receive the
26 equivalent service credit;

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

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

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

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; and

4 (F) Compensation that a member receives for being in standby
5 status. For the purposes of this section, a member is in standby
6 status when not being paid for time actually worked and the employer
7 requires the member to be prepared to report immediately for work, if
8 the need arises, although the need may not arise. Standby compensation
9 is regular salary for the purposes of RCW 41.50.150(2).

10 (ii) "Compensation earnable" does not include:

11 (A) Remuneration for unused sick leave authorized under RCW
12 41.04.340, 28A.400.210, or 28A.310.490;

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

15 (b) "Compensation earnable" for plan II members, means salaries or
16 wages earned by a member during a payroll period for personal services,
17 including overtime payments, and shall include wages and salaries
18 deferred under provisions established pursuant to sections 403(b),
19 414(h), and 457 of the United States Internal Revenue Code, but shall
20 exclude nonmoney maintenance compensation and lump sum or other
21 payments for deferred annual sick leave, unused accumulated vacation,
22 unused accumulated annual leave, or any form of severance pay.

23 "Compensation earnable" for plan II members also includes the
24 following actual or imputed payments, which are not paid for personal
25 services:

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

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

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

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

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

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

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

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

14 (vi) Compensation that a member receives for being in standby
15 status. For the purposes of this section, a member is in standby
16 status when not being paid for time actually worked and the employer
17 requires the member to be prepared to report immediately for work, if
18 the need arises, although the need may not arise. Standby compensation
19 is regular salary for the purposes of RCW 41.50.150(2).

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

36 (i) Service by a state employee officially assigned by the state on
37 a temporary basis to assist another public agency, shall be considered
38 as service as a state employee: PROVIDED, That service to any other
39 public agency shall not be considered service as a state employee if

1 such service has been used to establish benefits in any other public
2 retirement system.

3 (ii) An individual shall receive no more than a total of twelve
4 service credit months of service during any calendar year. If an
5 individual is employed in an eligible position by one or more employers
6 the individual shall receive no more than one service credit month
7 during any calendar month in which multiple service for seventy or more
8 hours is rendered.

9 (iii) A school district employee may count up to forty-five days of
10 sick leave as creditable service solely for the purpose of determining
11 eligibility to retire under RCW 41.40.180 as authorized by RCW
12 28A.400.300. For purposes of plan I "forty-five days" as used in RCW
13 28A.400.300 is equal to two service credit months. Use of less than
14 forty-five days of sick leave is creditable as allowed under this
15 subsection as follows:

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

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

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

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

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

34 (i) Service in any state elective position shall be deemed to be
35 full time service, except that persons serving in state elective
36 positions who are members of the teachers' retirement system or law
37 enforcement officers' and fire fighters' retirement system at the time
38 of election or appointment to such position may elect to continue

1 membership in the teachers' retirement system or law enforcement
2 officers' and fire fighters' retirement system.

3 (ii) A member shall receive a total of not more than twelve service
4 credit months of service for such calendar year. If an individual is
5 employed in an eligible position by one or more employers the
6 individual shall receive no more than one service credit month during
7 any calendar month in which multiple service for ninety or more hours
8 is rendered.

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

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

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

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

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

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

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

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

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

29 (13) "Membership service" means:

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

31 (b) All service after October 1, 1947, to any employer prior to the
32 time of its admission into the retirement system for which member and
33 employer contributions, plus interest as required by RCW 41.50.125,
34 have been paid under RCW 41.40.056 or 41.40.057;

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

1 probationary service was rendered if the member had been a member
2 during such period, except that the amount of the employer's
3 contribution shall be calculated by the director based on the first
4 month's compensation earnable as a member;

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

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

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

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

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

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

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

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

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

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

7 (21) "Retirement allowance" means the sum of the annuity and the
8 pension.

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

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

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

16 (25) "Eligible position" means:

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

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

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

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

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

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

1 causes to be mailed, or otherwise transmits the retirement allowance
2 warrant.

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

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

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

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

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

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

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

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

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

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

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

29 (41) "Substitute classified school employees" means a classified
30 employee in an ineligible position.

31 NEW SECTION. Sec. 2. A new section is added to chapter 41.40 RCW
32 under the subchapter heading "provisions applicable to plan I and plan
33 II" to read as follows:

34 Substitute classified school employees may apply to the department
35 to receive service credit or credit for earnable compensation or both
36 after the end of the last day of instruction of the school year during
37 which the service was performed.

38 (1) The application must:

1 (a) Include a list of the employers the substitute classified
2 school employees have worked for;

3 (b) Include proof of hours worked and compensation earned; and

4 (c) Be made prior to retirement.

5 (2) If the department accepts the substitute classified school
6 employees' application for service credit, the substitute classified
7 school employees may obtain service credit by paying the required
8 contribution to the retirement system. The employer must pay the
9 required employer contribution upon notice from the department that the
10 substitute classified school employees have made contributions under
11 this section.

12 (3) The department shall charge interest prospectively on employee
13 contributions that are submitted under this section more than six
14 months after the end of the school year, as defined in RCW 28A.150.040,
15 for which the substitute classified school employees are seeking
16 service credit. The interest rate charged to the employee shall take
17 into account interest lost on employer contributions delayed for more
18 than six months after the end of the school year.

19 (4) Each employer shall quarterly notify each substitute classified
20 school employee it has employed during the school year of the number of
21 hours worked by, and the compensation paid to, the substitute
22 classified school employee.

23 (5) The department shall adopt rules implementing this section.

24 (6) If a substitute classified school employee as defined in RCW
25 41.32.010 applies to the department under this section for credit for
26 earnable compensation earned from an employer the substitute classified
27 school employee must make contributions for all periods of service for
28 that employer.

29 **Sec. 3.** RCW 41.40.023 and 1994 c 298 s 8 and 1994 c 197 s 24 are
30 each reenacted and amended to read as follows:

31 Membership in the retirement system shall consist of all regularly
32 compensated employees and appointive and elective officials of
33 employers, as defined in this chapter, with the following exceptions:

34 (1) Persons in ineligible positions, except for substitute
35 classified school employees;

36 (2) Employees of the legislature except the officers thereof
37 elected by the members of the senate and the house and legislative

1 committees, unless membership of such employees be authorized by the
2 said committee;

3 (3)(a) Persons holding elective offices or persons appointed
4 directly by the governor: PROVIDED, That such persons shall have the
5 option of applying for membership during such periods of employment:
6 AND PROVIDED FURTHER, That any persons holding or who have held
7 elective offices or persons appointed by the governor who are members
8 in the retirement system and who have, prior to becoming such members,
9 previously held an elective office, and did not at the start of such
10 initial or successive terms of office exercise their option to become
11 members, may apply for membership to be effective during such term or
12 terms of office, and shall be allowed to establish the service credit
13 applicable to such term or terms of office upon payment of the employee
14 contributions therefor by the employee with interest as determined by
15 the director and employer contributions therefor by the employer or
16 employee with interest as determined by the director: AND PROVIDED
17 FURTHER, That all contributions with interest submitted by the employee
18 under this subsection shall be placed in the employee's individual
19 account in the employee's savings fund and be treated as any other
20 contribution made by the employee, with the exception that any
21 contributions submitted by the employee in payment of the employer's
22 obligation, together with the interest the director may apply to the
23 employer's contribution, shall not be considered part of the member's
24 annuity for any purpose except withdrawal of contributions;

25 (b) A member holding elective office who has elected to apply for
26 membership pursuant to (a) of this subsection and who later wishes to
27 be eligible for a retirement allowance shall have the option of ending
28 his or her membership in the retirement system. A member wishing to
29 end his or her membership under this subsection must file, on a form
30 supplied by the department, a statement indicating that the member
31 agrees to irrevocably abandon any claim for service for future periods
32 served as an elected official. A member who receives more than fifteen
33 thousand dollars per year in compensation for his or her elective
34 service, adjusted annually for inflation by the director, is not
35 eligible for the option provided by this subsection (3)(b);

36 (4) Employees holding membership in, or receiving pension benefits
37 under, any retirement plan operated wholly or in part by an agency of
38 the state or political subdivision thereof, or who are by reason of
39 their current employment contributing to or otherwise establishing the

1 right to receive benefits from any such retirement plan: PROVIDED,
2 HOWEVER, In any case where the retirement system has in existence an
3 agreement with another retirement system in connection with exchange of
4 service credit or an agreement whereby members can retain service
5 credit in more than one system, such an employee shall be allowed
6 membership rights should the agreement so provide: AND PROVIDED
7 FURTHER, That an employee shall be allowed membership if otherwise
8 eligible while receiving survivor's benefits: AND PROVIDED FURTHER,
9 That an employee shall not either before or after June 7, 1984, be
10 excluded from membership or denied service credit pursuant to this
11 subsection solely on account of: (a) Membership in the plan created
12 under chapter 2.14 RCW; or (b) enrollment under the relief and
13 compensation provisions or the pension provisions of the volunteer fire
14 fighters' relief and pension fund under chapter 41.24 RCW;

15 (5) Patient and inmate help in state charitable, penal, and
16 correctional institutions;

17 (6) "Members" of a state veterans' home or state soldiers' home;

18 (7) Persons employed by an institution of higher learning or
19 community college, primarily as an incident to and in furtherance of
20 their education or training, or the education or training of a spouse;

21 (8) Employees of an institution of higher learning or community
22 college during the period of service necessary to establish eligibility
23 for membership in the retirement plans operated by such institutions;

24 (9) Persons rendering professional services to an employer on a
25 fee, retainer, or contract basis or when the income from these services
26 is less than fifty percent of the gross income received from the
27 person's practice of a profession;

28 (10) Persons appointed after April 1, 1963, by the liquor control
29 board as agency vendors;

30 (11) Employees of a labor guild, association, or organization:
31 PROVIDED, That elective officials and employees of a labor guild,
32 association, or organization which qualifies as an employer within this
33 chapter shall have the option of applying for membership;

34 (12) Plan I retirees employed in eligible positions on a temporary
35 basis for a period not to exceed five months in a calendar year:
36 PROVIDED, That if such employees are employed for more than five months
37 in a calendar year in an eligible position they shall become members of
38 the system prospectively;

1 (13) Persons employed by or appointed or elected as an official of
2 a first class city that has its own retirement system: PROVIDED, That
3 any member elected or appointed to an elective office on or after April
4 1, 1971, shall have the option of continuing as a member of this system
5 in lieu of becoming a member of the city system. A member who elects
6 to continue as a member of this system shall pay the appropriate member
7 contributions and the city shall pay the employer contributions at the
8 rates prescribed by this chapter. The city shall also transfer to this
9 system all of such member's accumulated contributions together with
10 such further amounts as necessary to equal all employee and employer
11 contributions which would have been paid into this system on account of
12 such service with the city and thereupon the member shall be granted
13 credit for all such service. Any city that becomes an employer as
14 defined in RCW 41.40.010(4) as the result of an individual's election
15 under this subsection shall not be required to have all employees
16 covered for retirement under the provisions of this chapter. Nothing
17 in this subsection shall prohibit a city of the first class with its
18 own retirement system from: (a) Transferring all of its current
19 employees to the retirement system established under this chapter, or
20 (b) allowing newly hired employees the option of continuing coverage
21 under the retirement system established by this chapter.

22 Notwithstanding any other provision of this chapter, persons
23 transferring from employment with a first class city of over four
24 hundred thousand population that has its own retirement system to
25 employment with the state department of agriculture may elect to remain
26 within the retirement system of such city and the state shall pay the
27 employer contributions for such persons at like rates as prescribed for
28 employers of other members of such system;

29 (14) Employees who (a) are not citizens of the United States, (b)
30 do not reside in the United States, and (c) perform duties outside of
31 the United States;

32 (15) Employees who (a) are not citizens of the United States, (b)
33 are not covered by chapter 41.48 RCW, (c) are not excluded from
34 membership under this chapter or chapter 41.04 RCW, (d) are residents
35 of this state, and (e) make an irrevocable election to be excluded from
36 membership, in writing, which is submitted to the director within
37 thirty days after employment in an eligible position;

38 (16) Employees who are citizens of the United States and who reside
39 and perform duties for an employer outside of the United States:

1 PROVIDED, That unless otherwise excluded under this chapter or chapter
2 41.04 RCW, the employee may apply for membership (a) within thirty days
3 after employment in an eligible position and membership service credit
4 shall be granted from the first day of membership service, and (b)
5 after this thirty-day period, but membership service credit shall be
6 granted only if payment is made for the noncredited membership service
7 under RCW 41.50.165(2), otherwise service shall be from the date of
8 application;

9 (17) The city manager or chief administrative officer of a city or
10 town who serves at the pleasure of an appointing authority: PROVIDED,
11 That such persons shall have the option of applying for membership
12 within thirty days from date of their appointment to such positions.
13 Persons serving in such positions as of April 4, 1986, shall continue
14 to be members in the retirement system unless they notify the director
15 in writing prior to December 31, 1986, of their desire to withdraw from
16 membership in the retirement system. A member who withdraws from
17 membership in the system under this section shall receive a refund of
18 the member's accumulated contributions.

19 Persons serving in such positions who have not opted for membership
20 within the specified thirty days, may do so by paying the amount
21 required under RCW 41.50.165(2) for the period from the date of their
22 appointment to the date of acceptance into membership;

23 (18) Persons enrolled in state-approved apprenticeship programs,
24 authorized under chapter 49.04 RCW, and who are employed by local
25 governments to earn hours to complete such apprenticeship programs, if
26 the employee is a member of a union-sponsored retirement plan and is
27 making contributions to such a retirement plan or if the employee is a
28 member of a Taft-Hartley retirement plan.

29 **Sec. 4.** RCW 41.56.030 and 1995 c 273 s 1 are each amended to read
30 as follows:

31 As used in this chapter:

32 (1) "Public employer" means any officer, board, commission,
33 council, or other person or body acting on behalf of any public body
34 governed by this chapter, or any subdivision of such public body. For
35 the purposes of this section, the public employer of district court or
36 superior court employees for wage-related matters is the respective
37 county legislative authority, or person or body acting on behalf of the
38 legislative authority, and the public employer for nonwage-related

1 matters is the judge or judge's designee of the respective district
2 court or superior court.

3 (2) "Public employee" means any employee of a public employer
4 except any person (a) elected by popular vote, or (b) appointed to
5 office pursuant to statute, ordinance or resolution for a specified
6 term of office by the executive head or body of the public employer, or
7 (c) whose duties as deputy, administrative assistant or secretary
8 necessarily imply a confidential relationship to the executive head or
9 body of the applicable bargaining unit, or any person elected by
10 popular vote or appointed to office pursuant to statute, ordinance or
11 resolution for a specified term of office by the executive head or body
12 of the public employer, or (d) who is a personal assistant to a
13 district court judge, superior court judge, or court commissioner. For
14 the purpose of (d) of this subsection, no more than one assistant for
15 each judge or commissioner may be excluded from a bargaining unit.

16 (3) "Bargaining representative" means any lawful organization which
17 has as one of its primary purposes the representation of employees in
18 their employment relations with employers.

19 (4) "Collective bargaining" means the performance of the mutual
20 obligations of the public employer and the exclusive bargaining
21 representative to meet at reasonable times, to confer and negotiate in
22 good faith, and to execute a written agreement with respect to
23 grievance procedures and collective negotiations on personnel matters,
24 including wages, hours and working conditions, which may be peculiar to
25 an appropriate bargaining unit of such public employer, except that by
26 such obligation neither party shall be compelled to agree to a proposal
27 or be required to make a concession unless otherwise provided in this
28 chapter. In the case of the Washington state patrol, "collective
29 bargaining" shall not include wages and wage-related matters.

30 (5) "Commission" means the public employment relations commission.

31 (6) "Executive director" means the executive director of the
32 commission.

33 (7) "Uniformed personnel" means: (a)(i) Until July 1, 1997, law
34 enforcement officers as defined in RCW 41.26.030 employed by the
35 governing body of any city or town with a population of seven thousand
36 five hundred or more and law enforcement officers employed by the
37 governing body of any county with a population of thirty-five thousand
38 or more; (ii) beginning on July 1, 1997, law enforcement officers as
39 defined in RCW 41.26.030 employed by the governing body of any city or

1 town with a population of two thousand five hundred or more and law
2 enforcement officers employed by the governing body of any county with
3 a population of ten thousand or more; (b) correctional employees who
4 are uniformed and nonuniformed, commissioned and noncommissioned
5 security personnel employed in a jail as defined in RCW 70.48.020(5),
6 by a county with a population of seventy thousand or more, and who are
7 trained for and charged with the responsibility of controlling and
8 maintaining custody of inmates in the jail and safeguarding inmates
9 from other inmates; (c) general authority Washington peace officers as
10 defined in RCW 10.93.020 employed by a port district in a county with
11 a population of one million or more; (d) security forces established
12 under RCW 43.52.520; (e) fire fighters as that term is defined in RCW
13 41.26.030; (f) employees of a port district in a county with a
14 population of one million or more whose duties include crash fire
15 rescue or other fire fighting duties; (g) employees of fire departments
16 of public employers who dispatch exclusively either fire or emergency
17 medical services, or both; or (h) employees in the several classes of
18 advanced life support technicians, as defined in RCW 18.71.200, who are
19 employed by a public employer.

20 (8) "Institution of higher education" means the University of
21 Washington, Washington State University, Central Washington University,
22 Eastern Washington University, Western Washington University, The
23 Evergreen State College, and the various state community colleges.

24 (9) "Substitute school employee" means an employee hired on a day-
25 to-day basis, with no guaranteed or contracted number of days of work,
26 filling a short-term vacancy of a regular employee. A day is the hours
27 worked by the regular employee.

28 (10) "Temporary school employee" means an employee hired for a
29 specific period of consecutive days of work in a position eligible for
30 membership in the public employees' retirement system, chapter 41.40
31 RCW, filling a vacancy created by the absence of a regular employee for
32 whatever reason, or for a leave of absence as defined by chapter 41.40
33 RCW. A day is the hours worked by the regular employee.

34 NEW SECTION. Sec. 5. A new section is added to chapter 41.56 RCW
35 to read as follows:

36 All public schools shall include all days worked as a substitute or
37 a temporary employee in that employee's longevity. This longevity is

1 transferrable to any other school district, when and where the employee
2 is so employed.

--- END ---