
HOUSE BILL 2431

State of Washington 55th Legislature 1998 Regular Session

By Representatives DeBolt, Alexander, Mielke, Johnson and Pennington

Read first time 01/14/98. Referred to Committee on Government Administration.

1 AN ACT Relating to the Southwest Washington Fair; amending RCW
2 36.90.010, 36.90.030, and 36.90.050; and reenacting and amending RCW
3 41.40.010.

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

5 **Sec. 1.** RCW 41.40.010 and 1997 c 254 s 10 and 1997 c 88 s 6 are
6 each reenacted and amended to read as follows:

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

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

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

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

15 (4)(a) "Employer" for plan I members, means every branch,
16 department, agency, commission, board, and office of the state, any
17 political subdivision or association of political subdivisions of the
18 state admitted into the retirement system, and legal entities
19 authorized by RCW 35.21.730, 35.63.070, and 36.70.060 or chapter 39.34

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

7 (b) "Employer" for plan II members, means every branch, department,
8 agency, commission, board, and office of the state, and any political
9 subdivision and municipal corporation of the state admitted into the
10 retirement system, including public agencies created pursuant to RCW
11 35.21.730, 35.63.070, 36.70.060, and 39.34.030.

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

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

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

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

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

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

32 (e) Any member who has restored all contributions that may have
33 been withdrawn as provided by RCW 41.40.150 and who on the effective
34 date of the individual's retirement becomes entitled to be credited
35 with ten years or more of membership service except that the provisions
36 relating to the minimum amount of retirement allowance for the member
37 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
38 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)(A) of this subsection is greater
3 than compensation earnable under (b)(ii)(B) of this subsection shall be
4 paid by the member for both member and employer contributions;

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

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

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

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

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

35 (i) Service by a state employee officially assigned by the state on
36 a temporary basis to assist another public agency, shall be considered
37 as service as a state employee: PROVIDED, That service to any other
38 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" or "employed" means a person who is providing
10 services for compensation to an employer, unless the person is free
11 from the employer's direction and control over the performance of work.
12 The department shall adopt rules and interpret this subsection
13 consistent with common law.

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

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

19 (25) "Eligible position" means:

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

26 (b) Any position occupied by an elected official or person
27 appointed directly by the governor, or appointed by the chief justice
28 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
29 compensation is paid.

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

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

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

1 (29) "Retiree" means any person who has begun accruing a retirement
2 allowance or other benefit provided by this chapter resulting from
3 service rendered to an employer while a member.

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

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

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

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

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

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

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

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

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

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

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

30 (41) "Separation from service" occurs when a person has terminated
31 all employment with an employer.

32 **Sec. 2.** RCW 36.90.010 and 1973 1st ex.s. c 97 s 1 are each amended
33 to read as follows:

34 The property of the Southwest Washington Fair Association including
35 the buildings and structures thereon, as constructed or as may be built
36 or constructed from time to time, or any alterations or additions
37 thereto, shall be under the jurisdiction (~~and control of the board of~~
38 ~~county commissioners~~) of Lewis county (~~at all times~~). That property

1 will be under the management and control of the board of county
2 commissioners of Lewis county or that board's designee.

3 **Sec. 3.** RCW 36.90.030 and 1973 1st ex.s. c 97 s 3 are each amended
4 to read as follows:

5 The board of county commissioners in the county of Lewis as
6 administrators of all property relating to the southwest Washington
7 fair may elect to appoint either (1) a designee, whose operation and
8 funds the board may control and oversee, to carry out the board's
9 duties and obligations as set forth in RCW 36.90.020, or (2) a
10 commission of citizens to advise and assist in carrying out such fair.
11 The chairman of the board of county commissioners of Lewis county
12 (~~shall be~~) may elect to serve as chairman of any such commission.
13 Such commission may elect a president and secretary and define their
14 duties and fix their compensation, and provide for the keeping of its
15 records. The commission may also designate the treasurer of Lewis
16 county as fair treasurer. The funds relating to fair activities shall
17 be kept separate and apart from the funds of Lewis county, but shall be
18 deposited in the regular depositories of Lewis county and all interest
19 earned thereby shall be added to and become a part of the funds. Fair
20 funds shall be audited as are other county funds.

21 **Sec. 4.** RCW 36.90.050 and 1973 1st ex.s. c 97 s 5 are each amended
22 to read as follows:

23 The Lewis county board of county commissioners may acquire by gift,
24 exchange, devise, lease, or purchase, real property for southwest
25 Washington fair purposes and may construct and maintain temporary or
26 permanent improvements suitable and necessary for the purpose of
27 holding and maintaining the southwest Washington fair. Any such
28 property deemed surplus by the board may be (1) sold at private sale
29 after notice in a local publication of general circulation, or (2)
30 exchanged for other property after notice in a local publication of
31 general circulation, under Lewis county property management
32 regulations.

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