

---

HOUSE BILL 1025

---

State of Washington

56th Legislature

1999 Regular Session

By Representatives D. Sommers, Ogden, Alexander, H. Sommers, Conway, Wolfe, Carlson and Bush; by request of Joint Committee on Pension Policy

Prefiled 12/31/98. Read first time 01/11/1999. Referred to Committee on Appropriations.

1 AN ACT Relating to membership in the public employees' retirement  
2 system; and amending RCW 41.40.023.

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

4 **Sec. 1.** RCW 41.40.023 and 1997 c 254 s 11 are each amended to read  
5 as follows:

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

9 (1) Persons in ineligible positions;

10 (2) Employees of the legislature except the officers thereof  
11 elected by the members of the senate and the house and legislative  
12 committees, unless membership of such employees be authorized by the  
13 said committee;

14 (3)(a) Persons holding elective offices or persons appointed  
15 directly by the governor: PROVIDED, That such persons shall have the  
16 option of applying for membership during such periods of employment:  
17 AND PROVIDED FURTHER, That any persons holding or who have held  
18 elective offices or persons appointed by the governor who are members  
19 in the retirement system and who have, prior to becoming such members,

1 previously held an elective office, and did not at the start of such  
2 initial or successive terms of office exercise their option to become  
3 members, may apply for membership to be effective during such term or  
4 terms of office, and shall be allowed to establish the service credit  
5 applicable to such term or terms of office upon payment of the employee  
6 contributions therefor by the employee with interest as determined by  
7 the director and employer contributions therefor by the employer or  
8 employee with interest as determined by the director: AND PROVIDED  
9 FURTHER, That all contributions with interest submitted by the employee  
10 under this subsection shall be placed in the employee's individual  
11 account in the employee's savings fund and be treated as any other  
12 contribution made by the employee, with the exception that any  
13 contributions submitted by the employee in payment of the employer's  
14 obligation, together with the interest the director may apply to the  
15 employer's contribution, shall not be considered part of the member's  
16 annuity for any purpose except withdrawal of contributions;

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

28 (4) Employees holding membership in, or receiving pension benefits  
29 under, any retirement plan operated wholly or in part by an agency of  
30 the state or political subdivision thereof, or who are by reason of  
31 their current employment contributing to or otherwise establishing the  
32 right to receive benefits from any such retirement plan except as  
33 follows: ((PROVIDED, HOWEVER,))

34 (a) In any case where the retirement system has in existence an  
35 agreement with another retirement system in connection with exchange of  
36 service credit or an agreement whereby members can retain service  
37 credit in more than one system, such an employee shall be allowed  
38 membership rights should the agreement so provide((:—AND PROVIDED  
39 FURTHER, That));

1       **(b)** An employee shall be allowed membership if otherwise eligible  
2 while receiving survivor's benefits(~~((: AND PROVIDED FURTHER, That))~~);

3       **(c)** An employee shall not either before or after June 7, 1984, be  
4 excluded from membership or denied service credit pursuant to this  
5 subsection solely on account of: ~~((a))~~ **(i)** Membership in the plan  
6 created under chapter 2.14 RCW; or ~~((b))~~ **(ii)** enrollment under the  
7 relief and compensation provisions or the pension provisions of the  
8 volunteer fire fighters' relief and pension fund under chapter 41.24  
9 RCW;

10       **(d)** Except as provided in (f) of this subsection, on or after the  
11 effective date of this act, an employee shall not be excluded from  
12 membership or denied service credit pursuant to this subsection solely  
13 on account of participation in a defined contribution pension plan  
14 administered pursuant to section 401 of the internal revenue code;

15       **(e)** Employees who have previously been reported in the public  
16 employees' retirement system while simultaneously participating in a  
17 defined contribution pension plan administered pursuant to section 401  
18 of the internal revenue code shall not be excluded from previous public  
19 employees' retirement system membership and service credit on account  
20 of such participation;

21       **(f)** If an employee has been excluded from membership or denied  
22 service credit pursuant to this subsection prior to the effective date  
23 of this act solely on account of participation in a defined  
24 contribution pension plan administered pursuant to section 401 of the  
25 internal revenue code, the employer may continue to exclude such  
26 employee from membership as long as the employee is actively employed  
27 by such employer.

28       **If the employer determines that such employee will no longer be**  
29 **excluded, such determination shall apply only to the employee's**  
30 **services rendered on or after the effective date of this act and after**  
31 **the date of the employer's election;**

32       **(5)** Patient and inmate help in state charitable, penal, and  
33 correctional institutions;

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

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

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

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

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

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

14 (12) Retirement system retirees: PROVIDED, That following  
15 reemployment in an eligible position, a retiree may elect to  
16 prospectively become a member of the retirement system if otherwise  
17 eligible;

18 (13) Persons employed by or appointed or elected as an official of  
19 a first class city that has its own retirement system: PROVIDED, That  
20 any member elected or appointed to an elective office on or after April  
21 1, 1971, shall have the option of continuing as a member of this system  
22 in lieu of becoming a member of the city system. A member who elects  
23 to continue as a member of this system shall pay the appropriate member  
24 contributions and the city shall pay the employer contributions at the  
25 rates prescribed by this chapter. The city shall also transfer to this  
26 system all of such member's accumulated contributions together with  
27 such further amounts as necessary to equal all employee and employer  
28 contributions which would have been paid into this system on account of  
29 such service with the city and thereupon the member shall be granted  
30 credit for all such service. Any city that becomes an employer as  
31 defined in RCW 41.40.010(4) as the result of an individual's election  
32 under this subsection shall not be required to have all employees  
33 covered for retirement under the provisions of this chapter. Nothing  
34 in this subsection shall prohibit a city of the first class with its  
35 own retirement system from: (a) Transferring all of its current  
36 employees to the retirement system established under this chapter, or  
37 (b) allowing newly hired employees the option of continuing coverage  
38 under the retirement system established by this chapter.

1 Notwithstanding any other provision of this chapter, persons  
2 transferring from employment with a first class city of over four  
3 hundred thousand population that has its own retirement system to  
4 employment with the state department of agriculture may elect to remain  
5 within the retirement system of such city and the state shall pay the  
6 employer contributions for such persons at like rates as prescribed for  
7 employers of other members of such system;

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

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

17 (16) Employees who are citizens of the United States and who reside  
18 and perform duties for an employer outside of the United States:  
19 PROVIDED, That unless otherwise excluded under this chapter or chapter  
20 41.04 RCW, the employee may apply for membership (a) within thirty days  
21 after employment in an eligible position and membership service credit  
22 shall be granted from the first day of membership service, and (b)  
23 after this thirty-day period, but membership service credit shall be  
24 granted only if payment is made for the noncredited membership service  
25 under RCW 41.50.165(2), otherwise service shall be from the date of  
26 application;

27 (17) The city manager or chief administrative officer of a city or  
28 town, other than a retiree, who serves at the pleasure of an appointing  
29 authority: PROVIDED, That such persons shall have the option of  
30 applying for membership within thirty days from date of their  
31 appointment to such positions. Persons serving in such positions as of  
32 April 4, 1986, shall continue to be members in the retirement system  
33 unless they notify the director in writing prior to December 31, 1986,  
34 of their desire to withdraw from membership in the retirement system.  
35 A member who withdraws from membership in the system under this section  
36 shall receive a refund of the member's accumulated contributions.

37 Persons serving in such positions who have not opted for membership  
38 within the specified thirty days, may do so by paying the amount

1 required under RCW 41.50.165(2) for the period from the date of their  
2 appointment to the date of acceptance into membership;

3 (18) Persons enrolled in state-approved apprenticeship programs,  
4 authorized under chapter 49.04 RCW, and who are employed by local  
5 governments to earn hours to complete such apprenticeship programs, if  
6 the employee is a member of a union-sponsored retirement plan and is  
7 making contributions to such a retirement plan or if the employee is a  
8 member of a Taft-Hartley retirement plan.

--- END ---