
HOUSE BILL 1865

State of Washington

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1999 Regular Session

By Representatives O'Brien, Delvin, Santos, Rockefeller, Hurst, Cooper, Quall and Campbell

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1 AN ACT Relating to defining service for plan 1 members of the law
2 enforcement officers' and fire fighters' retirement system; and
3 reenacting and amending RCW 41.26.030.

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

5 **Sec. 1.** RCW 41.26.030 and 1996 c 178 s 11 and 1996 c 38 s 2 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 "Washington law enforcement
10 officers' and fire fighters' retirement system" provided herein.

11 (2)(a) "Employer" for plan 1 members, means the legislative
12 authority of any city, town, county, or district or the elected
13 officials of any municipal corporation that employs any law enforcement
14 officer and/or fire fighter, any authorized association of such
15 municipalities, and, except for the purposes of RCW 41.26.150, any
16 labor guild, association, or organization, which represents the fire
17 fighters or law enforcement officers of at least seven cities of over
18 20,000 population and the membership of each local lodge or division of

1 which is composed of at least sixty percent law enforcement officers or
2 fire fighters as defined in this chapter.

3 (b) "Employer" for plan 2 members, means the following entities to
4 the extent that the entity employs any law enforcement officer and/or
5 fire fighter:

6 (i) The legislative authority of any city, town, county, or
7 district;

8 (ii) The elected officials of any municipal corporation;

9 (iii) The governing body of any other general authority law
10 enforcement agency; or

11 (iv) A four-year institution of higher education having a fully
12 operational fire department as of January 1, 1996.

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

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

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

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

32 (d) The term "law enforcement officer" also includes the executive
33 secretary of a labor guild, association or organization (which is an
34 employer under RCW 41.26.030(2)) if that individual has five years
35 previous membership in the retirement system established in chapter
36 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
37 plan 2 members; and

38 (e) The term "law enforcement officer" also includes a person
39 employed on or after January 1, 1993, as a public safety officer or

1 director of public safety, so long as the job duties substantially
2 involve only either police or fire duties, or both, and no other duties
3 in a city or town with a population of less than ten thousand. The
4 provisions of this subsection (3)(e) shall not apply to any public
5 safety officer or director of public safety who is receiving a
6 retirement allowance under this chapter as of May 12, 1993.

7 (4) "Fire fighter" means:

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

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

14 (c) Supervisory fire fighter personnel;

15 (d) Any full time executive secretary of an association of fire
16 protection districts authorized under RCW 52.12.031. The provisions of
17 this subsection (4)(d) shall not apply to plan 2 members;

18 (e) The executive secretary of a labor guild, association or
19 organization (which is an employer under RCW 41.26.030(2) as now or
20 hereafter amended), if such individual has five years previous
21 membership in a retirement system established in chapter 41.16 or 41.18
22 RCW. The provisions of this subsection (4)(e) shall not apply to plan
23 2 members;

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

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

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

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

37 (7)(a) "Child" or "children" means an unmarried person who is under
38 the age of eighteen or mentally or physically handicapped as determined

1 by the department, except a handicapped person in the full time care of
2 a state institution, who is:

3 (i) A natural born child;

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

6 (iii) A posthumous child;

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

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

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

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

24 (9) "Retirement fund" means the "Washington law enforcement
25 officers' and fire fighters' retirement system fund" as provided for
26 herein.

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

29 (11)(a) "Beneficiary" for plan 1 members, means any person in
30 receipt of a retirement allowance, disability allowance, death benefit,
31 or any other benefit described herein.

32 (b) "Beneficiary" for plan 2 members, means any person in receipt
33 of a retirement allowance or other benefit provided by this chapter
34 resulting from service rendered to an employer by another person.

35 (12)(a) "Final average salary" for plan 1 members, means (i) for a
36 member holding the same position or rank for a minimum of twelve months
37 preceding the date of retirement, the basic salary attached to such
38 same position or rank at time of retirement; (ii) for any other member,
39 including a civil service member who has not served a minimum of twelve

1 months in the same position or rank preceding the date of retirement,
2 the average of the greatest basic salaries payable to such member
3 during any consecutive twenty-four month period within such member's
4 last ten years of service for which service credit is allowed, computed
5 by dividing the total basic salaries payable to such member during the
6 selected twenty-four month period by twenty-four; (iii) in the case of
7 disability of any member, the basic salary payable to such member at
8 the time of disability retirement; (iv) in the case of a member who
9 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
10 such member at the time of vesting.

11 (b) "Final average salary" for plan 2 members, means the monthly
12 average of the member's basic salary for the highest consecutive sixty
13 service credit months of service prior to such member's retirement,
14 termination, or death. Periods constituting authorized unpaid leaves
15 of absence may not be used in the calculation of final average salary.

16 (13)(a) "Basic salary" for plan 1 members, means the basic monthly
17 rate of salary or wages, including longevity pay but not including
18 overtime earnings or special salary or wages, upon which pension or
19 retirement benefits will be computed and upon which employer
20 contributions and salary deductions will be based.

21 (b) "Basic salary" for plan 2 members, means salaries or wages
22 earned by a member during a payroll period for personal services,
23 including overtime payments, and shall include wages and salaries
24 deferred under provisions established pursuant to sections 403(b),
25 414(h), and 457 of the United States Internal Revenue Code, but shall
26 exclude lump sum payments for deferred annual sick leave, unused
27 accumulated vacation, unused accumulated annual leave, or any form of
28 severance pay. In any year in which a member serves in the legislature
29 the member shall have the option of having such member's basic salary
30 be the greater of:

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

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

1 (14)(a) "Service" for plan 1 members, means all periods of
2 employment for an employer as a fire fighter or law enforcement
3 officer, for which compensation is paid, together with periods of
4 suspension not exceeding thirty days in duration. For the purposes of
5 this chapter service shall also include service in the armed forces of
6 the United States as provided in RCW 41.26.190. Credit shall be
7 allowed for all service credit months of service rendered by a member
8 from and after the member's initial commencement of employment as a
9 fire fighter or law enforcement officer, during which the member worked
10 for seventy or more hours, or was on disability leave or disability
11 retirement. Only service credit months of service shall be counted in
12 the computation of any retirement allowance or other benefit provided
13 for in this chapter.

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

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

30 (b) "Service" for plan 2 members, means periods of employment by a
31 member for one or more employers for which basic salary is earned for
32 ninety or more hours per calendar month which shall constitute a
33 service credit month. Periods of employment by a member for one or
34 more employers for which basic salary is earned for at least seventy
35 hours but less than ninety hours per calendar month shall constitute
36 one-half service credit month. Periods of employment by a member for
37 one or more employers for which basic salary is earned for less than
38 seventy hours shall constitute a one-quarter service credit month.

1 Members of the retirement system who are elected or appointed to a
2 state elective position may elect to continue to be members of this
3 retirement system.

4 Service credit years of service shall be determined by dividing the
5 total number of service credit months of service by twelve. Any
6 fraction of a service credit year of service as so determined shall be
7 taken into account in the computation of such retirement allowance or
8 benefits.

9 If a member receives basic salary from two or more employers during
10 any calendar month, the individual shall receive one service credit
11 month's service credit during any calendar month in which multiple
12 service for ninety or more hours is rendered; or one-half service
13 credit month's service credit during any calendar month in which
14 multiple service for at least seventy hours but less than ninety hours
15 is rendered; or one-quarter service credit month during any calendar
16 month in which multiple service for less than seventy hours is
17 rendered.

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

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

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

33 (18) "Disability board" for plan 1 members means either the county
34 disability board or the city disability board established in RCW
35 41.26.110.

36 (19) "Disability leave" means the period of six months or any
37 portion thereof during which a member is on leave at an allowance equal
38 to the member's full salary prior to the commencement of disability

1 retirement. The definition contained in this subsection shall apply
2 only to plan 1 members.

3 (20) "Disability retirement" for plan 1 members, means the period
4 following termination of a member's disability leave, during which the
5 member is in receipt of a disability retirement allowance.

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

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

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

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

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

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

21 (i) The fees of the following:

22 (A) A physician or surgeon licensed under the provisions of chapter
23 18.71 RCW;

24 (B) An osteopathic physician and surgeon licensed under the
25 provisions of chapter 18.57 RCW;

26 (C) A chiropractor licensed under the provisions of chapter 18.25
27 RCW.

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

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

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

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

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

35 (D) Anesthesia and oxygen;

36 (E) Rental of iron lung and other durable medical and surgical
37 equipment;

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

1 (G) Professional ambulance service when used to transport the
2 member to or from a hospital when injured by an accident or stricken by
3 a disease;

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

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

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

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

11 (L) An optometrist licensed under the provisions of chapter 18.53
12 RCW.

13 (23) "Regular interest" means such rate as the director may
14 determine.

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

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

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

22 (27) "State elective position" means any position held by any
23 person elected or appointed to state-wide office or elected or
24 appointed as a member of the legislature.

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

29 (29) "Plan 2" means the law enforcement officers' and fire
30 fighters' retirement system, plan 2 providing the benefits and funding
31 provisions covering persons who first became members of the system on
32 and after October 1, 1977.

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

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

37 (32) "General authority law enforcement agency" means any agency,
38 department, or division of a municipal corporation, political
39 subdivision, or other unit of local government of this state, and any

1 agency, department, or division of state government, having as its
2 primary function the detection and apprehension of persons committing
3 infractions or violating the traffic or criminal laws in general, but
4 not including the Washington state patrol. Such an agency, department,
5 or division is distinguished from a limited authority law enforcement
6 agency having as one of its functions the apprehension or detection of
7 persons committing infractions or violating the traffic or criminal
8 laws relating to limited subject areas, including but not limited to,
9 the state departments of natural resources, fish and wildlife, and
10 social and health services, the state gambling commission, the state
11 lottery commission, the state parks and recreation commission, the
12 state utilities and transportation commission, the state liquor control
13 board, and the state department of corrections.

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