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HOUSE BILL 2037

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State of Washington                      56th Legislature                      1999 Regular Session

By Representatives Murray, Romero, Veloria, Edmonds, McIntire, Keiser, Cooper and Santos

Read first time 02/15/1999. Referred to Committee on State Government.

1            AN ACT Relating to employee benefits for state employment; amending  
2 RCW 41.05.011, 41.05.011, 41.05.065, 41.05.080, 41.05.085, 41.05.090,  
3 41.06.150, 49.12.270, 49.78.020, 49.12.350, 49.12.360, 2.10.030,  
4 2.10.140, 2.12.030, 28B.10.400, 28B.10.431, 28B.10.567, 41.26.048,  
5 41.26.090, 41.26.160, 41.26.460, 41.26.470, 41.40.010, 41.40.023,  
6 41.40.188, 41.40.190, 41.40.220, 41.40.235, 41.40.250, 41.40.270,  
7 41.40.660, 41.40.670, 41.40.700, 41.54.010, 41.54.010, 41.54.034,  
8 43.43.120, 43.43.270, 43.43.280, and 43.43.285; reenacting and amending  
9 RCW 41.26.030, 41.26.510, and 41.40.010; adding a new section to  
10 chapter 41.05 RCW; providing an effective date; and providing an  
11 expiration date.

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

13            **Sec. 1.** RCW 41.05.011 and 1996 c 39 s 21 are each amended to read  
14 as follows:

15            Unless the context clearly requires otherwise, the definitions in  
16 this section shall apply throughout this chapter.

17            (1) "Administrator" means the administrator of the authority.

18            (2) "State purchased health care" or "health care" means medical  
19 and health care, pharmaceuticals, and medical equipment purchased with

1 state and federal funds by the department of social and health  
2 services, the department of health, the basic health plan, the state  
3 health care authority, the department of labor and industries, the  
4 department of corrections, the department of veterans affairs, and  
5 local school districts.

6 (3) "Authority" means the Washington state health care authority.

7 (4) "Insuring entity" means an insurer as defined in chapter 48.01  
8 RCW, a health care service contractor as defined in chapter 48.44 RCW,  
9 or a health maintenance organization as defined in chapter 48.46 RCW.

10 (5) "Flexible benefit plan" means a benefit plan that allows  
11 employees to choose the level of health care coverage provided and the  
12 amount of employee contributions from among a range of choices offered  
13 by the authority.

14 (6) "Employee" includes all full-time and career seasonal employees  
15 of the state, whether or not covered by civil service; elected and  
16 appointed officials of the executive branch of government, including  
17 full-time members of boards, commissions, or committees; and includes  
18 any or all part-time and temporary employees under the terms and  
19 conditions established under this chapter by the authority; justices of  
20 the supreme court and judges of the court of appeals and the superior  
21 courts; and members of the state legislature or of the legislative  
22 authority of any county, city, or town who are elected to office after  
23 February 20, 1970. "Employee" also includes: (a) Employees of a  
24 county, municipality, or other political subdivision of the state if  
25 the legislative authority of the county, municipality, or other  
26 political subdivision of the state seeks and receives the approval of  
27 the authority to provide any of its insurance programs by contract with  
28 the authority, as provided in RCW 41.04.205; (b) employees of employee  
29 organizations representing state civil service employees, at the option  
30 of each such employee organization, and, effective October 1, 1995,  
31 employees of employee organizations currently pooled with employees of  
32 school districts for the purpose of purchasing insurance benefits, at  
33 the option of each such employee organization; and (c) employees of a  
34 school district if the authority agrees to provide any of the school  
35 districts' insurance programs by contract with the authority as  
36 provided in RCW 28A.400.350.

37 (7) "Dependent" means the spouse of the employee, the dependent  
38 child and dependent parent of the employee or of the employee's spouse  
39 and, in addition, with respect to state employees, includes a state

1 employee's domestic partner and domestic partner's dependent child or  
2 dependent parent.

3 (8) "Domestic partner" means the person designated by a state  
4 employee in an affidavit filed under section 3 of this act.

5 (9) "Board" means the public employees' benefits board established  
6 under RCW 41.05.055.

7 ~~((+8))~~ (10) "Retired or disabled school employee" means:

8 (a) Persons who separated from employment with a school district or  
9 educational service district and are receiving a retirement allowance  
10 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

11 (b) Persons who separate from employment with a school district or  
12 educational service district on or after October 1, 1993, and  
13 immediately upon separation receive a retirement allowance under  
14 chapter 41.32 or 41.40 RCW;

15 (c) Persons who separate from employment with a school district or  
16 educational service district due to a total and permanent disability,  
17 and are eligible to receive a deferred retirement allowance under  
18 chapter 41.32 or 41.40 RCW.

19 ~~((+9))~~ (11) "Benefits contribution plan" means a premium only  
20 contribution plan, a medical flexible spending arrangement, or a  
21 cafeteria plan whereby state and public employees may agree to a  
22 contribution to benefit costs which will allow the employee to  
23 participate in benefits offered pursuant to 26 U.S.C. Sec. 125 or other  
24 sections of the internal revenue code.

25 ~~((+10))~~ (12) "Salary" means a state employee's monthly salary or  
26 wages.

27 ~~((+11))~~ (13) "Participant" means an individual who fulfills the  
28 eligibility and enrollment requirements under the benefits contribution  
29 plan.

30 ~~((+12))~~ (14) "Plan year" means the time period established by the  
31 authority.

32 ~~((+13))~~ (15) "Separated employees" means persons who separate from  
33 employment with an employer as defined in RCW 41.32.010(11) on or after  
34 July 1, 1996, and who are at least age fifty-five and have at least ten  
35 years of service under the teachers' retirement system plan 3 as  
36 defined in RCW 41.32.010(40).

37 **Sec. 2.** RCW 41.05.011 and 1998 c 341 s 706 are each amended to  
38 read as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section shall apply throughout this chapter.

3 (1) "Administrator" means the administrator of the authority.

4 (2) "State purchased health care" or "health care" means medical  
5 and health care, pharmaceuticals, and medical equipment purchased with  
6 state and federal funds by the department of social and health  
7 services, the department of health, the basic health plan, the state  
8 health care authority, the department of labor and industries, the  
9 department of corrections, the department of veterans affairs, and  
10 local school districts.

11 (3) "Authority" means the Washington state health care authority.

12 (4) "Insuring entity" means an insurer as defined in chapter 48.01  
13 RCW, a health care service contractor as defined in chapter 48.44 RCW,  
14 or a health maintenance organization as defined in chapter 48.46 RCW.

15 (5) "Flexible benefit plan" means a benefit plan that allows  
16 employees to choose the level of health care coverage provided and the  
17 amount of employee contributions from among a range of choices offered  
18 by the authority.

19 (6) "Employee" includes all full-time and career seasonal employees  
20 of the state, whether or not covered by civil service; elected and  
21 appointed officials of the executive branch of government, including  
22 full-time members of boards, commissions, or committees; and includes  
23 any or all part-time and temporary employees under the terms and  
24 conditions established under this chapter by the authority; justices of  
25 the supreme court and judges of the court of appeals and the superior  
26 courts; and members of the state legislature or of the legislative  
27 authority of any county, city, or town who are elected to office after  
28 February 20, 1970. "Employee" also includes: (a) Employees of a  
29 county, municipality, or other political subdivision of the state if  
30 the legislative authority of the county, municipality, or other  
31 political subdivision of the state seeks and receives the approval of  
32 the authority to provide any of its insurance programs by contract with  
33 the authority, as provided in RCW 41.04.205; (b) employees of employee  
34 organizations representing state civil service employees, at the option  
35 of each such employee organization, and, effective October 1, 1995,  
36 employees of employee organizations currently pooled with employees of  
37 school districts for the purpose of purchasing insurance benefits, at  
38 the option of each such employee organization; and (c) employees of a  
39 school district if the authority agrees to provide any of the school

1 districts' insurance programs by contract with the authority as  
2 provided in RCW 28A.400.350.

3 (7) "Dependent" means the spouse of the employee, the dependent  
4 child and dependent parent of the employee or of the employee's spouse  
5 and, in addition, with respect to state employees, includes a state  
6 employee's domestic partner and domestic partner's dependent child or  
7 dependent parent.

8 (8) "Domestic partner" means the person designated by a state  
9 employee in an affidavit filed under section 3 of this act.

10 (9) "Board" means the public employees' benefits board established  
11 under RCW 41.05.055.

12 (~~(8)~~) (10) "Retired or disabled school employee" means:

13 (a) Persons who separated from employment with a school district or  
14 educational service district and are receiving a retirement allowance  
15 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

16 (b) Persons who separate from employment with a school district or  
17 educational service district on or after October 1, 1993, and  
18 immediately upon separation receive a retirement allowance under  
19 chapter 41.32 or 41.40 RCW;

20 (c) Persons who separate from employment with a school district or  
21 educational service district due to a total and permanent disability,  
22 and are eligible to receive a deferred retirement allowance under  
23 chapter 41.32 or 41.40 RCW.

24 (~~(9)~~) (11) "Benefits contribution plan" means a premium only  
25 contribution plan, a medical flexible spending arrangement, or a  
26 cafeteria plan whereby state and public employees may agree to a  
27 contribution to benefit costs which will allow the employee to  
28 participate in benefits offered pursuant to 26 U.S.C. Sec. 125 or other  
29 sections of the internal revenue code.

30 (~~(10)~~) (12) "Salary" means a state employee's monthly salary or  
31 wages.

32 (~~(11)~~) (13) "Participant" means an individual who fulfills the  
33 eligibility and enrollment requirements under the benefits contribution  
34 plan.

35 (~~(12)~~) (14) "Plan year" means the time period established by the  
36 authority.

37 (~~(13)~~) (15) "Separated employees" means persons who separate from  
38 employment with an employer as defined in:

39 (a) RCW 41.32.010(11) on or after July 1, 1996; or

1 (b) RCW 41.35.010 on or after September 1, 2000;  
2 and who are at least age fifty-five and have at least ten years of  
3 service under the teachers' retirement system plan 3 as defined in RCW  
4 41.32.010(40) or the Washington school employees' retirement system  
5 plan 3 as defined in RCW 41.35.010.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05 RCW  
7 to read as follows:

8 (1) A state employee may designate a person as a domestic partner  
9 by providing an affidavit in a form prescribed by the administrator in  
10 which the employee attests that:

11 (a) The employee is participating in a domestic partnership;

12 (b) The employee and the domestic partner:

13 (i) Share the same regular and permanent residence;

14 (ii) Have a close personal relationship;

15 (iii) Have agreed to be jointly responsible for basic living  
16 expenses incurred during the domestic partnership;

17 (iv) Are not married to anyone;

18 (v) Are each eighteen years of age or older;

19 (vi) Are not related to each other by blood closer than would bar  
20 marriage in this state;

21 (vii) Were mentally competent to consent to contract when their  
22 domestic partnership began; and

23 (viii) Are each other's sole domestic partner and are responsible  
24 for each other's common welfare; and

25 (c) Any prior domestic partnership in which the employee or his or  
26 her domestic partner participated with a third party was terminated not  
27 less than ninety days prior to the date of the affidavit, or by the  
28 death of that third party, whichever was earlier.

29 (2) The administrator may require by rule that the affidavit  
30 include other information deemed necessary to establishing a domestic  
31 partnership.

32 (3) The state employee must agree to notify the administrator if  
33 there is a change in the circumstances attested to in the affidavit.

34 (4) A domestic partnership ends when one or more of the conditions  
35 attested to in the affidavit are no longer met or upon the death of a  
36 domestic partner.

1       **Sec. 4.** RCW 41.05.065 and 1996 c 140 s 1 are each amended to read  
2 as follows:

3       (1) The board shall study all matters connected with the provision  
4 of health care coverage, life insurance, liability insurance,  
5 accidental death and dismemberment insurance, and disability income  
6 insurance or any of, or a combination of, the enumerated types of  
7 insurance for employees and their dependents on the best basis possible  
8 with relation both to the welfare of the employees and to the state.  
9 However, liability insurance shall not be made available to dependents.

10       (2) The board shall develop employee benefit plans that include  
11 comprehensive health care benefits for all employees. In developing  
12 these plans, the board shall consider the following elements:

13       (a) Methods of maximizing cost containment while ensuring access to  
14 quality health care;

15       (b) Development of provider arrangements that encourage cost  
16 containment and ensure access to quality care, including but not  
17 limited to prepaid delivery systems and prospective payment methods;

18       (c) Wellness incentives that focus on proven strategies, such as  
19 smoking cessation, injury and accident prevention, reduction of alcohol  
20 misuse, appropriate weight reduction, exercise, automobile and  
21 motorcycle safety, blood cholesterol reduction, and nutrition  
22 education;

23       (d) Utilization review procedures including, but not limited to a  
24 cost-efficient method for prior authorization of services, hospital  
25 inpatient length of stay review, requirements for use of outpatient  
26 surgeries and second opinions for surgeries, review of invoices or  
27 claims submitted by service providers, and performance audit of  
28 providers;

29       (e) Effective coordination of benefits;

30       (f) Minimum standards for insuring entities; and

31       (g) Minimum scope and content of public employee benefit plans to  
32 be offered to enrollees participating in the employee health benefit  
33 plans. To maintain the comprehensive nature of employee health care  
34 benefits, employee eligibility criteria related to the number of hours  
35 worked and the benefits provided to employees shall be substantially  
36 equivalent to the state employees' health benefits plan and eligibility  
37 criteria in effect on January 1, 1993. Nothing in this subsection

38 (2)(g) shall prohibit changes or increases in employee point-of-service  
39 payments or employee premium payments for benefits.

1 (3) The board shall design benefits and determine the terms and  
2 conditions of employee participation and coverage, including  
3 establishment of eligibility criteria.

4 (4) The board may authorize premium contributions for an employee  
5 and the employee's dependents in a manner that encourages the use of  
6 cost-efficient managed health care systems.

7 (5) Employees shall choose participation in one of the health care  
8 benefit plans developed by the board and may be permitted to waive  
9 coverage under terms and conditions established by the board.

10 (6) The board shall review plans proposed by insuring entities that  
11 desire to offer property insurance and/or accident and casualty  
12 insurance to state employees through payroll deduction. The board may  
13 approve any such plan for payroll deduction by insuring entities  
14 holding a valid certificate of authority in the state of Washington and  
15 which the board determines to be in the best interests of employees and  
16 the state. The board shall promulgate rules setting forth criteria by  
17 which it shall evaluate the plans.

18 (7) Before January 1, 1998, the public employees' benefits board  
19 shall make available one or more fully insured long-term care insurance  
20 plans that comply with the requirements of chapter 48.84 RCW. Such  
21 programs shall be made available to eligible employees, retired  
22 employees, and retired school employees as well as eligible dependents  
23 which, for the purpose of this section, includes the parents of the  
24 employee or retiree and the parents of the spouse or domestic partner  
25 of the employee or retiree. Employees of local governments and  
26 employees of political subdivisions not otherwise enrolled in the  
27 public employees' benefits board sponsored medical programs may enroll  
28 under terms and conditions established by the administrator, if it does  
29 not jeopardize the financial viability of the public employees'  
30 benefits board's long-term care offering.

31 (a) Participation of eligible employees or retired employees and  
32 retired school employees in any long-term care insurance plan made  
33 available by the public employees' benefits board is voluntary and  
34 shall not be subject to binding arbitration under chapter 41.56 RCW.  
35 Participation is subject to reasonable underwriting guidelines and  
36 eligibility rules established by the public employees' benefits board  
37 and the health care authority.

38 (b) The employee, retired employee, and retired school employee are  
39 solely responsible for the payment of the premium rates developed by



1 the health care authority. The health care authority is authorized to  
2 charge a reasonable administrative fee in addition to the premium  
3 charged by the long-term care insurer, which shall include the health  
4 care authority's cost of administration, marketing, and consumer  
5 education materials prepared by the health care authority and the  
6 office of the insurance commissioner.

7 (c) To the extent administratively possible, the state shall  
8 establish an automatic payroll or pension deduction system for the  
9 payment of the long-term care insurance premiums.

10 (d) The public employees' benefits board and the health care  
11 authority shall establish a technical advisory committee to provide  
12 advice in the development of the benefit design and establishment of  
13 underwriting guidelines and eligibility rules. The committee shall  
14 also advise the board and authority on effective and cost-effective  
15 ways to market and distribute the long-term care product. The  
16 technical advisory committee shall be comprised, at a minimum, of  
17 representatives of the office of the insurance commissioner, providers  
18 of long-term care services, licensed insurance agents with expertise in  
19 long-term care insurance, employees, retired employees, retired school  
20 employees, and other interested parties determined to be appropriate by  
21 the board.

22 (e) The health care authority shall offer employees, retired  
23 employees, and retired school employees the option of purchasing long-  
24 term care insurance through licensed agents or brokers appointed by the  
25 long-term care insurer. The authority, in consultation with the public  
26 employees' benefits board, shall establish marketing procedures and may  
27 consider all premium components as a part of the contract negotiations  
28 with the long-term care insurer.

29 (f) In developing the long-term care insurance benefit designs, the  
30 public employees' benefits board shall include an alternative plan of  
31 care benefit, including adult day services, as approved by the office  
32 of the insurance commissioner.

33 (g) The health care authority, with the cooperation of the office  
34 of the insurance commissioner, shall develop a consumer education  
35 program for the eligible employees, retired employees, and retired  
36 school employees designed to provide education on the potential need  
37 for long-term care, methods of financing long-term care, and the  
38 availability of long-term care insurance products including the  
39 products offered by the board.

1 (h) By December 1998, the health care authority, in consultation  
2 with the public employees' benefits board, shall submit a report to the  
3 appropriate committees of the legislature, including an analysis of the  
4 marketing and distribution of the long-term care insurance provided  
5 under this section.

6 **Sec. 5.** RCW 41.05.080 and 1996 c 39 s 22 are each amended to read  
7 as follows:

8 (1) Under the qualifications, terms, conditions, and benefits set  
9 by the board:

10 (a) Retired or disabled state employees, retired or disabled school  
11 employees, or employees of county, municipal, or other political  
12 subdivisions covered by this chapter who are retired may continue their  
13 participation in insurance plans and contracts after retirement or  
14 disablement;

15 (b) Separated employees may continue their participation in  
16 insurance plans and contracts if participation is selected immediately  
17 upon separation from employment.

18 (2) Rates charged to retired or disabled employees, separated  
19 employees, spouses or domestic partners, or dependent children who are  
20 not eligible for parts A and B of medicare shall be based on the  
21 experience of the community rated risk pool established under RCW  
22 41.05.022.

23 (3) Rates charged to retired or disabled employees, separated  
24 employees, spouses or domestic partners, or children who are eligible  
25 for parts A and B of medicare shall be calculated from a separate  
26 experience risk pool comprised only of individuals eligible for parts  
27 A and B of medicare; however, the premiums charged to medicare-eligible  
28 retirees and disabled employees shall be reduced by the amount of the  
29 subsidy provided under RCW 41.05.085.

30 (4) Retired or disabled and separated employees shall be  
31 responsible for payment of premium rates developed by the authority  
32 which shall include the cost to the authority of providing insurance  
33 coverage including any amounts necessary for reserves and  
34 administration in accordance with this chapter. These self pay rates  
35 will be established based on a separate rate for the employee, the  
36 spouse or domestic partner, and the children.

1 (5) The term "retired state employees" for the purpose of this  
2 section shall include but not be limited to members of the legislature  
3 whether voluntarily or involuntarily leaving state office.

4 **Sec. 6.** RCW 41.05.085 and 1994 c 153 s 8 are each amended to read  
5 as follows:

6 Beginning with the appropriations act for the 1995-1997 biennium,  
7 the legislature shall establish as part of both the state employees'  
8 and the school and educational service district employees' insurance  
9 benefit allocation the portion of the allocation to be used to provide  
10 a subsidy to reduce the health care insurance premiums charged to  
11 retired or disabled school district and educational service district  
12 employees, or retired state employees, who are eligible for parts A and  
13 B of medicare. The amount of any premium reduction shall be  
14 established by the board, but shall not result in a premium reduction  
15 of more than fifty percent. The board may also determine the amount of  
16 any subsidy to be available to spouses or domestic partners and  
17 dependents.

18 **Sec. 7.** RCW 41.05.090 and 1990 c 222 s 5 are each amended to read  
19 as follows:

20 (1) When an employee, spouse or domestic partner, or covered  
21 dependent becomes ineligible under the state plan and wishes to  
22 continue coverage on an individual basis with the same provider under  
23 the state plan, such employee, spouse or domestic partner, or covered  
24 dependent shall be entitled to immediately transfer and shall not be  
25 required to undergo any waiting period before obtaining individual  
26 coverage.

27 (2) Entitlement to a conversion contract under the terms of this  
28 section shall not apply to any employee, spouse or domestic partner, or  
29 covered dependent who is:

30 (a) Eligible for federal medicare coverage; or

31 (b) Covered under another group plan, policy, contract, or  
32 agreement providing benefits for hospital or medical care.

33 (3) Entitlement to conversion under the terms of this section shall  
34 not apply to any employee terminated for misconduct, except that  
35 conversion shall be offered to the spouse or domestic partner and  
36 covered dependents of the terminated employee.

1       **Sec. 8.** RCW 41.06.150 and 1996 c 319 s 2 are each amended to read  
2 as follows:

3       The board shall adopt rules, consistent with the purposes and  
4 provisions of this chapter, as now or hereafter amended, and with the  
5 best standards of personnel administration, regarding the basis and  
6 procedures to be followed for:

7       (1) The reduction, dismissal, suspension, or demotion of an  
8 employee;

9       (2) Certification of names for vacancies, including departmental  
10 promotions, with the number of names equal to six more names than there  
11 are vacancies to be filled, such names representing applicants rated  
12 highest on eligibility lists: PROVIDED, That when other applicants  
13 have scores equal to the lowest score among the names certified, their  
14 names shall also be certified;

15       (3) Examinations for all positions in the competitive and  
16 noncompetitive service;

17       (4) Appointments;

18       (5) Training and career development;

19       (6) Probationary periods of six to twelve months and rejections of  
20 probationary employees, depending on the job requirements of the class,  
21 except that entry level state park rangers shall serve a probationary  
22 period of twelve months;

23       (7) Transfers;

24       (8) Sick leaves and vacations. The rules shall include the same  
25 provisions with respect to employee domestic partners as defined in RCW  
26 41.05.011 and the children or other family members of employee domestic  
27 partners as is provided with respect to employee spouses and the  
28 children or other family members of employee spouses;

29       (9) Hours of work;

30       (10) Layoffs when necessary and subsequent reemployment, both  
31 according to seniority;

32       (11) Determination of appropriate bargaining units within any  
33 agency: PROVIDED, That in making such determination the board shall  
34 consider the duties, skills, and working conditions of the employees,  
35 the history of collective bargaining by the employees and their  
36 bargaining representatives, the extent of organization among the  
37 employees, and the desires of the employees;

38       (12) Certification and decertification of exclusive bargaining  
39 representatives: PROVIDED, That after certification of an exclusive

1 bargaining representative and upon the representative's request, the  
2 director shall hold an election among employees in a bargaining unit to  
3 determine by a majority whether to require as a condition of employment  
4 membership in the certified exclusive bargaining representative on or  
5 after the thirtieth day following the beginning of employment or the  
6 date of such election, whichever is the later, and the failure of an  
7 employee to comply with such a condition of employment constitutes  
8 cause for dismissal: PROVIDED FURTHER, That no more often than once in  
9 each twelve-month period after expiration of twelve months following  
10 the date of the original election in a bargaining unit and upon  
11 petition of thirty percent of the members of a bargaining unit the  
12 director shall hold an election to determine whether a majority wish to  
13 rescind such condition of employment: PROVIDED FURTHER, That for  
14 purposes of this clause, membership in the certified exclusive  
15 bargaining representative is satisfied by the payment of monthly or  
16 other periodic dues and does not require payment of initiation,  
17 reinstatement, or any other fees or fines and includes full and  
18 complete membership rights: AND PROVIDED FURTHER, That in order to  
19 safeguard the right of nonassociation of public employees, based on  
20 bona fide religious tenets or teachings of a church or religious body  
21 of which such public employee is a member, such public employee shall  
22 pay to the union, for purposes within the program of the union as  
23 designated by such employee that would be in harmony with his or her  
24 individual conscience, an amount of money equivalent to regular union  
25 dues minus any included monthly premiums for union-sponsored insurance  
26 programs, and such employee shall not be a member of the union but is  
27 entitled to all the representation rights of a union member;

28 (13) Agreements between agencies and certified exclusive bargaining  
29 representatives providing for grievance procedures and collective  
30 negotiations on all personnel matters over which the appointing  
31 authority of the appropriate bargaining unit of such agency may  
32 lawfully exercise discretion;

33 (14) Written agreements may contain provisions for payroll  
34 deductions of employee organization dues upon authorization by the  
35 employee member and for the cancellation of such payroll deduction by  
36 the filing of a proper prior notice by the employee with the appointing  
37 authority and the employee organization: PROVIDED, That nothing  
38 contained herein permits or grants to any employee the right to strike  
39 or refuse to perform his or her official duties;

1 (15) Adoption and revision of a comprehensive classification plan  
2 for all positions in the classified service, based on investigation and  
3 analysis of the duties and responsibilities of each such position.

4 (a) The board shall not adopt job classification revisions or class  
5 studies unless implementation of the proposed revision or study will  
6 result in net cost savings, increased efficiencies, or improved  
7 management of personnel or services, and the proposed revision or study  
8 has been approved by the director of financial management in accordance  
9 with chapter 43.88 RCW.

10 (b) Beginning July 1, 1995, through June 30, 1997, in addition to  
11 the requirements of (a) of this subsection:

12 (i) The board may approve the implementation of salary increases  
13 resulting from adjustments to the classification plan during the 1995-  
14 97 fiscal biennium only if:

15 (A) The implementation will not result in additional net costs and  
16 the proposed implementation has been approved by the director of  
17 financial management in accordance with chapter 43.88 RCW;

18 (B) The implementation will take effect on July 1, 1996, and the  
19 total net cost of all such actions approved by the board for  
20 implementation during the 1995-97 fiscal biennium does not exceed the  
21 amounts specified by the legislature specifically for this purpose; or

22 (C) The implementation is a result of emergent conditions.  
23 Emergent conditions are defined as emergency situations requiring the  
24 establishment of positions necessary for the preservation of the public  
25 health, safety, or general welfare, which do not exceed \$250,000 of the  
26 moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp.  
27 sess.

28 (ii) The board shall approve only those salary increases resulting  
29 from adjustments to the classification plan if they are due to  
30 documented recruitment and retention difficulties, salary compression  
31 or inversion, increased duties and responsibilities, or inequities.  
32 For these purposes, inequities are defined as similar work assigned to  
33 different job classes with a salary disparity greater than 7.5 percent.

34 (iii) Adjustments made to the higher education hospital special pay  
35 plan are exempt from (b)(i) through (ii) of this subsection.

36 (c) Reclassifications, class studies, and salary adjustments to be  
37 implemented during the 1997-99 and subsequent fiscal biennia are  
38 governed by (a) of this subsection and RCW 41.06.152;

1 (16) Allocation and reallocation of positions within the  
2 classification plan;

3 (17) Adoption and revision of a state salary schedule to reflect  
4 the prevailing rates in Washington state private industries and other  
5 governmental units but the rates in the salary schedules or plans shall  
6 be increased if necessary to attain comparable worth under an  
7 implementation plan under RCW 41.06.155 and that, for institutions of  
8 higher education and related boards, shall be competitive for positions  
9 of a similar nature in the state or the locality in which an  
10 institution of higher education or related board is located, such  
11 adoption and revision subject to approval by the director of financial  
12 management in accordance with the provisions of chapter 43.88 RCW;

13 (18) Increment increases within the series of steps for each pay  
14 grade based on length of service for all employees whose standards of  
15 performance are such as to permit them to retain job status in the  
16 classified service;

17 (19) Providing for veteran's preference as required by existing  
18 statutes, with recognition of preference in regard to layoffs and  
19 subsequent reemployment for veterans and their surviving spouses by  
20 giving such eligible veterans and their surviving spouses additional  
21 credit in computing their seniority by adding to their unbroken state  
22 service, as defined by the board, the veteran's service in the military  
23 not to exceed five years. For the purposes of this section, "veteran"  
24 means any person who has one or more years of active military service  
25 in any branch of the armed forces of the United States or who has less  
26 than one year's service and is discharged with a disability incurred in  
27 the line of duty or is discharged at the convenience of the government  
28 and who, upon termination of such service has received an honorable  
29 discharge, a discharge for physical reasons with an honorable record,  
30 or a release from active military service with evidence of service  
31 other than that for which an undesirable, bad conduct, or dishonorable  
32 discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse  
33 of a veteran is entitled to the benefits of this section regardless of  
34 the veteran's length of active military service: PROVIDED FURTHER,  
35 That for the purposes of this section "veteran" does not include any  
36 person who has voluntarily retired with twenty or more years of active  
37 military service and whose military retirement pay is in excess of five  
38 hundred dollars per month;

1 (20) Permitting agency heads to delegate the authority to appoint,  
2 reduce, dismiss, suspend, or demote employees within their agencies if  
3 such agency heads do not have specific statutory authority to so  
4 delegate: PROVIDED, That the board may not authorize such delegation  
5 to any position lower than the head of a major subdivision of the  
6 agency;

7 (21) Assuring persons who are or have been employed in classified  
8 positions before July 1, 1993, will be eligible for employment,  
9 reemployment, transfer, and promotion in respect to classified  
10 positions covered by this chapter;

11 (22) Affirmative action in appointment, promotion, transfer,  
12 recruitment, training, and career development; development and  
13 implementation of affirmative action goals and timetables; and  
14 monitoring of progress against those goals and timetables.

15 The board shall consult with the human rights commission in the  
16 development of rules pertaining to affirmative action. The department  
17 of personnel shall transmit a report annually to the human rights  
18 commission which states the progress each state agency has made in  
19 meeting affirmative action goals and timetables.

20 **Sec. 9.** RCW 49.12.270 and 1988 c 236 s 3 are each amended to read  
21 as follows:

22 (1) An employer shall allow an employee to use the employee's  
23 accrued sick leave to care for a child of the employee under the age of  
24 eighteen with a health condition that requires treatment or  
25 supervision. Use of leave other than accrued sick leave to care for a  
26 child under the circumstances described in this section shall be  
27 governed by the terms of the appropriate collective bargaining  
28 agreement or employer policy, as applicable.

29 (2) "Child of the employee" means the biological or adopted child  
30 of the employee or employee's spouse, or a child under the legal  
31 guardianship, legal custody, or foster care of the employee and, with  
32 respect to state employees, includes the biological or adopted child of  
33 the employee's domestic partner as defined in RCW 41.05.011.

34 **Sec. 10.** RCW 49.78.020 and 1996 c 178 s 14 are each amended to  
35 read as follows:

36 Unless the context clearly requires otherwise, the definitions in  
37 this section apply throughout this chapter.



1 (1) "Child" means a biological or adopted child, or a stepchild,  
2 living with the employee, including, with respect to state employees,  
3 the biological or adopted child of a domestic partner as defined in RCW  
4 41.05.011.

5 (2) "Department" means the department of labor and industries.

6 (3) "Employee" means a person other than an independent contractor  
7 employed by an employer on a continuous basis for the previous fifty-  
8 two weeks for at least thirty-five hours per week.

9 (4) "Employer" means: (a) Any person, firm, corporation,  
10 partnership, business trust, legal representative, or other business  
11 entity which engages in any business, industry, profession, or activity  
12 in this state and includes any unit of local government including, but  
13 not limited to, a county, city, town, municipal corporation, quasi-  
14 municipal corporation, or political subdivision, which (i) employed a  
15 daily average of one hundred or more employees during the last calendar  
16 quarter at the place where the employee requesting leave reports for  
17 work, or (ii) employed a daily average of one hundred or more employees  
18 during the last calendar quarter within a twenty mile radius of the  
19 place where the employee requesting leave reports for work, where the  
20 employer maintains a central hiring location and customarily transfers  
21 employees among workplaces; and (b) the state, state institutions, and  
22 state agencies.

23 (5) "Family leave" means leave from employment to care for a  
24 newborn or newly adopted child under the age of six or a child under  
25 eighteen years old with a terminal health condition, as provided in RCW  
26 49.78.030.

27 (6) "Health care provider" means a person licensed as a physician  
28 under chapter 18.71 RCW or an osteopathic physician and surgeon under  
29 chapter 18.57 RCW.

30 (7) "Parent" means a biological or adoptive parent, or a  
31 stepparent.

32 (8) "Reduced leave schedule" means leave scheduled for fewer than  
33 an employee's usual number of hours or days per workweek.

34 (9) "Terminal health condition" means a condition caused by injury,  
35 disease, or illness, that, within reasonable medical judgment, is  
36 incurable and will produce death within the period of leave to which  
37 the employee is entitled.

1       **Sec. 11.** RCW 49.12.350 and 1989 1st ex.s. c 11 s 22 are each  
2 amended to read as follows:

3       The legislature finds that employers often distinguish between  
4 biological parents, and adoptive parents and stepparents, including the  
5 domestic partner of the biological parent, in their employee leave  
6 policies. Many employers who grant leave to their employees to care  
7 for a newborn child either have no policy or establish a more  
8 restrictive policy regarding whether an adoptive parent or stepparent  
9 can take similar leave. The legislature further finds that many  
10 employers establish different leave policies for men and women  
11 regarding the care of a newborn or newly placed child. The legislature  
12 recognizes that the bonding that occurs between a parent and child is  
13 important to the nurturing of that child, regardless of whether the  
14 parent is the child's biological parent and regardless of the gender of  
15 the parent. For these reasons, the legislature declares that it is the  
16 public policy of this state to require that employers who grant leave  
17 to their employees to care for a newborn child make the same leave  
18 available upon the same terms for adoptive parents and stepparents, men  
19 and women.

20       **Sec. 12.** RCW 49.12.360 and 1989 1st ex.s. c 11 s 23 are each  
21 amended to read as follows:

22       (1)(a) An employer must grant an adoptive parent or a stepparent,  
23 at the time of birth or initial placement for adoption of a child under  
24 the age of six, the same leave under the same terms as the employer  
25 grants to biological parents.

26       (b) An employer who is a state agency as defined in RCW  
27 41.06.020(1), in addition to complying with (a) of this subsection,  
28 must grant a state employee who is a domestic partner, at the time of  
29 birth or initial placement for adoption of a child, the same leave  
30 under the same terms as the employer grants to biological parents.

31       (c) As a term of leave under this section, an employer may restrict  
32 leave to those living with the child at the time of birth or initial  
33 placement.

34       (2) An employer must grant the same leave upon the same terms for  
35 men as it does for women.

36       (3) The department shall administer and investigate violations of  
37 this section. Notices of infraction, penalties, and appeals shall be  
38 administered in the same manner as violations under RCW 49.12.285.

1 (4) For purposes of this section(~~(7)~~):

2 (a) "Employer" includes all private and public employers listed in  
3 RCW 49.12.005(3).

4 (~~((5) For purposes of this section,)~~) (b) "Leave" means any leave  
5 from employment granted to care for a newborn or a newly adopted child  
6 at the time of placement for adoption.

7 (c) "Domestic partner" means a state employee in a domestic  
8 partnership complying with section 3 of this act.

9 (~~((6))~~) (5) Nothing in this section requires an employer to:

10 (a) Grant leave equivalent to maternity disability leave; or

11 (b) Establish a leave policy to care for a newborn or newly placed  
12 child if no such leave policy is in place for any of its employees.

13 **Sec. 13.** RCW 2.10.030 and 1997 c 88 s 5 are each amended to read  
14 as follows:

15 (1) "Retirement system" means the "Washington judicial retirement  
16 system" provided herein.

17 (2) "Judge" means a person elected or appointed to serve as judge  
18 of a court of record as provided in chapters 2.04, 2.06, and 2.08 RCW.  
19 "Judge" does not include a person serving as a judge pro tempore except  
20 for a judge pro tempore appointed under RCW 2.04.240(2) or 2.06.150(2).

21 (3) "Retirement board" means the "Washington judicial retirement  
22 board" established herein.

23 (4) "Surviving spouse" means the surviving widow or widower of a  
24 judge. "Surviving spouse" does not include the divorced spouse of a  
25 judge.

26 (5) "Retirement fund" means the "Washington judicial retirement  
27 fund" established herein.

28 (6) "Beneficiary" means any person in receipt of a retirement  
29 allowance, disability allowance or any other benefit described herein.

30 (7) "Monthly salary" means the monthly salary of the position held  
31 by the judge.

32 (8) "Service" means all periods of time served as a judge, as  
33 herein defined. Any calendar month at the beginning or end of a term  
34 in which ten or more days are served shall be counted as a full month  
35 of service: PROVIDED, That no more than one month's service may be  
36 granted for any one calendar month. Only months of service will be  
37 counted in the computation of any retirement allowance or other benefit  
38 provided for in this chapter. Years of service shall be determined by

1 dividing the total months of service by twelve. Any fraction of a year  
2 of service as so determined shall be taken into account in the  
3 computation of such retirement allowance or benefit.

4 (9) "Final average salary" means (a) for a judge in service in the  
5 same court for a minimum of twelve consecutive months preceding the  
6 date of retirement, the salary attached to the position held by the  
7 judge immediately prior to retirement; (b) for any other judge, the  
8 average monthly salary paid over the highest twenty-four month period  
9 in the last ten years of service.

10 (10) "Retirement allowance" for the purpose of applying cost of  
11 living increases or decreases includes retirement allowances,  
12 disability allowances and survivorship benefit.

13 (11) "Index" means for any calendar year, that year's annual  
14 average consumer price index for urban wage earners and clerical  
15 workers, all items (1957-1959 equal one hundred) -- compiled by the  
16 bureau of labor statistics, United States department of labor.

17 (12) "Accumulated contributions" means the total amount deducted  
18 from the judge's monthly salary pursuant to RCW 2.10.090, together with  
19 the regular interest thereon from July 1, 1988, as determined by the  
20 director of the department of retirement systems.

21 (13) "Domestic partner" means the person designated by a judge in  
22 an affidavit filed under section 3 of this act.

23 **Sec. 14.** RCW 2.10.140 and 1988 c 109 s 7 are each amended to read  
24 as follows:

25 (1) A surviving spouse or domestic partner of any judge holding  
26 such office, or if he dies after having retired and who, at the time of  
27 his death, has served ten or more years in the aggregate, shall receive  
28 a monthly allowance equal to fifty percent of the retirement allowance  
29 the retired judge was receiving, or fifty percent of the retirement  
30 allowance the active judge would have received had he been retired on  
31 the date of his death, but in no event less than twenty-five percent of  
32 the final average salary that the deceased judge was receiving:  
33 PROVIDED, That said surviving spouse had been married to the judge for  
34 a minimum of two years at time of death, or the domestic partner had  
35 been designated as a domestic partner for a minimum of two years at the  
36 time of death.

37 (2) A judge holding office on July 1, 1988, may make an  
38 irrevocable choice to relinquish the survivor benefits provided by this

1 section in exchange for the survivor benefits provided by RCW 2.10.144  
2 and 2.10.146 by indicating the choice in a written declaration  
3 submitted to the department of retirement systems by December 31, 1988.

4 (3) The surviving spouse or domestic partner of any judge who died  
5 in office after January 1, 1986, but before July 1, 1988, may elect to  
6 receive the survivor benefit provided in RCW 2.10.144(1).

7 **Sec. 15.** RCW 2.12.030 and 1973 1st ex.s. c 154 s 1 are each  
8 amended to read as follows:

9 Supreme court, court of appeals, or superior court judges of the  
10 state who retire from office under the provisions of this chapter other  
11 than as provided in RCW 2.12.012 shall be entitled to receive monthly  
12 during the period of their natural life, out of the fund hereinafter  
13 created, an amount equal to one-half of the monthly salary they were  
14 receiving as a judge at the time of their retirement, or at the end of  
15 the term immediately prior to their retirement if their retirement is  
16 made after expiration of their term. The surviving spouse or domestic  
17 partner of any judge who shall have heretofore retired or may hereafter  
18 retire, or of a judge who was heretofore or may hereafter be eligible  
19 for retirement at the time of death, if the surviving spouse had been  
20 married to the judge for three years or domestic partner designated for  
21 three years, if the surviving spouse had been married to the judge  
22 prior to retirement or the domestic partner designated prior to  
23 retirement, shall be paid an amount equal to one-half of the retirement  
24 pay of the judge, as long as such surviving spouse remains unmarried  
25 and is not a domestic partner or domestic partner remains unmarried and  
26 is not a domestic partner. The retirement pay shall be paid monthly by  
27 the state treasurer on or before the tenth day of each month. The  
28 provisions of this section shall apply to the surviving spouse or  
29 domestic partner of any judge who dies while holding such office or  
30 dies after having retired under the provisions of this chapter and who  
31 at the time of death had served ten or more years in the aggregate as  
32 a judge of the supreme court, court of appeals, or superior court or  
33 any of such courts, or had served an aggregate of twelve years in the  
34 supreme court, court of appeals, or superior court if such pension  
35 rights are based upon RCW 2.12.012.

36 **Sec. 16.** RCW 28B.10.400 and 1979 ex.s. c 259 s 1 are each amended  
37 to read as follows:

1 The boards of regents of the state universities, the boards of  
2 trustees of the regional universities and of The Evergreen State  
3 College, and the state board for community and technical colleges  
4 (~~education~~) are authorized and empowered:

5 (1) To assist the faculties and such other employees as any such  
6 board may designate in the purchase of old age annuities or retirement  
7 income plans under such rules and regulations as any such board may  
8 prescribe. County agricultural agents, home demonstration agents, 4-H  
9 club agents, and assistant county agricultural agents paid jointly by  
10 the Washington State University and the several counties shall be  
11 deemed to be full time employees of the Washington State University for  
12 the purposes hereof;

13 (2) To provide, under such rules and regulations as any such board  
14 may prescribe for the faculty members or other employees under its  
15 supervision, for the retirement of any such faculty member or other  
16 employee on account of age or condition of health, retirement on  
17 account of age to be not earlier than the sixty-fifth birthday:  
18 PROVIDED, That such faculty member or such other employee may elect to  
19 retire at the earliest age specified for retirement by federal social  
20 security law: PROVIDED FURTHER, That any supplemental payment  
21 authorized by subsection (3) of this section and paid as a result of  
22 retirement earlier than age sixty-five shall be at an actuarially  
23 reduced rate;

24 (3) To pay to any such retired person or to his designated  
25 beneficiary(s), each year after his retirement, a supplemental amount  
26 which, when added to the amount of such annuity or retirement income  
27 plan, or retirement income benefit pursuant to RCW 28B.10.415, received  
28 by him or his designated beneficiary(s) in such year, will not exceed  
29 fifty percent of the average annual salary paid to such retired person  
30 for his highest two consecutive years of full time service under an  
31 annuity or retirement income plan established pursuant to subsection  
32 (1) of this section at an institution of higher education: PROVIDED,  
33 HOWEVER, That if such retired person prior to his retirement elected a  
34 supplemental payment survivors option, any such supplemental payments  
35 to such retired person or his designated beneficiary(s) shall be at  
36 actuarially reduced rates: PROVIDED FURTHER, That if a faculty member  
37 or other employee of an institution of higher education who is a  
38 participant in a retirement plan authorized by this section dies, or  
39 has died before retirement but after becoming eligible for retirement

1 on account of age, the designated beneficiary(s) shall be entitled to  
2 receive the supplemental payment authorized by this subsection (3) of  
3 this section to which such designated beneficiary(s) would have been  
4 entitled had said deceased faculty member or other employee retired on  
5 the date of death after electing a supplemental payment survivors  
6 option: PROVIDED FURTHER, That for the purpose of this subsection, the  
7 designated beneficiary(s) shall be (a) the surviving spouse or domestic  
8 partner of the retiree; or, (b) with the written consent of such  
9 spouse, if any, such other person or persons as shall have an insurable  
10 interest in the retiree's life and shall have been nominated by written  
11 designation duly executed and filed with the retiree's institution of  
12 higher education. As used in this section and RCW 28B.10.431,  
13 "domestic partner" means the person designated by the retiree in an  
14 affidavit filed under section 3 of this act.

15 **Sec. 17.** RCW 28B.10.431 and 1983 1st ex.s. c 56 s 2 are each  
16 amended to read as follows:

17 Notwithstanding any provision of law to the contrary, effective  
18 July 1, 1983, the monthly benefit of each person who either is  
19 receiving a benefit pursuant to a program established under RCW  
20 28B.10.400 for their service as of July 1, 1978, or commenced receiving  
21 a monthly benefit as a surviving spouse or domestic partner or written  
22 designated beneficiary with an insurable interest in the retiree as of  
23 a date no later than December 31, 1982, shall be permanently increased  
24 by a post-retirement adjustment of \$.74 per month for each year of  
25 creditable service the faculty member or employee established with the  
26 annuity or retirement income plan. Any fraction of a year of service  
27 shall be counted in the computation of the post-retirement adjustment.

28 **Sec. 18.** RCW 28B.10.567 and 1987 c 185 s 2 are each amended to  
29 read as follows:

30 The boards of regents of the state universities and board of  
31 trustees of the regional universities and the board of trustees of The  
32 Evergreen State College are authorized and empowered, under such rules  
33 and regulations as any such board may prescribe for the duly sworn  
34 police officers employed by any such board as members of a police force  
35 established pursuant to RCW 28B.10.550, to provide for the payment of  
36 death or disability benefits or medical expense reimbursement for  
37 death, disability, or injury of any such duly sworn police officer who,

1 in the line of duty, loses his life or becomes disabled or is injured,  
2 and for the payment of such benefits to be made to any such duly sworn  
3 police officer or his surviving spouse or domestic partner or the legal  
4 guardian of his child or children, as defined in RCW 41.26.030(7), or  
5 his estate: PROVIDED, That the duty-related benefits authorized by  
6 this section shall in no event be greater than the benefits authorized  
7 on June 25, 1976 for duty-related death, disability, or injury of a law  
8 enforcement officer under chapter 41.26 RCW: PROVIDED FURTHER, That  
9 the duty-related benefits authorized by this section shall be reduced  
10 to the extent of any amounts received or eligible to be received on  
11 account of the duty-related death, disability, or injury to any such  
12 duly sworn police officer, his surviving spouse or domestic partner,  
13 the legal guardian of his child or children, or his estate, under  
14 workers' compensation, social security including the changes  
15 incorporated under Public Law 89-97 as now or hereafter amended, or  
16 disability income insurance and health care plans under chapter 41.05  
17 RCW. As used in this section, "domestic partner" means the person  
18 designated by the police officer in an affidavit filed under section 3  
19 of this act.

20 **Sec. 19.** RCW 41.26.030 and 1996 c 178 s 11 and 1996 c 38 s 2 are  
21 each reenacted and amended to read as follows:

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

24 (1) "Retirement system" means the "Washington law enforcement  
25 officers' and fire fighters' retirement system" provided herein.

26 (2)(a) "Employer" for plan 1 members, means the legislative  
27 authority of any city, town, county, or district or the elected  
28 officials of any municipal corporation that employs any law enforcement  
29 officer and/or fire fighter, any authorized association of such  
30 municipalities, and, except for the purposes of RCW 41.26.150, any  
31 labor guild, association, or organization, which represents the fire  
32 fighters or law enforcement officers of at least seven cities of over  
33 20,000 population and the membership of each local lodge or division of  
34 which is composed of at least sixty percent law enforcement officers or  
35 fire fighters as defined in this chapter.

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



1 (i) The legislative authority of any city, town, county, or  
2 district;

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

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

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

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

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

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

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

27 (d) The term "law enforcement officer" also includes the executive  
28 secretary of a labor guild, association or organization (which is an  
29 employer under RCW 41.26.030(2)) if that individual has five years  
30 previous membership in the retirement system established in chapter  
31 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to  
32 plan 2 members; and

33 (e) The term "law enforcement officer" also includes a person  
34 employed on or after January 1, 1993, as a public safety officer or  
35 director of public safety, so long as the job duties substantially  
36 involve only either police or fire duties, or both, and no other duties  
37 in a city or town with a population of less than ten thousand. The  
38 provisions of this subsection (3)(e) shall not apply to any public

1 safety officer or director of public safety who is receiving a  
2 retirement allowance under this chapter as of May 12, 1993.

3 (4) "Fire fighter" means:

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

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

10 (c) Supervisory fire fighter personnel;

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

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

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

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

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

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

33 (7)(a) "Child" or "children" means an unmarried person who is under  
34 the age of eighteen or mentally or physically handicapped as determined  
35 by the department, except a handicapped person in the full time care of  
36 a state institution, who is:

37 (i) A natural born child;

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

1 (iii) A posthumous child;

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

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

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

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

19 (9) "Retirement fund" means the "Washington law enforcement  
20 officers' and fire fighters' retirement system fund" as provided for  
21 herein.

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

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

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

30 (12)(a) "Final average salary" for plan 1 members, means (i) for a  
31 member holding the same position or rank for a minimum of twelve months  
32 preceding the date of retirement, the basic salary attached to such  
33 same position or rank at time of retirement; (ii) for any other member,  
34 including a civil service member who has not served a minimum of twelve  
35 months in the same position or rank preceding the date of retirement,  
36 the average of the greatest basic salaries payable to such member  
37 during any consecutive twenty-four month period within such member's  
38 last ten years of service for which service credit is allowed, computed  
39 by dividing the total basic salaries payable to such member during the

1 selected twenty-four month period by twenty-four; (iii) in the case of  
2 disability of any member, the basic salary payable to such member at  
3 the time of disability retirement; (iv) in the case of a member who  
4 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to  
5 such member at the time of vesting.

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

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

16 (b) "Basic salary" for plan 2 members, means salaries or wages  
17 earned by a member during a payroll period for personal services,  
18 including overtime payments, and shall include wages and salaries  
19 deferred under provisions established pursuant to sections 403(b),  
20 414(h), and 457 of the United States Internal Revenue Code, but shall  
21 exclude lump sum payments for deferred annual sick leave, unused  
22 accumulated vacation, unused accumulated annual leave, or any form of  
23 severance pay. In any year in which a member serves in the legislature  
24 the member shall have the option of having such member's basic salary  
25 be the greater of:

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

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

34 (14)(a) "Service" for plan 1 members, means all periods of  
35 employment for an employer as a fire fighter or law enforcement  
36 officer, for which compensation is paid, together with periods of  
37 suspension not exceeding thirty days in duration. For the purposes of  
38 this chapter service shall also include service in the armed forces of  
39 the United States as provided in RCW 41.26.190. Credit shall be

1 allowed for all service credit months of service rendered by a member  
2 from and after the member's initial commencement of employment as a  
3 fire fighter or law enforcement officer, during which the member worked  
4 for seventy or more hours, or was on disability leave or disability  
5 retirement. Only service credit months of service shall be counted in  
6 the computation of any retirement allowance or other benefit provided  
7 for in this chapter.

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

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

23 (b) "Service" for plan 2 members, means periods of employment by a  
24 member for one or more employers for which basic salary is earned for  
25 ninety or more hours per calendar month which shall constitute a  
26 service credit month. Periods of employment by a member for one or  
27 more employers for which basic salary is earned for at least seventy  
28 hours but less than ninety hours per calendar month shall constitute  
29 one-half service credit month. Periods of employment by a member for  
30 one or more employers for which basic salary is earned for less than  
31 seventy hours shall constitute a one-quarter service credit month.

32 Members of the retirement system who are elected or appointed to a  
33 state elective position may elect to continue to be members of this  
34 retirement system.

35 Service credit years of service shall be determined by dividing the  
36 total number of service credit months of service by twelve. Any  
37 fraction of a service credit year of service as so determined shall be  
38 taken into account in the computation of such retirement allowance or  
39 benefits.

1        If a member receives basic salary from two or more employers during  
2 any calendar month, the individual shall receive one service credit  
3 month's service credit during any calendar month in which multiple  
4 service for ninety or more hours is rendered; or one-half service  
5 credit month's service credit during any calendar month in which  
6 multiple service for at least seventy hours but less than ninety hours  
7 is rendered; or one-quarter service credit month during any calendar  
8 month in which multiple service for less than seventy hours is  
9 rendered.

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

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

18        (17) "Actuarial valuation" means a mathematical determination of  
19 the financial condition of a retirement plan. It includes the  
20 computation of the present monetary value of benefits payable to  
21 present members, and the present monetary value of future employer and  
22 employee contributions, giving effect to mortality among active and  
23 retired members and also to the rates of disability, retirement,  
24 withdrawal from service, salary and interest earned on investments.

25        (18) "Disability board" for plan 1 members means either the county  
26 disability board or the city disability board established in RCW  
27 41.26.110.

28        (19) "Disability leave" means the period of six months or any  
29 portion thereof during which a member is on leave at an allowance equal  
30 to the member's full salary prior to the commencement of disability  
31 retirement. The definition contained in this subsection shall apply  
32 only to plan 1 members.

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

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

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

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

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

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

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

14 (i) The fees of the following:

15 (A) A physician or surgeon licensed under the provisions of chapter  
16 18.71 RCW;

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

19 (C) A chiropractor licensed under the provisions of chapter 18.25  
20 RCW.

21 (ii) The charges of a registered graduate nurse other than a nurse  
22 who ordinarily resides in the member's home, or is a member of the  
23 family of either the member or the member's spouse or domestic partner.

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

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

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

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

28 (D) Anesthesia and oxygen;

29 (E) Rental of iron lung and other durable medical and surgical  
30 equipment;

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

32 (G) Professional ambulance service when used to transport the  
33 member to or from a hospital when injured by an accident or stricken by  
34 a disease;

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

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

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

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

3 (L) An optometrist licensed under the provisions of chapter 18.53  
4 RCW.

5 (23) "Regular interest" means such rate as the director may  
6 determine.

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

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

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

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

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

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

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

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

29 (32) "General authority law enforcement agency" means any agency,  
30 department, or division of a municipal corporation, political  
31 subdivision, or other unit of local government of this state, and any  
32 agency, department, or division of state government, having as its  
33 primary function the detection and apprehension of persons committing  
34 infractions or violating the traffic or criminal laws in general, but  
35 not including the Washington state patrol. Such an agency, department,  
36 or division is distinguished from a limited authority law enforcement  
37 agency having as one of its functions the apprehension or detection of  
38 persons committing infractions or violating the traffic or criminal  
39 laws relating to limited subject areas, including but not limited to,



1 the state departments of natural resources, fish and wildlife, and  
2 social and health services, the state gambling commission, the state  
3 lottery commission, the state parks and recreation commission, the  
4 state utilities and transportation commission, the state liquor control  
5 board, and the state department of corrections.

6 (33) "Domestic partner" has the same meaning as provided in RCW  
7 41.05.011.

8 **Sec. 20.** RCW 41.26.048 and 1996 c 226 s 1 are each amended to read  
9 as follows:

10 (1) A one hundred fifty thousand dollar death benefit shall be paid  
11 to the member's estate, or such person or persons, trust or  
12 organization as the member shall have nominated by written designation  
13 duly executed and filed with the department. If there be no such  
14 designated person or persons still living at the time of the member's  
15 death, such member's death benefit shall be paid to the member's  
16 surviving spouse or domestic partner as if in fact such spouse or  
17 domestic partner had been nominated by written designation, or if there  
18 be no such surviving spouse or domestic partner, then to such member's  
19 legal representatives.

20 (2) The benefit under this section shall be paid only where death  
21 occurs as a result of injuries sustained in the course of employment.  
22 The determination of eligibility for the benefit shall be made  
23 consistent with Title 51 RCW by the department of labor and industries.  
24 The department of labor and industries shall notify the department of  
25 retirement systems by order under RCW 51.52.050.

26 **Sec. 21.** RCW 41.26.090 and 1991 sp.s. c 11 s 4 are each amended to  
27 read as follows:

28 Retirement of a member for service shall be made by the department  
29 as follows:

30 (1) Any member having five or more service credit years of service  
31 and having attained the age of fifty years shall be eligible for a  
32 service retirement allowance and shall be retired upon the member's  
33 written request effective the first day following the date upon which  
34 the member is separated from service.

35 (2) Any member having five or more service credit years of service,  
36 who terminates his or her employment with any employer, may leave his  
37 or her contributions in the fund. Any employee who so elects, upon

1 attaining age fifty, shall be eligible to apply for and receive a  
2 service retirement allowance based on his or her years of service,  
3 commencing on the first day following his or her attainment of age  
4 fifty.

5 (3) Any member selecting optional vesting under subsection (2) of  
6 this section with less than twenty service credit years of service  
7 shall not be covered by the provisions of RCW 41.26.150, and the  
8 member's survivors shall not be entitled to the benefits of RCW  
9 41.26.160 unless his or her death occurs after he or she has attained  
10 the age of fifty years. Those members selecting this optional vesting  
11 with twenty or more years service shall not be covered by the  
12 provisions of RCW 41.26.150 until the attainment of the age of fifty  
13 years. A member selecting this optional vesting, with less than twenty  
14 service credit years of service credit, who dies prior to attaining the  
15 age of fifty years, shall have paid from the Washington law enforcement  
16 officers' and fire fighters' retirement fund, to such member's  
17 surviving spouse or domestic partner, if any, otherwise to such  
18 beneficiary as the member shall have designated in writing, or if no  
19 such designation has been made, to the personal representative of his  
20 or her estate, a lump sum which is equal to the amount of such member's  
21 accumulated contributions plus accrued interest. If the vested member  
22 has twenty or more service credit years of service credit the surviving  
23 spouse or domestic partner or children shall then become eligible for  
24 the benefits of RCW 41.26.160 regardless of the member's age at the  
25 time of his or her death, to the exclusion of the lump sum amount  
26 provided by this subsection.

27 (4) Any member who has attained the age of sixty years shall be  
28 retired on the first day of the calendar month next succeeding that in  
29 which said member shall have attained the age of sixty and may not  
30 thereafter be employed as a law enforcement officer or fire fighter:  
31 PROVIDED, That for any member who is elected or appointed to the office  
32 of sheriff, chief of police, or fire chief, his or her election or  
33 appointment shall be considered as a waiver of the age sixty provision  
34 for retirement and nonemployment for whatever number of years remain in  
35 his or her present term of office and any succeeding periods for which  
36 he or she may be so elected or appointed. The provisions of this  
37 subsection shall not apply to any member who is employed as a law  
38 enforcement officer or fire fighter on March 1, 1970.

1       **Sec. 22.** RCW 41.26.160 and 1991 sp.s. c 11 s 5 are each amended to  
2 read as follows:

3       (1) In the event of the death of any member who is in active  
4 service, or who has vested under the provisions of RCW 41.26.090 with  
5 twenty or more service credit years of service, or who is on disability  
6 leave or retired, whether for disability or service, the surviving  
7 spouse or domestic partner shall become entitled to receive a monthly  
8 allowance equal to fifty percent of the final average salary at the  
9 date of death if active, or the amount of retirement allowance the  
10 vested member would have received at age fifty, or the amount of the  
11 retirement allowance such retired member was receiving at the time of  
12 death if retired for service or disability. The amount of this  
13 allowance will be increased five percent of final average salary for  
14 each child as defined in RCW 41.26.030(7), as now or hereafter amended,  
15 subject to a maximum combined allowance of sixty percent of final  
16 average salary: PROVIDED, That if the child or children is or are in  
17 the care of a legal guardian, payment of the increase attributable to  
18 each child will be made to the child's legal guardian or, in the  
19 absence of a legal guardian and if the member has created a trust for  
20 the benefit of the child or children, payment of the increase  
21 attributable to each child will be made to the trust.

22       (2) If at the time of the death of a vested member with twenty or  
23 more service credit years of service as provided in subsection (1) of  
24 this section or a member retired for service or disability, the  
25 surviving spouse has not been lawfully married to such member for one  
26 year prior to retirement or separation from service if a vested member  
27 or, if a domestic partner, has not been designated as a domestic  
28 partner for one year prior to retirement or separation from service,  
29 the surviving spouse or domestic partner shall not be eligible to  
30 receive the benefits under this section: PROVIDED, That if a member  
31 dies as a result of a disability incurred in the line of duty, then if  
32 he or she was married or in a domestic partnership at the time he or  
33 she was disabled, the surviving spouse or domestic partner shall be  
34 eligible to receive the benefits under this section.

35       (3) If there be no surviving spouse or domestic partner eligible to  
36 receive benefits at the time of such member's death, then the child or  
37 children of such member shall receive a monthly allowance equal to  
38 thirty percent of final average salary for one child and an additional  
39 ten percent for each additional child subject to a maximum combined

1 payment, under this subsection, of sixty percent of final average  
2 salary. When there cease to be any eligible children as defined in RCW  
3 41.26.030(7), as now or hereafter amended, there shall be paid to the  
4 legal heirs of said member the excess, if any, of accumulated  
5 contributions of said member at the time of death over all payments  
6 made to survivors on his or her behalf under this chapter: PROVIDED,  
7 That payments under this subsection to children shall be prorated  
8 equally among the children, if more than one. If the member has  
9 created a trust for the benefit of the child or children, the payment  
10 shall be made to the trust.

11 (4) In the event that there is no surviving spouse or domestic  
12 partner eligible to receive benefits under this section, and that there  
13 be no child or children eligible to receive benefits under this  
14 section, then the accumulated contributions shall be paid to the estate  
15 of said member.

16 (5) If a surviving spouse or domestic partner receiving benefits  
17 under the provisions of this section thereafter dies and there are  
18 children as defined in RCW 41.26.030(7), as now or hereafter amended,  
19 payment to the spouse or domestic partner shall cease and the child or  
20 children shall receive the benefits as provided in subsection (3) of  
21 this section.

22 (6) The payment provided by this section shall become due the day  
23 following the date of death and payments shall be retroactive to that  
24 date.

25 **Sec. 23.** RCW 41.26.460 and 1998 c 340 s 5 are each amended to read  
26 as follows:

27 (1) Upon retirement for service as prescribed in RCW 41.26.430 or  
28 disability retirement under RCW 41.26.470, a member shall elect to have  
29 the retirement allowance paid pursuant to the following options,  
30 calculated so as to be actuarially equivalent to each other.

31 (a) Standard allowance. A member electing this option shall  
32 receive a retirement allowance payable throughout such member's life.  
33 However, if the retiree dies before the total of the retirement  
34 allowance paid to such retiree equals the amount of such retiree's  
35 accumulated contributions at the time of retirement, then the balance  
36 shall be paid to the member's estate, or such person or persons, trust,  
37 or organization as the retiree shall have nominated by written  
38 designation duly executed and filed with the department; or if there be

1 no such designated person or persons still living at the time of the  
2 retiree's death, then to the surviving spouse or domestic partner; or  
3 if there be neither such designated person or persons still living at  
4 the time of death nor a surviving spouse or domestic partner, then to  
5 the retiree's legal representative.

6 (b) The department shall adopt rules that allow a member to select  
7 a retirement option that pays the member a reduced retirement allowance  
8 and upon death, such portion of the member's reduced retirement  
9 allowance as the department by rule designates shall be continued  
10 throughout the life of and paid to a designated person. Such person  
11 shall be nominated by the member by written designation duly executed  
12 and filed with the department at the time of retirement. The options  
13 adopted by the department shall include, but are not limited to, a  
14 joint and one hundred percent survivor option and a joint and fifty  
15 percent survivor option.

16 (2)(a) A member, if married, must provide the written consent of  
17 his or her spouse to the option selected under this section, except as  
18 provided in (b) of this subsection. If a member is married and both  
19 the member and member's spouse do not give written consent to an option  
20 under this section, the department will pay the member a joint and  
21 fifty percent survivor benefit and record the member's spouse as the  
22 beneficiary. Such benefit shall be calculated to be actuarially  
23 equivalent to the benefit options available under subsection (1) of  
24 this section unless spousal consent is not required as provided in (b)  
25 of this subsection.

26 (b) If a copy of a dissolution order designating a survivor  
27 beneficiary under RCW 41.50.790 has been filed with the department at  
28 least thirty days prior to a member's retirement:

29 (i) The department shall honor the designation as if made by the  
30 member under subsection (1) of this section; and

31 (ii) The spousal consent provisions of (a) of this subsection do  
32 not apply.

33 (3)(a) Any member who retired before January 1, 1996, and who  
34 elected to receive a reduced retirement allowance under subsection  
35 (1)(b) or (2) of this section is entitled to receive a retirement  
36 allowance adjusted in accordance with (b) of this subsection, if they  
37 meet the following conditions:

38 (i) The retiree's designated beneficiary predeceases or has  
39 predeceased the retiree; and

1 (ii) The retiree provides to the department proper proof of the  
2 designated beneficiary's death.

3 (b) The retirement allowance payable to the retiree, as of July 1,  
4 1998, or the date of the designated beneficiary's death, whichever  
5 comes last, shall be increased by the percentage derived in (c) of this  
6 subsection.

7 (c) The percentage increase shall be derived by the following:

8 (i) One hundred percent multiplied by the result of (c)(ii) of this  
9 subsection converted to a percent;

10 (ii) Subtract one from the reciprocal of the appropriate joint and  
11 survivor option factor;

12 (iii) The joint and survivor option factor shall be from the table  
13 in effect as of July 1, 1998.

14 (d) The adjustment under (b) of this subsection shall accrue from  
15 the beginning of the month following the date of the designated  
16 beneficiary's death or from July 1, 1998, whichever comes last.

17 **Sec. 24.** RCW 41.26.470 and 1995 c 144 s 18 are each amended to  
18 read as follows:

19 (1) A member of the retirement system who becomes totally  
20 incapacitated for continued employment by an employer as determined by  
21 the director shall be eligible to receive an allowance under the  
22 provisions of RCW 41.26.410 through 41.26.550. Such member shall  
23 receive a monthly disability allowance computed as provided for in RCW  
24 41.26.420 and shall have such allowance actuarially reduced to reflect  
25 the difference in the number of years between age at disability and the  
26 attainment of age fifty-five.

27 (2) Any member who receives an allowance under the provisions of  
28 this section shall be subject to such comprehensive medical  
29 examinations as required by the department. If such medical  
30 examinations reveal that such a member has recovered from the  
31 incapacitating disability and the member is no longer entitled to  
32 benefits under Title 51 RCW, the retirement allowance shall be canceled  
33 and the member shall be restored to duty in the same civil service  
34 rank, if any, held by the member at the time of retirement or, if  
35 unable to perform the duties of the rank, then, at the member's  
36 request, in such other like or lesser rank as may be or become open and  
37 available, the duties of which the member is then able to perform. In  
38 no event shall a member previously drawing a disability allowance be

1 returned or be restored to duty at a salary or rate of pay less than  
2 the current salary attached to the rank or position held by the member  
3 at the date of the retirement for disability. If the department  
4 determines that the member is able to return to service, the member is  
5 entitled to notice and a hearing. Both the notice and the hearing  
6 shall comply with the requirements of chapter 34.05 RCW, the  
7 Administrative Procedure Act.

8 (3) Those members subject to this chapter who became disabled in  
9 the line of duty on or after July 23, 1989, and who receive benefits  
10 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW  
11 41.04.535 shall receive or continue to receive service credit subject  
12 to the following:

13 (a) No member may receive more than one month's service credit in  
14 a calendar month.

15 (b) No service credit under this section may be allowed after a  
16 member separates or is separated without leave of absence.

17 (c) Employer contributions shall be paid by the employer at the  
18 rate in effect for the period of the service credited.

19 (d) Employee contributions shall be collected by the employer and  
20 paid to the department at the rate in effect for the period of service  
21 credited.

22 (e) State contributions shall be as provided in RCW 41.26.450.

23 (f) Contributions shall be based on the regular compensation which  
24 the member would have received had the disability not occurred.

25 (g) The service and compensation credit under this section shall be  
26 granted for a period not to exceed six consecutive months.

27 (h) Should the legislature revoke the service credit authorized  
28 under this section or repeal this section, no affected employee is  
29 entitled to receive the credit as a matter of contractual right.

30 (4)(a) If the recipient of a monthly retirement allowance under  
31 this section dies before the total of the retirement allowance paid to  
32 the recipient equals the amount of the accumulated contributions at the  
33 date of retirement, then the balance shall be paid to the member's  
34 estate, or such person or persons, trust, or organization as the  
35 recipient has nominated by written designation duly executed and filed  
36 with the director, or, if there is no such designated person or persons  
37 still living at the time of the recipient's death, then to the  
38 surviving spouse or domestic partner, or, if there is neither such  
39 designated person or persons still living at the time of his or her

1 death nor a surviving spouse or domestic partner, then to his or her  
2 legal representative.

3 (b) If a recipient of a monthly retirement allowance under this  
4 section died before April 27, 1989, and before the total of the  
5 retirement allowance paid to the recipient equaled the amount of his or  
6 her accumulated contributions at the date of retirement, then the  
7 department shall pay the balance of the accumulated contributions to  
8 the member's surviving spouse or domestic partner or, if there is no  
9 surviving spouse or domestic partner, then in equal shares to the  
10 member's children. If there is no surviving spouse or domestic  
11 partner, or children, the department shall retain the contributions.

12 **Sec. 25.** RCW 41.26.510 and 1995 c 245 s 1 and 1995 c 144 s 19 are  
13 each reenacted and amended to read as follows:

14 (1) Except as provided in RCW 11.07.010, if a member or a vested  
15 member who has not completed at least ten years of service dies, the  
16 amount of the accumulated contributions standing to such member's  
17 credit in the retirement system at the time of such member's death,  
18 less any amount identified as owing to an obligee upon withdrawal of  
19 accumulated contributions pursuant to a court order filed under RCW  
20 41.50.670, shall be paid to the member's estate, or such person or  
21 persons, trust, or organization as the member shall have nominated by  
22 written designation duly executed and filed with the department. If  
23 there be no such designated person or persons still living at the time  
24 of the member's death, such member's accumulated contributions standing  
25 to such member's credit in the retirement system, less any amount  
26 identified as owing to an obligee upon withdrawal of accumulated  
27 contributions pursuant to a court order filed under RCW 41.50.670,  
28 shall be paid to the member's surviving spouse or domestic partner as  
29 if in fact such spouse or domestic partner had been nominated by  
30 written designation, or if there be no such surviving spouse or  
31 domestic partner, then to such member's legal representatives.

32 (2) If a member who is eligible for retirement or a member who has  
33 completed at least ten years of service dies, the surviving spouse or  
34 domestic partner or eligible child or children shall elect to receive  
35 either:

36 (a) A retirement allowance computed as provided for in RCW  
37 41.26.430(1), actuarially reduced by the amount of any lump sum benefit  
38 identified as owing to an obligee upon withdrawal of accumulated



1 contributions pursuant to a court order filed under RCW 41.50.670 and  
2 actuarially adjusted to reflect a joint and one hundred percent  
3 survivor option under RCW 41.26.460 and if the member was not eligible  
4 for normal retirement at the date of death a further reduction as  
5 described in RCW 41.26.430(2); if a surviving spouse or domestic  
6 partner who is receiving a retirement allowance dies leaving a child or  
7 children of the member under the age of majority, then such child or  
8 children shall continue to receive an allowance in an amount equal to  
9 that which was being received by the surviving spouse or domestic  
10 partner, share and share alike, until such child or children reach the  
11 age of majority; if there is no surviving spouse or domestic partner  
12 eligible to receive an allowance at the time of the member's death,  
13 such member's child or children under the age of majority shall receive  
14 an allowance share and share alike calculated as herein provided making  
15 the assumption that the ages of the spouse or domestic partner and  
16 member were equal at the time of the member's death; or

17 (b)(i) The member's accumulated contributions, less any amount  
18 identified as owing to an obligee upon withdrawal of accumulated  
19 contributions pursuant to a court order filed under RCW 41.50.670; or

20 (ii) If the member dies on or after July 25, 1993, one hundred  
21 fifty percent of the member's accumulated contributions, less any  
22 amount identified as owing to an obligee upon withdrawal of accumulated  
23 contributions pursuant to a court order filed under RCW 41.50.670. Any  
24 accumulated contributions attributable to restorations made under RCW  
25 41.50.165(2) shall be refunded at one hundred percent.

26 (3) If a member who is eligible for retirement or a member who has  
27 completed at least ten years of service dies after October 1, 1977, and  
28 is not survived by a spouse or domestic partner, or an eligible child,  
29 then the accumulated contributions standing to the member's credit,  
30 less any amount identified as owing to an obligee upon withdrawal of  
31 accumulated contributions pursuant to a court order filed under RCW  
32 41.50.670, shall be paid:

33 (a) To an estate, a person or persons, trust, or organization as  
34 the member shall have nominated by written designation duly executed  
35 and filed with the department; or

36 (b) If there is no such designated person or persons still living  
37 at the time of the member's death, then to the member's legal  
38 representatives.

1       **Sec. 26.** RCW 41.40.010 and 1997 c 254 s 10 and 1997 c 88 s 6 are  
2 each reenacted and amended to read as follows:

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

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

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

9       (3) "State treasurer" means the treasurer of the state of  
10 Washington.

11       (4)(a) "Employer" for plan 1 members, means every branch,  
12 department, agency, commission, board, and office of the state, any  
13 political subdivision or association of political subdivisions of the  
14 state admitted into the retirement system, and legal entities  
15 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the  
16 term shall also include any labor guild, association, or organization  
17 the membership of a local lodge or division of which is comprised of at  
18 least forty percent employees of an employer (other than such labor  
19 guild, association, or organization) within this chapter. The term may  
20 also include any city of the first class that has its own retirement  
21 system.

22       (b) "Employer" for plan 2 members, means every branch, department,  
23 agency, commission, board, and office of the state, and any political  
24 subdivision and municipal corporation of the state admitted into the  
25 retirement system, including public agencies created pursuant to RCW  
26 35.63.070, 36.70.060, and 39.34.030.

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

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

33       (a) Any person who became a member of the system prior to April 1,  
34 1949;

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

38       (c) Any person who first becomes a member by securing employment  
39 with an employer prior to April 1, 1951, provided the member has

1 rendered at least one or more years of service to any employer prior to  
2 October 1, 1947;

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

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

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

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

26 (8)(a) "Compensation earnable" for plan 1 members, means salaries  
27 or wages earned during a payroll period for personal services and where  
28 the compensation is not all paid in money, maintenance compensation  
29 shall be included upon the basis of the schedules established by the  
30 member's employer.

31 (i) "Compensation earnable" for plan 1 members also includes the  
32 following actual or imputed payments, which are not paid for personal  
33 services:

34 (A) Retroactive payments to an individual by an employer on  
35 reinstatement of the employee in a position, or payments by an employer  
36 to an individual in lieu of reinstatement in a position which are  
37 awarded or granted as the equivalent of the salary or wage which the  
38 individual would have earned during a payroll period shall be

1 considered compensation earnable and the individual shall receive the  
2 equivalent service credit;

3 (B) If a leave of absence is taken by an individual for the purpose  
4 of serving in the state legislature, the salary which would have been  
5 received for the position from which the leave of absence was taken,  
6 shall be considered as compensation earnable if the employee's  
7 contribution is paid by the employee and the employer's contribution is  
8 paid by the employer or employee;

9 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
10 72.09.240;

11 (D) Compensation that a member would have received but for a  
12 disability occurring in the line of duty only as authorized by RCW  
13 41.40.038;

14 (E) Compensation that a member receives due to participation in the  
15 leave sharing program only as authorized by RCW 41.04.650 through  
16 41.04.670; and

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

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

24 (A) Remuneration for unused sick leave authorized under RCW  
25 41.04.340, 28A.400.210, or 28A.310.490;

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

28 (b) "Compensation earnable" for plan 2 members, means salaries or  
29 wages earned by a member during a payroll period for personal services,  
30 including overtime payments, and shall include wages and salaries  
31 deferred under provisions established pursuant to sections 403(b),  
32 414(h), and 457 of the United States Internal Revenue Code, but shall  
33 exclude nonmoney maintenance compensation and lump sum or other  
34 payments for deferred annual sick leave, unused accumulated vacation,  
35 unused accumulated annual leave, or any form of severance pay.

36 "Compensation earnable" for plan 2 members also includes the  
37 following actual or imputed payments, which are not paid for personal  
38 services:

1 (i) Retroactive payments to an individual by an employer on  
2 reinstatement of the employee in a position, or payments by an employer  
3 to an individual in lieu of reinstatement in a position which are  
4 awarded or granted as the equivalent of the salary or wage which the  
5 individual would have earned during a payroll period shall be  
6 considered compensation earnable to the extent provided above, and the  
7 individual shall receive the equivalent service credit;

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

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

13 (B) Such member's actual compensation earnable received for  
14 nonlegislative public employment and legislative service combined. Any  
15 additional contributions to the retirement system required because  
16 compensation earnable under (b)(ii)(A) of this subsection is greater  
17 than compensation earnable under (b)(ii)(B) of this subsection shall be  
18 paid by the member for both member and employer contributions;

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

21 (iv) Compensation that a member would have received but for a  
22 disability occurring in the line of duty only as authorized by RCW  
23 41.40.038;

24 (v) Compensation that a member receives due to participation in the  
25 leave sharing program only as authorized by RCW 41.04.650 through  
26 41.04.670; and

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

33 (9)(a) "Service" for plan 1 members, except as provided in RCW  
34 41.40.088, means periods of employment in an eligible position or  
35 positions for one or more employers rendered to any employer for which  
36 compensation is paid, and includes time spent in office as an elected  
37 or appointed official of an employer. Compensation earnable earned in  
38 full time work for seventy hours or more in any given calendar month  
39 shall constitute one service credit month except as provided in RCW

1 41.40.088. Compensation earnable earned for less than seventy hours in  
2 any calendar month shall constitute one-quarter service credit month of  
3 service except as provided in RCW 41.40.088. Only service credit  
4 months and one-quarter service credit months shall be counted in the  
5 computation of any retirement allowance or other benefit provided for  
6 in this chapter. Any fraction of a year of service shall be taken into  
7 account in the computation of such retirement allowance or benefits.  
8 Time spent in standby status, whether compensated or not, is not  
9 service.

10 (i) Service by a state employee officially assigned by the state on  
11 a temporary basis to assist another public agency, shall be considered  
12 as service as a state employee: PROVIDED, That service to any other  
13 public agency shall not be considered service as a state employee if  
14 such service has been used to establish benefits in any other public  
15 retirement system.

16 (ii) An individual shall receive no more than a total of twelve  
17 service credit months of service during any calendar year. If an  
18 individual is employed in an eligible position by one or more employers  
19 the individual shall receive no more than one service credit month  
20 during any calendar month in which multiple service for seventy or more  
21 hours is rendered.

22 (iii) A school district employee may count up to forty-five days of  
23 sick leave as creditable service solely for the purpose of determining  
24 eligibility to retire under RCW 41.40.180 as authorized by RCW  
25 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW  
26 28A.400.300 is equal to two service credit months. Use of less than  
27 forty-five days of sick leave is creditable as allowed under this  
28 subsection as follows:

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

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

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

34 (b) "Service" for plan 2 members, means periods of employment by a  
35 member in an eligible position or positions for one or more employers  
36 for which compensation earnable is paid. Compensation earnable earned  
37 for ninety or more hours in any calendar month shall constitute one  
38 service credit month except as provided in RCW 41.40.088. Compensation  
39 earnable earned for at least seventy hours but less than ninety hours

1 in any calendar month shall constitute one-half service credit month of  
2 service. Compensation earnable earned for less than seventy hours in  
3 any calendar month shall constitute one-quarter service credit month of  
4 service. Time spent in standby status, whether compensated or not, is  
5 not service.

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

8 (i) Service in any state elective position shall be deemed to be  
9 full time service, except that persons serving in state elective  
10 positions who are members of the teachers' retirement system or law  
11 enforcement officers' and fire fighters' retirement system at the time  
12 of election or appointment to such position may elect to continue  
13 membership in the teachers' retirement system or law enforcement  
14 officers' and fire fighters' retirement system.

15 (ii) A member shall receive a total of not more than twelve service  
16 credit months of service for such calendar year. If an individual is  
17 employed in an eligible position by one or more employers the  
18 individual shall receive no more than one service credit month during  
19 any calendar month in which multiple service for ninety or more hours  
20 is rendered.

21 (iii) Up to forty-five days of sick leave may be creditable as  
22 service solely for the purpose of determining eligibility to retire  
23 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
24 plan 2 "forty-five days" as used in RCW 28A.400.300 is equal to two  
25 service credit months. Use of less than forty-five days of sick leave  
26 is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

3 (13) "Membership service" means:

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

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

9 (c) Service not to exceed six consecutive months of probationary  
10 service rendered after April 1, 1949, and prior to becoming a member,  
11 in the case of any member, upon payment in full by such member of the  
12 total amount of the employer's contribution to the retirement fund  
13 which would have been required under the law in effect when such  
14 probationary service was rendered if the member had been a member  
15 during such period, except that the amount of the employer's  
16 contribution shall be calculated by the director based on the first  
17 month's compensation earnable as a member;

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

25 (14)(a) "Beneficiary" for plan 1 members, means any person in  
26 receipt of a retirement allowance, pension or other benefit provided by  
27 this chapter.

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

31 (15) "Regular interest" means such rate as the director may  
32 determine.

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

37 (17)(a) "Average final compensation" for plan 1 members, means the  
38 annual average of the greatest compensation earnable by a member during  
39 any consecutive two year period of service credit months for which



1 service credit is allowed; or if the member has less than two years of  
2 service credit months then the annual average compensation earnable  
3 during the total years of service for which service credit is allowed.

4 (b) "Average final compensation" for plan 2 members, means the  
5 member's average compensation earnable of the highest consecutive sixty  
6 months of service credit months prior to such member's retirement,  
7 termination, or death. Periods constituting authorized leaves of  
8 absence may not be used in the calculation of average final  
9 compensation except under RCW 41.40.710(2).

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

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

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

18 (21) "Retirement allowance" means the sum of the annuity and the  
19 pension.

20 (22) "Employee" or "employed" means a person who is providing  
21 services for compensation to an employer, unless the person is free  
22 from the employer's direction and control over the performance of work.  
23 The department shall adopt rules and interpret this subsection  
24 consistent with common law.

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

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

30 (25) "Eligible position" means:

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

37 (b) Any position occupied by an elected official or person  
38 appointed directly by the governor, or appointed by the chief justice

1 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which  
2 compensation is paid.

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

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

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

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

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

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

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

21 (33) "Plan 1" means the public employees' retirement system, plan  
22 1 providing the benefits and funding provisions covering persons who  
23 first became members of the system prior to October 1, 1977.

24 (34) "Plan 2" means the public employees' retirement system, plan  
25 2 providing the benefits and funding provisions covering persons who  
26 first became members of the system on and after October 1, 1977.

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

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

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

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

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

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

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

6 (42) "Domestic partner" has the same meaning as provided in RCW  
7 41.05.011.

8 **Sec. 27.** RCW 41.40.010 and 1998 c 341 s 601 are each amended to  
9 read as follows:

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

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

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

16 (3) "State treasurer" means the treasurer of the state of  
17 Washington.

18 (4)(a) "Employer" for plan 1 members, means every branch,  
19 department, agency, commission, board, and office of the state, any  
20 political subdivision or association of political subdivisions of the  
21 state admitted into the retirement system, and legal entities  
22 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the  
23 term shall also include any labor guild, association, or organization  
24 the membership of a local lodge or division of which is comprised of at  
25 least forty percent employees of an employer (other than such labor  
26 guild, association, or organization) within this chapter. The term may  
27 also include any city of the first class that has its own retirement  
28 system.

29 (b) "Employer" for plan 2 members, means every branch, department,  
30 agency, commission, board, and office of the state, and any political  
31 subdivision and municipal corporation of the state admitted into the  
32 retirement system, including public agencies created pursuant to RCW  
33 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000,  
34 school districts and educational service districts will no longer be  
35 employers for the public employees' retirement system plan 2.

36 (5) "Member" means any employee included in the membership of the  
37 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045  
38 does not prohibit a person otherwise eligible for membership in the

1 retirement system from establishing such membership effective when he  
2 or she first entered an eligible position.

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

4 (a) Any person who became a member of the system prior to April 1,  
5 1949;

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

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

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

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

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

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

36 (8)(a) "Compensation earnable" for plan 1 members, means salaries  
37 or wages earned during a payroll period for personal services and where  
38 the compensation is not all paid in money, maintenance compensation

1 shall be included upon the basis of the schedules established by the  
2 member's employer.

3 (i) "Compensation earnable" for plan 1 members also includes the  
4 following actual or imputed payments, which are not paid for personal  
5 services:

6 (A) Retroactive payments to an individual by an employer on  
7 reinstatement of the employee in a position, or payments by an employer  
8 to an individual in lieu of reinstatement in a position which are  
9 awarded or granted as the equivalent of the salary or wage which the  
10 individual would have earned during a payroll period shall be  
11 considered compensation earnable and the individual shall receive the  
12 equivalent service credit;

13 (B) If a leave of absence is taken by an individual for the purpose  
14 of serving in the state legislature, the salary which would have been  
15 received for the position from which the leave of absence was taken,  
16 shall be considered as compensation earnable if the employee's  
17 contribution is paid by the employee and the employer's contribution is  
18 paid by the employer or employee;

19 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
20 72.09.240;

21 (D) Compensation that a member would have received but for a  
22 disability occurring in the line of duty only as authorized by RCW  
23 41.40.038;

24 (E) Compensation that a member receives due to participation in the  
25 leave sharing program only as authorized by RCW 41.04.650 through  
26 41.04.670; and

27 (F) Compensation that a member receives for being in standby  
28 status. For the purposes of this section, a member is in standby  
29 status when not being paid for time actually worked and the employer  
30 requires the member to be prepared to report immediately for work, if  
31 the need arises, although the need may not arise.

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

33 (A) Remuneration for unused sick leave authorized under RCW  
34 41.04.340, 28A.400.210, or 28A.310.490;

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

37 (b) "Compensation earnable" for plan 2 members, means salaries or  
38 wages earned by a member during a payroll period for personal services,  
39 including overtime payments, and shall include wages and salaries

1 deferred under provisions established pursuant to sections 403(b),  
2 414(h), and 457 of the United States Internal Revenue Code, but shall  
3 exclude nonmoney maintenance compensation and lump sum or other  
4 payments for deferred annual sick leave, unused accumulated vacation,  
5 unused accumulated annual leave, or any form of severance pay.

6 "Compensation earnable" for plan 2 members also includes the  
7 following actual or imputed payments, which are not paid for personal  
8 services:

9 (i) Retroactive payments to an individual by an employer on  
10 reinstatement of the employee in a position, or payments by an employer  
11 to an individual in lieu of reinstatement in a position which are  
12 awarded or granted as the equivalent of the salary or wage which the  
13 individual would have earned during a payroll period shall be  
14 considered compensation earnable to the extent provided above, and the  
15 individual shall receive the equivalent service credit;

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

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

21 (B) Such member's actual compensation earnable received for  
22 nonlegislative public employment and legislative service combined. Any  
23 additional contributions to the retirement system required because  
24 compensation earnable under (b)(ii)(A) of this subsection is greater  
25 than compensation earnable under (b)(ii)(B) of this subsection shall be  
26 paid by the member for both member and employer contributions;

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

29 (iv) Compensation that a member would have received but for a  
30 disability occurring in the line of duty only as authorized by RCW  
31 41.40.038;

32 (v) Compensation that a member receives due to participation in the  
33 leave sharing program only as authorized by RCW 41.04.650 through  
34 41.04.670; and

35 (vi) Compensation that a member receives for being in standby  
36 status. For the purposes of this section, a member is in standby  
37 status when not being paid for time actually worked and the employer  
38 requires the member to be prepared to report immediately for work, if  
39 the need arises, although the need may not arise.

1 (9)(a) "Service" for plan 1 members, except as provided in RCW  
2 41.40.088, means periods of employment in an eligible position or  
3 positions for one or more employers rendered to any employer for which  
4 compensation is paid, and includes time spent in office as an elected  
5 or appointed official of an employer. Compensation earnable earned in  
6 full time work for seventy hours or more in any given calendar month  
7 shall constitute one service credit month except as provided in RCW  
8 41.40.088. Compensation earnable earned for less than seventy hours in  
9 any calendar month shall constitute one-quarter service credit month of  
10 service except as provided in RCW 41.40.088. Only service credit  
11 months and one-quarter service credit months shall be counted in the  
12 computation of any retirement allowance or other benefit provided for  
13 in this chapter. Any fraction of a year of service shall be taken into  
14 account in the computation of such retirement allowance or benefits.  
15 Time spent in standby status, whether compensated or not, is not  
16 service.

17 (i) Service by a state employee officially assigned by the state on  
18 a temporary basis to assist another public agency, shall be considered  
19 as service as a state employee: PROVIDED, That service to any other  
20 public agency shall not be considered service as a state employee if  
21 such service has been used to establish benefits in any other public  
22 retirement system.

23 (ii) An individual shall receive no more than a total of twelve  
24 service credit months of service during any calendar year. If an  
25 individual is employed in an eligible position by one or more employers  
26 the individual shall receive no more than one service credit month  
27 during any calendar month in which multiple service for seventy or more  
28 hours is rendered.

29 (iii) A school district employee may count up to forty-five days of  
30 sick leave as creditable service solely for the purpose of determining  
31 eligibility to retire under RCW 41.40.180 as authorized by RCW  
32 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW  
33 28A.400.300 is equal to two service credit months. Use of less than  
34 forty-five days of sick leave is creditable as allowed under this  
35 subsection as follows:

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

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

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

3 (b) "Service" for plan 2 members, means periods of employment by a  
4 member in an eligible position or positions for one or more employers  
5 for which compensation earnable is paid. Compensation earnable earned  
6 for ninety or more hours in any calendar month shall constitute one  
7 service credit month except as provided in RCW 41.40.088. Compensation  
8 earnable earned for at least seventy hours but less than ninety hours  
9 in any calendar month shall constitute one-half service credit month of  
10 service. Compensation earnable earned for less than seventy hours in  
11 any calendar month shall constitute one-quarter service credit month of  
12 service. Time spent in standby status, whether compensated or not, is  
13 not service.

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

16 (i) Service in any state elective position shall be deemed to be  
17 full time service, except that persons serving in state elective  
18 positions who are members of the Washington school employees'  
19 retirement system, teachers' retirement system, or law enforcement  
20 officers' and fire fighters' retirement system at the time of election  
21 or appointment to such position may elect to continue membership in the  
22 Washington school employees' retirement system, teachers' retirement  
23 system, or law enforcement officers' and fire fighters' retirement  
24 system.

25 (ii) A member shall receive a total of not more than twelve service  
26 credit months of service for such calendar year. If an individual is  
27 employed in an eligible position by one or more employers the  
28 individual shall receive no more than one service credit month during  
29 any calendar month in which multiple service for ninety or more hours  
30 is rendered.

31 (iii) Up to forty-five days of sick leave may be creditable as  
32 service solely for the purpose of determining eligibility to retire  
33 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
34 plan 2 "forty-five days" as used in RCW 28A.400.300 is equal to two  
35 service credit months. Use of less than forty-five days of sick leave  
36 is creditable as allowed under this subsection as follows:

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

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



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

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

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

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

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

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

12 (13) "Membership service" means:

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

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

18 (c) Service not to exceed six consecutive months of probationary  
19 service rendered after April 1, 1949, and prior to becoming a member,  
20 in the case of any member, upon payment in full by such member of the  
21 total amount of the employer's contribution to the retirement fund  
22 which would have been required under the law in effect when such  
23 probationary service was rendered if the member had been a member  
24 during such period, except that the amount of the employer's  
25 contribution shall be calculated by the director based on the first  
26 month's compensation earnable as a member;

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

34 (14)(a) "Beneficiary" for plan 1 members, means any person in  
35 receipt of a retirement allowance, pension or other benefit provided by  
36 this chapter.

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

1 (15) "Regular interest" means such rate as the director may  
2 determine.

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

7 (17)(a) "Average final compensation" for plan 1 members, means the  
8 annual average of the greatest compensation earnable by a member during  
9 any consecutive two year period of service credit months for which  
10 service credit is allowed; or if the member has less than two years of  
11 service credit months then the annual average compensation earnable  
12 during the total years of service for which service credit is allowed.

13 (b) "Average final compensation" for plan 2 members, means the  
14 member's average compensation earnable of the highest consecutive sixty  
15 months of service credit months prior to such member's retirement,  
16 termination, or death. Periods constituting authorized leaves of  
17 absence may not be used in the calculation of average final  
18 compensation except under RCW 41.40.710(2).

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

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

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

27 (21) "Retirement allowance" means the sum of the annuity and the  
28 pension.

29 (22) "Employee" or "employed" means a person who is providing  
30 services for compensation to an employer, unless the person is free  
31 from the employer's direction and control over the performance of work.  
32 The department shall adopt rules and interpret this subsection  
33 consistent with common law.

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

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

39 (25) "Eligible position" means:

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

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

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

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

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

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

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

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

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

29 (33) "Plan 1" means the public employees' retirement system, plan  
30 1 providing the benefits and funding provisions covering persons who  
31 first became members of the system prior to October 1, 1977.

32 (34) "Plan 2" means the public employees' retirement system, plan  
33 2 providing the benefits and funding provisions covering persons who  
34 first became members of the system on and after October 1, 1977.

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

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

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

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

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

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

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

13 (42) "Domestic partner" has the same meaning as provided in RCW  
14 41.05.011.

15 **Sec. 28.** RCW 41.40.023 and 1997 c 254 s 11 are each amended to  
16 read as follows:

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

20 (1) Persons in ineligible positions;

21 (2) Employees of the legislature except the officers thereof  
22 elected by the members of the senate and the house and legislative  
23 committees, unless membership of such employees be authorized by the  
24 said committee;

25 (3)(a) Persons holding elective offices or persons appointed  
26 directly by the governor: PROVIDED, That such persons shall have the  
27 option of applying for membership during such periods of employment:  
28 AND PROVIDED FURTHER, That any persons holding or who have held  
29 elective offices or persons appointed by the governor who are members  
30 in the retirement system and who have, prior to becoming such members,  
31 previously held an elective office, and did not at the start of such  
32 initial or successive terms of office exercise their option to become  
33 members, may apply for membership to be effective during such term or  
34 terms of office, and shall be allowed to establish the service credit  
35 applicable to such term or terms of office upon payment of the employee  
36 contributions therefor by the employee with interest as determined by  
37 the director and employer contributions therefor by the employer or  
38 employee with interest as determined by the director: AND PROVIDED

1 FURTHER, That all contributions with interest submitted by the employee  
2 under this subsection shall be placed in the employee's individual  
3 account in the employee's savings fund and be treated as any other  
4 contribution made by the employee, with the exception that any  
5 contributions submitted by the employee in payment of the employer's  
6 obligation, together with the interest the director may apply to the  
7 employer's contribution, shall not be considered part of the member's  
8 annuity for any purpose except withdrawal of contributions;

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

20 (4) Employees holding membership in, or receiving pension benefits  
21 under, any retirement plan operated wholly or in part by an agency of  
22 the state or political subdivision thereof, or who are by reason of  
23 their current employment contributing to or otherwise establishing the  
24 right to receive benefits from any such retirement plan: PROVIDED,  
25 HOWEVER, In any case where the retirement system has in existence an  
26 agreement with another retirement system in connection with exchange of  
27 service credit or an agreement whereby members can retain service  
28 credit in more than one system, such an employee shall be allowed  
29 membership rights should the agreement so provide: AND PROVIDED  
30 FURTHER, That an employee shall be allowed membership if otherwise  
31 eligible while receiving survivor's benefits: AND PROVIDED FURTHER,  
32 That an employee shall not either before or after June 7, 1984, be  
33 excluded from membership or denied service credit pursuant to this  
34 subsection solely on account of: (a) Membership in the plan created  
35 under chapter 2.14 RCW; or (b) enrollment under the relief and  
36 compensation provisions or the pension provisions of the volunteer fire  
37 fighters' relief and pension fund under chapter 41.24 RCW;

38 (5) Patient and inmate help in state charitable, penal, and  
39 correctional institutions;

1 (6) "Members" of a state veterans' home or state soldiers' home;  
2 (7) Persons employed by an institution of higher learning or  
3 community college, primarily as an incident to and in furtherance of  
4 their education or training, or the education or training of a spouse  
5 or domestic partner;  
6 (8) Employees of an institution of higher learning or community  
7 college during the period of service necessary to establish eligibility  
8 for membership in the retirement plans operated by such institutions;  
9 (9) Persons rendering professional services to an employer on a  
10 fee, retainer, or contract basis or when the income from these services  
11 is less than fifty percent of the gross income received from the  
12 person's practice of a profession;  
13 (10) Persons appointed after April 1, 1963, by the liquor control  
14 board as agency vendors;  
15 (11) Employees of a labor guild, association, or organization:  
16 PROVIDED, That elective officials and employees of a labor guild,  
17 association, or organization which qualifies as an employer within this  
18 chapter shall have the option of applying for membership;  
19 (12) Retirement system retirees: PROVIDED, That following  
20 reemployment in an eligible position, a retiree may elect to  
21 prospectively become a member of the retirement system if otherwise  
22 eligible;  
23 (13) Persons employed by or appointed or elected as an official of  
24 a first class city that has its own retirement system: PROVIDED, That  
25 any member elected or appointed to an elective office on or after April  
26 1, 1971, shall have the option of continuing as a member of this system  
27 in lieu of becoming a member of the city system. A member who elects  
28 to continue as a member of this system shall pay the appropriate member  
29 contributions and the city shall pay the employer contributions at the  
30 rates prescribed by this chapter. The city shall also transfer to this  
31 system all of such member's accumulated contributions together with  
32 such further amounts as necessary to equal all employee and employer  
33 contributions which would have been paid into this system on account of  
34 such service with the city and thereupon the member shall be granted  
35 credit for all such service. Any city that becomes an employer as  
36 defined in RCW 41.40.010(4) as the result of an individual's election  
37 under this subsection shall not be required to have all employees  
38 covered for retirement under the provisions of this chapter. Nothing  
39 in this subsection shall prohibit a city of the first class with its

1 own retirement system from: (a) Transferring all of its current  
2 employees to the retirement system established under this chapter, or  
3 (b) allowing newly hired employees the option of continuing coverage  
4 under the retirement system established by this chapter.

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

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

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

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

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

1 A member who withdraws from membership in the system under this section  
2 shall receive a refund of the member's accumulated contributions.

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

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

13 **Sec. 29.** RCW 41.40.188 and 1998 c 340 s 8 are each amended to read  
14 as follows:

15 (1) Upon retirement for service as prescribed in RCW 41.40.180 or  
16 retirement for disability under RCW 41.40.210 or 41.40.230, a member  
17 shall elect to have the retirement allowance paid pursuant to one of  
18 the following options calculated so as to be actuarially equivalent to  
19 each other.

20 (a) Standard allowance. A member electing this option shall  
21 receive a retirement allowance payable throughout such member's life.  
22 However, if the retiree dies before the total of the retirement  
23 allowance paid to such retiree equals the amount of such retiree's  
24 accumulated contributions at the time of retirement, then the balance  
25 shall be paid to the member's estate, or such person or persons, trust,  
26 or organization as the retiree shall have nominated by written  
27 designation duly executed and filed with the department; or if there be  
28 no such designated person or persons still living at the time of the  
29 retiree's death, then to the surviving spouse or domestic partner; or  
30 if there be neither such designated person or persons still living at  
31 the time of death nor a surviving spouse or domestic partner, then to  
32 the retiree's legal representative.

33 (b) The department shall adopt rules that allow a member to select  
34 a retirement option that pays the member a reduced retirement allowance  
35 and upon death, such portion of the member's reduced retirement  
36 allowance as the department by rule designates shall be continued  
37 throughout the life of and paid to a person nominated by the member by  
38 written designation duly executed and filed with the department at the



1 time of retirement. The options adopted by the department shall  
2 include, but are not limited to, a joint and one hundred percent  
3 survivor option and a joint and fifty percent survivor option.

4 (c) A member may elect to include the benefit provided under RCW  
5 41.40.640 along with the retirement options available under this  
6 section. This retirement allowance option shall be calculated so as to  
7 be actuarially equivalent to the options offered under this subsection.

8 (2)(a) A member, if married, must provide the written consent of  
9 his or her spouse to the option selected under this section, except as  
10 provided in (b) of this subsection. If a member is married and both  
11 the member and the member's spouse do not give written consent to an  
12 option under this section, the department shall pay a joint and fifty  
13 percent survivor benefit calculated to be actuarially equivalent to the  
14 benefit options available under subsection (1) of this section unless  
15 spousal consent is not required as provided in (b) of this subsection.

16 (b) If a copy of a dissolution order designating a survivor  
17 beneficiary under RCW 41.50.790 has been filed with the department at  
18 least thirty days prior to a member's retirement:

19 (i) The department shall honor the designation as if made by the  
20 member under subsection (1) of this section; and

21 (ii) The spousal consent provisions of (a) of this subsection do  
22 not apply.

23 (3)(a) Any member who retired before January 1, 1996, and who  
24 elected to receive a reduced retirement allowance under subsection  
25 (1)(b) or (2) of this section is entitled to receive a retirement  
26 allowance adjusted in accordance with (b) of this subsection, if they  
27 meet the following conditions:

28 (i) The retiree's designated beneficiary predeceases or has  
29 predeceased the retiree; and

30 (ii) The retiree provides to the department proper proof of the  
31 designated beneficiary's death.

32 (b) The retirement allowance payable to the retiree, as of July 1,  
33 1998, or the date of the designated beneficiary's death, whichever  
34 comes last, shall be increased by the percentage derived in (c) of this  
35 subsection.

36 (c) The percentage increase shall be derived by the following:

37 (i) One hundred percent multiplied by the result of (c)(ii) of this  
38 subsection converted to a percent;

1 (ii) Subtract one from the reciprocal of the appropriate joint and  
2 survivor option factor;

3 (iii) The joint and survivor option factor shall be from the table  
4 in effect as of July 1, 1998.

5 (d) The adjustment under (b) of this subsection shall accrue from  
6 the beginning of the month following the date of the designated  
7 beneficiary's death or from July 1, 1998, whichever comes last.

8 **Sec. 30.** RCW 41.40.190 and 1990 c 249 s 8 are each amended to read  
9 as follows:

10 In lieu of the retirement allowance provided in RCW 41.40.185, an  
11 individual employed on or before April 25, 1973 may, after complying  
12 with RCW 41.40.180 or 41.40.210, make an irrevocable election to  
13 receive the retirement allowance provided by this section which shall  
14 consist of:

15 (1) An annuity which shall be the actuarial equivalent of his or  
16 her accumulated contributions at the time of his or her retirement; and

17 (2) A basic service pension of one hundred dollars per annum; and

18 (3) A membership service pension, subject to the provisions of  
19 subdivision (4) of this section, which shall be equal to one one-  
20 hundredth of his or her average final compensation for each year or  
21 fraction of a year of membership service credited to his or her service  
22 account; and

23 (4) A prior service pension which shall be equal to one-seventieth  
24 of his or her average final compensation for each year or fraction of  
25 a year of prior service not to exceed thirty years credited to his or  
26 her service accounts. In no event shall any original member upon  
27 retirement at age seventy with ten or more years of service credit  
28 receive less than nine hundred dollars per annum as a retirement  
29 allowance, nor shall any member upon retirement at any age receive a  
30 retirement allowance of less than nine hundred dollars per annum if  
31 such member has twelve or more years of service credit, or less than  
32 one thousand and two hundred dollars per annum if such member has  
33 sixteen or more years of service credit, or less than one thousand five  
34 hundred and sixty dollars per annum if such member has twenty or more  
35 years of service credit. In the event that the retirement allowance as  
36 to such member provided by subdivisions (1), (2), (3), and (4) hereof  
37 shall amount to less than the aforesaid minimum retirement allowance,  
38 the basic service pension of the member shall be increased from one

1 hundred dollars to a sum sufficient to make a retirement allowance of  
2 the applicable minimum amount.

3 (5) Notwithstanding the provisions of subsections (1) through (4)  
4 of this section, the retirement allowance payable for service where a  
5 member was elected or appointed pursuant to Articles II or III of the  
6 Constitution of the state of Washington or RCW 48.02.010 and the  
7 implementing statutes shall be a combined pension and annuity. Said  
8 retirement allowance shall be equal to three percent of the average  
9 final compensation for each year of such service. Any member covered  
10 by this subsection who upon retirement has served ten or more years  
11 shall receive a retirement allowance of at least one thousand two  
12 hundred dollars per annum; such member who has served fifteen or more  
13 years shall receive a retirement allowance of at least one thousand  
14 eight hundred dollars per annum; and such member who has served twenty  
15 or more years shall receive a retirement allowance of at least two  
16 thousand four hundred dollars per annum: PROVIDED, That the initial  
17 retirement allowance of a member retiring only under the provisions of  
18 this subsection shall not exceed the average final compensation upon  
19 which the retirement allowance is based. The minimum benefits provided  
20 in this subsection shall apply to all retired members or to the  
21 surviving spouse or domestic partner of deceased members who were  
22 elected under the provisions of Article II of the Washington state  
23 Constitution.

24 (6) Unless payment shall be made under RCW 41.40.270, a joint and  
25 one hundred percent survivor benefit under RCW 41.40.188 shall  
26 automatically be given effect as if selected for the benefit of the  
27 surviving spouse or domestic partner upon the death in service, or  
28 while on authorized leave of absence for a period not to exceed one  
29 hundred and twenty days from the date of payroll separation, of any  
30 member who is qualified for a service retirement allowance or has  
31 completed ten years of service at the time of death, except that if the  
32 member is not then qualified for a service retirement allowance, such  
33 option 2 benefit shall be based upon the actuarial equivalent of the  
34 sum necessary to pay the accrued regular retirement allowance  
35 commencing when the deceased member would have first qualified for a  
36 service retirement allowance.

37 **Sec. 31.** RCW 41.40.220 and 1995 c 144 s 2 are each amended to read  
38 as follows:

1       Upon retirement for disability, as provided in RCW 41.40.200, a  
2 member who has not attained age sixty shall receive the following  
3 benefits, subject to the provisions of RCW 41.40.310 and 41.40.320:

4       (1) A disability retirement pension of two-thirds of his or her  
5 average final compensation to his or her attainment of age sixty,  
6 subject to the provisions of RCW 41.40.310. The disability retirement  
7 pension provided by the employer shall not exceed forty-two hundred  
8 dollars per annum, and

9       (2) Upon attainment of age sixty, the disabled member shall receive  
10 a service retirement allowance as provided in RCW 41.40.210. The  
11 department shall grant the disabled member membership service for the  
12 period of time prior to age sixty he or she was out of such service due  
13 to disability.

14       (3) During the period a disabled member is receiving a disability  
15 pension, as provided for in subsection (1) of this section, his or her  
16 contributions to the employees' savings fund shall be suspended and his  
17 or her balance in the employees' savings fund, standing to his or her  
18 credit as of the date his or her disability pension is to begin, shall  
19 remain in the employees' savings fund. If the disabled member should  
20 die before attaining age sixty, while a disability beneficiary, upon  
21 receipt by the department of proper proof of death, the member's  
22 accumulated contributions standing to his or her credit in the  
23 employees' savings fund, shall be paid to the member's estate, or such  
24 person or persons, trust, or organization as he or she shall have  
25 nominated by written designation duly executed and filed with the  
26 department. If there is no designated person or persons still living  
27 at the time of the member's death, the accumulated contributions  
28 standing to the member's credit in the employees' savings fund shall be  
29 paid to his or her surviving spouse or domestic partner, or if there is  
30 no surviving spouse or domestic partner, then to the member's legal  
31 representative.

32       **Sec. 32.** RCW 41.40.235 and 1995 c 144 s 3 are each amended to read  
33 as follows:

34       (1) Upon retirement, a member shall receive a nonduty disability  
35 retirement allowance equal to two percent of average final compensation  
36 for each service credit year of service: PROVIDED, That this allowance  
37 shall be reduced by two percent of itself for each year or fraction  
38 thereof that his or her age is less than fifty-five years: PROVIDED

1 FURTHER, That in no case may the allowance provided by this section  
2 exceed sixty percent of average final compensation.

3 (2) If the recipient of a retirement allowance under this section  
4 dies before the total of the retirement allowance paid to the recipient  
5 equals the amount of the accumulated contributions at the date of  
6 retirement, then the balance shall be paid to the member's estate, or  
7 the person or persons, trust, or organization as the recipient has  
8 nominated by written designation duly executed and filed with the  
9 director or, if there is no designated person or persons still living  
10 at the time of the recipient's death, then to the surviving spouse or  
11 domestic partner or, if there is neither a designated person or persons  
12 still living at the time of his or her death nor a surviving spouse or  
13 domestic partner, then to his or her legal representative.

14 **Sec. 33.** RCW 41.40.250 and 1995 c 144 s 4 are each amended to read  
15 as follows:

16 An individual who was a member on February 25, 1972, may upon  
17 qualifying pursuant to RCW 41.40.230, make an irrevocable election to  
18 receive the nonduty disability retirement allowance provided in  
19 subsections (1) and (2) of this section subject to the provisions of  
20 RCW 41.40.310 and 41.40.320. Upon attaining or becoming disabled after  
21 age sixty the member shall receive a service retirement allowance as  
22 provided for in RCW 41.40.190 except that the annuity portion thereof  
23 shall consist of a continuation of the cash refund annuity previously  
24 provided to him or her. The disability retirement allowance prior to  
25 age sixty shall consist of:

26 (1) A cash refund annuity which shall be the actuarial equivalent  
27 of the member's accumulated contributions at the time of his or her  
28 retirement; and

29 (2) A pension, in addition to the annuity, equal to one one-  
30 hundredth of the member's average final compensation for each year of  
31 service. If the recipient of a retirement allowance under this section  
32 dies before the total of the annuity portions of the retirement  
33 allowance paid to him or her equals the amount of his or her  
34 accumulated contributions at the date of retirement, then the balance  
35 shall be paid to the member's estate, or the person or persons, trust,  
36 or organization as he or she shall have nominated by written  
37 designation duly executed and filed with the department, or if there is  
38 no designated person or persons, still living at the time of his or her

1 death, then to his or her surviving spouse or domestic partner, or if  
2 there is no designated person or persons still living at the time of  
3 his or her death nor a surviving spouse or domestic partner, then to  
4 his or her legal representatives.

5 **Sec. 34.** RCW 41.40.270 and 1997 c 73 s 2 are each amended to read  
6 as follows:

7 (1) Except as specified in subsection (4) of this section, should  
8 a member die before the date of retirement the amount of the  
9 accumulated contributions standing to the member's credit in the  
10 employees' savings fund, less any amount identified as owing to an  
11 obligee upon withdrawal of accumulated contributions pursuant to a  
12 court order filed under RCW 41.50.670, at the time of death:

13 (a) Shall be paid to the member's estate, or such person or  
14 persons, trust, or organization as the member shall have nominated by  
15 written designation duly executed and filed with the department; or

16 (b) If there be no such designated person or persons still living  
17 at the time of the member's death, or if a member fails to file a new  
18 beneficiary designation subsequent to marriage, remarriage, dissolution  
19 of marriage, divorce, or reestablishment of membership following  
20 termination by withdrawal or retirement, such accumulated  
21 contributions, less any amount identified as owing to an obligee upon  
22 withdrawal of accumulated contributions pursuant to a court order filed  
23 under RCW 41.50.670, shall be paid to the surviving spouse or domestic  
24 partner as if in fact such spouse or domestic partner had been  
25 nominated by written designation as aforesaid, or if there be no such  
26 surviving spouse or domestic partner, then to the member's legal  
27 representatives.

28 (2) Upon the death in service, or while on authorized leave of  
29 absence for a period not to exceed one hundred and twenty days from the  
30 date of payroll separation, of any member who is qualified but has not  
31 applied for a service retirement allowance or has completed ten years  
32 of service at the time of death, the designated beneficiary, or the  
33 surviving spouse or domestic partner as provided in subsection (1) of  
34 this section, may elect to waive the payment provided by subsection (1)  
35 of this section. Upon such an election, a joint and one hundred  
36 percent survivor option under RCW 41.40.188, calculated under the  
37 retirement allowance described in RCW 41.40.185 or 41.40.190, whichever  
38 is greater, actuarially reduced by the amount of any lump sum benefit

1 identified as owing to an obligee upon withdrawal of accumulated  
2 contributions pursuant to a court order filed under RCW 41.50.670 shall  
3 automatically be given effect as if selected for the benefit of the  
4 designated beneficiary. If the member is not then qualified for a  
5 service retirement allowance, such benefit shall be based upon the  
6 actuarial equivalent of the sum necessary to pay the accrued regular  
7 retirement allowance commencing when the deceased member would have  
8 first qualified for a service retirement allowance.

9 (3) Subsection (1) of this section, unless elected, shall not apply  
10 to any member who has applied for service retirement in RCW 41.40.180,  
11 as now or hereafter amended, and thereafter dies between the date of  
12 separation from service and the member's effective retirement date,  
13 where the member has selected a survivorship option under RCW  
14 41.40.188. In those cases the beneficiary named in the member's final  
15 application for service retirement may elect to receive either a cash  
16 refund, less any amount identified as owing to an obligee upon  
17 withdrawal of accumulated contributions pursuant to a court order filed  
18 under RCW 41.50.670, or monthly payments according to the option  
19 selected by the member.

20 (4) If a member dies within sixty days following application for  
21 disability retirement under RCW 41.40.230, the beneficiary named in the  
22 application may elect to receive the benefit provided by:

23 (a) This section; or

24 (b) RCW 41.40.235, according to the option chosen under RCW  
25 41.40.188 in the disability application.

26 **Sec. 35.** RCW 41.40.660 and 1998 c 340 s 9 are each amended to read  
27 as follows:

28 (1) Upon retirement for service as prescribed in RCW 41.40.630 or  
29 retirement for disability under RCW 41.40.670, a member shall elect to  
30 have the retirement allowance paid pursuant to one of the following  
31 options, calculated so as to be actuarially equivalent to each other.

32 (a) Standard allowance. A member electing this option shall  
33 receive a retirement allowance payable throughout such member's life.  
34 However, if the retiree dies before the total of the retirement  
35 allowance paid to such retiree equals the amount of such retiree's  
36 accumulated contributions at the time of retirement, then the balance  
37 shall be paid to the member's estate, or such person or persons, trust,  
38 or organization as the retiree shall have nominated by written

1 designation duly executed and filed with the department; or if there be  
2 no such designated person or persons still living at the time of the  
3 retiree's death, then to the surviving spouse or domestic partner; or  
4 if there be neither such designated person or persons still living at  
5 the time of death nor a surviving spouse or domestic partner, then to  
6 the retiree's legal representative.

7 (b) The department shall adopt rules that allow a member to select  
8 a retirement option that pays the member a reduced retirement allowance  
9 and upon death, such portion of the member's reduced retirement  
10 allowance as the department by rule designates shall be continued  
11 throughout the life of and paid to a person nominated by the member by  
12 written designation duly executed and filed with the department at the  
13 time of retirement. The options adopted by the department shall  
14 include, but are not limited to, a joint and one hundred percent  
15 survivor option and a joint and fifty percent survivor option.

16 (2)(a) A member, if married, must provide the written consent of  
17 his or her spouse to the option selected under this section, except as  
18 provided in (b) of this subsection. If a member is married and both  
19 the member and the member's spouse do not give written consent to an  
20 option under this section, the department shall pay a joint and fifty  
21 percent survivor benefit calculated to be actuarially equivalent to the  
22 benefit options available under subsection (1) of this section unless  
23 spousal consent is not required as provided in (b) of this subsection.

24 (b) If a copy of a dissolution order designating a survivor  
25 beneficiary under RCW 41.50.790 has been filed with the department at  
26 least thirty days prior to a member's retirement:

27 (i) The department shall honor the designation as if made by the  
28 member under subsection (1) of this section; and

29 (ii) The spousal consent provisions of (a) of this subsection do  
30 not apply.

31 (3)(a) Any member who retired before January 1, 1996, and who  
32 elected to receive a reduced retirement allowance under subsection  
33 (1)(b) or (2) of this section is entitled to receive a retirement  
34 allowance adjusted in accordance with (b) of this subsection, if they  
35 meet the following conditions:

36 (i) The retiree's designated beneficiary predeceases or has  
37 predeceased the retiree; and

38 (ii) The retiree provides to the department proper proof of the  
39 designated beneficiary's death.



1 (b) The retirement allowance payable to the retiree, as of July 1,  
2 1998, or the date of the designated beneficiary's death, whichever  
3 comes last, shall be increased by the percentage derived in (c) of this  
4 subsection.

5 (c) The percentage increase shall be derived by the following:

6 (i) One hundred percent multiplied by the result of (c)(ii) of this  
7 subsection converted to a percent;

8 (ii) Subtract one from the reciprocal of the appropriate joint and  
9 survivor option factor;

10 (iii) The joint and survivor option factor shall be from the table  
11 in effect as of July 1, 1998.

12 (d) The adjustment under (b) of this subsection shall accrue from  
13 the beginning of the month following the date of the designated  
14 beneficiary's death or from July 1, 1998, whichever comes last.

15 **Sec. 36.** RCW 41.40.670 and 1995 c 144 s 7 are each amended to read  
16 as follows:

17 (1) A member of the retirement system who becomes totally  
18 incapacitated for continued employment by an employer as determined by  
19 the department upon recommendation of the department shall be eligible  
20 to receive an allowance under the provisions of RCW 41.40.610 through  
21 41.40.740. The member shall receive a monthly disability allowance  
22 computed as provided for in RCW 41.40.620 and shall have this allowance  
23 actuarially reduced to reflect the difference in the number of years  
24 between age at disability and the attainment of age sixty-five.

25 Any member who receives an allowance under the provisions of this  
26 section shall be subject to comprehensive medical examinations as  
27 required by the department. If these medical examinations reveal that  
28 a member has recovered from the incapacitating disability and the  
29 member is offered reemployment by an employer at a comparable  
30 compensation, the member shall cease to be eligible for the allowance.

31 (2) The retirement for disability of a judge, who is a member of  
32 the retirement system, by the supreme court under Article IV, section  
33 31 of the Constitution of the state of Washington (Amendment 71), with  
34 the concurrence of the department, shall be considered a retirement  
35 under subsection (1) of this section.

36 (3)(a) If the recipient of a monthly retirement allowance under  
37 this section dies before the total of the retirement allowance paid to  
38 the recipient equals the amount of the accumulated contributions at the

1 date of retirement, then the balance shall be paid to the member's  
2 estate, or the person or persons, trust, or organization as the  
3 recipient has nominated by written designation duly executed and filed  
4 with the director, or, if there is no designated person or persons  
5 still living at the time of the recipient's death, then to the  
6 surviving spouse or domestic partner, or, if there is no designated  
7 person or persons still living at the time of his or her death nor a  
8 surviving spouse or domestic partner, then to his or her legal  
9 representative.

10 (b) If a recipient of a monthly retirement allowance under this  
11 section died before April 27, 1989, and before the total of the  
12 retirement allowance paid to the recipient equaled the amount of his or  
13 her accumulated contributions at the date of retirement, then the  
14 department shall pay the balance of the accumulated contributions to  
15 the member's surviving spouse or domestic partner or, if there is no  
16 surviving spouse or domestic partner, then in equal shares to the  
17 member's children. If there is no surviving spouse or domestic  
18 partner, or children, the department shall retain the contributions.

19 **Sec. 37.** RCW 41.40.700 and 1995 c 144 s 8 are each amended to read  
20 as follows:

21 (1) Except as provided in RCW 11.07.010, if a member or a vested  
22 member who has not completed at least ten years of service dies, the  
23 amount of the accumulated contributions standing to such member's  
24 credit in the retirement system at the time of such member's death,  
25 less any amount identified as owing to an obligee upon withdrawal of  
26 accumulated contributions pursuant to a court order filed under RCW  
27 41.50.670, shall be paid to the member's estate, or such person or  
28 persons, trust, or organization as the member shall have nominated by  
29 written designation duly executed and filed with the department. If  
30 there be no such designated person or persons still living at the time  
31 of the member's death, such member's accumulated contributions standing  
32 to such member's credit in the retirement system, less any amount  
33 identified as owing to an obligee upon withdrawal of accumulated  
34 contributions pursuant to a court order filed under RCW 41.50.670,  
35 shall be paid to the member's surviving spouse or domestic partner as  
36 if in fact such spouse or domestic partner had been nominated by  
37 written designation, or if there be no such surviving spouse or  
38 domestic partner, then to such member's legal representatives.

1 (2) If a member who is eligible for retirement or a member who has  
2 completed at least ten years of service dies, the surviving spouse or  
3 domestic partner, or eligible child or children, shall elect to receive  
4 either:

5 (a) A retirement allowance computed as provided for in RCW  
6 41.40.630(1), actuarially reduced by the amount of any lump sum benefit  
7 identified as owing to an obligee upon withdrawal of accumulated  
8 contributions pursuant to a court order filed under RCW 41.50.670 and  
9 actuarially adjusted to reflect a joint and one hundred percent  
10 survivor option under RCW 41.40.660 and if the member was not eligible  
11 for normal retirement at the date of death a further reduction as  
12 described in RCW 41.40.630(2); if a surviving spouse or domestic  
13 partner who is receiving a retirement allowance dies leaving a child or  
14 children of the member under the age of majority, then such child or  
15 children shall continue to receive an allowance in an amount equal to  
16 that which was being received by the surviving spouse or domestic  
17 partner, share and share alike, until such child or children reach the  
18 age of majority; if there is no surviving spouse or domestic partner  
19 eligible to receive an allowance at the time of the member's death,  
20 such member's child or children under the age of majority shall receive  
21 an allowance share and share alike calculated as herein provided making  
22 the assumption that the ages of the spouse or domestic partner and  
23 member were equal at the time of the member's death; or

24 (b) The member's accumulated contributions, less any amount  
25 identified as owing to an obligee upon withdrawal of accumulated  
26 contributions pursuant to a court order filed under RCW 41.50.670.

27 (3) If a member who is eligible for retirement or a member who has  
28 completed at least ten years of service dies after October 1, 1977, and  
29 is not survived by a spouse or domestic partner, or an eligible child,  
30 then the accumulated contributions standing to the member's credit,  
31 less any amount identified as owing to an obligee upon withdrawal of  
32 accumulated contributions pursuant to a court order filed under RCW  
33 41.50.670, shall be paid:

34 (a) To a person or persons, estate, trust, or organization as the  
35 member shall have nominated by written designation duly executed and  
36 filed with the department; or

37 (b) If there is no such designated person or persons still living  
38 at the time of the member's death, then to the member's legal  
39 representatives.

1       **Sec. 38.** RCW 41.54.010 and 1993 c 517 s 8 are each amended to read  
2 as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Base salary" means salaries or wages earned by a member of a  
6 system during a payroll period for personal services and includes wages  
7 and salaries deferred under provisions of the United States internal  
8 revenue code, but shall exclude overtime payments, nonmoney maintenance  
9 compensation, and lump sum payments for deferred annual sick leave,  
10 unused accumulated vacation, unused accumulated annual leave, any form  
11 of severance pay, any bonus for voluntary retirement, any other form of  
12 leave, or any similar lump sum payment.

13       (2) "Department" means the department of retirement systems.

14       (3) "Director" means the director of the department of retirement  
15 systems.

16       (4) "Dual member" means a person who (a) is or becomes a member of  
17 a system on or after July 1, 1988, (b) has been a member of one or more  
18 other systems, and (c) has never been retired for service from a  
19 retirement system and is not receiving a disability retirement or  
20 disability leave benefit from any retirement system listed in RCW  
21 41.50.030 or subsection (6) of this section.

22       (5) "Service" means the same as it may be defined in each  
23 respective system. For the purposes of RCW 41.54.030, military service  
24 granted under RCW 41.40.170(3) or 43.43.260 may only be based on  
25 service accrued under chapter 41.40 or 43.43 RCW, respectively.

26       (6) "System" means the retirement systems established under  
27 chapters 41.32, 41.40, 41.44, and 43.43 RCW; plan 2 of the system  
28 established under chapter 41.26 RCW; and the city employee retirement  
29 systems for Seattle, Tacoma, and Spokane. The inclusion of an  
30 individual first class city system is subject to the procedure set  
31 forth in RCW 41.54.061.

32       (7) "Domestic partner" means the person designated by a state  
33 employee in an affidavit filed under section 3 of this act.

34       **Sec. 39.** RCW 41.54.010 and 1998 c 341 s 702 are each amended to  
35 read as follows:

36       The definitions in this section apply throughout this chapter  
37 unless the context clearly requires otherwise.

1 (1) "Base salary" means salaries or wages earned by a member of a  
2 system during a payroll period for personal services and includes wages  
3 and salaries deferred under provisions of the United States internal  
4 revenue code, but shall exclude overtime payments, nonmoney maintenance  
5 compensation, and lump sum payments for deferred annual sick leave,  
6 unused accumulated vacation, unused accumulated annual leave, any form  
7 of severance pay, any bonus for voluntary retirement, any other form of  
8 leave, or any similar lump sum payment.

9 (2) "Department" means the department of retirement systems.

10 (3) "Director" means the director of the department of retirement  
11 systems.

12 (4) "Dual member" means a person who (a) is or becomes a member of  
13 a system on or after July 1, 1988, (b) has been a member of one or more  
14 other systems, and (c) has never been retired for service from a  
15 retirement system and is not receiving a disability retirement or  
16 disability leave benefit from any retirement system listed in RCW  
17 41.50.030 or subsection (6) of this section.

18 (5) "Service" means the same as it may be defined in each  
19 respective system. For the purposes of RCW 41.54.030, military service  
20 granted under RCW 41.40.170(3) or 43.43.260 may only be based on  
21 service accrued under chapter 41.40 or 43.43 RCW, respectively.

22 (6) "System" means the retirement systems established under  
23 chapters 41.32, 41.40, 41.44, 41.35, and 43.43 RCW; plan 2 of the  
24 system established under chapter 41.26 RCW; and the city employee  
25 retirement systems for Seattle, Tacoma, and Spokane. The inclusion of  
26 an individual first class city system is subject to the procedure set  
27 forth in RCW 41.54.061.

28 (7) "Domestic partner" means the person designated by a state  
29 employee in an affidavit filed under section 3 of this act.

30 **Sec. 40.** RCW 41.54.034 and 1996 c 55 s 2 are each amended to read  
31 as follows:

32 (1) If a dual member dies in service in any system, the member's  
33 service in all systems may be combined for the sole purpose of  
34 determining the surviving spouse's or domestic partner's eligibility to  
35 receive a death benefit from each of the member's current and prior  
36 systems.

37 (2) Each system shall use its own criteria to:

1 (a) Determine the surviving spouse's or domestic partner's  
2 eligibility for a death benefit; and

3 (b) Calculate the death benefit based on service actually  
4 established in that system.

5 (3) The surviving spouse or domestic partner shall receive the same  
6 benefit from each system that would have been received if the member  
7 were active in the system at the time of death. The spouse or domestic  
8 partner shall be allowed to substitute the member's base salary from  
9 any system as the compensation used in calculating the allowance.

10 (4) This section shall not apply to the Washington state patrol  
11 retirement system established under chapter 43.43 RCW.

12 **Sec. 41.** RCW 43.43.120 and 1983 c 81 s 1 are each amended to read  
13 as follows:

14 As used in the following sections, unless a different meaning is  
15 plainly required by the context:

16 (1) "Retirement system" means the Washington state patrol  
17 retirement system.

18 (2) "Retirement fund" means the Washington state patrol retirement  
19 fund.

20 (3) "State treasurer" means the treasurer of the state of  
21 Washington.

22 (4) "Member" means any person included in the membership of the  
23 retirement fund.

24 (5) "Employee" means any commissioned employee of the Washington  
25 state patrol.

26 (6)(a) "Cadet," for a person who became a member of the retirement  
27 system after June 12, 1980, is a person who has passed the Washington  
28 state patrol's entry-level oral, written, physical performance, and  
29 background examinations and is, thereby, appointed by the chief as a  
30 candidate to be a commissioned officer of the Washington state patrol.

31 (b) "Cadet," for a person who became a member of the retirement  
32 system before June 12, 1980, is a trooper cadet, patrol cadet, or  
33 employee of like classification, employed for the express purpose of  
34 receiving the on-the-job training required for attendance at the state  
35 patrol academy and for becoming a commissioned trooper. "Like  
36 classification" includes: Radio operators or dispatchers; persons  
37 providing security for the governor or legislature; patrolmen; drivers'

1 license examiners; weighmasters; vehicle safety inspectors; central  
2 wireless operators; and warehousemen.

3 (7) "Beneficiary" means any person in receipt of retirement  
4 allowance or any other benefit allowed by this chapter.

5 (8) "Regular interest" means interest compounded annually at such  
6 rates as may be determined by the director.

7 (9) "Retirement board" means the board provided for in this  
8 chapter.

9 (10) "Insurance commissioner" means the insurance commissioner of  
10 the state of Washington.

11 (11) "Lieutenant governor" means the lieutenant governor of the  
12 state of Washington.

13 (12) "Service" shall mean services rendered to the state of  
14 Washington or any political subdivisions thereof for which compensation  
15 has been paid. Full time employment for seventy or more hours in any  
16 given calendar month shall constitute one month of service. An  
17 employee who is reinstated in accordance with RCW 43.43.110 shall  
18 suffer no loss of service for the period reinstated subject to the  
19 contribution requirements of this chapter. Only months of service  
20 shall be counted in the computation of any retirement allowance or  
21 other benefit provided for herein. Years of service shall be  
22 determined by dividing the total number of months of service by twelve.  
23 Any fraction of a year of service as so determined shall be taken into  
24 account in the computation of such retirement allowance or benefit.

25 (13) "Prior service" shall mean all services rendered by a member  
26 to the state of Washington, or any of its political subdivisions prior  
27 to August 1, 1947, unless such service has been credited in another  
28 public retirement or pension system operating in the state of  
29 Washington.

30 (14) "Current service" shall mean all service as a member rendered  
31 on or after August 1, 1947.

32 (15) "Average final salary" shall mean the average monthly salary  
33 received by a member during the member's last two years of service or  
34 any consecutive two-year period of service, whichever is the greater,  
35 as an employee of the Washington state patrol; or if the member has  
36 less than two years of service, then the average monthly salary  
37 received by the member during the member's total years of service.

1 (16) "Actuarial equivalent" shall mean a benefit of equal value  
2 when computed upon the basis of such mortality table as may be adopted  
3 and such interest rate as may be determined by the director.

4 (17) Unless the context expressly indicates otherwise, words  
5 importing the masculine gender shall be extended to include the  
6 feminine gender and words importing the feminine gender shall be  
7 extended to include the masculine gender.

8 (18) "Director" means the director of the department of retirement  
9 systems.

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

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

14 (21) "Contributions" means the deduction from the compensation of  
15 each member in accordance with the contribution rates established under  
16 RCW 43.43.300.

17 (22) "Domestic partner" means the person designated by a member in  
18 an affidavit filed under section 3 of this act.

19 **Sec. 42.** RCW 43.43.270 and 1989 c 108 s 1 are each amended to read  
20 as follows:

21 (1) The normal form of retirement allowance shall be an allowance  
22 which shall continue as long as the member lives.

23 (2) If a member should die while in service the member's lawful  
24 spouse or domestic partner shall be paid an allowance which shall be  
25 equal to fifty percent of the average final salary of the member. If  
26 the member should die after retirement the member's lawful spouse or  
27 domestic partner shall be paid an allowance which shall be equal to the  
28 retirement allowance then payable to the member or fifty percent of the  
29 final average salary used in computing the member's retirement  
30 allowance, whichever is less. The allowance paid to the lawful spouse  
31 or domestic partner shall continue as long as the spouse or domestic  
32 partner lives: PROVIDED, That if a surviving spouse or domestic  
33 partner who is receiving benefits under this subsection marries or  
34 becomes a domestic partner of another member of this retirement system  
35 who subsequently predeceases such spouse or domestic partner, the  
36 spouse or domestic partner shall then be entitled to receive the higher  
37 of the two survivors' allowances for which eligibility requirements  
38 were met, but a surviving spouse or domestic partner shall not receive



1 more than one survivor's allowance from this system at the same time  
2 under this subsection. To be eligible for an allowance the lawful  
3 surviving spouse or domestic partner of a retired member shall have  
4 been married to or been a domestic partner of the member prior to the  
5 member's retirement and continuously thereafter until the date of the  
6 member's death or shall have been married to or been a domestic partner  
7 of the retired member at least two years prior to the member's death.

8 (3) If a member should die, either while in service or after  
9 retirement, the member's surviving unmarried children under the age of  
10 eighteen years shall be provided for in the following manner:

11 (a) If there is a surviving spouse or domestic partner, each child  
12 shall be entitled to a benefit equal to five percent of the final  
13 average salary of the member or retired member. The combined benefits  
14 to the surviving spouse or domestic partner and all children shall not  
15 exceed sixty percent of the final average salary of the member or  
16 retired member; and

17 (b) If there is no surviving spouse or domestic partner, or the  
18 spouse or domestic partner should die, the child or children shall be  
19 entitled to a benefit equal to thirty percent of the final average  
20 salary of the member or retired member for one child and an additional  
21 ten percent for each additional child. The combined benefits to the  
22 children under this subsection shall not exceed sixty percent of the  
23 final average salary of the member or retired member. Payments under  
24 this subsection shall be prorated equally among the children, if more  
25 than one.

26 (4) If a member should die in the line of duty while employed by  
27 the Washington state patrol, the member's surviving children under the  
28 age of twenty years and eleven months if attending any high school,  
29 college, university, or vocational or other educational institution  
30 accredited or approved by the state of Washington shall be provided for  
31 in the following manner:

32 (a) If there is a surviving spouse or domestic partner, each child  
33 shall be entitled to a benefit equal to five percent of the final  
34 average salary of the member. The combined benefits to the surviving  
35 spouse or domestic partner and all children shall not exceed sixty  
36 percent of the final average salary of the member;

37 (b) If there is no surviving spouse or domestic partner, or the  
38 spouse or domestic partner should die, the unmarried child or children  
39 shall be entitled to receive a benefit equal to thirty percent of the

1 final average salary of the member or retired member for one child and  
2 an additional ten percent for each additional child. The combined  
3 benefits to the children under this subsection shall not exceed sixty  
4 percent of the final average salary. Payments under this subsection  
5 shall be prorated equally among the children, if more than one; and

6 (c) If a beneficiary under this subsection reaches the age of  
7 twenty-one years during the middle of a term of enrollment the benefit  
8 shall continue until the end of that term.

9 (5) The provisions of this section shall apply to members who have  
10 been retired on disability as provided in RCW 43.43.040 if the officer  
11 was a member of the Washington state patrol retirement system at the  
12 time of such disability retirement.

13 **Sec. 43.** RCW 43.43.280 and 1994 c 197 s 35 are each amended to  
14 read as follows:

15 (1) If a member dies before retirement, and has no surviving spouse  
16 or domestic partner, or children under the age of eighteen years, all  
17 contributions made by the member, including any amount paid under RCW  
18 41.50.165(2), with interest as determined by the director, less any  
19 amount identified as owing to an obligee upon withdrawal of accumulated  
20 contributions pursuant to a court order filed under RCW 41.50.670,  
21 shall be paid to such person or persons as the member shall have  
22 nominated by written designation duly executed and filed with the  
23 department, or if there be no such designated person or persons, then  
24 to the member's legal representative.

25 (2) If a member should cease to be an employee before attaining age  
26 sixty for reasons other than the member's death, or retirement, the  
27 individual shall thereupon cease to be a member except as provided  
28 under RCW 43.43.130 (2) (~~and~~), (3), and (4) and, the individual may  
29 withdraw the member's contributions to the retirement fund, including  
30 any amount paid under RCW 41.50.165(2), with interest as determined by  
31 the director, by making application therefor to the department, except  
32 that: A member who ceases to be an employee after having completed at  
33 least five years of service shall remain a member during the period of  
34 the member's absence from employment for the exclusive purpose only of  
35 receiving a retirement allowance to begin at attainment of age sixty,  
36 however such a member may upon written notice to the department elect  
37 to receive a reduced retirement allowance on or after age fifty-five  
38 which allowance shall be the actuarial equivalent of the sum necessary

1 to pay regular retirement benefits as of age sixty: PROVIDED, That if  
2 such member should withdraw all or part of the member's accumulated  
3 contributions, the individual shall thereupon cease to be a member and  
4 this subsection shall not apply.

5 **Sec. 44.** RCW 43.43.285 and 1996 c 226 s 2 are each amended to read  
6 as follows:

7 (1) A one hundred fifty thousand dollar death benefit shall be paid  
8 to the member's estate, or such person or persons, trust or  
9 organization as the member shall have nominated by written designation  
10 duly executed and filed with the department. If there be no such  
11 designated person or persons still living at the time of the member's  
12 death, such member's death benefit shall be paid to the member's  
13 surviving spouse or domestic partner as if in fact such spouse or  
14 domestic partner had been nominated by written designation, or if there  
15 be no such surviving spouse or domestic partner, then to such member's  
16 legal representatives.

17 (2) The benefit under this section shall be paid only where death  
18 occurs as a result of injuries sustained in the course of employment.  
19 The determination of eligibility for the benefit shall be made  
20 consistent with Title 51 RCW by the department of labor and industries.  
21 The department of labor and industries shall notify the department of  
22 retirement systems by order under RCW 51.52.050.

23 NEW SECTION. **Sec. 45.** Sections 1, 26, and 38 of this act expire  
24 September 1, 2000.

25 NEW SECTION. **Sec. 46.** Sections 2, 27, and 39 of this act takes  
26 effect September 1, 2000.

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