

CERTIFICATION OF ENROLLMENT  
**SUBSTITUTE SENATE BILL 5029**

Chapter 244, Laws of 1999

56th Legislature  
1999 Regular Session

PUBLIC EMPLOYEES' RETIREMENT SYSTEM--MEMBERSHIP

EFFECTIVE DATE: 7/25/99

Passed by the Senate March 16, 1999  
YEAS 47 NAYS 0

BRAD OWEN  
**President of the Senate**

Passed by the House April 16, 1999  
YEAS 93 NAYS 2

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

FRANK CHOPP  
**Speaker of the  
House of Representatives**

Approved May 10, 1999

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5029** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK  
**Secretary**

FILED

May 10, 1999 - 4:34 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5029**

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Passed Legislature - 1999 Regular Session

**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senators Franklin, Winsley, Roach, Jacobsen, Long, Fraser, Bauer and Rasmussen; by request of Joint Committee on Pension Policy)

Read first time 03/08/1999.

1       AN ACT Relating to membership in the public employees' retirement  
2 system; amending RCW 41.40.023; and adding new sections to chapter  
3 41.40 RCW.

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

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

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

10       (1) Persons in ineligible positions;

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

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

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

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

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

35 (a) In any case where the retirement system has in existence an  
36 agreement with another retirement system in connection with exchange of  
37 service credit or an agreement whereby members can retain service  
38 credit in more than one system, such an employee shall be allowed

1 membership rights should the agreement so provide(~~(:—AND PROVIDED~~  
2 ~~FURTHER, That))~~);

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

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

12 (d) Except as provided in section 2 of this act, on or after the  
13 effective date of this act, an employee shall not be excluded from  
14 membership or denied service credit pursuant to this subsection solely  
15 on account of participation in a defined contribution pension plan  
16 qualified under section 401 of the internal revenue code;

17 (e) Employees who have been reported in the retirement system prior  
18 to the effective date of this act, and who participated during the same  
19 period of time in a defined contribution pension plan qualified under  
20 section 401 of the internal revenue code and operated wholly or in part  
21 by the employer, shall not be excluded from previous retirement system  
22 membership and service credit on account of such participation;

23 (5) Patient and inmate help in state charitable, penal, and  
24 correctional institutions;

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

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

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

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

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

38 (11) Employees of a labor guild, association, or organization:  
39 PROVIDED, That elective officials and employees of a labor guild,

1 association, or organization which qualifies as an employer within this  
2 chapter shall have the option of applying for membership;

3 (12) Retirement system retirees: PROVIDED, That following  
4 reemployment in an eligible position, a retiree may elect to  
5 prospectively become a member of the retirement system if otherwise  
6 eligible;

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

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

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

38 (15) Employees who (a) are not citizens of the United States, (b)  
39 are not covered by chapter 41.48 RCW, (c) are not excluded from

1 membership under this chapter or chapter 41.04 RCW, (d) are residents  
2 of this state, and (e) make an irrevocable election to be excluded from  
3 membership, in writing, which is submitted to the director within  
4 thirty days after employment in an eligible position;

5 (16) Employees who are citizens of the United States and who reside  
6 and perform duties for an employer outside of the United States:  
7 PROVIDED, That unless otherwise excluded under this chapter or chapter  
8 41.04 RCW, the employee may apply for membership (a) within thirty days  
9 after employment in an eligible position and membership service credit  
10 shall be granted from the first day of membership service, and (b)  
11 after this thirty-day period, but membership service credit shall be  
12 granted only if payment is made for the noncredited membership service  
13 under RCW 41.50.165(2), otherwise service shall be from the date of  
14 application;

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

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

29 (18) Persons enrolled in state-approved apprenticeship programs,  
30 authorized under chapter 49.04 RCW, and who are employed by local  
31 governments to earn hours to complete such apprenticeship programs, if  
32 the employee is a member of a union-sponsored retirement plan and is  
33 making contributions to such a retirement plan or if the employee is a  
34 member of a Taft-Hartley retirement plan.

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.40 RCW  
36 under the subchapter heading: "Provisions applicable to Plan 1 and Plan  
37 2" to read as follows:

1 (1) Employers that are organized pursuant to chapter 36.100,  
2 36.102, or 81.112 RCW, who have become retirement system employers  
3 since 1993, and who have previously excluded some of their employees  
4 from retirement system membership pursuant to the limitation in RCW  
5 41.40.023(4), shall have the option until December 31, 1999, to  
6 terminate their status as a retirement system employer with regard to  
7 persons employed after the date of their election.

8 (2) If a government unit terminates its status as an employer  
9 pursuant to this section its employees as of the date of the election  
10 who are members shall be eligible to continue their membership in the  
11 retirement system, if otherwise eligible under this chapter, for the  
12 duration of their continuous employment with that employer.

13 (3) If a government unit subject to this section does not elect to  
14 terminate its status as a retirement system employer it may either: (a)  
15 continue to exclude from membership those employees who were excluded  
16 pursuant to the limitation in RCW 41.40.023(4) prior to the effective  
17 date of this act; or include such employees in the retirement system,  
18 if otherwise eligible under this chapter, for service rendered on or  
19 after the effective date of this act and after the employer's election.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.40 RCW  
21 under the subchapter heading "Provisions applicable to Plan 1 and Plan  
22 2" to read as follows:

23 (1) When a unit of government has become a retirement system  
24 employer, all of its employees must be included in the plan membership,  
25 if otherwise eligible under this chapter, unless the employee is  
26 exempted from membership or qualifies for optional membership pursuant  
27 to RCW 41.40.023 or other provision of this chapter.

28 (2) A unit of government which has become a retirement system  
29 employer may not withdraw from the retirement system.

Passed the Senate March 16, 1999.

Passed the House April 16, 1999.

Approved by the Governor May 10, 1999.

Filed in Office of Secretary of State May 10, 1999.