

2 **ESSB 6166** - S AMD 425  
3 By Senator Brown

4 ADOPTED 06/08/01

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS AND DECLARATION. Plan  
8 1 of the Washington law enforcement officers' and fire fighters'  
9 retirement system (LEOFF plan 1) has been closed to new members for  
10 nearly a quarter of a century. During that time, LEOFF plan 1 has  
11 achieved full funding and has assets which exceed all projected future  
12 liabilities and has a surplus approaching one billion dollars. In  
13 recognition of the contributions of working fire fighters and police  
14 officers to LEOFF plan 1, it is the purpose of this chapter, in part,  
15 to provide for an enhanced retirement benefit to LEOFF plan 1 members.

16 LEOFF plan 1 also provides substantial postretirement health and  
17 long-term care benefits. The financial burden of this benefit, which  
18 is an integral part of LEOFF plan 1, falls exclusively on the cities,  
19 counties, and fire districts that employed the retired fire fighters  
20 and police officers. In recognition of the fiscal burdens facing these  
21 political subdivisions, it is appropriate to provide an additional  
22 source of funding to ensure the integrity of the benefit without  
23 undermining the financial stability of the employing governments.

24 The supreme court of the state of Washington, in the 1956 decision  
25 *Bakenhus v. City of Seattle*, established that the fire fighters and  
26 police officers, active and retired, have a constitutionally protected  
27 contractual right to a secure retirement benefit, funded on a sound  
28 actuarial basis. The legislature recognizes that the state of  
29 Washington is the ultimate guarantor of the LEOFF plan 1 retirement  
30 benefits. While members have a constitutionally protected right to the  
31 pension benefits that are provided as part of their contract of  
32 employment, there is no such right in surplus assets which are  
33 unnecessary to the actuarial soundness of the retirement plan.

34 The state retains the inherent power to terminate a retirement plan  
35 and, upon the dedication of sufficient resources to ensure the

1 actuarial soundness of the benefits promised, is entitled to a  
2 reversion of the surplus assets upon termination of the plan.

3 The legislature has determined that, in order to accomplish the  
4 foregoing goals and objectives, it is in the best interest of the  
5 members and beneficiaries of LEOFF plan 1 that the plan be terminated  
6 and that a restated retirement plan with enhanced benefits be created.  
7 It is further determined to be in the best interest of the health,  
8 safety, and welfare of the citizens of the state that surplus assets  
9 remaining after adequate actuarial provision for the obligated  
10 retirement benefits revert to the state and be allocated for the  
11 purposes outlined in this chapter.

12 It is the intent of the legislature that the LEOFF plan 1  
13 termination be performed in accordance with the applicable provisions  
14 of the federal internal revenue code and in recognition of the contract  
15 rights of the members and beneficiaries of the plan to an actuarially  
16 sound retirement program.

17 NEW SECTION. **Sec. 2.** TERMINATION OF LEOFF PLAN 1. Plan 1 of the  
18 Washington law enforcement officers' and fire fighters' retirement  
19 system (LEOFF plan 1) is hereby terminated. During the transition  
20 between the termination of LEOFF plan 1 and the establishment of the  
21 restated law enforcement officers' and fire fighters' retirement  
22 system, all LEOFF plan 1 benefits, as they existed prior to December 1,  
23 2001, shall continue without interruption.

24 NEW SECTION. **Sec. 3.** RESTATED LAW ENFORCEMENT OFFICERS' AND FIRE  
25 FIGHTERS' RETIREMENT SYSTEM ESTABLISHED. The restated law enforcement  
26 officers' and fire fighters' retirement system is hereby established as  
27 provided in this chapter. The restated law enforcement officers' and  
28 fire fighters' retirement system established by this chapter may also  
29 be referred to by statute and rule as the law enforcement officers' and  
30 fire fighters' retirement system plan 1.

31 NEW SECTION. **Sec. 4.** RESTATED LAW ENFORCEMENT OFFICERS' AND FIRE  
32 FIGHTERS' DEFINED BENEFIT RETIREMENT FUND ESTABLISHED. (1) The  
33 restated law enforcement officers' and fire fighters' defined benefit  
34 retirement fund is created in the custody of the state treasurer. The  
35 fund shall consist of assets transferred from the Washington law  
36 enforcement officers' and fire fighters' system plan 1 retirement fund,

1 investment earnings, and other amounts deposited to the fund. On  
2 direction of the director of retirement systems, the state treasurer  
3 shall transfer to the restated defined benefit retirement fund an  
4 amount equal to the actuarial present value of the fully projected  
5 liabilities of plan 1 of the Washington law enforcement officers' and  
6 fire fighters' retirement system based on the actuarial valuation for  
7 calendar year 2000, adjusted to the transfer date, and the long-term  
8 economic assumptions in effect on July 1, 2001, under chapter 41.45  
9 RCW. For purposes of funding the plan 1 lump-sum defined benefit  
10 created in section 6 of this act, on direction of the director of  
11 retirement systems, the state treasurer shall also transfer an amount  
12 to the restated defined benefit retirement fund equal to twelve percent  
13 of the assets in the Washington law enforcement officers' and fire  
14 fighters' system plan 1 retirement fund in excess of the actuarial  
15 present value of the fully projected liabilities of plan 1, as  
16 calculated under this subsection.

17 (2) The pension funding council shall conduct an independent audit  
18 of the calculation of the present value amount determined by the state  
19 actuary. The transfer of these assets to the restated defined benefit  
20 retirement fund shall occur as soon as practical after December 1,  
21 2001. The remaining assets in the law enforcement officers' and fire  
22 fighters' system plan 1 retirement fund shall continue to be invested  
23 by the state investment board until the transfers occur under sections  
24 5 and 8 of this act.

25 (3) Expenditures from the restated law enforcement officers' and  
26 fire fighters' defined benefit retirement fund may be used only for the  
27 purposes of this chapter. Only the director of retirement systems or  
28 the director's designee may authorize expenditures from the fund. No  
29 appropriation is required for expenditures.

30 (4) The director of retirement systems may direct the state  
31 treasurer, subsequent to the initial transfer of assets under sections  
32 1 through 8 of this act, to make such additional transfers as are  
33 necessary to reconcile the amounts transferred and the requirements of  
34 sections 1 through 8 of this act.

35 NEW SECTION. **Sec. 5.** STATE SURPLUS ASSETS RESERVE FUND  
36 ESTABLISHED. (1) The state surplus assets reserve fund is created in  
37 the state treasury. By December 1, 2001, the state surplus assets  
38 reserve fund shall receive all assets of the Washington law enforcement

1 officers' and fire fighters' system plan 1 retirement fund remaining  
2 after (a) the distributions to the restated law enforcement officers'  
3 and fire fighters' defined benefit retirement fund required by section  
4 4 of this act; and (b) the distribution to the law enforcement  
5 officers' and fire fighters' medical benefits risk pool under section  
6 8 of this act and chapter 41.--- RCW (sections 301 through 310 of this  
7 act).

8 (2) Sufficient assets shall be maintained in the state surplus  
9 assets reserve fund at all times to ensure the actuarial soundness of  
10 the defined benefits of the restated law enforcement officers' and fire  
11 fighters' defined benefit retirement plan without the necessity of  
12 further employee or employer contributions. Any actuarial shortfall in  
13 the defined benefit plan shall be amortized in equal installments over  
14 a period not to exceed fifteen years. Payments required by this  
15 subsection shall be made first from the assets of the state surplus  
16 assets reserve fund. The state investment board shall develop an  
17 investment policy, taking into account the purposes of the reserve fund  
18 and the preservation of capital, for the purpose of accomplishing the  
19 objective of this section.

20 (3) The office of the state actuary shall perform an annual  
21 actuarial valuation of the restated law enforcement officers' and fire  
22 fighters' defined benefit plan to determine its continued actuarial  
23 soundness. Such sums shall be transferred by the legislature from the  
24 state surplus assets reserve fund as may be necessary under subsection  
25 (2) of this section to maintain the actuarial soundness of the defined  
26 benefit plan.

27 (4) Subject to the actuarial needs of the restated law enforcement  
28 officers' and fire fighters' defined benefit plan, the remaining assets  
29 of the reserve fund shall be retained as a budget reserve and may be  
30 expended exclusively to fund any unfunded actuarial accrued liabilities  
31 of the public retirement systems under chapter 41.45 RCW, and for other  
32 one-time costs of the state. Except as required by subsection (2) of  
33 this section, no appropriation shall be made from the reserve fund for  
34 any fiscal year unless the office of the state actuary has certified  
35 that the restated law enforcement officers' and fire fighters' defined  
36 benefit plan remains fully funded on a sound actuarial basis. No  
37 appropriation shall be made from the reserve fund that would reduce the  
38 fund balance below two hundred twenty million dollars unless the state  
39 actuary has certified that the defined benefit plan assets are greater

1 than one hundred twenty-five percent of the present value of the fully  
2 projected liabilities of the defined benefit plan.

3 NEW SECTION. **Sec. 6.** LUMP-SUM DEFINED BENEFIT. (1) The amount  
4 equal to twelve percent of the excess assets of the Washington law  
5 enforcement officers' and fire fighters' system plan 1 retirement fund  
6 transferred to the restated defined benefit retirement fund by section  
7 4 of this act shall fund the plan 1 lump-sum defined benefit created by  
8 this section.

9 (2) Law enforcement officers' and fire fighters' plan 1 active  
10 members, term-vested members, retirees, and spousal survivors eligible  
11 for benefits under sections 226, 227, and 228 of this act shall be  
12 eligible to receive the plan 1 lump-sum defined benefit pursuant to the  
13 conditions established in this section. All assets identified in  
14 subsection (1) of this section shall be allocated to the eligible  
15 recipients of the plan 1 lump-sum defined benefit. The allocation to  
16 each eligible recipient shall be based on the number of months of  
17 service credit earned under chapter 41.26 RCW through June 30, 2000, or  
18 credited pursuant to RCW 41.26.040, in proportion to the total months  
19 of such service credit earned by all eligible recipients. The  
20 allocations for eligible recipients who are spousal survivors or  
21 dependents shall be based on the number of months of such service  
22 credit earned by the deceased member. This distribution shall occur on  
23 the date of the transfer of assets to the restated defined benefit  
24 retirement fund in section 4 of this act, or as soon thereafter as is  
25 practical and reasonable, consistent with applicable provisions of the  
26 federal internal revenue code.

27 (3) If a member is active or term-vested, interest as determined by  
28 the director shall accumulate from the date the lump-sum defined  
29 benefit is allocated until distribution to the participant upon  
30 retirement from service or for disability. For the purposes of this  
31 section, a term-vested member is a member who has rendered five years  
32 of service, has not withdrawn his or her member contributions, and who  
33 has not applied for retirement.

34 (4) If a member dies before distribution of the lump-sum benefit  
35 created in this section occurs, the distribution shall be made  
36 according to the member's designation in section 216 of this act.

37 (5) The lump-sum benefit created in this section is subject to the  
38 provisions of section 209 of this act.

1 (6) If this section is held to be invalid, by section 503 of this  
2 act or otherwise, recipients of the lump-sum benefit provided by this  
3 section shall no longer be entitled to this benefit and shall be  
4 required to return any funds received according to the provisions of  
5 RCW 41.50.135, 41.50.136, 41.50.137, and 41.50.138.

6 NEW SECTION. **Sec. 7.** INVESTMENT OF FUNDS. (1) The state  
7 investment board has the full power to invest, reinvest, manage,  
8 contract, sell, or exchange investment money in (a) the restated law  
9 enforcement officers' and fire fighters' defined benefit retirement  
10 fund, (b) the law enforcement officers' and fire fighters' medical  
11 benefits risk pool account, and (c) the state surplus assets reserve  
12 fund. All investment and operating costs of the state investment board  
13 and the state treasurer associated with these funds shall be paid under  
14 RCW 43.08.190, 43.33A.160, 43.79A.040, and 43.84.160. With the  
15 exception of these expenses, the earnings from the investment of the  
16 funds shall be retained by the funds.

17 (2) All investments made by the state investment board shall be  
18 made with the exercise of that degree of judgment and care under RCW  
19 43.33A.140 and the investment policy established by the state  
20 investment board.

21 (3) As deemed appropriate by the state investment board, money in  
22 the funds may be commingled for investment with other funds under the  
23 investment authority of the board.

24 NEW SECTION. **Sec. 8.** TRANSFER TO LEOFF MEDICAL BENEFITS RISK  
25 POOL. By December 1, 2001, the state treasurer shall transfer from the  
26 Washington law enforcement officers' and fire fighters' system plan 1  
27 retirement fund to the law enforcement officers' and fire fighters'  
28 medical benefits risk pool account under chapter 41.--- RCW (sections  
29 301 through 310 of this act) an amount equal to the transfer to the  
30 restated law enforcement officers' and fire fighters' defined benefit  
31 fund made for purposes of funding the plan 1 lump-sum defined benefit  
32 required by section 6 of this act. The distribution shall be for the  
33 exclusive purposes of chapter 41.--- RCW (sections 301 through 310 of  
34 this act).

35 NEW SECTION. **Sec. 9.** RESERVATION OF RIGHTS. The legislature  
36 reserves the right to make such amendments and modifications as may be

1 necessary in the future to accomplish the goals of sections 1 through  
2 10 of this act, without any diminution of the rights and benefits of  
3 the LEOFF plan 1 members, retirees, and surviving spouses, as they  
4 existed prior to December 1, 2001.

5 NEW SECTION. **Sec. 10.** STATUTE OF LIMITATIONS. Any claim filed  
6 challenging the validity of sections 1 through 10 of this act not filed  
7 before July 1, 2002, is forever barred, if not already barred by an  
8 otherwise applicable statute of limitations. By December 31, 2001, the  
9 department of retirement systems shall send notification of the  
10 provisions of sections 1 through 10 of this act, by first class mail,  
11 to the last known address of each plan 1 active member, retiree, and  
12 spousal survivor.

13 **PART I**

14 **AMENDMENTS TO CHAPTER 41.26 RCW**

15 **Sec. 101.** RCW 41.26.010 and 1969 ex.s. c 209 s 1 are each amended  
16 to read as follows:

17 This chapter shall be known and cited as the "Washington Law  
18 Enforcement Officers' and Fire Fighters' Retirement System--Plan 2  
19 Act".

20 **Sec. 102.** 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 plan 2" 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.~~

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

4       ~~((i))~~ (a) The legislative authority of any city, town, county, or  
5 district;

6       ~~((ii))~~ (b) The elected officials of any municipal corporation;

7       ~~((iii))~~ (c) The governing body of any other general authority law  
8 enforcement agency; or

9       ~~((iv))~~ (d) A four-year institution of higher education having a  
10 fully operational fire department as of January 1, 1996.

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

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

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

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

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

36       ~~(e))~~ The term "law enforcement officer" also includes a person  
37 employed on or after January 1, 1993, as a public safety officer or  
38 director of public safety, so long as the job duties substantially  
39 involve only either police or fire duties, or both, and no other duties



1 in a city or town with a population of less than ten thousand. The  
2 provisions of this subsection (3)(~~(e)~~) (d) shall not apply to any  
3 public safety officer or director of public safety who is receiving a  
4 retirement allowance under this chapter as of May 12, 1993.

5 (4) "Fire fighter" means:

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

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

12 (c) Supervisory fire fighter personnel; and

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

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

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

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

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

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

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

39 (i) A natural born child;

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

3 (iii) A posthumous child;

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

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

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

15 (8) "Member" means any fire fighter, law enforcement officer, or  
16 other person as would apply under subsection ~~((s))~~ (3) or (4) of this  
17 section ~~((whose membership is transferred to the Washington law  
18 enforcement officers' and fire fighters' retirement system on or after  
19 March 1, 1970, and every law enforcement officer and fire fighter))~~ who  
20 is employed in that capacity on or after ~~((such date))~~ October 1, 1977.

21 (9) "Retirement fund" means the "Washington law enforcement  
22 officers' and fire fighters' ~~((retirement))~~ system plan 2 retirement  
23 fund" as provided for ~~((herein))~~ in RCW 41.50.075.

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

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

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

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

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

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

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

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

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

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

38 (14)((a) "Service" for plan 1 members, means all periods of  
39 employment for an employer as a fire fighter or law enforcement

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

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

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

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

36 Members of the retirement system who are elected or appointed to a  
37 state elective position may elect to continue to be members of this  
38 retirement system.

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

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

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

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

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

30 ~~(18) ("Disability board" for plan 1 members means either the~~  
31 ~~county disability board or the city disability board established in RCW~~  
32 ~~41.26.110.~~

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

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

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

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

9       ~~(a) Hospital expenses: These are the charges made by a hospital,~~  
10 ~~in its own behalf, for~~

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

14       ~~(ii) Necessary hospital services, other than board and room,~~  
15 ~~furnished by the hospital.~~

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

19       ~~(i) The fees of the following:~~

20       ~~(A) A physician or surgeon licensed under the provisions of chapter~~  
21 ~~18.71 RCW;~~

22       ~~(B) An osteopathic physician and surgeon licensed under the~~  
23 ~~provisions of chapter 18.57 RCW;~~

24       ~~(C) A chiropractor licensed under the provisions of chapter 18.25~~  
25 ~~RCW.~~

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

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

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

31       ~~(B) Diagnostic x ray and laboratory examinations;~~

32       ~~(C) X ray, radium, and radioactive isotopes therapy;~~

33       ~~(D) Anesthesia and oxygen;~~

34       ~~(E) Rental of iron lung and other durable medical and surgical~~  
35 ~~equipment;~~

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

37       ~~(G) Professional ambulance service when used to transport the~~  
38 ~~member to or from a hospital when injured by an accident or stricken by~~  
39 ~~a disease;~~

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

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

5       ~~(J) Physical therapy by a registered physical therapist;~~

6       ~~(K) Blood transfusions, including the cost of blood and blood~~  
7 ~~plasma not replaced by voluntary donors;~~

8       ~~(L) An optometrist licensed under the provisions of chapter 18.53~~  
9 ~~RCW.~~

10       ~~(23))~~ (19) "Regular interest" means such rate as the director may  
11 determine.

12       ~~((24))~~ (20) "Retiree" ~~((for persons who establish membership in~~  
13 ~~the retirement system on or after October 1, 1977,))~~ means any member  
14 in receipt of a retirement allowance or other benefit provided by this  
15 chapter resulting from service rendered to an employer by such member.

16       ~~((25))~~ (21) "Director" means the director of the department.

17       ~~((26))~~ (22) "State actuary" or "actuary" means the person  
18 appointed pursuant to RCW 44.44.010(2).

19       ~~((27))~~ (23) "State elective position" means any position held by  
20 any person elected or appointed to statewide office or elected or  
21 appointed as a member of the legislature.

22       ~~((28))~~ (24) "Plan 1" means the law enforcement officers' and fire  
23 fighters' retirement system, plan 1 providing the benefits and funding  
24 provisions covering persons who first became members of the system  
25 prior to October 1, 1977, which plan was terminated effective December  
26 1, 2001, and members transferred to the retirement system established  
27 by chapter 41.26A RCW.

28       ~~((29))~~ (25) "Plan 2" means the law enforcement officers' and fire  
29 fighters' retirement system, plan 2 providing the benefits and funding  
30 provisions covering persons who first became members of the system on  
31 and after October 1, 1977.

32       ~~((30))~~ (26) "Service credit year" means an accumulation of months  
33 of service credit which is equal to one when divided by twelve.

34       ~~((31))~~ (27) "Service credit month" means a full service credit  
35 month or an accumulation of partial service credit months that are  
36 equal to one.

37       ~~((32))~~ (28) "General authority law enforcement agency" means any  
38 agency, department, or division of a municipal corporation, political  
39 subdivision, or other unit of local government of this state, and any

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

14 **Sec. 103.** RCW 41.26.040 and 1991 c 35 s 15 are each amended to  
15 read as follows:

16 The Washington law enforcement officers' and fire fighters'  
17 retirement system plan 2 is hereby created for fire fighters and law  
18 enforcement officers.

19 (1) (~~Notwithstanding RCW 41.26.030(8),~~) All fire fighters and law  
20 enforcement officers employed as such on or after (~~March 1, 1970~~)  
21 October 1, 1977, on a full time fully compensated basis in this state  
22 shall be members of the retirement system established by this chapter  
23 with respect to all periods of service as such, to the exclusion of any  
24 pension system existing under any prior act.

25 (2) (~~Any employee serving as a law enforcement officer or fire~~  
26 ~~fighter on March 1, 1970, who is then making retirement contributions~~  
27 ~~under any prior act shall have his membership transferred to the system~~  
28 ~~established by this chapter as of such date. Upon retirement for~~  
29 ~~service or for disability, or death, of any such employee, his~~  
30 ~~retirement benefits earned under this chapter shall be computed and~~  
31 ~~paid. In addition, his benefits under the prior retirement act to~~  
32 ~~which he was making contributions at the time of this transfer shall be~~  
33 ~~computed as if he had not transferred. For the purpose of such~~  
34 ~~computations, the employee's creditability of service and eligibility~~  
35 ~~for service or disability retirement and survivor and all other~~  
36 ~~benefits shall continue to be as provided in such prior retirement act,~~  
37 ~~as if transfer of membership had not occurred. The excess, if any, of~~  
38 ~~the benefits so computed, giving full value to survivor benefits, over~~



1 the benefits payable under this chapter shall be paid whether or not  
2 the employee has made application under the prior act. If the  
3 employee's prior retirement system was the Washington public employees'  
4 retirement system, payment of such excess shall be made by that system;  
5 if the employee's prior retirement system was the statewide city  
6 employees' retirement system, payment of such excess shall be made by  
7 the employer which was the member's employer when his transfer of  
8 membership occurred: PROVIDED, That any death in line of duty lump sum  
9 benefit payment shall continue to be the obligation of that system as  
10 provided in RCW 41.44.210; in the case of all other prior retirement  
11 systems, payment of such excess shall be made by the employer which was  
12 the member's employer when his transfer of membership occurred.

13 (3)) All funds held by any firemen's or policemen's relief and  
14 pension fund shall remain in that fund for the purpose of paying the  
15 obligations of the fund. The municipality shall continue to levy the  
16 dollar rate as provided in RCW 41.16.060, and this dollar rate shall be  
17 used for the purpose of paying the benefits provided in chapters 41.16  
18 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to  
19 be paid from whatever financial sources the city has been using for  
20 this purpose.

21 **Sec. 104.** RCW 41.26.061 and 1997 c 103 s 1 are each amended to  
22 read as follows:

23 A member shall not receive a disability retirement benefit under  
24 RCW ((41.26.120, 41.26.125, 41.26.130, or)) 41.26.470 if the disability  
25 is the result of criminal conduct by the member committed after April  
26 21, 1997.

## 27 PART II

### 28 CHAPTER 41.26A RCW: RESTATED LEOFF RETIREMENT SYSTEM

29 NEW SECTION. **Sec. 201.** APPLICATION OF CHAPTER. This chapter  
30 applies to members of the restated law enforcement officers' and fire  
31 fighters' retirement system. Membership in the system is limited to  
32 those persons who were members of plan 1 of the law enforcement  
33 officers' and fire fighters' retirement system under chapter 41.26 RCW  
34 prior to December 1, 2001.

1        NEW SECTION.    **Sec. 202.**    DEFINITIONS.    The definitions in this  
2 section apply throughout this chapter unless the context clearly  
3 requires otherwise.

4        (1) "Retirement system" means the restated law enforcement  
5 officers' and fire fighters' retirement system.

6        (2) "Employer" means the legislative authority of any city, town,  
7 county, or district or the elected officials of any municipal  
8 corporation that employs any law enforcement officer and/or fire  
9 fighter, any authorized association of such municipalities, and, except  
10 for the purposes of section 225 of this act, any labor guild,  
11 association, or organization, which represents the fire fighters or law  
12 enforcement officers of at least seven cities of over twenty thousand  
13 population and the membership of each local lodge or division of which  
14 is composed of at least sixty percent law enforcement officers or fire  
15 fighters as defined in this chapter.

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

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

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

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

35        (d) The term "law enforcement officer" also includes the executive  
36 secretary of a labor guild, association, or organization (which is an  
37 employer under this section) if that individual has five years previous  
38 membership in the retirement system established in chapter 41.20 RCW;  
39 and

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

9 (4) "Fire fighter" means:

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

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

16 (c) Supervisory fire fighter personnel;

17 (d) Any full-time executive secretary of an association of fire  
18 protection districts authorized under RCW 52.12.031;

19 (e) The executive secretary of a labor guild, association, or  
20 organization (which is an employer under this section), if such  
21 individual has five years previous membership in a retirement system  
22 established in chapter 41.16 or 41.18 RCW;

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

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

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

33 (6) "Surviving spouse" means the surviving widow or widower of a  
34 member. "Surviving spouse" shall not include the divorced spouse of a  
35 member except as provided in section 228 of this act.

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

- 1 (i) A natural born child;  
2 (ii) A stepchild where that relationship was in existence prior to  
3 the date benefits are payable under this chapter;  
4 (iii) A posthumous child;  
5 (iv) A child legally adopted or made a legal ward of a member prior  
6 to the date benefits are payable under this chapter; or  
7 (v) An illegitimate child legitimized prior to the date any  
8 benefits are payable under this chapter.

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

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

22 (9) "Retirement fund" means the restated law enforcement officers'  
23 and fire fighters' defined benefit retirement fund.

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

26 (11) "Beneficiary" means any person in receipt of a retirement  
27 allowance, disability allowance, death benefit, or any other benefit  
28 described herein.

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

1 member, the basic salary payable to such member at the time of  
2 disability retirement; (d) in the case of a member who hereafter vests  
3 pursuant to section 216 of this act, the basic salary payable to such  
4 member at the time of vesting.

5 (13) "Basic salary" means the basic monthly rate of salary or  
6 wages, including longevity pay but not including overtime earnings or  
7 special salary or wages, upon which pension or retirement benefits will  
8 be computed and upon which employer contributions and salary deductions  
9 will be based.

10 (14) "Service" means all periods of employment for an employer as  
11 a fire fighter or law enforcement officer, for which compensation is  
12 paid, together with periods of suspension not exceeding thirty days in  
13 duration. For the purposes of this chapter service also includes  
14 service in the armed forces of the United States as provided in section  
15 230 of this act. Credit shall be allowed for all service credit months  
16 of service rendered by a member from and after the member's initial  
17 commencement of employment as a fire fighter or law enforcement  
18 officer, during which the member worked for seventy or more hours, or  
19 was on disability leave or disability retirement. Only service credit  
20 months of service shall be counted in the computation of any retirement  
21 allowance or other benefit provided for in this chapter.

22 (a) For members retiring after May 21, 1971, who were employed  
23 under the coverage of a prior pension act before March 1, 1970,  
24 "service" also includes (i) such military service not exceeding five  
25 years as was creditable to the member as of March 1, 1970, under the  
26 member's particular prior pension act, and (ii) such other periods of  
27 service as were then creditable to a particular member under the  
28 provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no  
29 event shall credit be allowed for any service rendered prior to March  
30 1, 1970, where the member at the time of rendition of such service was  
31 employed in a position covered by a prior pension act, unless such  
32 service, at the time credit is claimed therefor, is also creditable  
33 under the provisions of such prior act.

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

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

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

6 (17) "Actuarial valuation" means a mathematical determination of  
7 the financial condition of a retirement plan. It includes the  
8 computation of the present monetary value of benefits payable to  
9 present members, and the present monetary value of future employer and  
10 employee contributions, giving effect to mortality among active and  
11 retired members and also to the rates of disability, retirement,  
12 withdrawal from service, salary and interest earned on investments.

13 (18) "Disability board" means either the county disability board or  
14 the city disability board established in section 218 of this act.

15 (19) "Disability leave" means the period of six months or any  
16 portion thereof during which a member is on leave at an allowance equal  
17 to the member's full salary prior to the commencement of disability  
18 retirement.

19 (20) "Disability retirement" means the period following termination  
20 of a member's disability leave, during which the member is in receipt  
21 of a disability retirement allowance.

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

24 (22) "Medical services" include the following as minimum services  
25 to be provided. Reasonable charges for these services shall be paid in  
26 accordance with section 225 of this act.

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

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

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

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

37 (i) The fees of the following:

38 (A) A physician or surgeon licensed under the provisions of chapter  
39 18.71 RCW;

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

3 (C) A chiropractor licensed under the provisions of chapter 18.25  
4 RCW.

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

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

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

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

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

12 (D) Anesthesia and oxygen;

13 (E) Rental of iron lung and other durable medical and surgical  
14 equipment;

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

16 (G) Professional ambulance service when used to transport the  
17 member to or from a hospital when injured by an accident or stricken by  
18 a disease;

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

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

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

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

26 (L) An optometrist licensed under the provisions of chapter 18.53  
27 RCW.

28 (23) "Regular interest" means such rate as the director may  
29 determine.

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

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

33 (26) "State elective position" means any position held by any  
34 person elected or appointed to statewide office or elected or appointed  
35 as a member of the legislature.

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

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

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

17 NEW SECTION. **Sec. 203.** SYSTEM CREATED--MEMBERSHIP--FUNDS. The  
18 restated law enforcement officers' and fire fighters' retirement system  
19 is hereby created for fire fighters and law enforcement officers.

20 (1) Notwithstanding section 202(8) of this act, all fire fighters  
21 and law enforcement officers employed as such on or after March 1,  
22 1970, on a full-time fully compensated basis in this state shall be  
23 members of the retirement system established by this chapter with  
24 respect to all periods of service as such, to the exclusion of any  
25 pension system existing under any prior act.

26 (2) Any employee serving as a law enforcement officer or fire  
27 fighter on March 1, 1970, who is then making retirement contributions  
28 under any prior act shall have his or her membership transferred to the  
29 system established by this chapter as of such date. Upon retirement  
30 for service or for disability, or death, of any such employee, his or  
31 her retirement benefits earned under this chapter shall be computed and  
32 paid. In addition, his or her benefits under the prior retirement act  
33 to which he or she was making contributions at the time of this  
34 transfer shall be computed as if he or she had not transferred. For  
35 the purpose of such computations, the employee's creditability of  
36 service and eligibility for service or disability retirement and  
37 survivor and all other benefits shall continue to be as provided in  
38 such prior retirement act, as if transfer of membership had not



1 occurred. The excess, if any, of the benefits so computed, giving full  
2 value to survivor benefits, over the benefits payable under this  
3 chapter shall be paid whether or not the employee has made application  
4 under the prior act. If the employee's prior retirement system was the  
5 Washington public employees' retirement system, payment of such excess  
6 shall be made by that system; if the employee's prior retirement system  
7 was the statewide city employees' retirement system, payment of such  
8 excess shall be made by the employer which was the member's employer  
9 when his or her transfer of membership occurred: PROVIDED, That any  
10 death in line of duty lump sum benefit payment shall continue to be the  
11 obligation of that system as provided in RCW 41.44.210; in the case of  
12 all other prior retirement systems, payment of such excess shall be  
13 made by the employer which was the member's employer when his or her  
14 transfer of membership occurred.

15 (3) All funds held by any firemen's or policemen's relief and  
16 pension fund shall remain in that fund for the purpose of paying the  
17 obligations of the fund. The municipality shall continue to levy the  
18 dollar rate as provided in RCW 41.16.060, and this dollar rate shall be  
19 used for the purpose of paying the benefits provided in chapters 41.16  
20 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to  
21 be paid from whatever financial sources the city has been using for  
22 this purpose.

23 NEW SECTION. **Sec. 204.** "MINIMUM MEDICAL AND HEALTH STANDARDS"  
24 DEFINED. The term "minimum medical and health standards" means minimum  
25 medical and health standards adopted by the department under this  
26 chapter.

27 NEW SECTION. **Sec. 205.** MINIMUM MEDICAL AND HEALTH STANDARDS.  
28 Notwithstanding any other provision of law after February 19, 1974, no  
29 law enforcement officer or fire fighter, may become eligible for  
30 coverage in the pension system established by this chapter until the  
31 individual has met and has been certified as having met minimum medical  
32 and health standards: PROVIDED, That an elected sheriff or an  
33 appointed chief of police or fire chief, shall not be required to meet  
34 the age standard: PROVIDED FURTHER, That in cities and towns having  
35 not more than two law enforcement officers and/or not more than two  
36 fire fighters and if one or more of such persons do not meet the  
37 minimum medical and health standards as required by the provisions of

1 this chapter, then such person or persons may join any other pension  
2 system that the city has available for its other employees: AND  
3 PROVIDED FURTHER, That for one year after February 19, 1974, any such  
4 medical or health standard now existing or hereinafter adopted, insofar  
5 as it establishes a maximum age beyond which an applicant is to be  
6 deemed ineligible for coverage, shall be waived as to any applicant for  
7 employment or reemployment who is otherwise eligible except for his or  
8 her age, who has been a member of any one or more of the retirement  
9 systems created by chapter 41.20 RCW and who has restored all  
10 contributions which he or she has previously withdrawn from any such  
11 system or systems.

12 NEW SECTION. **Sec. 206.** MINIMUM MEDICAL AND HEALTH  
13 STANDARDS--BOARD TO ADOPT--PUBLICATION AND DISTRIBUTION--EMPLOYER  
14 CERTIFICATION PROCEDURES. The department shall adopt minimum medical  
15 and health standards for membership coverage into the retirement  
16 system. In adopting such standards the department shall consider  
17 existing standards recommended by the international association of  
18 chiefs of police and the international association of fire fighters,  
19 and shall adopt equal or higher standards, together with appropriate  
20 standards and procedures to ensure uniform compliance with this  
21 chapter. The standards when adopted shall be published and distributed  
22 to each employer, and each employer shall adopt certification  
23 procedures and such other procedures as are required to ensure that no  
24 law enforcement officer or fire fighter receives membership coverage  
25 unless and until he or she has actually met minimum medical and health  
26 standards: PROVIDED, That an elected sheriff or an appointed chief of  
27 police, fire chief, or director of public safety shall not be required  
28 to meet the age standard. The department may amend the minimum medical  
29 and health standards as experience indicates, even if the standards as  
30 so amended are lower or less rigid than those recommended by the  
31 international associations mentioned above. The cost of the medical  
32 examination contemplated by this section is to be paid by the employer.

33 NEW SECTION. **Sec. 207.** MINIMUM MEDICAL AND HEALTH  
34 STANDARDS--EXEMPTIONS--EMPLOYER MAY ADOPT HIGHER STANDARDS. Nothing in  
35 sections 204 through 206 of this act shall apply to any fire fighters  
36 or law enforcement officers who are employed as such on or before  
37 August 1, 1971, as long as they continue in such employment; nor to

1 promotional appointments after becoming a member in the police or fire  
2 department of any employer nor to the reemployment of a law enforcement  
3 officer or fire fighter by the same or a different employer within six  
4 months after the termination of his or her employment, nor to the  
5 reinstatement of a law enforcement officer or fire fighter who has been  
6 on military or disability leave, disability retirement status, or leave  
7 of absence status. Nothing in this chapter shall be deemed to prevent  
8 any employer from adopting higher medical and health standards than  
9 those which are adopted by the department.

10 NEW SECTION. **Sec. 208.** SPECIAL DEATH BENEFIT--DEATH IN THE COURSE  
11 OF EMPLOYMENT. (1) A one hundred fifty thousand dollar death benefit  
12 shall be paid to the member's estate, or such person or persons, trust  
13 or organization as the member shall have nominated by written  
14 designation duly executed and filed with the department. If there be  
15 no such designated person or persons still living at the time of the  
16 member's death, such member's death benefit shall be paid to the  
17 member's surviving spouse as if in fact such spouse had been nominated  
18 by written designation, or if there be no such surviving spouse, then  
19 to such member's 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 NEW SECTION. **Sec. 209.** EXEMPTION FROM JUDICIAL PROCESS,  
27 TAXES--EXCEPTIONS--DEDUCTION FOR INSURANCE UPON REQUEST. (1) Subject  
28 to subsections (2) and (3) of this section, the right of a person to a  
29 retirement allowance, disability allowance, or death benefit, to the  
30 return of accumulated contributions, the retirement, disability, or  
31 death allowance itself, any optional benefit, any other right accrued  
32 or accruing to any person under the provisions of this chapter, and the  
33 moneys in the fund created under this chapter, are hereby exempt from  
34 any state, county, municipal, or other local tax and shall not be  
35 subject to execution, garnishment, attachment, the operation of  
36 bankruptcy or insolvency laws, or any other process of law whatsoever,  
37 and shall be unassignable.

1 (2) On the written request of any person eligible to receive  
2 benefits under this section, the department may deduct from such  
3 payments the premiums for life, health, or other insurance. The  
4 request on behalf of any child or children shall be made by the legal  
5 guardian of such child or children. The department may provide for  
6 such persons one or more plans of group insurance, through contracts  
7 with regularly constituted insurance carriers or health care service  
8 contractors.

9 (3) Subsection (1) of this section shall not prohibit the  
10 department from complying with (a) a wage assignment order for child  
11 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold  
12 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of  
13 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory  
14 benefits assignment order issued by the department, (e) a court order  
15 directing the department to pay benefits directly to an obligee under  
16 a dissolution order as defined in RCW 41.50.500(3) which fully complies  
17 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court  
18 order expressly authorized by federal law.

19 NEW SECTION. **Sec. 210.** NO BOND REQUIRED ON APPEAL TO COURT. No  
20 bond of any kind shall be required of a claimant appealing to the  
21 superior court, the court of appeals, or the supreme court from a  
22 decision of the director affecting such claimant's right to retirement  
23 or disability benefits.

24 NEW SECTION. **Sec. 211.** BENEFIT CALCULATION--LIMITATION. (1) The  
25 annual compensation taken into account in calculating retiree benefits  
26 under this system shall not exceed the limits imposed by section  
27 401(a)(17) of the federal internal revenue code for qualified trusts.  
28 (2) The department shall adopt rules as necessary to implement this  
29 section.

30 NEW SECTION. **Sec. 212.** ESTABLISHING, RESTORING SERVICE CREDIT.  
31 Notwithstanding any provision to the contrary, persons who fail to:  
32 (1) Establish allowable membership service not previously credited;  
33 (2) Restore all or a part of that previously credited membership  
34 service represented by withdrawn contributions; or

1 (3) Restore service credit represented by a lump sum payment in  
2 lieu of benefits, before the deadline established by statute, may do so  
3 under the conditions set forth in RCW 41.50.165.

4 NEW SECTION. **Sec. 213.** DISABILITY RETIREMENT--CRIMINAL CONDUCT.  
5 A member shall not receive a disability retirement benefit under  
6 sections 220 through 222 of this act if the disability is the result of  
7 criminal conduct by the member committed after April 21, 1997.

8 NEW SECTION. **Sec. 214.** FALSIFICATION--PENALTY. Any employer,  
9 member, or beneficiary who knowingly makes false statements or  
10 falsifies or permits to be falsified any record or records of the  
11 retirement system in an attempt to defraud the retirement system, is  
12 guilty of a felony.

13 NEW SECTION. **Sec. 215.** FUNDING TOTAL LIABILITY OF SYSTEM. No  
14 employer or member contribution is required. The total liability of  
15 the retirement system is funded as provided in sections 4 and 5 of this  
16 act.

17 NEW SECTION. **Sec. 216.** RETIREMENT FOR SERVICE. Retirement of a  
18 member for service shall be made by the department as follows:

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

24 (2) Any member having five or more service credit years of service,  
25 who terminates his or her employment with any employer, may leave his  
26 or her contributions in the fund. Any employee who so elects, upon  
27 attaining age fifty, shall be eligible to apply for and receive a  
28 service retirement allowance based on his or her years of service,  
29 commencing on the first day following his or her attainment of age  
30 fifty.

31 (3) Any member selecting optional vesting under subsection (2) of  
32 this section with less than twenty service credit years of service  
33 shall not be covered by the provisions of section 225 of this act, and  
34 the member's survivors shall not be entitled to the benefits of section  
35 226 of this act unless his or her death occurs after he or she has

1 attained the age of fifty years. Those members selecting this optional  
2 vesting with twenty or more years service shall not be covered by the  
3 provisions of section 225 of this act until the attainment of the age  
4 of fifty years. A member selecting this optional vesting, with less  
5 than twenty service credit years of service credit, who dies prior to  
6 attaining the age of fifty years, shall have paid from the restated law  
7 enforcement officers' and fire fighters' defined benefit retirement  
8 fund, to such member's surviving spouse, if any, otherwise to such  
9 beneficiary as the member shall have designated in writing, or if no  
10 such designation has been made, to the personal representative of his  
11 or her estate, a lump sum which is equal to the amount of such member's  
12 accumulated contributions plus accrued interest. If the vested member  
13 has twenty or more service credit years of service credit the surviving  
14 spouse or children shall then become eligible for the benefits of  
15 section 226 of this act regardless of the member's age at the time of  
16 his or her death, to the exclusion of the lump sum amount provided by  
17 this subsection.

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

30 NEW SECTION. **Sec. 217.** ALLOWANCE ON RETIREMENT FOR SERVICE. A  
31 member upon retirement for service shall receive a monthly retirement  
32 allowance computed according to his or her completed creditable service  
33 credit years of service as follows: Five years but under ten years,  
34 one-twelfth of one percent of his or her final average salary for each  
35 month of service; ten years but under twenty years, one-twelfth of one  
36 and one-half percent of his or her final average salary for each month  
37 of service; and twenty years and over one-twelfth of two percent of his  
38 or her final average salary for each month of service: PROVIDED, That

1 the recipient of a retirement allowance who shall return to service as  
2 a law enforcement officer or fire fighter shall be considered to have  
3 terminated his or her retirement status and he or she shall immediately  
4 become a member of the retirement system with the status of membership  
5 he or she had as of the date of retirement. Retirement benefits shall  
6 be suspended during the period of his or her return to service and he  
7 or she shall make contributions and receive service credit. Such a  
8 member shall have the right to again retire at any time and his or her  
9 retirement allowance shall be recomputed, and paid, based upon  
10 additional service rendered and any change in final average salary:  
11 PROVIDED FURTHER, That no retirement allowance paid pursuant to this  
12 section shall exceed sixty percent of final average salary, except as  
13 such allowance may be increased by virtue of section 238 of this act.

14 NEW SECTION. **Sec. 218.** CITY AND COUNTY DISABILITY BOARDS  
15 AUTHORIZED. (1) All claims for disability shall be acted upon and  
16 either approved or disapproved by either type of disability board  
17 created under this section.

18 (a) Each city having a population of twenty thousand or more shall  
19 establish a disability board having jurisdiction over all members  
20 employed by the cities and composed of the following five members: Two  
21 members of the city legislative body to be appointed by the mayor, one  
22 active or retired fire fighter to be elected by the fire fighters  
23 employed by or retired from the city, one active or retired law  
24 enforcement officer to be elected by the law enforcement officers  
25 employed by or retired from the city, and one member from the public at  
26 large who resides within the city to be appointed by the other four  
27 members designated in this subsection. Retired members who are subject  
28 to the jurisdiction of the board have both the right to elect and the  
29 right to be elected under this section. Each of the elected members  
30 shall serve a two-year term. The members appointed pursuant to this  
31 subsection shall serve for two-year terms: PROVIDED, That cities of  
32 the first class only, shall retain existing firemen's pension boards  
33 established pursuant to RCW 41.16.020 and existing boards of trustees  
34 of the relief and pension fund of the police department as established  
35 pursuant to RCW 41.20.010 which such boards shall have authority to act  
36 upon and approve or disapprove claims for disability by fire fighters  
37 or law enforcement officers as provided under this chapter. No

1 disability boards shall be established under the authority of this  
2 subsection (1)(a) after December 31, 2001.

3 (b) Each county shall establish a disability board having  
4 jurisdiction over all members residing in the county and not employed  
5 by a city in which a disability board is established. The county  
6 disability board so created shall be composed of five members to be  
7 chosen as follows: One member of the legislative body of the county to  
8 be appointed by the county legislative body, one member of a city or  
9 town legislative body located within the county which does not contain  
10 a city disability board established pursuant to (a) of this subsection  
11 to be chosen by a majority of the mayors of such cities and towns  
12 within the county which does not contain a city disability board, one  
13 fire fighter or retired fire fighter to be elected by the fire fighters  
14 employed or retired in the county who are not employed by or retired  
15 from a city in which a disability board is established, one law  
16 enforcement officer or retired law enforcement officer to be elected by  
17 the law enforcement officers employed in or retired from the county who  
18 are not employed by or retired from a city in which a disability board  
19 is established, and one member from the public at large who resides  
20 within the county but does not reside within a city in which a city  
21 disability board is established, to be appointed by the other four  
22 members designated in this subsection. However, in counties with a  
23 population less than sixty thousand, the member of the disability board  
24 appointed by a majority of the mayors of the cities and towns within  
25 the county that do not contain a city disability board must be a  
26 resident of one of the cities and towns but need not be a member of a  
27 city or town legislative body. Retired members who are subject to the  
28 jurisdiction of the board have both the right to elect and the right to  
29 be elected under this section. All members appointed or elected  
30 pursuant to this subsection shall serve for two-year terms.

31 (2) The members of both the county and city disability boards shall  
32 not receive compensation for their service upon the boards but the  
33 members shall be reimbursed by their respective county or city for all  
34 expenses incidental to such service as to the amount authorized by law.

35 (3) The disability boards authorized for establishment by this  
36 section shall perform all functions, exercise all powers, and make all  
37 such determinations as specified in this chapter.



1        NEW SECTION.     **Sec. 219.**     DIRECTOR TO ADOPT RULES GOVERNING  
2 DISABILITY BOARDS. (1) The director shall adopt rules, in accordance  
3 with chapter 34.05 RCW, under which each disability board shall execute  
4 its disability retirement duties under this chapter. The rules shall  
5 include, but not be limited to, the following:

6        (a) Standards governing the type and manner of presentation of  
7 medical, employability, and other evidence before disability boards;  
8 and

9        (b) Standards governing the necessity and frequency of medical and  
10 employability reexaminations of persons receiving disability benefits.

11        (2) If the director determines that an order or determination of a  
12 disability board was not processed in accordance with the rules  
13 established under this section, the director may remand the order or  
14 determination for further proceedings consistent with the rules.

15        NEW SECTION.     **Sec. 220.**     RETIREMENT FOR DISABILITY INCURRED IN THE  
16 LINE OF DUTY. Any member, regardless of age or years of service, may  
17 be retired by the disability board, subject to approval by the  
18 director, for any disability incurred in the line of duty which has  
19 been continuous since his or her discontinuance of service and which  
20 renders the member unable to continue service. No disability  
21 retirement allowance shall be paid until the expiration of a period of  
22 six months after the discontinuance of service during which period the  
23 member, if found to be physically or mentally unfit for duty by the  
24 disability board following receipt of his or her application for  
25 disability retirement, shall be granted a disability leave by the  
26 disability board and shall receive an allowance equal to the full  
27 monthly salary and shall continue to receive all other benefits  
28 provided to active employees from the employer for such period.  
29 However, if, at any time during the initial six-month period, the  
30 disability board finds the beneficiary is no longer disabled, the  
31 disability leave allowance shall be canceled and the member shall be  
32 restored to duty in the same rank or position, if any, held by the  
33 beneficiary at the time the member became disabled. Applications for  
34 disability retirement shall be processed in accordance with the  
35 following procedures:

36        (1) Any member who believes he or she is or is believed to be  
37 physically or mentally disabled shall be examined by such medical  
38 authority as the disability board shall employ, upon application of the

1 member, or a person acting in his or her behalf, stating that the  
2 member is disabled, either physically or mentally: PROVIDED, That no  
3 such application shall be considered unless the member or someone in  
4 his or her behalf, in case of the incapacity of a member, shall have  
5 filed the application within a period of one year from and after the  
6 discontinuance of service of the member.

7 (2) If the examination shows, to the satisfaction of the disability  
8 board, that the member is physically or mentally disabled from the  
9 further performance of duty, that such disability was incurred in the  
10 line of duty, and that such disability has been continuous from the  
11 discontinuance of service, the disability board shall enter its written  
12 decision and order, accompanied by appropriate findings of fact and by  
13 conclusions evidencing compliance with this chapter, granting the  
14 member a disability retirement allowance; otherwise, if the member is  
15 not found by the disability board to be so disabled, the application  
16 shall be denied pursuant to a similar written decision and order,  
17 subject to appeal to the director in accordance with section 235 of  
18 this act: PROVIDED, That in any order granting a duty disability  
19 retirement allowance, the disability board shall make a finding that  
20 the disability was incurred in line of duty.

21 (3) Every order of a disability board granting a duty disability  
22 retirement allowance shall immediately be reviewed by the director  
23 except the finding that the disability was incurred in the line of  
24 duty. The director may affirm the decision of the disability board or  
25 remand the case for further proceedings, or the director may reverse  
26 the decision of the disability board if the director finds the  
27 disability board's findings, inferences, conclusions, or decisions are:

- 28 (a) In violation of constitutional provisions;
- 29 (b) In excess of the statutory authority or jurisdiction of the  
30 disability board;
- 31 (c) Made upon unlawful procedure;
- 32 (d) Affected by other error of law;
- 33 (e) Clearly erroneous in view of the entire record as submitted and  
34 the public policy contained in this chapter; or
- 35 (f) Arbitrary or capricious.

36 (4) Every member who can establish, to the disability board, that  
37 he or she is physically or mentally disabled from the further  
38 performance of duty, that such disability was incurred in the line of  
39 duty, and that such disability will be in existence for a period of at

1 least six months may waive the six-month period of disability leave and  
2 be immediately granted a duty disability retirement allowance, subject  
3 to the approval of the director as provided in subsection (3) of this  
4 section.

5 NEW SECTION. **Sec. 221.** RETIREMENT FOR DISABILITY NOT INCURRED IN  
6 THE LINE OF DUTY. Any member, regardless of age or years of service,  
7 may be retired by the disability board, subject to approval by the  
8 director as provided in this section, for any disability not incurred  
9 in the line of duty which has been continuous since discontinuance of  
10 service and which renders the member unable to continue service. No  
11 disability retirement allowance may be paid until the expiration of a  
12 period of six months after the discontinuance of service during which  
13 period the member, if found to be physically or mentally unfit for duty  
14 by the disability board following receipt of the member's application  
15 for disability retirement, shall be granted a disability leave by the  
16 disability board and shall receive an allowance equal to the member's  
17 full monthly salary and shall continue to receive all other benefits  
18 provided to active employees from the member's employer for the period.  
19 However, if, at any time during the initial six-month period, the  
20 disability board finds the beneficiary is no longer disabled, the  
21 disability leave allowance shall be canceled and the member shall be  
22 restored to duty in the same rank or position, if any, held by the  
23 member at the time the member became disabled. Applications for  
24 disability retirement shall be processed in accordance with the  
25 following procedures:

26 (1) Any member who believes he or she is, or is believed to be,  
27 physically or mentally disabled shall be examined by such medical  
28 authority as the disability board shall employ, upon application of the  
29 member, or a person acting in the member's behalf, stating that the  
30 member is disabled, either physically or mentally: PROVIDED, That no  
31 such application shall be considered unless the member or someone  
32 acting in the member's behalf, in case of the incapacity of a member,  
33 has filed the application within a period of one year from and after  
34 the discontinuance of service of the member.

35 (2) If the examination shows, to the satisfaction of the disability  
36 board, that the member is physically or mentally disabled from the  
37 further performance of duty, that such disability was not incurred in  
38 the line of duty, and that such disability had been continuous from the

1 discontinuance of service, the disability board shall enter its written  
2 decision and order, accompanied by appropriate findings of fact and by  
3 conclusions evidencing compliance with this chapter, granting the  
4 member a disability retirement allowance. Otherwise, if the member is  
5 not found by the disability board to be so disabled, the application  
6 shall be denied pursuant to a similar written decision and order,  
7 subject to appeal to the director in accordance with section 235 of  
8 this act: PROVIDED, That in any order granting a nonduty disability  
9 retirement allowance, the disability board shall make a finding that  
10 the disability was not incurred in the line of duty.

11 (3) Every order of a disability board granting a nonduty disability  
12 retirement allowance shall immediately be reviewed by the director  
13 except the finding that the disability was not incurred in the line of  
14 duty. The director may affirm the decision of the disability board or  
15 remand the case for further proceedings, or the director may reverse  
16 the decision of the disability board if the director finds the  
17 disability board's findings, inferences, conclusions, or decisions are:

- 18 (a) In violation of constitutional provisions;
- 19 (b) In excess of the statutory authority or jurisdiction of the  
20 disability board;
- 21 (c) Made upon unlawful procedure;
- 22 (d) Affected by other error of law;
- 23 (e) Clearly erroneous in view of the entire record as submitted and  
24 the public policy contained in this chapter; or
- 25 (f) Arbitrary or capricious.

26 (4) Every member who can establish to the disability board that the  
27 member is physically or mentally disabled from the further performance  
28 of duty, that such disability was not incurred in the line of duty, and  
29 that such disability will be in existence for a period of at least six  
30 months, may waive the six-month period of disability leave and be  
31 immediately granted a nonduty disability retirement allowance, subject  
32 to the approval of the director as provided in subsection (3) of this  
33 section.

34 NEW SECTION. **Sec. 222.** ALLOWANCE ON RETIREMENT FOR DISABILITY.

35 (1) Upon retirement for disability a member shall be entitled to  
36 receive a monthly retirement allowance computed as follows: (a) A  
37 basic amount of fifty percent of final average salary at time of  
38 disability retirement, and (b) an additional five percent of final

1 average salary for each child as defined in section 202(7) of this act,  
2 (c) the combined total of (a) and (b) of this subsection shall not  
3 exceed a maximum of sixty percent of final average salary.

4 (2) A disabled member shall begin receiving the disability  
5 retirement allowance as of the expiration of his or her six-month  
6 period of disability leave or, if his or her application was filed  
7 after the sixth month of discontinuance of service but prior to the  
8 one-year time limit, the member's disability retirement allowance shall  
9 be retroactive to the end of the sixth month.

10 (3) Benefits under this section will be payable until the member  
11 recovers from the disability or dies. If at the time that the  
12 disability ceases the member is over the age of fifty, he or she shall  
13 then receive either disability retirement allowance or retirement for  
14 service allowance, whichever is greater.

15 (4) Benefits under this section for a disability that is incurred  
16 while in other employment will be reduced by any amount the member  
17 receives or is entitled to receive from workers' compensation, social  
18 security, group insurance, other pension plan, or any other similar  
19 source provided by another employer on account of the same disability.

20 (5) A member retired for disability shall be subject to periodic  
21 examinations by a physician approved by the disability board prior to  
22 attainment of age fifty, pursuant to rules adopted by the director  
23 under section 219 of this act. Examinations of members who retired for  
24 disability prior to July 26, 1981, shall not exceed two medical  
25 examinations per year.

26 NEW SECTION. **Sec. 223.** CESSATION OF DISABILITY--DETERMINATION.

27 (1) A disabled member who believes that his or her disability has  
28 ceased in accordance with section 222(3) of this act may make  
29 application to the disability board which originally found the member  
30 to be disabled, for a determination that the disability has ceased.

31 (2) Every order of a disability board determining that a member's  
32 disability has ceased pursuant to section 222(3) of this act shall  
33 immediately be reviewed by the director. The director may affirm the  
34 decision of the disability board or remand the case for further  
35 proceedings if the director finds the disability board's findings,  
36 inferences, conclusions, or decisions are:

37 (a) In violation of constitutional provisions;

1 (b) In excess of the statutory authority or jurisdiction of the  
2 disability board;

3 (c) Made upon unlawful procedure;

4 (d) Affected by other error of law;

5 (e) Clearly erroneous in view of the entire record as submitted and  
6 the public policy contained in this chapter; or

7 (f) Arbitrary or capricious.

8 (3) Determinations of whether a disability has ceased under section  
9 222(3) of this act and this section shall be made in accordance with  
10 the same procedures and standards governing other cancellations of  
11 disability retirement.

12 NEW SECTION. **Sec. 224.** REEXAMINATIONS OF DISABILITY

13 BENEFICIARIES--REENTRY--APPEAL. (1) Upon the basis of reexaminations  
14 of members on disability retirement as provided in section 222 of this  
15 act, the disability board shall determine whether such disability  
16 beneficiary is still unable to perform his or her duties either  
17 physically or mentally for service in the department where he or she  
18 was employed.

19 (2) If the disability board determines that the beneficiary is not  
20 so incapacitated the retirement allowance shall be canceled and the  
21 member shall be restored to duty in the same civil service rank, if  
22 any, held by the beneficiary at the time of his or her retirement or if  
23 unable to perform the duties of that rank, then, at his or her request,  
24 in such other like or lesser rank as may be or become open and  
25 available, the duties of which he or she is then able to perform. In  
26 no event, shall a beneficiary previously drawing a disability allowance  
27 be returned or be restored to duty at a salary or rate of pay less than  
28 the current salary attached to the rank or position held by the  
29 beneficiary at the date of retirement for disability. If the  
30 disability board determines that the beneficiary is able to return to  
31 service he or she shall be entitled to notice and a hearing, both the  
32 notice and the hearing shall comply with the requirements of chapter  
33 34.05 RCW.

34 (3) Should a disability beneficiary reenter service and be eligible  
35 for membership in the retirement system, the retirement allowance shall  
36 be canceled and he or she shall immediately become a member of the  
37 retirement system.

1 (4) Should any disability beneficiary under age fifty refuse to  
2 submit to examination, the retirement allowance shall be discontinued  
3 until withdrawal of such refusal, and should such refusal continue for  
4 one year or more, the retirement allowance shall be canceled.

5 (5) Should the disability retirement allowance of any disability  
6 beneficiary be canceled for any cause other than reentrance into  
7 service or retirement for service, he or she shall be paid the excess,  
8 if any, of the accumulated contributions at the time of retirement over  
9 all payments made on his or her behalf under this chapter.

10 (6) Any person feeling aggrieved by an order of a disability board  
11 determining that a beneficiary's disability has not ceased, pursuant to  
12 section 222(3) of this act has the right to appeal the order or  
13 determination to the director. The director shall have no jurisdiction  
14 to entertain the appeal unless a notice of appeal is filed with the  
15 director within thirty days following the rendition of the order by the  
16 disability board. A copy of the notice of appeal shall be served upon  
17 the director and the applicable disability board and, within ninety  
18 days thereof, the disability board shall certify its decision and order  
19 which shall include findings of fact and conclusions of law, together  
20 with a transcript of all proceedings in connection therewith, to the  
21 director for review. Upon review of the record, the director may  
22 affirm the order of the disability board or may remand the case for  
23 further proceedings if the director finds that the disability board's  
24 findings, inferences, conclusions, or decisions are:

25 (a) In violation of constitutional provisions;

26 (b) In excess of the statutory authority or jurisdiction of the  
27 disability board;

28 (c) Made upon unlawful procedure;

29 (d) Affected by other error of law;

30 (e) Clearly erroneous in view of the entire record as submitted and  
31 the public policy contained in this chapter; or

32 (f) Arbitrary or capricious.

33 NEW SECTION. **Sec. 225.** SICKNESS OR DISABILITY BENEFITS--MEDICAL  
34 SERVICES. (1) Whenever any active member, or any member hereafter  
35 retired, on account of service, sickness, or disability, not caused or  
36 brought on by dissipation or abuse, of which the disability board shall  
37 be judge, is confined in any hospital or in home, and whether or not so  
38 confined, requires medical services, the employer shall pay for the

1 active or retired member the necessary medical services not payable  
2 from some other source as provided for in subsection (2) of this  
3 section. In the case of active or retired fire fighters the employer  
4 may make the payments provided for in this section from the firemen's  
5 pension fund established pursuant to RCW 41.16.050 where the fund had  
6 been established prior to March 1, 1970. If this pension fund is  
7 depleted, the employer shall have the obligation to pay all benefits  
8 payable under chapters 41.16 and 41.18 RCW.

9 (a) The disability board in all cases may have the active or  
10 retired member suffering from such sickness or disability examined at  
11 any time by a licensed physician or physicians, to be appointed by the  
12 disability board, for the purpose of ascertaining the nature and extent  
13 of the sickness or disability, the physician or physicians to report to  
14 the disability board the result of the examination within three days  
15 thereafter. Any active or retired member who refuses to submit to such  
16 examination or examinations shall forfeit all rights to benefits under  
17 this section for the period of the refusal.

18 (b) The disability board shall designate the medical services  
19 available to any sick or disabled member.

20 (2) The medical services payable under this section will be reduced  
21 by any amount received or eligible to be received by the member under  
22 workers' compensation, social security including the changes  
23 incorporated under Public Law 89-97, insurance provided by another  
24 employer, other pension plan, or any other similar source. Failure to  
25 apply for coverage if otherwise eligible under the provisions of Public  
26 Law 89-97 shall not be deemed a refusal of payment of benefits thereby  
27 enabling collection of charges under the provisions of this chapter.

28 (3) Upon making the payments provided for in subsection (1) of this  
29 section, the employer shall be subrogated to all rights of the member  
30 against any third party who may be held liable for the member's  
31 injuries or for payment of the cost of medical services in connection  
32 with a member's sickness or disability to the extent necessary to  
33 recover the amount of payments made by the employer.

34 (4) Any employer under this chapter, either singly, or jointly with  
35 any other such employer or employers through an association thereof as  
36 provided for in chapter 48.21 RCW, may provide for all or part of one  
37 or more plans of group hospitalization and medical aid insurance to  
38 cover any of its employees who are members of the restated law  
39 enforcement officers' and fire fighters' retirement system, and/or



1 retired former employees who were, before retirement, members of the  
2 retirement system, through contracts with regularly constituted  
3 insurance carriers, with health maintenance organizations as defined in  
4 chapter 48.46 RCW, or with health care service contractors as defined  
5 in chapter 48.44 RCW. Benefits payable under the plan or plans shall  
6 be deemed to be amounts received or eligible to be received by the  
7 active or retired member under subsection (2) of this section.

8 (5) Any employer, jointly with any other employer or employers of  
9 the state, may participate in the medical benefits risk pool  
10 established under chapter 41.--- RCW (sections 301 through 310 of this  
11 act).

12 (6) Any employer under this chapter may, at its discretion, elect  
13 to reimburse a retired former employee under this chapter for premiums  
14 the retired former employee has paid for medical insurance that  
15 supplements medicare, including premiums the retired former employee  
16 has paid for medicare part B coverage.

17 NEW SECTION. **Sec. 226.** DEATH BENEFITS--DUTY CONNECTED. (1) In  
18 the event of the duty connected death of any member who is in active  
19 service, or who has vested under section 216 of this act with twenty or  
20 more service credit years of service, or who is on duty connected  
21 disability leave or retired for duty connected disability, the  
22 surviving spouse shall become entitled to receive a monthly allowance  
23 equal to fifty percent of the final average salary at the date of death  
24 if active, or the amount of retirement allowance the vested member  
25 would have received at age fifty, or the amount of the retirement  
26 allowance such retired member was receiving at the time of death if  
27 retired for duty connected disability. The amount of this allowance  
28 will be increased five percent of final average salary for each child  
29 as defined in section 202(7) of this act, subject to a maximum combined  
30 allowance of sixty percent of final average salary: PROVIDED, That if  
31 the child or children is or are in the care of a legal guardian,  
32 payment of the increase attributable to each child will be made to the  
33 child's legal guardian or, in the absence of a legal guardian and if  
34 the member has created a trust for the benefit of the child or  
35 children, payment of the increase attributable to each child will be  
36 made to the trust.

37 (2) If at the time of the duty connected death of a vested member  
38 with twenty or more service credit years of service as provided in

1 subsection (1) of this section or a member retired for duty connected  
2 disability, the surviving spouse has not been lawfully married to such  
3 member for one year prior to retirement or separation from service if  
4 a vested member, the surviving spouse shall not be eligible to receive  
5 the benefits under this section: PROVIDED, That if a member dies as a  
6 result of a disability incurred in the line of duty, then if he or she  
7 was married at the time he or she was disabled, the surviving spouse  
8 shall be eligible to receive the benefits under this section.

9 (3) If there be no surviving spouse eligible to receive benefits at  
10 the time of such member's duty connected death, then the child or  
11 children of such member shall receive a monthly allowance equal to  
12 thirty percent of final average salary for one child and an additional  
13 ten percent for each additional child subject to a maximum combined  
14 payment, under this subsection, of sixty percent of final average  
15 salary. When there cease to be any eligible children as defined in  
16 section 202(7) of this act, there shall be paid to the legal heirs of  
17 the member the excess, if any, of accumulated contributions of the  
18 member at the time of death over all payments made to survivors on his  
19 or her behalf under this chapter: PROVIDED, That payments under this  
20 subsection to children shall be prorated equally among the children, if  
21 more than one. If the member has created a trust for the benefit of  
22 the child or children, the payment shall be made to the trust.

23 (4) In the event that there is no surviving spouse eligible to  
24 receive benefits under this section, and that there be no child or  
25 children eligible to receive benefits under this section, then the  
26 accumulated contributions shall be paid to the estate of the member.

27 (5) If a surviving spouse receiving benefits under the provisions  
28 of this section thereafter dies and there are children as defined in  
29 section 202(7) of this act, payment to the spouse shall cease and the  
30 child or children shall receive the benefits as provided in subsection  
31 (3) of this section.

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

35 NEW SECTION. **Sec. 227.** DEATH BENEFITS--NONDUTY CONNECTED. (1) In  
36 the event of the nonduty connected death of any member who is in active  
37 service, or who has vested under section 216 of this act with twenty or  
38 more service credit years of service, or who is on disability leave or

1 retired, whether for nonduty connected disability or service, the  
2 surviving spouse shall become entitled to receive a monthly allowance  
3 equal to fifty percent of the final average salary at the date of death  
4 if active, or the amount of retirement allowance the vested member  
5 would have received at age fifty, or the amount of the retirement  
6 allowance such retired member was receiving at the time of death if  
7 retired for service or nonduty connected disability. The amount of  
8 this allowance will be increased five percent of final average salary  
9 for each child as defined in section 202(7) of this act, subject to a  
10 maximum combined allowance of sixty percent of final average salary:  
11 PROVIDED, That if the child or children is or are in the care of a  
12 legal guardian, payment of the increase attributable to each child will  
13 be made to the child's legal guardian or, in the absence of a legal  
14 guardian and if the member has created a trust for the benefit of the  
15 child or children, payment of the increase attributable to each child  
16 will be made to the trust.

17 (2) If at the time of the death of a vested member with twenty or  
18 more service credit years of service as provided in subsection (1) of  
19 this section or a member retired for service or disability, the  
20 surviving spouse has not been lawfully married to such member for one  
21 year prior to retirement or separation from service if a vested member,  
22 the surviving spouse shall not be eligible to receive the benefits  
23 under this section.

24 (3) If there be no surviving spouse eligible to receive benefits at  
25 the time of such member's death, then the child or children of such  
26 member shall receive a monthly allowance equal to thirty percent of  
27 final average salary for one child and an additional ten percent for  
28 each additional child subject to a maximum combined payment, under this  
29 subsection, of sixty percent of final average salary. When there cease  
30 to be any eligible children as defined in section 202(7) of this act,  
31 there shall be paid to the legal heirs of the member the excess, if  
32 any, of accumulated contributions of the member at the time of death  
33 over all payments made to survivors on his or her behalf under this  
34 chapter: PROVIDED, That payments under this subsection to children  
35 shall be prorated equally among the children, if more than one. If the  
36 member has created a trust for the benefit of the child or children,  
37 the payment shall be made to the trust.

38 (4) In the event that there is no surviving spouse eligible to  
39 receive benefits under this section, and that there be no child or

1 children eligible to receive benefits under this section, then the  
2 accumulated contributions shall be paid to the estate of the member.

3 (5) If a surviving spouse receiving benefits under the provisions  
4 of this section thereafter dies and there are children as defined in  
5 section 202(7) of this act, payment to the spouse shall cease and the  
6 child or children shall receive the benefits as provided in subsection  
7 (3) of this section.

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

11 NEW SECTION. Sec. 228. EX SPOUSE QUALIFYING AS SURVIVING SPOUSE--  
12 WHEN. (1) An ex spouse of a retiree shall qualify as surviving spouse  
13 under section 226 of this act if the ex spouse:

14 (a) Has been provided benefits under any currently effective court  
15 decree of dissolution or legal separation or in any court order or  
16 court-approved property settlement agreement incident to any court  
17 decree of dissolution or legal separation entered after the member's  
18 retirement and prior to December 31, 1979; and

19 (b) Was married to the retiree for at least thirty years, including  
20 at least twenty years prior to the member's retirement or separation  
21 from service if a vested member.

22 (2) If two or more persons are eligible for a surviving spouse  
23 benefit under this subsection, benefits shall be divided between the  
24 surviving spouses based on the percentage of total service credit the  
25 member accrued during each marriage.

26 (3) This section shall apply retroactively.

27 NEW SECTION. Sec. 229. REFUND OF CONTRIBUTIONS ON DISCONTINUANCE  
28 OF SERVICE--REENTRY. (1) Should service of a member be discontinued  
29 except by death, disability, or retirement, the member shall, upon  
30 application therefor, be paid the accumulated contributions within  
31 sixty days after the day of application and the rights to all benefits  
32 as a member shall cease: PROVIDED, That any member with at least five  
33 years' service may elect the provisions of section 216(2) of this act.

34 (2) Any member whose contributions have been paid in accordance  
35 with subsection (1) of this section and who reenters the service of an  
36 employer shall upon the restoration of withdrawn contributions, which  
37 restoration must be completed within a total period of five years of

1 service following resumption of employment, then receive credit toward  
2 retirement for the period of previous service which these contributions  
3 are to cover.

4 (3) If the member fails to meet the time limitations of subsection  
5 (2) of this section, the member may make the payment required under RCW  
6 41.50.165(2) prior to retirement. The member shall then receive credit  
7 toward retirement for the period of previous service that the withdrawn  
8 contributions cover.

9 NEW SECTION. **Sec. 230.** CREDIT FOR MILITARY SERVICE. Each person  
10 affected by this chapter who at the time of entering the armed services  
11 was a member of this system or plan 1 under chapter 41.26 RCW, and has  
12 honorably served in the armed services of the United States, shall have  
13 added to the period of service as computed under this chapter, the  
14 period of service in the armed forces: PROVIDED, That such credited  
15 service shall not exceed five years.

16 NEW SECTION. **Sec. 231.** CREDIT FOR SERVICE UNDER PRIOR PENSION  
17 SYSTEM--RESTORATION OF WITHDRAWN CONTRIBUTIONS. If a member of this  
18 retirement system served as a law enforcement officer or fire fighter  
19 under a prior pension system and that service is not creditable to this  
20 retirement system because the member withdrew his or her contributions  
21 plus accrued interest from the prior pension system, the member's prior  
22 service as a law enforcement officer shall be credited to this  
23 retirement system if the member pays to the retirement system the  
24 amount under RCW 41.50.165(2) prior to retirement.

25 NEW SECTION. **Sec. 232.** CREDIT FOR SERVICE UNDER PRIOR PENSION  
26 SYSTEM--SERVICE NOT COVERED UNDER PRIOR SYSTEM. If a member's prior  
27 service as a law enforcement officer or fire fighter under a prior  
28 pension system is not creditable because, although employed in a  
29 position covered by a prior pension act, the member had not yet become  
30 a member of the pension system governed by the act, the member's prior  
31 service as a law enforcement officer or fire fighter shall be  
32 creditable if the member pays to the plan the amount set forth under  
33 RCW 41.50.165(2) prior to retirement.

34 NEW SECTION. **Sec. 233.** TRANSFER OF SERVICE CREDIT FROM OTHER  
35 RETIREMENT SYSTEM--IRREVOCABLE ELECTION ALLOWED. Any member of the

1 teachers' retirement system plans 1, 2, or 3, the public employees'  
2 retirement system plans 1 or 2, or the Washington state patrol  
3 retirement system who has previously established service credit in the  
4 restated law enforcement officers' and fire fighters' retirement system  
5 may make an irrevocable election to have such service transferred to  
6 their current retirement system and plan subject to the following  
7 conditions:

8 (1) If the individual is employed by an employer in an eligible  
9 position, as of July 1, 1997, the election to transfer service must be  
10 filed in writing with the department no later than July 1, 1998. If  
11 the individual is not employed by an employer in an eligible position,  
12 as of July 1, 1997, the election to transfer service must be filed in  
13 writing with the department no later than one year from the date they  
14 are employed by an employer in an eligible position.

15 (2) An individual transferring service under this section forfeits  
16 the rights to all benefits as a member of the restated law enforcement  
17 officers' and fire fighters' retirement system and will be permanently  
18 excluded from membership.

19 (3) Any individual choosing to transfer service under this section  
20 will have transferred to their current retirement system and plan: (a)  
21 All the individual's accumulated contributions; (b) an amount  
22 sufficient to ensure that the employer contribution rate in the  
23 individual's current system and plan will not increase due to the  
24 transfer; and (c) all applicable months of service, as defined in  
25 section 202(14) of this act.

26 (4) If an individual has withdrawn contributions from the law  
27 enforcement officers' and fire fighters' retirement system plan 1 or  
28 the plan established by this chapter, the individual may restore the  
29 contributions, together with interest as determined by the director,  
30 and recover the service represented by the contributions for the sole  
31 purpose of transferring service under this section. The contributions  
32 must be restored before the transfer can occur and the restoration must  
33 be completed within the time limitations specified in subsection (1) of  
34 this section.

35 (5) Any service transferred under this section does not apply to  
36 the eligibility requirements for military service credit as defined in  
37 RCW 41.40.170(3) or 43.43.260(3).

38 (6) If an individual does not meet the time limitations of  
39 subsection (1) of this section, the individual may elect to restore any

1 withdrawn contributions and transfer service under this section by  
2 paying the amount required under subsection (3)(b) of this section less  
3 any employee contributions transferred.

4 NEW SECTION. Sec. 234. SERVICE CREDIT FOR PAID LEAVE OF ABSENCE--  
5 APPLICATION TO ELECTED OFFICIALS OF LABOR ORGANIZATIONS. (1) A member  
6 who is on a paid leave of absence authorized by a member's employer  
7 shall continue to receive service credit as provided under this  
8 chapter.

9 (2) A member who receives compensation from an employer while on an  
10 authorized leave of absence to serve as an elected official of a labor  
11 organization, and whose employer is reimbursed by the labor  
12 organization for the compensation paid to the member during the period  
13 of absence, may also be considered to be on a paid leave of absence.  
14 This subsection shall only apply if the member's leave of absence is  
15 authorized by a collective bargaining agreement that provides that the  
16 member retains seniority rights with the employer during the period of  
17 leave. The basic salary reported for a member who establishes service  
18 credit under this subsection may not be greater than the salary paid to  
19 the highest paid job class covered by the collective bargaining  
20 agreement.

21 NEW SECTION. Sec. 235. APPEAL TO DIRECTOR. Any person feeling  
22 aggrieved by any order or determination of a disability board denying  
23 disability leave or disability retirement, or canceling a previously  
24 granted disability retirement allowance, shall have the right to appeal  
25 the order or determination to the director. The director shall have no  
26 jurisdiction to entertain the appeal unless a notice of appeal is filed  
27 with the director within thirty days following the rendition of the  
28 order by the applicable disability board. A copy of the notice of  
29 appeal shall be served upon the director and the applicable disability  
30 board and, within ninety days thereof, the disability board shall  
31 certify its decision and order which shall include findings of fact and  
32 conclusions of law, together with a transcript of all proceedings in  
33 connection therewith, to the director for review. Upon review of the  
34 record, the director may affirm the order of the disability board or  
35 may remand the case for such further proceedings as he or she may  
36 direct, in accordance with such rules of procedure as the director  
37 shall adopt.

1        NEW SECTION.    **Sec. 236.**    NOTICE FOR HEARING REQUIRED PRIOR TO  
2    PETITIONING FOR JUDICIAL REVIEW.    Any person aggrieved by any final  
3    decision of the director must, before petitioning for judicial review,  
4    file with the director by mail or personally within sixty days from the  
5    day the decision was communicated to the person, a notice for a  
6    hearing.    The notice of hearing shall set forth in full detail the  
7    grounds upon which such person considers such decision unjust or  
8    unlawful and shall include every issue to be considered, and it must  
9    contain a detailed statement of facts upon which such person relies in  
10   support thereof.    Such persons shall be deemed to have waived all  
11   objections or irregularities concerning the matter on which such appeal  
12   is taken other than those specifically set forth in the notice of  
13   hearing or appearing in the records of the retirement system.

14        NEW SECTION.    **Sec. 237.**    HEARING--CONDUCT.    A hearing shall be held  
15   by the director, or the director's duly authorized representative, in  
16   the county of the residence of the claimant at a time and place  
17   designated by the director.    Such hearing shall be de novo and shall  
18   conform to the provisions of chapter 34.05 RCW.    The disability board  
19   and the department shall be entitled to appear in all such proceedings  
20   and introduce testimony in support of the decision.    Judicial review of  
21   any final decision by the director shall be governed by the provisions  
22   of chapter 34.05 RCW.

23        NEW SECTION.    **Sec. 238.**    INCREASES OR DECREASES IN RETIREMENT  
24   ALLOWANCES TO BE DETERMINED BY DEPARTMENT IN ACCORDANCE WITH CONSUMER  
25   PRICE INDEX.    For purposes of this section:

26        (1) "Index" means, for any calendar year, that year's average  
27   consumer price index for the Seattle, Washington area for urban wage  
28   earners and clerical workers, all items (1957-1959=100), compiled by  
29   the bureau of labor statistics of the United States department of  
30   labor;

31        (2) "Retirement allowance" means the retirement allowance provided  
32   for in sections 217 and 222 of this act, and the monthly allowance  
33   provided for in section 226 of this act.

34        On April 1st of each year, every retirement allowance which has  
35   been in effect for more than one year shall be adjusted to that dollar  
36   amount which exceeds its original dollar amount by the percentage  
37   difference which the department finds to exist between the index for



1 the previous calendar year and the index for the calendar year prior to  
2 the effective retirement date of the person to whom, or on behalf of  
3 whom, such retirement allowance is being paid.

4 For the purposes of this section, "basic allowance" means that  
5 portion of a total retirement allowance, and any cost-of-living  
6 adjustment thereon, attributable to a member (individually) and shall  
7 not include the increased amounts attributable to the existence of a  
8 child or children. In those cases where a child ceases to be qualified  
9 as an eligible child, so as to lessen the total allowance, the  
10 allowance shall, at that time, be reduced to the basic allowance plus  
11 the amount attributable for the appropriate number of eligible  
12 children. In those cases where a child qualifies as an eligible child  
13 subsequent to the retirement of a member so as to increase the total  
14 allowance payable, such increased allowance shall at the time of the  
15 next and appropriate subsequent cost-of-living adjustments, be  
16 considered the original dollar amount of the allowance.

17 NEW SECTION. **Sec. 239.** INCREASE IN PRESENTLY PAYABLE BENEFITS FOR  
18 SERVICE OR DISABILITY AUTHORIZED. All benefits presently payable  
19 pursuant to the provisions of RCW 41.20.050, 41.20.060, and 41.20.080  
20 as such RCW sections existed prior to the effective date of the  
21 amendment of such RCW sections by sections 1, 2, 3, chapter 191, Laws  
22 of 1961 to persons who retired prior to the effective date of the 1961  
23 amendatory act, shall be increased annually as provided in this  
24 section. The local pension board shall meet subsequent to March 31st  
25 but prior to June 30th of each year for the purpose of adjusting  
26 benefit allowances payable pursuant to RCW 41.20.050, 41.20.060, and  
27 41.20.080. The local board shall determine the increase in the  
28 consumer price index between January 1st and December 31st of the  
29 previous year and increase in dollar amount the benefits payable  
30 subsequent to July 1st of the year in which the board makes such  
31 determination by a dollar amount proportionate to the increase in the  
32 consumer price index: PROVIDED, That regardless of the change in the  
33 consumer price index, such increase shall be at least two percent each  
34 year such adjustment is made.

35 Each year effective with the July payment all benefits specified in  
36 this section, shall be increased as authorized by this section. This  
37 benefit increase shall be paid monthly as part of the regular pension  
38 payment and shall be cumulative.

1 For the purpose of this section, "consumer price index" means, for  
2 any calendar year, the consumer price index for the Seattle, Washington  
3 area as compiled by the bureau of labor statistics of the United States  
4 department of labor.

5 NEW SECTION. **Sec. 240.** INCREASE IN CERTAIN PRESENTLY PAYABLE  
6 DEATH BENEFITS AUTHORIZED. All benefits presently payable pursuant to  
7 the provisions of RCW 41.20.085 which are not related to the amount of  
8 current salary attached to the position held by the deceased member  
9 shall be increased annually in the same manner and to the same extent  
10 as provided for pursuant to section 239 of this act.

11 NEW SECTION. **Sec. 241.** DECLARATION OF POLICY RESPECTING BENEFITS  
12 FOR INJURY OR DEATH--CIVIL ACTIONS ABOLISHED. The legislature of the  
13 state of Washington hereby declares that the relationship between  
14 members of the restated law enforcement officers' and fire fighters'  
15 retirement system and their governmental employers is similar to that  
16 of workers to their employers and that the sure and certain relief  
17 granted by this chapter is desirable, and as beneficial to such law  
18 enforcement officers and fire fighters as workers' compensation  
19 coverage is to persons covered by Title 51 RCW. The legislature  
20 further declares that removal of law enforcement officers and fire  
21 fighters from workers' compensation coverage under Title 51 RCW  
22 necessitates the (1) continuance of sure and certain relief for  
23 personal injuries incurred in the course of employment or occupational  
24 disease, which the legislature finds to be accomplished by the  
25 provisions of this chapter and (2) protection for the governmental  
26 employer from actions at law; and to this end the legislature further  
27 declares that the benefits and remedies conferred by this chapter upon  
28 law enforcement officers and fire fighters covered under this chapter  
29 shall be to the exclusion of any other remedy, proceeding, or  
30 compensation for personal injuries or sickness, caused by the  
31 governmental employer except as otherwise provided by this chapter; and  
32 to that end all civil actions and civil causes of actions by such law  
33 enforcement officers and fire fighters against their governmental  
34 employers for personal injuries or sickness are hereby abolished,  
35 except as otherwise provided in this chapter.



1 (4) "Executive board" means the law enforcement officers' and fire  
2 fighters' risk pool executive board.

3 (5) "Long-term care" means those medically necessary services  
4 required under section 202(22) of this act, authorized under section  
5 225 of this act, and received in a facility for skilled nursing care,  
6 intermediate care, custodial care, hospice care, day care, in-home  
7 nursing care, or other in-home care or services. For purposes of  
8 expenditures from the medical account, long-term care only includes  
9 qualified long-term care services as defined in internal revenue code  
10 section 7702B(2), and qualified long-term care insurance contract as  
11 defined in internal revenue code section 7702B(b).

12 (6) "Medical costs" means those costs incurred in the provision of  
13 the medically necessary medical services required under section 202(22)  
14 of this act and authorized under section 225 of this act. For purposes  
15 of expenditures from the medical account, medical costs only include  
16 cost of medical care as defined in internal revenue code section  
17 213(d).

18 (7) "Risk assumption" means a decision to absorb the entity's  
19 financial exposure to a risk of loss without the creation of a formal  
20 program of advance funding of anticipated losses.

21 (8) "Risk pool" means the long-term care and medical costs risk  
22 pool created for the law enforcement officers' and fire fighters'  
23 medical benefits risk pool.

24 (9) "State risk manager" means the risk manager, risk management  
25 division, department of general administration.

26 NEW SECTION. **Sec. 303.** (1) There is hereby established the law  
27 enforcement officers' and fire fighters' medical benefits risk pool.

28 (2) The risk pool is a risk assumption insurance program for the  
29 sole purpose of employers sharing the noninsured medical costs of long-  
30 term care and medical costs for beneficiaries.

31 (3) An employer's participation and withdrawal from the risk pool  
32 is subject to rules established by the executive board.

33 NEW SECTION. **Sec. 304.** (1) The law enforcement officers' and fire  
34 fighters' risk pool executive board is hereby established.

35 (2)(a) The membership of the executive board shall consist of seven  
36 persons as follows:

1 (i) The chair is appointed by the governor for a four-year term of  
2 office. The chair shall be familiar with risk pool operation, medical,  
3 and long-term care matters but shall not have been employed as a law  
4 enforcement officer or fire fighter or served on a law enforcement  
5 officers' and fire fighters' disability board; and

6 (ii) Six others selected by the governor from lists of recommended  
7 persons made by their respective organizations as follows:

8 (A) Two persons representing counties, one of which is an elected  
9 official;

10 (B) Two persons representing cities and towns, one of which is an  
11 elected official; and

12 (C) Two persons representing fire protection districts, one of  
13 which is an elected commissioner.

14 (b) If a member vacates his or her position, the governor shall  
15 select a person from a list recommended by his or her respective  
16 organization to replace the vacating member for the remainder of the  
17 term of office for the vacated position.

18 (3) One position of the county, city, or town, and fire protection  
19 district groups has an initial term of two years and four years  
20 thereafter. The remaining positions have terms of four years.

21 (4) A vice-chair shall be elected at the first meeting of the  
22 executive board and every two years thereafter. Upon the absence of  
23 the chair, the vice-chair shall act in his or her place.

24 (5) The executive board shall meet at least quarterly and shall  
25 maintain minutes of each meeting and any records as may be necessary,  
26 which are public records.

27 (6) The chair and three other members constitute a quorum.

28 (7) The members of the executive board shall not receive  
29 compensation for their service upon the executive board but shall be  
30 reimbursed for all expenses incidental to such service as to the amount  
31 authorized by either RCW 42.24.090 or 43.03.050 and 43.03.060,  
32 whichever is applicable.

33 NEW SECTION. **Sec. 305.** The duties of the executive board are as  
34 follows:

35 (1) Establish the basis of membership in the risk pool;

36 (2) Define and establish the benefits to be reimbursed by the risk  
37 pool;

38 (3) Authorize distribution of moneys from the risk pool account;

1 (4) Determine, with the assistance of the actuary, employer  
2 premiums to the risk pool;

3 (5) Authorize reimbursement for medical and long-term care costs,  
4 required under section 202(22) of this act and authorized under section  
5 225 of this act that are not covered by standard medical insurance  
6 policies. The board shall adopt rules governing these reimbursements  
7 consistent with the provisions of the internal revenue code and rules  
8 and regulations established by the internal revenue service;

9 (6) Purchase reinsurance as necessary;

10 (7) Appoint other staff as necessary for the operation of the risk  
11 pool; fix their compensation within the limits provided by law; and  
12 prescribe their duties; and

13 (8) Enter into contracts necessary for the operation of the risk  
14 pool, including risk management, claims, and administrative services.

15 NEW SECTION. **Sec. 306.** Funding for the risk pool account,  
16 established in section 310 of this act, may come from three sources:  
17 (1) Employer premiums; (2) surplus assets which are transferred from  
18 the Washington law enforcement officers' and fire fighters' system plan  
19 1 retirement fund under section 8 of this act; and (3) investment  
20 earnings.

21 NEW SECTION. **Sec. 307.** The state risk manager shall adopt rules  
22 governing the implementation, management, and operation of the risk  
23 pool in consultation with the health and welfare advisory board under  
24 RCW 48.62.051. All rules shall be appropriate for the type of program  
25 and class of risk covered. The state risk manager's rules shall  
26 include:

27 (1) Standards for the implementation, management, operation, and  
28 solvency of the risk pool, including the necessity and frequency of  
29 actuarial analyses and claims audits;

30 (2) Standards for claims management procedures;

31 (3) Standards for contracts between the risk pool and private  
32 businesses including standards for contracts between third-party  
33 administrators and the risk pool; and

34 (4) Standards for an annual report with the state risk manager and  
35 state auditor including, but not limited to:

36 (a) Copies of all the insurance coverage documents;

37 (b) A description of the program structure;

- 1 (c) An actuarial analysis, if required;
- 2 (d) A list of contractors and service providers;
- 3 (e) The financial and loss experience of the program; and
- 4 (f) Such other information as required by rule of the state risk
- 5 manager.

6 NEW SECTION. Sec. 308. The risk pool may not engage in an act or  
7 practice that in any respect significantly differs from the management  
8 and operation plan that formed the basis for the state risk manager's  
9 approval unless the risk pool first notifies the state risk manager in  
10 writing and obtains the state risk manager's approval. The state risk  
11 manager shall approve or disapprove the proposed change within sixty  
12 days of receipt of the notice. If the state risk manager denies a  
13 requested change, the risk manager shall specify in detail the reasons  
14 for denial and the manner in which the risk pool would fail to meet the  
15 requirements of this chapter or any rules adopted in accordance with  
16 this chapter.

17 NEW SECTION. Sec. 309. (1) The state risk manager shall establish  
18 and charge an investigation fee in an amount necessary to cover the  
19 costs for the initial review and approval of the risk pool. The fee  
20 must accompany the initial submission of the plan of operation and  
21 management.

22 (2) The costs of subsequent reviews and investigations shall be  
23 charged to the risk pool being reviewed or investigated in accordance  
24 with the actual time and expenses incurred in the review or  
25 investigation.

26 (3) The risk pool shall pay any required fee or assessment required  
27 by the health and welfare advisory board under RCW 48.62.051.

28 NEW SECTION. Sec. 310. (1) The law enforcement officers' and fire  
29 fighters' medical benefits risk pool account is hereby established in  
30 the custody of the state treasurer. The account shall be invested by  
31 the Washington state investment board pursuant to section 7 of this  
32 act.

33 (2) The account shall consist of such money as is directed by law  
34 for deposit in the account, and such other money not subject to  
35 appropriation that the law enforcement officers' and fire fighters'  
36 risk pool executive board authorizes to be deposited in the account.

1 Any money deposited in the account, the use of which has been  
2 restricted by law, may only be expended in accordance with those  
3 restrictions.

4 (3) Only the executive board or the board's designee may make  
5 disbursements from the account.

6 NEW SECTION. **Sec. 311.** Sections 301 through 310 of this act  
7 constitute a new chapter in Title 41 RCW.

8 **Sec. 312.** RCW 44.44.040 and 1987 c 25 s 3 are each amended to read  
9 as follows:

10 The office of the state actuary shall have the following powers and  
11 duties:

12 (1) Perform all actuarial services for the department of retirement  
13 systems, including all studies required by law, the state board for  
14 volunteer fire fighters and reserve officers, and the law enforcement  
15 officers' and fire fighters' risk pool executive board. Reimbursement  
16 for such services shall be made to the state actuary pursuant to the  
17 provisions of RCW 39.34.130 as now or hereafter amended.

18 (2) Advise the legislature and the governor regarding pension  
19 benefit provisions, and funding policies and investment policies of the  
20 state investment board.

21 (3) Consult with the legislature and the governor concerning  
22 determination of actuarial assumptions used by the department of  
23 retirement systems.

24 (4) Prepare a report, to be known as the actuarial fiscal note, on  
25 each pension bill introduced in the legislature which briefly explains  
26 the financial impact of the bill. The actuarial fiscal note shall  
27 include: (a) The statutorily required contribution for the biennium  
28 and the following twenty-five years; (b) the biennial cost of the  
29 increased benefits if these exceed the required contribution; and (c)  
30 any change in the present value of the unfunded accrued benefits. An  
31 actuarial fiscal note shall also be prepared for all amendments which  
32 are offered in committee or on the floor of the house of  
33 representatives or the senate to any pension bill. However, a majority  
34 of the members present may suspend the requirement for an actuarial  
35 fiscal note for amendments offered on the floor of the house of  
36 representatives or the senate.



1 (5) Provide such actuarial services to the legislature as may be  
2 requested from time to time.

3 (6) Provide staff and assistance to the committee established under  
4 (~~RCW 46.44.050~~) RCW 44.44.050.

5 (7) Provide assistance as required under section 305 of this act.

6 **Sec. 313.** RCW 48.62.031 and 1991 sp.s. c 30 s 3 are each amended  
7 to read as follows:

8 (1) The governing body of a local government entity may  
9 individually self-insure, may join or form a self-insurance program  
10 together with other entities, and may jointly purchase insurance or  
11 reinsurance with other entities for property and liability risks, and  
12 health and welfare benefits only as permitted under this chapter. In  
13 addition, the entity or entities may contract for or hire personnel to  
14 provide risk management, claims, and administrative services in  
15 accordance with this chapter.

16 (2) The governing body of a local government entity individually  
17 may join or form a risk assumption program together with other  
18 entities, and may jointly purchase insurance or reinsurance with other  
19 entities for health and welfare benefits. In addition, the entity or  
20 entities may contract for or hire personnel to provide risk management,  
21 claims, and administrative services in accordance with this chapter.

22 (3) The agreement to form a joint self-insurance or risk assumption  
23 program shall be made under chapter 39.34 RCW.

24 ~~((3))~~ (4) Every individual and joint self-insurance program and  
25 a health and welfare risk assumption program is subject to audit by the  
26 state auditor.

27 ~~((4))~~ (5) If provided for in the agreement or contract  
28 established under chapter 39.34 RCW, a joint self-insurance or risk  
29 assumption program may, in conformance with this chapter:

30 (a) Contract or otherwise provide for risk management and loss  
31 control services;

32 (b) Contract or otherwise provide legal counsel for the defense of  
33 claims and other legal services;

34 (c) Consult with the state insurance commissioner and the state  
35 risk manager;

36 (d) Jointly purchase insurance and reinsurance coverage in such  
37 form and amount as the program's participants agree by contract; and

1 (e) Possess any other powers and perform all other functions  
2 reasonably necessary to carry out the purposes of this chapter.

3 ~~((+5+))~~ (6) A local government entity or a health and welfare risk  
4 assumption program that has decided to assume a risk of loss must have  
5 available for inspection by the state auditor a written report  
6 indicating the class of risk or risks the governing body of the entity  
7 has decided to assume.

8 ~~((+6+))~~ (7) Every joint self-insurance or risk assumption program  
9 governed by this chapter shall appoint the risk manager as its attorney  
10 to receive service of, and upon whom shall be served, all legal process  
11 issued against it in this state upon causes of action arising in this  
12 state.

13 (a) Service upon the risk manager as attorney shall constitute  
14 service upon the program. Service upon joint insurance programs  
15 subject to chapter 30, Laws of 1991 1st sp. sess. can be had only by  
16 service upon the risk manager. At the time of service, the plaintiff  
17 shall pay to the risk manager a fee to be set by the risk manager,  
18 taxable as costs in the action.

19 (b) With the initial filing for approval with the risk manager,  
20 each joint self-insurance program shall designate by name and address  
21 the person to whom the risk manager shall forward legal process so  
22 served upon him or her. The joint self-insurance program may change  
23 such person by filing a new designation.

24 (c) The appointment of the risk manager as attorney shall be  
25 irrevocable, shall bind any successor in interest or to the assets or  
26 liabilities of the joint self-insurance program, and shall remain in  
27 effect as long as there is in force in this state any contract made by  
28 the joint self-insurance program or liabilities or duties arising  
29 therefrom.

30 (d) The risk manager shall keep a record of the day and hour of  
31 service upon him or her of all legal process. A copy of the process,  
32 by registered mail with return receipt requested, shall be sent by the  
33 risk manager, to the person designated for the purpose by the joint  
34 self-insurance or risk assumption program in its most recent such  
35 designation filed with the risk manager. No proceedings shall be had  
36 against the joint self-insurance or risk assumption program, and the  
37 program shall not be required to appear, plead, or answer, until the  
38 expiration of forty days after the date of service upon the risk  
39 manager.



1       **Sec. 401.** RCW 2.10.155 and 1990 c 274 s 14 are each amended to  
2 read as follows:

3       (1) No judge shall be eligible to receive the judge's monthly  
4 service or disability retirement allowance if the retired judge is  
5 employed:

6       (a) For more than eight hundred ten hours in a calendar year as a  
7 pro tempore judge; or

8       (b) In an eligible position as defined in RCW 41.40.010 or  
9 41.32.010, or as a law enforcement officer or fire fighter as defined  
10 in RCW 41.26.030 or section 202 of this act.

11       (2) Subsection (1) of this section notwithstanding, a previously  
12 elected judge of the superior court who retired before June 7, 1990,  
13 leaving a pending case in which the judge had made discretionary  
14 rulings may hear the pending case as a judge pro tempore without having  
15 his or her retirement allowance suspended.

16       (3) If a retired judge's benefits have been suspended under this  
17 section, his or her benefits shall be reinstated when the retiree  
18 terminates the employment that caused his or her benefits to be  
19 suspended. Upon reinstatement, the retired judge's benefits shall be  
20 actuarially recomputed pursuant to the rules adopted by the department.

21       (4) The department shall adopt rules implementing this section.

22       **Sec. 402.** RCW 6.15.020 and 1999 c 81 s 1 and 1999 c 42 s 603 are  
23 each reenacted and amended to read as follows:

24       (1) It is the policy of the state of Washington to ensure the well-  
25 being of its citizens by protecting retirement income to which they are  
26 or may become entitled. For that purpose generally and pursuant to the  
27 authority granted to the state of Washington under 11 U.S.C. Sec.  
28 522(b)(2), the exemptions in this section relating to retirement  
29 benefits are provided.

30       (2) Unless otherwise provided by federal law, any money received by  
31 any citizen of the state of Washington as a pension from the government  
32 of the United States, whether the same be in the actual possession of  
33 such person or be deposited or loaned, shall be exempt from execution,  
34 attachment, garnishment, or seizure by or under any legal process  
35 whatever, and when a debtor dies, or absconds, and leaves his or her  
36 family any money exempted by this subsection, the same shall be exempt  
37 to the family as provided in this subsection. This subsection shall

1 not apply to child support collection actions issued under chapter  
2 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

3 (3) The right of a person to a pension, annuity, or retirement  
4 allowance or disability allowance, or death benefits, or any optional  
5 benefit, or any other right accrued or accruing to any citizen of the  
6 state of Washington under any employee benefit plan, and any fund  
7 created by such a plan or arrangement, shall be exempt from execution,  
8 attachment, garnishment, or seizure by or under any legal process  
9 whatever. This subsection shall not apply to child support collection  
10 actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise  
11 permitted by federal law. This subsection shall permit benefits under  
12 any such plan or arrangement to be payable to a spouse, former spouse,  
13 child, or other dependent of a participant in such plan to the extent  
14 expressly provided for in a qualified domestic relations order that  
15 meets the requirements for such orders under the plan, or, in the case  
16 of benefits payable under a plan described in sections 403(b) or 408 of  
17 the internal revenue code of 1986, as amended, or section 409 of such  
18 code as in effect before January 1, 1984, to the extent provided in any  
19 order issued by a court of competent jurisdiction that provides for  
20 maintenance or support. This subsection shall not prohibit actions  
21 against an employee benefit plan, or fund for valid obligations  
22 incurred by the plan or fund for the benefit of the plan or fund.

23 (4) For the purposes of this section, the term "employee benefit  
24 plan" means any plan or arrangement that is described in RCW 49.64.020,  
25 including any Keogh plan, whether funded by a trust or by an annuity  
26 contract, and in sections 401(a) or 403(a) of the internal revenue code  
27 of 1986, as amended; or that is a tax-sheltered annuity described in  
28 section 403(b) of such code or an individual retirement account  
29 described in section 408 of such code; or a Roth individual retirement  
30 account described in section 408A of such code; or a medical savings  
31 account described in section 220 of such code; or an education  
32 individual retirement account described in section 530 of such code; or  
33 a retirement bond described in section 409 of such code as in effect  
34 before January 1, 1984. The term "employee benefit plan" also means  
35 any rights accruing on account of money paid currently or in advance  
36 for purchase of tuition units under the advanced college tuition  
37 payment program in chapter 28B.95 RCW. The term "employee benefit  
38 plan" shall not include any employee benefit plan that is established  
39 or maintained for its employees by the government of the United States,

1 by the state of Washington under chapter 2.10, 2.12, 41.26, 41.26A,  
2 41.32, 41.34, 41.35, 41.40 or 43.43 RCW or RCW 41.50.770, or by any  
3 agency or instrumentality of the government of the United States.

4 (5) An employee benefit plan shall be deemed to be a spendthrift  
5 trust, regardless of the source of funds, the relationship between the  
6 trustee or custodian of the plan and the beneficiary, or the ability of  
7 the debtor to withdraw or borrow or otherwise become entitled to  
8 benefits from the plan before retirement. This subsection shall not  
9 apply to child support collection actions issued under chapter 26.18,  
10 26.23, or 74.20A RCW, if otherwise permitted by federal law. This  
11 subsection shall permit benefits under any such plan or arrangement to  
12 be payable to a spouse, former spouse, child, or other dependent of a  
13 participant in such plan to the extent expressly provided for in a  
14 qualified domestic relations order that meets the requirements for such  
15 orders under the plan, or, in the case of benefits payable under a plan  
16 described in sections 403(b) or 408 of the internal revenue code of  
17 1986, as amended, or section 409 of such code as in effect before  
18 January 1, 1984, to the extent provided in any order issued by a court  
19 of competent jurisdiction that provides for maintenance or support.

20 (6) Unless contrary to applicable federal law, nothing contained in  
21 subsection (3), (4), or (5) of this section shall be construed as a  
22 termination or limitation of a spouse's community property interest in  
23 an individual retirement account held in the name of or on account of  
24 the other spouse, the account holder spouse. At the death of the  
25 nonaccount holder spouse, the nonaccount holder spouse may transfer or  
26 distribute the community property interest of the nonaccount holder  
27 spouse in the account holder spouse's individual retirement account to  
28 the nonaccount holder spouse's estate, testamentary trust, inter vivos  
29 trust, or other successor or successors pursuant to the last will of  
30 the nonaccount holder spouse or the law of intestate succession, and  
31 that distributee may, but shall not be required to, obtain an order of  
32 a court of competent jurisdiction, including a nonjudicial dispute  
33 resolution agreement entered into pursuant to RCW 11.96.170 or other  
34 order entered under chapter 11.96A RCW, to confirm the distribution.  
35 For purposes of subsection (3) of this section, the distributee of the  
36 nonaccount holder spouse's community property interest in an individual  
37 retirement account shall be considered a person entitled to the full  
38 protection of subsection (3) of this section. The nonaccount holder  
39 spouse's consent to a beneficiary designation by the account holder

1 spouse with respect to an individual retirement account shall not,  
2 absent clear and convincing evidence to the contrary, be deemed a  
3 release, gift, relinquishment, termination, limitation, or transfer of  
4 the nonaccount holder spouse's community property interest in an  
5 individual retirement account. For purposes of this subsection, the  
6 term "nonaccount holder spouse" means the spouse of the person in whose  
7 name the individual retirement account is maintained. The term  
8 "individual retirement account" includes an individual retirement  
9 account and an individual retirement annuity both as described in  
10 section 408 of the internal revenue code of 1986, as amended, a Roth  
11 individual retirement account as described in section 408A of the  
12 internal revenue code of 1986, as amended, and an individual retirement  
13 bond as described in section 409 of the internal revenue code as in  
14 effect before January 1, 1984. As used in this subsection, an order of  
15 a court of competent jurisdiction includes an agreement, as that term  
16 is used under RCW 11.96A.220.

17 **Sec. 403.** RCW 26.09.138 and 1991 c 365 s 24 are each amended to  
18 read as follows:

19 (1) Any obligee of a court order or decree establishing a spousal  
20 maintenance obligation may seek a mandatory benefits assignment order  
21 under chapter 41.50 RCW if any spousal maintenance payment is more than  
22 fifteen days past due and the total of such past due payments is equal  
23 to or greater than one hundred dollars, or if the obligor requests a  
24 withdrawal of accumulated contributions from the department of  
25 retirement systems.

26 (2) Any court order or decree establishing a spousal maintenance  
27 obligation may state that, if any spousal maintenance payment is more  
28 than fifteen days past due and the total of such past due payments is  
29 equal to or greater than one hundred dollars, or if the obligor  
30 requests a withdrawal of accumulated contributions from the department  
31 of retirement systems, the obligee may seek a mandatory benefits  
32 assignment order under chapter 41.50 RCW without prior notice to the  
33 obligor. Any such court order or decree may also, or in the  
34 alternative, contain a provision that would allow the department to  
35 make a direct payment of all or part of a withdrawal of accumulated  
36 contributions pursuant to RCW 41.50.550(3). Failure to include this  
37 provision does not affect the validity of the court order or decree  
38 establishing the spousal maintenance, nor does such failure affect the

1 general applicability of RCW 41.50.500 through 41.50.650 to such  
2 obligations.

3 (3) The remedies in RCW 41.50.530 through 41.50.630 are the  
4 exclusive provisions of law enforceable against the department of  
5 retirement systems in connection with any action for enforcement of a  
6 spousal maintenance obligation ordered pursuant to a divorce,  
7 dissolution, or legal separation, and no other remedy ordered by a  
8 court under this chapter shall be enforceable against the department of  
9 retirement systems for collection of spousal maintenance.

10 (4)(a) Nothing in this section regarding mandatory assignment of  
11 benefits to enforce a spousal maintenance obligation shall abridge the  
12 right of an ex spouse to receive direct payment of retirement benefits  
13 payable pursuant to: (i) A court decree of dissolution or legal  
14 separation; or (ii) any court order or court-approved property  
15 settlement agreement; or (iii) incident to any court decree of  
16 dissolution or legal separation, if such dissolution orders fully  
17 comply with RCW 41.50.670 and 41.50.700, or as applicable, RCW  
18 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, ~~((41.26.180))~~  
19 41.26.053, section 209 of this act, 41.32.052, 41.40.052, or 43.43.310  
20 as those statutes existed before July 1, 1987, and as those statutes  
21 exist on and after July 28, 1991.

22 (b) Persons whose dissolution orders as defined in RCW 41.50.500(3)  
23 were entered between July 1, 1987, and July 28, 1991, shall be entitled  
24 to receive direct payments of retirement benefits to satisfy court-  
25 ordered property divisions if the dissolution orders filed with the  
26 department comply or are amended to comply with RCW 41.50.670 through  
27 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, ~~((41.26.180))~~  
28 41.26.053, section 209 of this act, 41.32.052, 41.40.052, or 43.43.310.

29 **Sec. 404.** RCW 36.28A.010 and 1975 1st ex.s. c 172 s 1 are each  
30 amended to read as follows:

31 The Washington association of sheriffs and police chiefs is hereby  
32 declared to be a combination of units of local government: PROVIDED,  
33 That such association shall not be considered an "employer" within the  
34 meaning of RCW 41.26.030(2), section 202 of this act, or 41.40.010(4):  
35 PROVIDED FURTHER, That no compensation received as an employee of the  
36 association shall be considered salary for purposes of the provisions  
37 of any retirement system created pursuant to the general laws of this  
38 state: PROVIDED FURTHER, That such association shall not qualify for



1 inclusion under the unallocated two mills of the property tax of any  
2 political subdivision: PROVIDED FURTHER, That the association shall  
3 not have the authority to assess any excess levy or bond measure.

4 **Sec. 405.** RCW 41.04.205 and 1995 1st sp.s. c 6 s 8 are each  
5 amended to read as follows:

6 (1) Notwithstanding the provisions of RCW 41.04.180, the employees,  
7 with their dependents, of any county, municipality, or other political  
8 subdivision of this state shall be eligible to participate in any  
9 insurance or self-insurance program for employees administered under  
10 chapter 41.05 RCW if the legislative authority of any such county,  
11 municipality, or other political subdivisions of this state determines,  
12 subject to collective bargaining under applicable statutes, a transfer  
13 to an insurance or self-insurance program administered under chapter  
14 41.05 RCW should be made. In the event of a special district employee  
15 transfer pursuant to this section, members of the governing authority  
16 shall be eligible to be included in such transfer if such members are  
17 authorized by law as of June 25, 1976, to participate in the insurance  
18 program being transferred from and subject to payment by such members  
19 of all costs of insurance for members.

20 (2) When the legislative authority of a county, municipality, or  
21 other political subdivision determines to so transfer, the state health  
22 care authority shall:

23 (a) Establish the conditions for participation; and

24 (b) Have the sole right to reject the application.

25 Approval of the application by the state health care authority  
26 shall effect a transfer of the employees involved to the insurance,  
27 self-insurance, or health care program applied for.

28 (3) Any application of this section to members of the law  
29 enforcement officers' and fire fighters' retirement system under  
30 chapter 41.26 or 41.26A RCW is subject to chapter 41.56 RCW.

31 (4) School districts may voluntarily transfer, except that all  
32 eligible employees in a bargaining unit of a school district may  
33 transfer only as a unit and all nonrepresented employees in a district  
34 may transfer only as a unit.

35 **Sec. 406.** RCW 41.04.270 and 1988 c 195 s 5 are each amended to  
36 read as follows:

1 (1) Notwithstanding any provision of chapter 2.10, 2.12, 41.26,  
2 41.26A, 41.28, 41.32, 41.40, or 43.43 RCW to the contrary, on and after  
3 March 19, 1976, any member or former member who (a) receives a  
4 retirement allowance earned by said former member as deferred  
5 compensation from any public retirement system authorized by the  
6 general laws of this state, or (b) is eligible to receive a retirement  
7 allowance from any public retirement system listed in RCW 41.50.030,  
8 but chooses not to apply, or (c) is the beneficiary of a disability  
9 allowance from any public retirement system listed in RCW 41.50.030  
10 shall be estopped from becoming a member of or accruing any contractual  
11 rights whatsoever in any other public retirement system listed in RCW  
12 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not  
13 apply to persons who have accumulated less than fifteen years service  
14 credit in any such system.

15 (2) Nothing in this section is intended to apply to any retirement  
16 system except those listed in RCW 41.50.030 and the city employee  
17 retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b)  
18 of this section does not apply to a dual member as defined in RCW  
19 41.54.010.

20 **Sec. 407.** RCW 41.04.350 and 1979 ex.s. c 159 s 1 are each amended  
21 to read as follows:

22 (1) Notwithstanding any other provisions of law, no employee of the  
23 state of Washington or any of its political subdivisions or any  
24 institution supported in total or in part by the state or any of its  
25 political subdivisions, other than employees covered by chapters 41.26,  
26 41.26A, and 43.43 RCW, shall be compelled to retire solely on the basis  
27 of age prior to attaining seventy years of age.

28 (2) All compulsory retirement provisions relating to public  
29 employees, other than employees covered by chapters 41.26, 41.26A, and  
30 43.43 RCW, may be waived for individuals attaining seventy years of age  
31 by the individual's employer.

32 **Sec. 408.** RCW 41.04.400 and 1984 c 184 s 22 are each amended to  
33 read as follows:

34 It is the purpose of RCW 41.04.405 through 41.04.430 to govern the  
35 retirement rights of persons whose employment status is altered when:  
36 (1) Two or more units of local government of this state, at least one  
37 of which is a first class city with its own retirement system, enter

1 into an agreement for the consolidated performance of a governmental  
2 service, activity, or undertaking; (2) the service, activity, or  
3 undertaking is to be performed either by one of the participating  
4 local governmental units or by a newly established separate legal  
5 entity; and (3) the employees of the participating local governmental  
6 units are not all members of the same Washington public retirement  
7 system.

8 RCW 41.04.405 through 41.04.430 are not intended to and do not  
9 govern retirement rights of any members of the retirement systems  
10 established by chapter 41.16, 41.18, 41.20, (~~(or)~~) 41.26, or 41.26A  
11 RCW, or of employees described in RCW 35.58.265, 35.58.390, or  
12 70.08.070. To the extent there is any conflict between RCW 41.04.405  
13 through 41.04.430 and RCW 41.04.110, the provisions of RCW 41.04.405  
14 through 41.04.430 shall govern.

15 **Sec. 409.** RCW 41.05.320 and 1995 1st sp.s. c 6 s 13 are each  
16 amended to read as follows:

17 (1) Elected officials and all permanent employees of the state are  
18 eligible to participate in the benefits contribution plan and  
19 contribute amount(s) by agreement with the authority. The authority  
20 may adopt rules to permit participation in the plan by temporary  
21 employees of the state.

22 (2) Persons eligible under subsection (1) of this section may enter  
23 into benefits contribution agreements with the state.

24 (3)(a) In the initial year of the medical flexible spending  
25 arrangement or cafeteria plan, if authorized, an eligible person may  
26 become a participant after the adoption of the plan and before its  
27 effective date by agreeing to have a portion of his or her gross salary  
28 contributed and deposited into a health care and other benefits account  
29 to be used for reimbursement of expenses covered by the plan.

30 (b) After the initial year of the medical flexible spending  
31 arrangement or cafeteria plan, if authorized, an eligible person may  
32 become a participant for a full plan year, with annual benefit  
33 selection for each new plan year made before the beginning of the plan  
34 year, as determined by the authority, or upon becoming eligible.

35 (c) Once an eligible person elects to participate and the amount of  
36 gross salary that he or she shall contribute and the benefit for which  
37 the funds are to be used during the plan year is determined, the  
38 agreement shall be irrevocable and may not be amended during the plan

1 year except as provided in (d) of this subsection. Prior to making an  
2 election to participate in the (~~(benefit[s])~~) benefits contribution  
3 plan, the eligible person shall be informed in writing of all the  
4 benefits and contributions that will occur as a result of such  
5 election.

6 (d) The authority shall provide in the benefits contribution plan  
7 that a participant may enroll, terminate, or change his or her election  
8 after the plan year has begun if there is a significant change in a  
9 participant's status, as provided by 26 U.S.C. Sec. 125 and the  
10 regulations adopted under that section and defined by the authority.

11 (4) The authority shall establish as part of the benefits  
12 contribution plan the procedures for and effect of withdrawal from the  
13 plan by reason of retirement, death, leave of absence, or termination  
14 of employment. To the extent possible under federal law, the authority  
15 shall protect participants from forfeiture of rights under the plan.

16 (5) Any contribution under the benefits contribution plan shall  
17 continue to be included as reportable compensation for the purpose of  
18 computing the state retirement and pension benefits earned by the  
19 employee pursuant to chapters 41.26, 41.26A, 41.32, 41.40, and 43.43  
20 RCW.

21 **Sec. 410.** RCW 41.18.210 and 1974 ex.s. c 148 s 1 are each amended  
22 to read as follows:

23 Any former employee of a department of a city of the first class,  
24 who (1) was a member of the employees' retirement system of such city,  
25 and (2) is now employed within the fire department of such city, may  
26 transfer his former membership credit from the city employees'  
27 retirement system to the fireman's pension system created by chapters  
28 41.16 and 41.18 RCW by filing a written request with the board of  
29 administration and the municipal fireman's pension board, respectively.

30 Upon the receipt of such request, the transfer of membership to the  
31 city's fireman's pension system shall be made, together with a transfer  
32 of all accumulated contributions credited to such member. The board of  
33 administration shall transmit to the municipal fireman's pension board  
34 a record of service credited to such member which shall be computed and  
35 credited to such member as a part of his period of employment in the  
36 city's fireman's pension system. For the purpose of the transfer  
37 contemplated by this section, those affected individuals who have  
38 formerly withdrawn funds from the city employees' retirement system

1 shall be allowed to restore contributions withdrawn from that  
2 retirement system directly to the fireman's pension system and receive  
3 credit in the fireman's pension system for their former membership  
4 service in the prior system.

5 Any employee so transferring shall have all the rights, benefits,  
6 and privileges that he would have been entitled to had he been a member  
7 of the city's fireman's pension system from the beginning of his  
8 employment with the city.

9 No person so transferring shall thereafter be entitled to any other  
10 public pension, except that provided by chapter 41.26 or 41.26A RCW or  
11 social security, which is based upon such service with the city.

12 The right of any employee to file a written request for transfer of  
13 membership as set forth in this section shall expire December 31, 1974.

14 **Sec. 411.** RCW 41.20.170 and 1973 c 143 s 2 are each amended to  
15 read as follows:

16 Any former employee of a department of a city of the first class  
17 who (1) was a member of the employees' retirement system of such city,  
18 and (2) is now employed within the police department of such city, may  
19 transfer his or her membership from the city employees' retirement  
20 system to the city's police relief and pension fund system by filing a  
21 written request with the board of administration and the board of  
22 trustees, respectively, of the two systems.

23 Upon the receipt of such request, the transfer of membership to the  
24 city's police relief and pension fund system shall be made, together  
25 with a transfer of all accumulated contributions credited to such  
26 member. The board of administration of the city's employees'  
27 retirement system shall transmit to the board of trustees of the city's  
28 police relief and pension fund system a record of service credited to  
29 such member which shall be computed and credited to such member as a  
30 part of his or her period of employment in the city's police relief and  
31 pension fund system. For the purpose of the transfer contemplated by  
32 this section, the affected individuals shall be allowed to restore  
33 withdrawn contributions to the city employees' retirement system and  
34 reinstate their membership service records.

35 Any employee so transferring shall have all the rights, benefits  
36 and privileges that he or she would have been entitled to had he or she  
37 been a member of the city's police relief and pension fund system from  
38 the beginning of his or her employment with the city.

1 No person so transferring shall thereafter be entitled to any other  
2 public pension, except that provided by chapter 41.26 or 41.26A RCW or  
3 social security, which is based upon service with the city.

4 The right of any employee to file a written request for transfer of  
5 membership as set forth herein shall expire December 31, 1973.

6 **Sec. 412.** RCW 41.20.175 and 1974 ex.s. c 148 s 2 are each amended  
7 to read as follows:

8 A former employee of a fire department of a city of the first class  
9 who (1) was a member of the fireman's pension system created by  
10 chapters 41.16 or 41.18 RCW, and (2) is now employed within the police  
11 department of such city, will be regarded as having received membership  
12 service credit for such service to the fire department in the city's  
13 police and relief pension system at the time he recovers such service  
14 credit by paying withdrawn contributions to the Washington law  
15 enforcement officers' and fire fighters' retirement system pursuant to  
16 RCW 41.26.030(~~((+14))~~) or section 202 of this act.

17 **Sec. 413.** RCW 41.24.400 and 1999 c 148 s 31 are each amended to  
18 read as follows:

19 (1) Except as provided in subsection (2) of this section, any  
20 municipality may make provision by appropriate legislation and payment  
21 of fees required by RCW 41.24.030(1) solely for the purpose of enabling  
22 any reserve officer to enroll under the retirement pension provisions  
23 of this chapter or fees required under RCW 41.24.030(1) to pay for the  
24 costs of extending the relief provisions of this chapter to its reserve  
25 officers.

26 (2) A reserve officer is not eligible to receive a benefit under  
27 the retirement provisions of this chapter for service under chapter  
28 41.26, 41.26A, 41.32, or 41.40 RCW.

29 (3) Every municipality shall make provisions for the collection and  
30 payment of the fees required under this chapter, and shall continue to  
31 make provisions for all reserve officers who come under this chapter as  
32 long as they continue to be employed as reserve officers.

33 (4) Except as provided under RCW 41.24.450, a reserve officer is  
34 not eligible to receive a benefit under the relief provisions of this  
35 chapter.

1       **Sec. 414.** RCW 41.32.800 and 1998 c 341 s 605 are each amended to  
2 read as follows:

3       (1) Except as provided in RCW 41.32.802, no retiree under the  
4 provisions of plan 2 shall be eligible to receive such retiree's  
5 monthly retirement allowance if he or she is employed in an eligible  
6 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a  
7 law enforcement officer or fire fighter as defined in RCW 41.26.030 or  
8 section 202 of this act.

9       If a retiree's benefits have been suspended under this section, his  
10 or her benefits shall be reinstated when the retiree terminates the  
11 employment that caused his or her benefits to be suspended. Upon  
12 reinstatement, the retiree's benefits shall be actuarially recomputed  
13 pursuant to the rules adopted by the department.

14       (2) The department shall adopt rules implementing this section.

15       **Sec. 415.** RCW 41.32.860 and 1997 c 254 s 7 are each amended to  
16 read as follows:

17       (1) Except under RCW 41.32.862, no retiree shall be eligible to  
18 receive such retiree's monthly retirement allowance if he or she is  
19 employed in an eligible position as defined in RCW 41.40.010 or  
20 41.32.010, or as a law enforcement officer or fire fighter as defined  
21 in RCW 41.26.030 or section 202 of this act.

22       (2) If a retiree's benefits have been suspended under this section,  
23 his or her benefits shall be reinstated when the retiree terminates the  
24 employment that caused the suspension of benefits. Upon reinstatement,  
25 the retiree's benefits shall be actuarially recomputed pursuant to the  
26 rules adopted by the department.

27       **Sec. 416.** RCW 41.35.230 and 1998 c 341 s 24 are each amended to  
28 read as follows:

29       (1) Except as provided in RCW 41.35.060, no retiree under the  
30 provisions of plan 2 shall be eligible to receive such retiree's  
31 monthly retirement allowance if he or she is employed in an eligible  
32 position as defined in RCW 41.35.010, RCW 41.40.010 or 41.32.010, or as  
33 a law enforcement officer or fire fighter as defined in RCW 41.26.030  
34 or section 202 of this act, except that a retiree who ends his or her  
35 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is  
36 not subject to this section if the retiree's only employment is as an  
37 elective official.

1 (2) If a retiree's benefits have been suspended under this section,  
2 his or her benefits shall be reinstated when the retiree terminates the  
3 employment that caused his or her benefits to be suspended. Upon  
4 reinstatement, the retiree's benefits shall be actuarially recomputed  
5 pursuant to the rules adopted by the department.

6 (3) The department shall adopt rules implementing this section.

7 **Sec. 417.** RCW 41.40.690 and 1998 c 341 s 606 are each amended to  
8 read as follows:

9 (1) Except as provided in RCW 41.40.037, no retiree under the  
10 provisions of plan 2 shall be eligible to receive such retiree's  
11 monthly retirement allowance if he or she is employed in an eligible  
12 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a  
13 law enforcement officer or fire fighter as defined in RCW 41.26.030 or  
14 section 202 of this act, except that a retiree who ends his or her  
15 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is  
16 not subject to this section if the retiree's only employment is as an  
17 elective official of a city or town.

18 (2) If a retiree's benefits have been suspended under this section,  
19 his or her benefits shall be reinstated when the retiree terminates the  
20 employment that caused his or her benefits to be suspended. Upon  
21 reinstatement, the retiree's benefits shall be actuarially recomputed  
22 pursuant to the rules adopted by the department.

23 (3) The department shall adopt rules implementing this section.

24 **Sec. 418.** RCW 41.40.850 and 2000 c 247 s 315 are each amended to  
25 read as follows:

26 (1) Except as provided in RCW 41.40.037, no retiree under the  
27 provisions of plan 3 shall be eligible to receive such retiree's  
28 monthly retirement allowance if he or she is employed in an eligible  
29 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a  
30 law enforcement officer or fire fighter as defined in RCW 41.26.030 or  
31 section 202 of this act, except that a retiree who ends his or her  
32 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is  
33 not subject to this section if the retiree's only employment is as an  
34 elective official of a city or town.

35 (2) If a retiree's benefits have been suspended under this section,  
36 his or her benefits shall be reinstated when the retiree terminates the  
37 employment that caused his or her benefits to be suspended. Upon



1 reinstatement, the retiree's benefits shall be actuarially recomputed  
2 pursuant to the rules adopted by the department.

3 (3) The department shall adopt rules implementing this section.

4 **Sec. 419.** RCW 41.45.010 and 1998 c 341 s 401 are each amended to  
5 read as follows:

6 It is the intent of the legislature to provide a dependable and  
7 systematic process for funding the benefits provided to members and  
8 retirees of the public employees' retirement system, chapter 41.40 RCW;  
9 the teachers' retirement system, chapter 41.32 RCW; the law enforcement  
10 officers' and fire fighters' retirement systems, chapter 41.26 and  
11 41.26A RCW; the school employees' retirement system, chapter 41.35 RCW;  
12 and the Washington state patrol retirement system, chapter 43.43 RCW.

13 The funding processes established by this chapter ~~((is))~~ are  
14 intended to achieve the following goals:

15 (1) To continue to fully fund the public employees' retirement  
16 system plan 2, the teachers' retirement system plans 2 and 3, the  
17 school employees' retirement system plans 2 and 3, and the law  
18 enforcement officers' and fire fighters' retirement system plan 2 as  
19 provided by law;

20 (2) To fully amortize the total costs of the public employees'  
21 retirement system plan 1~~((7))~~ and the teachers' retirement system plan  
22 1~~((7 and the law enforcement officers' and fire fighters' retirement~~  
23 ~~system plan 1))~~ not later than June 30, 2024;

24 (3) To maintain the sound actuarially funding of the restated law  
25 enforcement officers' and fire fighters' retirement system;

26 (4) To enable taxpayers and retirement system members to benefit  
27 from favorable actuarial experience and investment returns by means of  
28 contribution rate reductions for plan 2 members and employers, and by  
29 a return of surplus assets from the termination of the law enforcement  
30 officers' and fire fighters' retirement system plan 1 to employees,  
31 employers, and the state;

32 (5) To establish predictable long-term employer contribution rates  
33 which will remain a relatively constant proportion of the future state  
34 budgets; and

35 ~~((4))~~ (6) To fund, to the extent feasible, benefit increases for  
36 plan 1 members and all benefits for plan 2 and 3 members over the  
37 working lives of those members so that the cost of those benefits are

1 paid by the taxpayers who receive the benefit of those members'  
2 service.

3 **Sec. 420.** RCW 41.45.010 and 2000 c 247 s 501 are each amended to  
4 read as follows:

5 It is the intent of the legislature to provide a dependable and  
6 systematic process for funding the benefits provided to members and  
7 retirees of the public employees' retirement system, chapter 41.40 RCW;  
8 the teachers' retirement system, chapter 41.32 RCW; the law enforcement  
9 officers' and fire fighters' retirement systems, chapter 41.26 and  
10 41.26A RCW; the school employees' retirement system, chapter 41.35 RCW;  
11 and the Washington state patrol retirement system, chapter 43.43 RCW.

12 The funding processes established by this chapter ~~((is))~~ are  
13 intended to achieve the following goals:

14 (1) To continue to fully fund the public employees' retirement  
15 system plans 2 and 3, the teachers' retirement system plans 2 and 3,  
16 the school employees' retirement system plans 2 and 3, and the law  
17 enforcement officers' and fire fighters' retirement system plan 2 as  
18 provided by law;

19 (2) To fully amortize the total costs of the public employees'  
20 retirement system plan 1~~((7))~~ and the teachers' retirement system plan  
21 1~~((7 and the law enforcement officers' and fire fighters' retirement~~  
22 ~~system plan 1))~~ not later than June 30, 2024;

23 (3) To maintain the sound actuarial funding of the restated law  
24 enforcement officers' and fire fighters' retirement system;

25 (4) To enable taxpayers and retirement system members to benefit  
26 from favorable actuarial experience and investment returns by means of  
27 contribution rate reductions for plan 2 members and employers, and by  
28 a return of surplus assets from the termination of the law enforcement  
29 officers' and fire fighters' retirement system plan 1 to employees,  
30 employers, and the state;

31 (5) To establish predictable long-term employer contribution rates  
32 which will remain a relatively constant proportion of the future state  
33 budgets; and

34 ~~((4))~~ (6) To fund, to the extent feasible, benefit increases for  
35 plan 1 members and all benefits for plan 2 and 3 members over the  
36 working lives of those members so that the cost of those benefits are  
37 paid by the taxpayers who receive the benefit of those members'  
38 service.

1       **Sec. 421.** RCW 41.45.020 and 1998 c 341 s 402 and 1998 c 283 s 1  
2 are each reenacted and amended to read as follows:

3       As used in this chapter, the following terms have the meanings  
4 indicated unless the context clearly requires otherwise.

5       (1) "Council" means the pension funding council created in RCW  
6 41.45.100.

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

8       (3) "Restated law enforcement officers' and fire fighters'  
9 retirement system ((plan 1))" and "law enforcement officers' and fire  
10 fighters' retirement system plan 2" mean the benefits and funding  
11 provisions under chapter 41.26A and 41.26 RCW, respectively.

12       (4) "Public employees' retirement system plan 1" and "public  
13 employees' retirement system plan 2" mean the benefits and funding  
14 provisions under chapter 41.40 RCW.

15       (5) "Teachers' retirement system plan 1," "teachers' retirement  
16 system plan 2," and "teachers' retirement system plan 3" mean the  
17 benefits and funding provisions under chapter 41.32 RCW.

18       (6) "School employees' retirement system plan 2" and "school  
19 employees' retirement system plan 3" mean the benefits and funding  
20 provisions under chapter 41.35 RCW.

21       (7) "Washington state patrol retirement system" means the  
22 retirement benefits provided under chapter 43.43 RCW.

23       (8) "Unfunded liability" means the unfunded actuarial accrued  
24 liability of a retirement system.

25       (9) "Actuary" or "state actuary" means the state actuary employed  
26 under chapter 44.44 RCW.

27       (10) "State retirement systems" means the retirement systems listed  
28 in RCW 41.50.030.

29       (11) "Work group" means the pension funding work group created in  
30 RCW 41.45.120.

31       (12) "Classified employee" means a member of the Washington school  
32 employees' retirement system plan 2 or plan 3 as defined in RCW  
33 41.35.010.

34       (13) "Teacher" means a member of the teachers' retirement system as  
35 defined in RCW 41.32.010(15).

36       **Sec. 422.** RCW 41.45.020 and 2000 c 247 s 502 are each amended to  
37 read as follows:

1 As used in this chapter, the following terms have the meanings  
2 indicated unless the context clearly requires otherwise.

3 (1) "Council" means the pension funding council created in RCW  
4 41.45.100.

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

6 (3) "Restated law enforcement officers' and fire fighters'  
7 retirement system ((plan 1))" and "law enforcement officers' and fire  
8 fighters' retirement system plan 2" mean the benefits and funding  
9 provisions under chapter 41.26A and 41.26 RCW, respectively.

10 (4) "Public employees' retirement system plan 1," "public  
11 employees' retirement system plan 2," and "public employees' retirement  
12 system plan 3" mean the benefits and funding provisions under chapter  
13 41.40 RCW.

14 (5) "Teachers' retirement system plan 1," "teachers' retirement  
15 system plan 2," and "teachers' retirement system plan 3" mean the  
16 benefits and funding provisions under chapter 41.32 RCW.

17 (6) "School employees' retirement system plan 2" and "school  
18 employees' retirement system plan 3" mean the benefits and funding  
19 provisions under chapter 41.35 RCW.

20 (7) "Washington state patrol retirement system" means the  
21 retirement benefits provided under chapter 43.43 RCW.

22 (8) "Unfunded liability" means the unfunded actuarial accrued  
23 liability of a retirement system.

24 (9) "Actuary" or "state actuary" means the state actuary employed  
25 under chapter 44.44 RCW.

26 (10) "State retirement systems" means the retirement systems listed  
27 in RCW 41.50.030.

28 (11) "Work group" means the pension funding work group created in  
29 RCW 41.45.120.

30 (12) "Classified employee" means a member of the Washington school  
31 employees' retirement system plan 2 or plan 3 as defined in RCW  
32 41.35.010.

33 (13) "Teacher" means a member of the teachers' retirement system as  
34 defined in RCW 41.32.010(15).

35 **Sec. 423.** RCW 41.45.050 and 1998 c 341 s 403 are each amended to  
36 read as follows:

37 (1) Employers of members of the public employees' retirement  
38 system, the teachers' retirement system, the school employees'

1 retirement system, and the Washington state patrol retirement system  
2 shall make contributions to those systems based on the rates  
3 established in RCW 41.45.060 and 41.45.070.

4 (2) The state shall make contributions to the law enforcement  
5 officers' and fire fighters' retirement system plan 2 based on the  
6 rates established in RCW 41.45.060 and 41.45.070. The state treasurer  
7 shall transfer the required contributions each month on the basis of  
8 salary data provided by the department. The state shall make  
9 contributions pursuant to section 5 of this act to maintain the sound  
10 actuarial status of the restated law enforcement officers' and fire  
11 fighters' defined benefit retirement plan.

12 (3) The department shall bill employers, and the state shall make  
13 contributions to the law enforcement officers' and fire fighters'  
14 retirement system plan 2, using the combined rates established in RCW  
15 41.45.060 and 41.45.070 regardless of the level of pension funding  
16 provided in the biennial budget. Any member of an affected retirement  
17 system may, by mandamus or other appropriate proceeding, require the  
18 transfer and payment of funds as directed in this section.

19 (4) The contributions received for the public employees' retirement  
20 system shall be allocated between the public employees' retirement  
21 system plan 1 fund and public employees' retirement system plan 2 fund  
22 as follows: The contributions necessary to fully fund the public  
23 employees' retirement system plan 2 employer contribution required by  
24 RCW 41.40.650 shall first be deposited in the public employees'  
25 retirement system plan 2 fund. All remaining public employees'  
26 retirement system employer contributions shall be deposited in the  
27 public employees' retirement system plan 1 fund.

28 (5) The contributions received for the teachers' retirement system  
29 shall be allocated between the plan 1 fund and the combined plan 2 and  
30 plan 3 fund as follows: The contributions necessary to fully fund the  
31 combined plan 2 and plan 3 employer contribution shall first be  
32 deposited in the combined plan 2 and plan 3 fund. All remaining  
33 teachers' retirement system employer contributions shall be deposited  
34 in the plan 1 fund.

35 (6) The contributions received for the school employees' retirement  
36 system shall be allocated between the public employees' retirement  
37 system plan 1 fund and the school employees' retirement system combined  
38 plan 2 and plan 3 fund as follows: The contributions necessary to  
39 fully fund the combined plan 2 and plan 3 employer contribution shall

1 first be deposited in the combined plan 2 and plan 3 fund. All  
2 remaining school employees' retirement system employer contributions  
3 shall be deposited in the public employees' retirement system plan 1  
4 fund.

5 (7) The contributions received under RCW 41.26.450 for the law  
6 enforcement officers' and fire fighters' retirement system shall be  
7 allocated (~~((between the law enforcement officers' and fire fighters'  
8 retirement system plan 1 and))~~) to the law enforcement officers' and  
9 fire fighters' retirement system plan 2 fund (~~((as follows:—The  
10 contributions necessary to fully fund the law enforcement officers' and  
11 fire fighters' retirement system plan 2 employer contributions shall be  
12 first deposited in the law enforcement officers' and fire fighters'  
13 retirement system plan 2 fund. All remaining law enforcement officers'  
14 and fire fighters' retirement system employer contributions shall be  
15 deposited in the law enforcement officers' and fire fighters'  
16 retirement system plan 1 fund))~~)).

17 (8) The funding of the restated law enforcement officers' and fire  
18 fighters' defined benefit retirement plan shall be provided pursuant to  
19 section 5 of this act.

20 **Sec. 424.** RCW 41.45.050 and 2000 c 247 s 503 are each amended to  
21 read as follows:

22 (1) Employers of members of the public employees' retirement  
23 system, the teachers' retirement system, the school employees'  
24 retirement system, and the Washington state patrol retirement system  
25 shall make contributions to those systems based on the rates  
26 established in RCW 41.45.060 and 41.45.070.

27 (2) The state shall make contributions to the law enforcement  
28 officers' and fire fighters' retirement system plan 2 based on the  
29 rates established in RCW 41.45.060 and 41.45.070. The state treasurer  
30 shall transfer the required contributions each month on the basis of  
31 salary data provided by the department. The state shall make  
32 contributions pursuant to section 5 of this act to maintain the sound  
33 actuarial status of the restated law enforcement officers' and fire  
34 fighters' defined benefit retirement plan.

35 (3) The department shall bill employers, and the state shall make  
36 contributions to the law enforcement officers' and fire fighters'  
37 retirement system plan 2, using the combined rates established in RCW  
38 41.45.060 and 41.45.070 regardless of the level of pension funding

1 provided in the biennial budget. Any member of an affected retirement  
2 system may, by mandamus or other appropriate proceeding, require the  
3 transfer and payment of funds as directed in this section.

4 (4) The contributions received for the public employees' retirement  
5 system shall be allocated between the public employees' retirement  
6 system plan 1 fund and the public employees' retirement system combined  
7 plan 2 and plan 3 fund as follows: The contributions necessary to  
8 fully fund the public employees' retirement system combined plan 2 and  
9 plan 3 employer contribution shall first be deposited in the public  
10 employees' retirement system combined plan 2 and plan 3 fund. All  
11 remaining public employees' retirement system employer contributions  
12 shall be deposited in the public employees' retirement system plan 1  
13 fund.

14 (5) The contributions received for the teachers' retirement system  
15 shall be allocated between the plan 1 fund and the combined plan 2 and  
16 plan 3 fund as follows: The contributions necessary to fully fund the  
17 combined plan 2 and plan 3 employer contribution shall first be  
18 deposited in the combined plan 2 and plan 3 fund. All remaining  
19 teachers' retirement system employer contributions shall be deposited  
20 in the plan 1 fund.

21 (6) The contributions received for the school employees' retirement  
22 system shall be allocated between the public employees' retirement  
23 system plan 1 fund and the school employees' retirement system combined  
24 plan 2 and plan 3 fund as follows: The contributions necessary to  
25 fully fund the combined plan 2 and plan 3 employer contribution shall  
26 first be deposited in the combined plan 2 and plan 3 fund. All  
27 remaining school employees' retirement system employer contributions  
28 shall be deposited in the public employees' retirement system plan 1  
29 fund.

30 (7) The contributions received under RCW 41.45.060, 41.45.061, and  
31 41.45.067 for the law enforcement officers' and fire fighters'  
32 retirement system shall be allocated (~~((between the law enforcement  
33 officers' and fire fighters' retirement system plan 1 and))~~) to the law  
34 enforcement officers' and fire fighters' retirement system plan 2 fund  
35 (~~((as follows:—The contributions necessary to fully fund the law  
36 enforcement officers' and fire fighters' retirement system plan 2  
37 employer contributions shall be first deposited in the law enforcement  
38 officers' and fire fighters' retirement system plan 2 fund.—All  
39 remaining law enforcement officers' and fire fighters' retirement~~

1 ~~system employer contributions shall be deposited in the law enforcement~~  
2 ~~officers' and fire fighters' retirement system plan 1 fund)).~~

3 (8) The funding of the restated law enforcement officers' and fire  
4 fighters' defined benefit retirement plan shall be provided pursuant to  
5 section 5 of this act.

6 **Sec. 425.** RCW 41.45.060 and 2000 2nd sp.s. c 1 s 905 and 2000 c  
7 247 s 504 are each reenacted and amended to read as follows:

8 (1) The state actuary shall provide actuarial valuation results  
9 based on the assumptions adopted under RCW 41.45.030.

10 (2) Not later than September 30, 1998, and every two years  
11 thereafter, consistent with the assumptions adopted under RCW  
12 41.45.030, the council shall adopt and may make changes to:

13 (a) A basic state contribution rate for the law enforcement  
14 officers' and fire fighters' retirement system plan 2;

15 (b) Basic employer contribution rates for the public employees'  
16 retirement system, the teachers' retirement system, and the Washington  
17 state patrol retirement system to be used in the ensuing biennial  
18 period; and

19 (c) A basic employer contribution rate for the school employees'  
20 retirement system for funding the public employees' retirement system  
21 plan 1.

22 For the 1999-2001 fiscal biennium, the rates adopted by the council  
23 shall be effective for the period designated in section 902, chapter 1,  
24 Laws of 2000 2nd sp. sess. and RCW 41.45.0602.

25 (3) The employer and state contribution rates adopted by the  
26 council shall be the level percentages of pay that are needed:

27 (a) To fully amortize the total costs of the public employees'  
28 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~  
29 ~~law enforcement officers' and fire fighters' retirement system plan~~  
30 ~~1, 7)) and the unfunded liability of the Washington state patrol  
31 retirement system not later than June 30, 2024, except as provided in  
32 subsection (5) of this section;~~

33 (b) To also continue to fully fund the public employees' retirement  
34 system plans 2 and 3, the teachers' retirement system plans 2 and 3,  
35 the school employees' retirement system plans 2 and 3, and the law  
36 enforcement officers' and fire fighters' retirement system plan 2 in  
37 accordance with RCW 41.45.061, 41.45.067, and this section; and



1 (c) For the law enforcement officers' and fire fighters' system  
2 plan 2, the rate charged to employers, except as provided in RCW  
3 41.26.450, shall be thirty percent of the cost of the retirement system  
4 and the rate charged to the state shall be twenty percent of the cost  
5 of the retirement system.

6 (4) The aggregate actuarial cost method shall be used to calculate  
7 a combined plan 2 and 3 employer contribution rate.

8 (5) An amount equal to the amount of extraordinary investment gains  
9 as defined in RCW 41.31.020 shall be used to shorten the amortization  
10 period for the public employees' retirement system plan 1 and the  
11 teachers' retirement system plan 1.

12 (6) The council shall immediately notify the directors of the  
13 office of financial management and department of retirement systems of  
14 the state and employer contribution rates adopted.

15 (7) The director of the department of retirement systems shall  
16 collect those rates adopted by the council.

17 **Sec. 426.** RCW 41.45.070 and 1998 c 340 s 10 and 1998 c 341 s 406  
18 are each reenacted and amended to read as follows:

19 (1) In addition to the basic employer contribution rate established  
20 in RCW 41.45.060, the department shall also charge employers of public  
21 employees' retirement system, teachers' retirement system, school  
22 employees' retirement system, or Washington state patrol retirement  
23 system members an additional supplemental rate to pay for the cost of  
24 additional benefits, if any, granted to members of those systems.  
25 Except as provided in subsections (6) and (7) of this section, the  
26 supplemental contribution rates required by this section shall be  
27 calculated by the state actuary and shall be charged regardless of  
28 language to the contrary contained in the statute which authorizes  
29 additional benefits.

30 (2) In addition to the basic state contribution rate established in  
31 RCW 41.45.060 for the law enforcement officers' and fire fighters'  
32 retirement system plan 2 the department shall also establish a  
33 supplemental rate to pay for the cost of additional benefits, if any,  
34 granted to members of the law enforcement officers' and fire fighters'  
35 retirement system plan 2. Except as provided in subsection (6) of this  
36 section, this supplemental rate shall be calculated by the state  
37 actuary and the state treasurer shall transfer the additional required

1 contributions regardless of language to the contrary contained in the  
2 statute which authorizes the additional benefits.

3 (3) The supplemental rate charged under this section to fund  
4 benefit increases provided to active members of the public employees'  
5 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~  
6 ~~law enforcement officers' and fire fighters' retirement system plan~~  
7 ~~17~~)) and Washington state patrol retirement system, shall be calculated  
8 as the level percentage of all members' pay needed to fund the cost of  
9 the benefit not later than June 30, 2024.

10 (4) The supplemental rate charged under this section to fund  
11 benefit increases provided to active and retired members of the public  
12 employees' retirement system plan 2, the teachers' retirement system  
13 plan 2 and plan 3, the school employees' retirement system plan 2 and  
14 plan 3, or the law enforcement officers' and fire fighters' retirement  
15 system plan 2, shall be calculated as the level percentage of all  
16 members' pay needed to fund the cost of the benefit, as calculated  
17 under RCW 41.40.650 or 41.26.450, respectively.

18 (5) The supplemental rate charged under this section to fund  
19 postretirement adjustments which are provided on a nonautomatic basis  
20 to current retirees shall be calculated as the percentage of pay needed  
21 to fund the adjustments as they are paid to the retirees. The  
22 supplemental rate charged under this section to fund automatic  
23 postretirement adjustments for active or retired members of the public  
24 employees' retirement system plan 1 and the teachers' retirement system  
25 plan 1 shall be calculated as the level percentage of pay needed to  
26 fund the cost of the automatic adjustments not later than June 30,  
27 2024.

28 (6) A supplemental rate shall not be charged to pay for the cost of  
29 additional benefits granted to members pursuant to chapter 340, Laws of  
30 1998.

31 (7) A supplemental rate shall not be charged to pay for the cost of  
32 additional benefits granted to members pursuant to chapter 41.31A RCW;  
33 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,  
34 Laws of 1998.

35 **Sec. 427.** RCW 41.45.070 and 2000 c 247 s 505 are each amended to  
36 read as follows:

37 (1) In addition to the basic employer contribution rate established  
38 in RCW 41.45.060, the department shall also charge employers of public

1 employees' retirement system, teachers' retirement system, school  
2 employees' retirement system, or Washington state patrol retirement  
3 system members an additional supplemental rate to pay for the cost of  
4 additional benefits, if any, granted to members of those systems.  
5 Except as provided in subsections (6) and (7) of this section, the  
6 supplemental contribution rates required by this section shall be  
7 calculated by the state actuary and shall be charged regardless of  
8 language to the contrary contained in the statute which authorizes  
9 additional benefits.

10 (2) In addition to the basic state contribution rate established in  
11 RCW 41.45.060 for the law enforcement officers' and fire fighters'  
12 retirement system plan 2 the department shall also establish a  
13 supplemental rate to pay for the cost of additional benefits, if any,  
14 granted to members of the law enforcement officers' and fire fighters'  
15 retirement system plan 2. Except as provided in subsection (6) of this  
16 section, this supplemental rate shall be calculated by the state  
17 actuary and the state treasurer shall transfer the additional required  
18 contributions regardless of language to the contrary contained in the  
19 statute which authorizes the additional benefits.

20 (3) The supplemental rate charged under this section to fund  
21 benefit increases provided to active members of the public employees'  
22 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~  
23 ~~law enforcement officers' and fire fighters' retirement system plan~~  
24 ~~1,7~~)) and Washington state patrol retirement system, shall be calculated  
25 as the level percentage of all members' pay needed to fund the cost of  
26 the benefit not later than June 30, 2024.

27 (4) The supplemental rate charged under this section to fund  
28 benefit increases provided to active and retired members of the public  
29 employees' retirement system plan 2 and plan 3, the teachers'  
30 retirement system plan 2 and plan 3, the school employees' retirement  
31 system plan 2 and plan 3, or the law enforcement officers' and fire  
32 fighters' retirement system plan 2, shall be calculated as the level  
33 percentage of all members' pay needed to fund the cost of the benefit,  
34 as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

35 (5) The supplemental rate charged under this section to fund  
36 postretirement adjustments which are provided on a nonautomatic basis  
37 to current retirees shall be calculated as the percentage of pay needed  
38 to fund the adjustments as they are paid to the retirees. The  
39 supplemental rate charged under this section to fund automatic

1 postretirement adjustments for active or retired members of the public  
2 employees' retirement system plan 1 and the teachers' retirement system  
3 plan 1 shall be calculated as the level percentage of pay needed to  
4 fund the cost of the automatic adjustments not later than June 30,  
5 2024.

6 (6) A supplemental rate shall not be charged to pay for the cost of  
7 additional benefits granted to members pursuant to chapter 340, Laws of  
8 1998.

9 (7) A supplemental rate shall not be charged to pay for the cost of  
10 additional benefits granted to members pursuant to chapter 41.31A RCW;  
11 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,  
12 Laws of 1998.

13 **Sec. 428.** RCW 41.48.030 and 1971 ex.s. c 257 s 19 are each amended  
14 to read as follows:

15 (1) The governor is hereby authorized to enter on behalf of the  
16 state into an agreement with the secretary of health, education, and  
17 welfare consistent with the terms and provisions of this chapter, for  
18 the purpose of extending the benefits of the federal old-age and  
19 survivors insurance system to employees of the state or any political  
20 subdivision not members of an existing retirement system, or to members  
21 of a retirement system established by the state or by a political  
22 subdivision thereof or by an institution of higher learning with  
23 respect to services specified in such agreement which constitute  
24 "employment" as defined in RCW 41.48.020. Such agreement may contain  
25 such provisions relating to coverage, benefits, contributions,  
26 effective date, modification and termination of the agreement,  
27 administration, and other appropriate provisions as the governor and  
28 secretary of health, education, and welfare shall agree upon, but,  
29 except as may be otherwise required by or under the social security act  
30 as to the services to be covered, such agreement shall provide in  
31 effect that--

32 (a) Benefits will be provided for employees whose services are  
33 covered by the agreement (and their dependents and survivors) on the  
34 same basis as though such services constituted employment within the  
35 meaning of title II of the social security act;

36 (b) The state will pay to the secretary of the treasury, at such  
37 time or times as may be prescribed under the social security act,  
38 contributions with respect to wages (as defined in RCW 41.48.020),

1 equal to the sum of the taxes which would be imposed by the federal  
2 insurance contributions act if the services covered by the agreement  
3 constituted employment within the meaning of that act;

4 (c) Such agreement shall be effective with respect to services in  
5 employment covered by the agreement or modification thereof performed  
6 after a date specified therein but in no event may it be effective with  
7 respect to any such services performed prior to the first day of the  
8 calendar year immediately preceding the calendar year in which such  
9 agreement or modification of the agreement is accepted by the secretary  
10 of health, education and welfare.

11 (d) All services which constitute employment as defined in RCW  
12 41.48.020 and are performed in the employ of the state by employees of  
13 the state, shall be covered by the agreement;

14 (e) All services which (i) constitute employment as defined in RCW  
15 41.48.020, (ii) are performed in the employ of a political subdivision  
16 of the state, and (iii) are covered by a plan which is in conformity  
17 with the terms of the agreement and has been approved by the governor  
18 under RCW 41.48.050, shall be covered by the agreement; and

19 (f) As modified, the agreement shall include all services described  
20 in either paragraph (d) or paragraph (e) of this subsection and  
21 performed by individuals to whom section 218(c)(3)(C) of the social  
22 security act is applicable, and shall provide that the service of any  
23 such individual shall continue to be covered by the agreement in case  
24 he thereafter becomes eligible to be a member of a retirement system;  
25 and

26 (g) As modified, the agreement shall include all services described  
27 in either paragraph (d) or paragraph (e) of this subsection and  
28 performed by individuals in positions covered by a retirement system  
29 with respect to which the governor has issued a certificate to the  
30 secretary of health, education, and welfare pursuant to subsection (5)  
31 of this section.

32 (h) Law enforcement officers and firemen of each political  
33 subdivision of this state who are covered by the Washington law  
34 enforcement officers' and fire fighters' retirement systems (~~Act~~  
35 ~~chapter 209, Laws of 1969 ex. sess.~~)) under chapters 41.26 and 41.26A  
36 RCW as now in existence or hereafter amended shall constitute a  
37 separate "coverage group" for purposes of the agreement entered into  
38 under this section and for purposes of section 218 of the social  
39 security act. To the extent that the agreement between this state and

1 the federal secretary of health, education, and welfare in existence on  
2 the date of adoption of this subsection is inconsistent with this  
3 subsection, the governor shall seek to modify the inconsistency.

4 (2) Any instrumentality jointly created by this state and any other  
5 state or states is hereby authorized, upon the granting of like  
6 authority by such other state or states, (a) to enter into an agreement  
7 with the secretary of health, education, and welfare whereby the  
8 benefits of the federal old-age and survivors insurance system shall be  
9 extended to employees of such instrumentality, (b) to require its  
10 employees to pay (and for that purpose to deduct from their wages)  
11 contributions equal to the amounts which they would be required to pay  
12 under RCW 41.48.040(1) if they were covered by an agreement made  
13 pursuant to subsection (1) of this section, and (c) to make payments to  
14 the secretary of the treasury in accordance with such agreement,  
15 including payments from its own funds, and otherwise to comply with  
16 such agreements. Such agreement shall, to the extent practicable, be  
17 consistent with the terms and provisions of subsection (1) and other  
18 provisions of this chapter.

19 (3) The governor is empowered to authorize a referendum, and to  
20 designate an agency or individual to supervise its conduct, in  
21 accordance with the requirements of section 218(d)(3) of the social  
22 security act, and subsection (4) of this section on the question of  
23 whether service in all positions covered by a retirement system  
24 established by the state or by a political subdivision thereof should  
25 be excluded from or included under an agreement under this chapter. If  
26 a retirement system covers positions of employees of the state of  
27 Washington, of the institutions of higher learning, and positions of  
28 employees of one or more of the political subdivisions of the state,  
29 then for the purpose of the referendum as provided herein, there may be  
30 deemed to be a separate retirement system with respect to employees of  
31 the state, or any one or more of the political subdivisions, or  
32 institutions of higher learning and the governor shall authorize a  
33 referendum upon request of the subdivisions' or institutions' of higher  
34 learning governing body: PROVIDED HOWEVER, That if a referendum of  
35 state employees generally fails to produce a favorable majority vote  
36 then the governor may authorize a referendum covering positions of  
37 employees in any state department who are compensated in whole or in  
38 part from grants made to this state under title III of the federal  
39 social security act: PROVIDED, That any city or town affiliated with

1 the statewide city employees retirement system organized under chapter  
2 41.44 RCW may at its option agree to a plan submitted by the board of  
3 trustees of said statewide city employees retirement system for  
4 inclusion under an agreement under this chapter if the referendum to be  
5 held as provided herein indicates a favorable result: PROVIDED  
6 FURTHER, That the teachers' retirement system be considered one system  
7 for the purpose of the referendum except as applied to the several  
8 colleges of education. The notice of referendum required by section  
9 218(d)(3)(C) of the social security act to be given to employees shall  
10 contain or shall be accompanied by a statement, in such form and such  
11 detail as the agency or individual designated to supervise the  
12 referendum shall deem necessary and sufficient, to inform the employees  
13 of the rights which will accrue to them and their dependents and  
14 survivors, and the liabilities to which they will be subject, if their  
15 services are included under an agreement under this chapter.

16 (4) The governor, before authorizing a referendum, shall require  
17 the following conditions to be met:

18 (a) The referendum shall be by secret written ballot on the  
19 question of whether service in positions covered by such retirement  
20 system shall be excluded from or included under the agreement between  
21 the governor and the secretary of health, education, and welfare  
22 provided for in RCW 41.48.030(1);

23 (b) An opportunity to vote in such referendum shall be given and  
24 shall be limited to eligible employees;

25 (c) Not less than ninety days' notice of such referendum shall be  
26 given to all such employees;

27 (d) Such referendum shall be conducted under the supervision (of  
28 the governor or) of an agency or individual designated by the governor;

29 (e) The proposal for coverage shall be approved only if a majority  
30 of the eligible employees vote in favor of including services in such  
31 positions under the agreement;

32 (f) The state legislature, in the case of a referendum affecting  
33 the rights and liabilities of state employees covered under the state  
34 employees' retirement system and employees under the teachers'  
35 retirement system, and in all other cases the local legislative  
36 authority or governing body, shall have specifically approved the  
37 proposed plan and approved any necessary structural adjustment to the  
38 existing system to conform with the proposed plan.

1 (5) Upon receiving satisfactory evidence that with respect to any  
2 such referendum the conditions specified in subsection (4) of this  
3 section and section 218(d)(3) of the social security act have been met,  
4 the governor shall so certify to the secretary of health, education,  
5 and welfare.

6 (6) If the legislative body of any political subdivision of this  
7 state certifies to the governor that a referendum has been held under  
8 the terms of RCW 41.48.050(1)(i) and gives notice to the governor of  
9 termination of social security for any coverage group of the political  
10 subdivision, the governor shall give two years advance notice in  
11 writing to the federal department of health, education, and welfare of  
12 such termination of the agreement entered into under this section with  
13 respect to said coverage group.

14 **Sec. 429.** RCW 41.48.050 and 1981 c 119 s 1 are each amended to  
15 read as follows:

16 (1) Each political subdivision of the state is hereby authorized to  
17 submit for approval by the governor a plan for extending the benefits  
18 of title II of the social security act, in conformity with the  
19 applicable provisions of such act, to those employees of such political  
20 subdivisions who are not covered by an existing pension or retirement  
21 system. Each pension or retirement system established by the state or  
22 a political subdivision thereof is hereby authorized to submit for  
23 approval by the governor a plan for extending the benefits of title II  
24 of the social security act, in conformity with applicable provisions of  
25 such act, to members of such pension or retirement system. Each such  
26 plan and any amendment thereof shall be approved by the governor if he  
27 finds that such plan, or such plan as amended, is in conformity with  
28 such requirements as are provided in regulations of the governor,  
29 except that no such plan shall be approved unless--

30 (a) It is in conformity with the requirements of the social  
31 security act and with the agreement entered into under RCW 41.48.030;

32 (b) It provides that all services which constitute employment as  
33 defined in RCW 41.48.020 and are performed in the employ of the  
34 political subdivision by employees thereof, shall be covered by the  
35 plan;

36 (c) It specifies the source or sources from which the funds  
37 necessary to make the payments required by paragraph (a) of subsection  
38 (3) and by subsection (4) of this section are expected to be derived



1 and contains reasonable assurance that such sources will be adequate  
2 for such purposes;

3 (d) It provides that in the plan of coverage for members of the  
4 state teachers' retirement system or for state employee members of the  
5 state employees' retirement system, there shall be no additional cost  
6 to or involvement of the state until such plan has received prior  
7 approval by the legislature;

8 (e) It provides for such methods of administration of the plan by  
9 the political subdivision as are found by the governor to be necessary  
10 for the proper and efficient administration of the plan;

11 (f) It provides that the political subdivision will make such  
12 reports, in such form and containing such information, as the governor  
13 may from time to time require and comply with such provisions as the  
14 governor or the secretary of health, education, and welfare may from  
15 time to time find necessary to assure the correctness and verification  
16 of such reports; and

17 (g) It authorizes the governor to terminate the plan in its  
18 entirety, in his discretion, if he finds that there has been a failure  
19 to comply substantially with any provision contained in such plan, such  
20 termination to take effect at the expiration of such notice and on such  
21 conditions as may be provided by regulations of the governor and may be  
22 consistent with the provisions of the social security act.

23 (h) It provides that law enforcement officers and fire fighters of  
24 each political subdivision of this state who are covered by the  
25 Washington law enforcement officers' and fire fighters' retirement  
26 systems (~~(Act (chapter 209, Laws of 1969 ex. sess.))~~) under chapters  
27 41.26 and 41.26A RCW as now in existence or hereafter amended shall  
28 constitute a separate "coverage group" for purposes of the plan or  
29 agreement entered into under this section and for purposes of section  
30 216 of the social security act. To the extent that the plan or  
31 agreement entered into between the state and any political subdivision  
32 of this state is inconsistent with this subsection, the governor shall  
33 seek to modify the inconsistency.

34 (i) It provides that the plan or agreement may be terminated by any  
35 political subdivision as to any such coverage group upon giving at  
36 least two years advance notice in writing to the governor, effective at  
37 the end of the calendar quarter specified in the notice. It shall  
38 specify that before notice of such termination is given, a referendum

1 shall be held among the members of the coverage group under the  
2 following conditions:

3 (i) The referendum shall be conducted under the supervision of the  
4 legislative body of the political subdivision.

5 (ii) Not less than sixty days' notice of such referendum shall be  
6 given to members of the coverage group.

7 (iii) An opportunity to vote by secret ballot in such referendum  
8 shall be given and shall be limited to all members of the coverage  
9 group.

10 (iv) The proposal for termination shall be approved only if a  
11 majority of the coverage group vote in favor of termination.

12 (v) If a majority of the coverage group vote in favor of  
13 termination, the legislative body of the political subdivision shall  
14 certify the results of the referendum to the governor and give notice  
15 of termination of such coverage group.

16 (2) The governor shall not finally refuse to approve a plan  
17 submitted by a political subdivision under subsection (1), and shall  
18 not terminate an approved plan, without reasonable notice and  
19 opportunity for hearing to the political subdivision affected thereby.

20 (3)(a) Each political subdivision as to which a plan has been  
21 approved under this section shall pay into the contribution ((fund))  
22 account, with respect to wages (as defined in RCW 41.48.020), at such  
23 time or times as the governor may by regulation prescribe,  
24 contributions in the amounts and at the rates specified in the  
25 applicable agreement entered into by the governor under RCW 41.48.030.

26 (b) Each political subdivision required to make payments under  
27 paragraph (a) of this subsection is authorized, in consideration of the  
28 employee's retention in, or entry upon, employment after enactment of  
29 this chapter, to impose upon each of its employees, as to services  
30 which are covered by an approved plan, a contribution with respect to  
31 his wages (as defined in RCW 41.48.020), not exceeding the amount of  
32 employee tax which is imposed by the federal insurance contributions  
33 act, and to deduct the amount of such contribution from his wages as  
34 and when paid. Contributions so collected shall be paid into the OASI  
35 contribution ((fund)) account in partial discharge of the liability of  
36 such political subdivision or instrumentality under paragraph (a) of  
37 this subsection. Failure to deduct such contribution shall not relieve  
38 the employee or employer of liability therefor.

1 (4) Delinquent reports and payments due under paragraph (f) of  
2 subsection (1) and paragraph (a) of subsection (3) of this section will  
3 be subject to an added interest charge of six percent per year or, if  
4 higher, the rate chargeable to the state by the secretary by virtue of  
5 federal law, if the late report or payment contributes to any federal  
6 penalty for late filing of reports or for late deposit of  
7 contributions. Delinquent contributions, interest and penalties may be  
8 recovered by civil action or may, at the request of the governor, be  
9 deducted from any other moneys payable to the political subdivision by  
10 any department or agency of the state.

11 **Sec. 430.** RCW 41.50.030 and 1998 c 341 s 501 are each amended to  
12 read as follows:

13 (1) As soon as possible but not more than one hundred and eighty  
14 days after March 19, 1976, there is transferred to the department of  
15 retirement systems, except as otherwise provided in this chapter, all  
16 powers, duties, and functions of:

17 (a) The Washington public employees' retirement system;

18 (b) The Washington state teachers' retirement system;

19 (c) The Washington law enforcement officers' and fire fighters'  
20 retirement system;

21 (d) The Washington state patrol retirement system;

22 (e) The Washington judicial retirement system; and

23 (f) The state treasurer with respect to the administration of the  
24 judges' retirement fund imposed pursuant to chapter 2.12 RCW.

25 (2) On July 1, 1996, there is transferred to the department all  
26 powers, duties, and functions of the deferred compensation committee.

27 (3) The department shall administer chapter 41.34 RCW.

28 (4) The department shall administer the Washington school  
29 employees' retirement system created under chapter 41.35 RCW.

30 (5) The department shall administer the restated law enforcement  
31 officers' and fire fighters' retirement system under chapter 41.26A  
32 RCW.

33 **Sec. 431.** RCW 41.50.055 and 1991 c 35 s 16 are each amended to  
34 read as follows:

35 The administration of the Washington law enforcement officers' and  
36 fire fighters' retirement systems ~~((is))~~ under chapters 41.26 and

1 41.26A RCW are hereby vested in the director of retirement systems, and  
2 the director shall:

3 (1) Keep in convenient form such data as shall be deemed necessary  
4 for actuarial evaluation purposes;

5 (2) As of March 1, 1970, and at least every two years thereafter,  
6 through the state actuary, make an actuarial valuation as to the  
7 mortality and service experience of the beneficiaries under this  
8 chapter and the various accounts created for the purpose of showing the  
9 financial status of the retirement fund;

10 (3) Adopt for the Washington law enforcement officers' and fire  
11 fighters' retirement systems the mortality tables and such other tables  
12 as shall be deemed necessary;

13 (4) Keep a record of all its proceedings, which shall be open to  
14 inspection by the public;

15 (5) From time to time adopt such rules and regulations not  
16 inconsistent with chapters 41.26 and 41.26A RCW, for the administration  
17 of the provisions of this chapter, for the administration of the funds  
18 created by this chapter and chapter 41.26A RCW and the several accounts  
19 thereof, and for the transaction of the business of the system;

20 (6) Prepare and publish annually a financial statement showing the  
21 condition of the Washington law enforcement officers' and fire  
22 fighters' funds and the various accounts thereof, and setting forth  
23 such other facts, recommendations and data as may be of use in the  
24 advancement of knowledge concerning the Washington law enforcement  
25 officers' and fire fighters' retirement systems, and furnish a copy  
26 thereof to each employer, and to such members as may request copies  
27 thereof;

28 (7) Perform such other functions as are required for the execution  
29 of the provisions of chapters 41.26 and 41.26A RCW;

30 (8) Fix the amount of interest to be credited at a rate which shall  
31 be based upon the net annual earnings of the Washington law enforcement  
32 officers' and fire fighters' funds for the preceding twelve-month  
33 period and from time to time make any necessary changes in such rate;

34 (9) Pay from the department of retirement systems expense fund the  
35 expenses incurred in administration of the Washington law enforcement  
36 officers' and fire fighters' retirement systems from those funds  
37 appropriated for that purpose;

38 (10) Perform any other duties prescribed elsewhere in chapter 41.26  
39 or 41.26A RCW;

1 (11) Issue decisions relating to appeals initiated pursuant to RCW  
2 41.16.145 and 41.18.104 as now or hereafter amended and shall be  
3 authorized to order increased benefits pursuant to RCW 41.16.145 and  
4 41.18.104 as now or hereafter amended.

5 **Sec. 432.** RCW 41.50.075 and 1998 c 341 s 503 are each amended to  
6 read as follows:

7 (1) ~~((Two funds are))~~ A fund is hereby created and established in  
8 the state treasury to be known as ~~((the Washington law enforcement  
9 officers' and fire fighters' system plan 1 retirement fund, and))~~ the  
10 Washington law enforcement officers' and fire fighters' system plan 2  
11 retirement fund which shall consist of all moneys paid into ~~((them))~~  
12 the fund in accordance with the provisions of this chapter and chapter  
13 41.26 RCW, whether such moneys take the form of cash, securities, or  
14 other assets. The ~~((plan 1 fund shall consist of all moneys paid to  
15 finance the benefits provided to members of the law enforcement  
16 officers' and fire fighters' retirement system plan 1, and the))~~ plan  
17 2 fund shall consist of all moneys paid to finance the benefits  
18 provided to members of the law enforcement officers' and fire fighters'  
19 retirement system plan 2.

20 (2) All of the assets of the Washington state teachers' retirement  
21 system shall be credited according to the purposes for which they are  
22 held, to two funds to be maintained in the state treasury, namely, the  
23 teachers' retirement system plan 1 fund and the teachers' retirement  
24 system combined plan 2 and 3 fund. The plan 1 fund shall consist of  
25 all moneys paid to finance the benefits provided to members of the  
26 Washington state teachers' retirement system plan 1, and the combined  
27 plan 2 and 3 fund shall consist of all moneys paid to finance the  
28 benefits provided to members of the Washington state teachers'  
29 retirement system plan 2 and 3.

30 (3) There is hereby established in the state treasury two separate  
31 funds, namely the public employees' retirement system plan 1 fund and  
32 the public employees' retirement system plan 2 fund. The plan 1 fund  
33 shall consist of all moneys paid to finance the benefits provided to  
34 members of the public employees' retirement system plan 1, and the plan  
35 2 fund shall consist of all moneys paid to finance the benefits  
36 provided to members of the public employees' retirement system plan 2.

37 (4) There is hereby established in the state treasury the school  
38 employees' retirement system combined plan 2 and 3 fund. The combined

1 plan 2 and 3 fund shall consist of all moneys paid to finance the  
2 benefits provided to members of the school employees' retirement system  
3 plan 2 and plan 3.

4 **Sec. 433.** RCW 41.50.075 and 2000 c 247 s 601 are each amended to  
5 read as follows:

6 (1) ~~((Two funds are))~~ A fund is hereby created and established in  
7 the state treasury to be known as ~~((the Washington law enforcement  
8 officers' and fire fighters' system plan 1 retirement fund, and))~~ the  
9 Washington law enforcement officers' and fire fighters' system plan 2  
10 retirement fund which shall consist of all moneys paid into ~~((them))~~  
11 the fund in accordance with the provisions of this chapter and chapter  
12 41.26 RCW, whether such moneys take the form of cash, securities, or  
13 other assets. The ~~((plan 1 fund shall consist of all moneys paid to  
14 finance the benefits provided to members of the law enforcement  
15 officers' and fire fighters' retirement system plan 1, and the))~~ plan  
16 2 fund shall consist of all moneys paid to finance the benefits  
17 provided to members of the law enforcement officers' and fire fighters'  
18 retirement system plan 2.

19 (2) All of the assets of the Washington state teachers' retirement  
20 system shall be credited according to the purposes for which they are  
21 held, to two funds to be maintained in the state treasury, namely, the  
22 teachers' retirement system plan 1 fund and the teachers' retirement  
23 system combined plan 2 and 3 fund. The plan 1 fund shall consist of  
24 all moneys paid to finance the benefits provided to members of the  
25 Washington state teachers' retirement system plan 1, and the combined  
26 plan 2 and 3 fund shall consist of all moneys paid to finance the  
27 benefits provided to members of the Washington state teachers'  
28 retirement system plan 2 and 3.

29 (3) There is hereby established in the state treasury two separate  
30 funds, namely the public employees' retirement system plan 1 fund and  
31 the public employees' retirement system combined plan 2 and plan 3  
32 fund. The plan 1 fund shall consist of all moneys paid to finance the  
33 benefits provided to members of the public employees' retirement system  
34 plan 1, and the combined plan 2 and plan 3 fund shall consist of all  
35 moneys paid to finance the benefits provided to members of the public  
36 employees' retirement system plans 2 and 3.

37 (4) There is hereby established in the state treasury the school  
38 employees' retirement system combined plan 2 and 3 fund. The combined

1 plan 2 and 3 fund shall consist of all moneys paid to finance the  
2 benefits provided to members of the school employees' retirement system  
3 plan 2 and plan 3.

4 (5) The department shall administer the funds established under the  
5 restated law enforcement officers' and fire fighters' retirement system  
6 under chapter 41.26A RCW, including:

7 (a) The restated law enforcement officers' and fire fighters'  
8 defined benefit retirement fund; and

9 (b) The state surplus assets reserve fund.

10 **Sec. 434.** RCW 41.50.080 and 1998 c 341 s 504 are each amended to  
11 read as follows:

12 The state investment board shall provide for the investment of all  
13 funds of the Washington public employees' retirement system, the  
14 teachers' retirement system, the school employees' retirement system,  
15 the Washington law enforcement officers' and fire fighters' retirement  
16 systems under chapters 41.26 and 41.26A RCW, the Washington state  
17 patrol retirement system, the Washington judicial retirement system,  
18 and the judges' retirement fund, pursuant to RCW 43.84.150, and may  
19 sell or exchange investments acquired in the exercise of that  
20 authority.

21 **Sec. 435.** RCW 41.50.090 and 1985 c 102 s 6 are each amended to  
22 read as follows:

23 (1) Except as otherwise provided in this section, on the effective  
24 date of transfer as provided in RCW 41.50.030, the department shall  
25 succeed to and is vested with all powers, duties, and functions now or  
26 by any concurrent act of this 1976 legislature vested in the individual  
27 retirement boards set forth in RCW 41.50.030 relating to the  
28 administration of their various retirement systems, including but not  
29 limited to the power to appoint a staff and define the duties thereof:  
30 PROVIDED, That actuarial services required by the department shall be  
31 performed by the state actuary as provided in RCW 44.44.040.

32 (2) The department shall keep each retirement board fully informed  
33 on the administration of the corresponding retirement system, and shall  
34 furnish any information requested by a retirement board.

35 (3) Rules proposed by the director under RCW 2.10.070, 41.50.055,  
36 41.32.025, or 41.40.020 shall be submitted to the appropriate  
37 retirement boards for review prior to adoption. After receiving

1 approval of the members of the appropriate board, such rules shall  
2 become effective as provided by the administrative procedure act,  
3 chapter 34.05 RCW.

4 (4) Each retirement board shall continue to perform all functions  
5 as are vested in it by law with respect to applications for benefits  
6 paid upon either temporary or permanent disability, with such staff  
7 assistance from the department as may be required. The director shall  
8 perform those functions with respect to disability benefits as are  
9 vested in him or her by ((RCW 41.26.120, 41.26.125, and 41.26.200))  
10 chapter 41.26A RCW.

11 **Sec. 436.** RCW 41.50.110 and 1998 c 341 s 508 are each amended to  
12 read as follows:

13 (1) Except as provided by RCW 41.50.255 and subsection (6) of this  
14 section, all expenses of the administration of the department and the  
15 expenses of administration of the retirement systems created in  
16 chapters 2.10, 2.12, 41.26, 41.26A, 41.32, 41.40, 41.34, 41.35, and  
17 43.43 RCW shall be paid from the department of retirement systems  
18 expense fund.

19 (2) In order to reimburse the department of retirement systems  
20 expense fund on an equitable basis the department shall ascertain and  
21 report to each employer, as defined in RCW 41.26.030, section 202 of  
22 this act, 41.32.010, 41.35.010, or 41.40.010, the sum necessary to  
23 defray its proportional share of the entire expense of the  
24 administration of the retirement system that the employer participates  
25 in during the ensuing biennium or fiscal year whichever may be  
26 required. Such sum is to be computed in an amount directly  
27 proportional to the estimated entire expense of the administration as  
28 the ratio of monthly salaries of the employer's members bears to the  
29 total salaries of all members in the entire system. It shall then be  
30 the duty of all such employers to include in their budgets or otherwise  
31 provide the amounts so required.

32 (3) The department shall compute and bill each employer, as defined  
33 in RCW 41.26.030, section 202 of this act, 41.32.010, 41.35.010, or  
34 41.40.010, at the end of each month for the amount due for that month  
35 to the department of retirement systems expense fund and the same shall  
36 be paid as are its other obligations. Such computation as to each  
37 employer shall be made on a percentage rate of salary established by  
38 the department. However, the department may at its discretion



1 establish a system of billing based upon calendar year quarters in  
2 which event the said billing shall be at the end of each such quarter.

3 (4) The director may adjust the expense fund contribution rate for  
4 each system at any time when necessary to reflect unanticipated costs  
5 or savings in administering the department.

6 (5) An employer who fails to submit timely and accurate reports to  
7 the department may be assessed an additional fee related to the  
8 increased costs incurred by the department in processing the deficient  
9 reports. Fees paid under this subsection shall be deposited in the  
10 retirement system expense fund.

11 (a) Every six months the department shall determine the amount of  
12 an employer's fee by reviewing the timeliness and accuracy of the  
13 reports submitted by the employer in the preceding six months. If  
14 those reports were not both timely and accurate the department may  
15 prospectively assess an additional fee under this subsection.

16 (b) An additional fee assessed by the department under this  
17 subsection shall not exceed fifty percent of the standard fee.

18 (c) The department shall adopt rules implementing this section.

19 (6) Expenses other than those under RCW 41.34.060(~~(+2)~~) (3) shall  
20 be paid pursuant to subsection (1) of this section.

21 **Sec. 437.** RCW 41.50.112 and 2000 c 247 s 1107 are each amended to  
22 read as follows:

23 Employers, as defined in RCW 41.26.030, section 202 of this act,  
24 41.32.010, 41.34.020, 41.35.010, and 41.40.010, must report all member  
25 data to the department in a format designed and communicated by the  
26 department. Employers failing to comply with this reporting  
27 requirement shall be assessed an additional fee as defined under RCW  
28 41.50.110(5).

29 **Sec. 438.** RCW 41.50.150 and 1998 c 341 s 509 are each amended to  
30 read as follows:

31 (1) The employer of any employee whose retirement benefits are  
32 based in part on excess compensation, as defined in this section,  
33 shall, upon receipt of a billing from the department, pay into the  
34 appropriate retirement system the present value at the time of the  
35 employee's retirement of the total estimated cost of all present and  
36 future benefits from the retirement system attributable to the excess  
37 compensation. The state actuary shall determine the estimated cost

1 using the same method and procedure as is used in preparing fiscal note  
2 costs for the legislature. However, the director may in the director's  
3 discretion decline to bill the employer if the amount due is less than  
4 fifty dollars. Accounts unsettled within thirty days of the receipt of  
5 the billing shall be assessed an interest penalty of one percent of the  
6 amount due for each month or fraction thereof beyond the original  
7 thirty-day period.

8 (2) "Excess compensation," as used in this section, includes the  
9 following payments, if used in the calculation of the employee's  
10 retirement allowance:

11 (a) A cash out of unused annual leave in excess of two hundred  
12 forty hours of such leave. "Cash out" for purposes of this subsection  
13 means:

14 (i) Any payment in lieu of an accrual of annual leave; or

15 (ii) Any payment added to salary or wages, concurrent with a  
16 reduction of annual leave;

17 (b) A cash out of any other form of leave;

18 (c) A payment for, or in lieu of, any personal expense or  
19 transportation allowance to the extent that payment qualifies as  
20 reportable compensation in the member's retirement system;

21 (d) The portion of any payment, including overtime payments, that  
22 exceeds twice the regular daily or hourly rate of pay; and

23 (e) Any termination or severance payment.

24 (3) This section applies to the retirement systems listed in RCW  
25 41.50.030 and to retirements occurring on or after March 15, 1984.  
26 Nothing in this section is intended to amend or determine the meaning  
27 of any definition in chapter 2.10, 2.12, 41.26, 41.26A, 41.32, 41.40,  
28 41.35, or 43.43 RCW or to determine in any manner what payments are  
29 includable in the calculation of a retirement allowance under such  
30 chapters.

31 (4) An employer is not relieved of liability under this section  
32 because of the death of any person either before or after the billing  
33 from the department.

34 **Sec. 439.** RCW 41.50.255 and 1998 c 341 s 511 are each amended to  
35 read as follows:

36 The director is authorized to pay from the interest earnings of the  
37 trust funds of the public employees' retirement system, the teachers'  
38 retirement system, the Washington state patrol retirement system, the

1 Washington judicial retirement system, the judges' retirement system,  
2 the school district employees' retirement system, or the law  
3 enforcement officers' and fire fighters' retirement systems under  
4 chapter 41.26 and 41.26A RCW lawful obligations of the appropriate  
5 system for legal expenses and medical expenses which expenses are  
6 primarily incurred for the purpose of protecting the appropriate trust  
7 fund or are incurred in compliance with statutes governing such funds.

8 The term "legal expense" includes, but is not limited to, legal  
9 services provided through the legal services revolving fund, fees for  
10 expert witnesses, travel expenses, fees for court reporters, cost of  
11 transcript preparation, and reproduction of documents.

12 The term "medical costs" includes, but is not limited to, expenses  
13 for the medical examination or reexamination of members or retirees,  
14 the costs of preparation of medical reports, and fees charged by  
15 medical professionals for attendance at discovery proceedings or  
16 hearings.

17 The director may also pay from the interest earnings of the trust  
18 funds specified in this section costs incurred in investigating fraud  
19 and collecting overpayments, including expenses incurred to review and  
20 investigate cases of possible fraud against the trust funds and  
21 collection agency fees and other costs incurred in recovering  
22 overpayments. Recovered funds must be returned to the appropriate  
23 trust funds.

24 **Sec. 440.** RCW 41.50.500 and 1998 c 341 s 512 are each amended to  
25 read as follows:

26 Unless the context clearly requires otherwise, the definitions in  
27 this section apply throughout RCW 41.50.500 through 41.50.650,  
28 41.50.670 through 41.50.720, and 26.09.138.

29 (1) "Benefits" means periodic retirement payments or a withdrawal  
30 of accumulated contributions.

31 (2) "Disposable benefits" means that part of the benefits of an  
32 individual remaining after the deduction from those benefits of any  
33 amount required by law to be withheld. The term "required by law to be  
34 withheld" does not include any deduction elective to the member.

35 (3) "Dissolution order" means any judgment, decree, or order of  
36 spousal maintenance, property division, or court-approved property  
37 settlement incident to a decree of divorce, dissolution, invalidity, or  
38 legal separation issued by the superior court of the state of

1 Washington or a judgment, decree, or other order of spousal support  
2 issued by a court of competent jurisdiction in another state or  
3 country, that has been registered or otherwise made enforceable in this  
4 state.

5 (4) "Mandatory benefits assignment order" means an order issued to  
6 the department of retirement systems pursuant to RCW 41.50.570 to  
7 withhold and deliver benefits payable to an obligor under chapter 2.10,  
8 2.12, 41.26, 41.26A, 41.32, 41.40, 41.35, or 43.43 RCW.

9 (5) "Obligee" means an ex spouse or spouse to whom a duty of  
10 spousal maintenance or property division obligation is owed.

11 (6) "Obligor" means the spouse or ex spouse owing a duty of spousal  
12 maintenance or a property division obligation.

13 (7) "Periodic retirement payments" means periodic payments of  
14 retirement allowances, including but not limited to service retirement  
15 allowances, disability retirement allowances, and survivors'  
16 allowances. The term does not include a withdrawal of accumulated  
17 contributions.

18 (8) "Property division obligation" means any outstanding court-  
19 ordered property division or court-approved property settlement  
20 obligation incident to a decree of divorce, dissolution, or legal  
21 separation.

22 (9) "Standard allowance" means a benefit payment option selected  
23 under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a),  
24 41.40.188(1)(a), 41.40.660(1), or 41.35.220 that ceases upon the death  
25 of the retiree. Standard allowance also means the benefit allowance  
26 provided under RCW 2.10.110, 2.10.130, 43.43.260, (~~41.26.100,~~  
27 ~~41.26.130(1)(a)~~) section 217 of this act, section 222(1)(a) of this  
28 act, or chapter 2.12 RCW. Standard allowance also means the maximum  
29 retirement allowance available under RCW 41.32.530(1) following member  
30 withdrawal of accumulated contributions, if any.

31 (10) "Withdrawal of accumulated contributions" means a lump sum  
32 payment to a retirement system member of all or a part of the member's  
33 accumulated contributions, including accrued interest, at the request  
34 of the member including any lump sum amount paid upon the death of the  
35 member.

36 **Sec. 441.** RCW 41.50.500 and 2000 c 247 s 603 are each amended to  
37 read as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout RCW 41.50.500 through 41.50.650,  
3 41.50.670 through 41.50.720, and 26.09.138.

4 (1) "Benefits" means periodic retirement payments or a withdrawal  
5 of accumulated contributions.

6 (2) "Disposable benefits" means that part of the benefits of an  
7 individual remaining after the deduction from those benefits of any  
8 amount required by law to be withheld. The term "required by law to be  
9 withheld" does not include any deduction elective to the member.

10 (3) "Dissolution order" means any judgment, decree, or order of  
11 spousal maintenance, property division, or court-approved property  
12 settlement incident to a decree of divorce, dissolution, invalidity, or  
13 legal separation issued by the superior court of the state of  
14 Washington or a judgment, decree, or other order of spousal support  
15 issued by a court of competent jurisdiction in another state or  
16 country, that has been registered or otherwise made enforceable in this  
17 state.

18 (4) "Mandatory benefits assignment order" means an order issued to  
19 the department of retirement systems pursuant to RCW 41.50.570 to  
20 withhold and deliver benefits payable to an obligor under chapter 2.10,  
21 2.12, 41.26, 41.26A, 41.32, 41.40, 41.35, or 43.43 RCW.

22 (5) "Obligee" means an ex spouse or spouse to whom a duty of  
23 spousal maintenance or property division obligation is owed.

24 (6) "Obligor" means the spouse or ex spouse owing a duty of spousal  
25 maintenance or a property division obligation.

26 (7) "Periodic retirement payments" means periodic payments of  
27 retirement allowances, including but not limited to service retirement  
28 allowances, disability retirement allowances, and survivors'  
29 allowances. The term does not include a withdrawal of accumulated  
30 contributions.

31 (8) "Property division obligation" means any outstanding court-  
32 ordered property division or court-approved property settlement  
33 obligation incident to a decree of divorce, dissolution, or legal  
34 separation.

35 (9) "Standard allowance" means a benefit payment option selected  
36 under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a),  
37 41.40.188(1)(a), 41.40.660(1), 41.40.845(1)(a), or 41.35.220 that  
38 ceases upon the death of the retiree. Standard allowance also means  
39 the benefit allowance provided under RCW 2.10.110, 2.10.130, 43.43.260,

1 ((41.26.100, ~~41.26.130(1)(a)~~) section 217 of this act, section  
2 222(1)(a) of this act, or chapter 2.12 RCW. Standard allowance also  
3 means the maximum retirement allowance available under RCW 41.32.530(1)  
4 following member withdrawal of accumulated contributions, if any.

5 (10) "Withdrawal of accumulated contributions" means a lump sum  
6 payment to a retirement system member of all or a part of the member's  
7 accumulated contributions, including accrued interest, at the request  
8 of the member including any lump sum amount paid upon the death of the  
9 member.

10 **Sec. 442.** RCW 41.50.670 and 1998 c 341 s 513 are each amended to  
11 read as follows:

12 (1) Nothing in this chapter regarding mandatory assignment of  
13 benefits to enforce a spousal maintenance obligation shall abridge the  
14 right of an obligee to direct payments of retirement benefits to  
15 satisfy a property division obligation ordered pursuant to a court  
16 decree of dissolution or legal separation or any court order or court-  
17 approved property settlement agreement incident to any court decree of  
18 dissolution or legal separation as provided in RCW 2.10.180, 2.12.090,  
19 41.04.310, 41.04.320, 41.04.330, 41.26.053, section 209 of this act,  
20 41.32.052, 41.35.100, 41.34.070(~~(+3)~~) (4), 41.40.052, 43.43.310, or  
21 26.09.138, as those statutes existed before July 1, 1987, and as those  
22 statutes exist on and after July 28, 1991. The department shall pay  
23 benefits under this chapter in a lump sum or as a portion of periodic  
24 retirement payments as expressly provided by the dissolution order. A  
25 dissolution order may not order the department to pay a periodic  
26 retirement payment or lump sum unless that payment is specifically  
27 authorized under the provisions of chapter 2.10, 2.12, 41.26, 41.26A,  
28 41.32, 41.35, 41.34, 41.40, or 43.43 RCW, as applicable.

29 (2) The department shall pay directly to an obligee the amount of  
30 periodic retirement payments or lump sum payment, as appropriate,  
31 specified in the dissolution order if the dissolution order filed with  
32 the department pursuant to subsection (1) of this section includes a  
33 provision that states in the following form:

34 If . . . . . (the obligor) receives periodic retirement payments  
35 as defined in RCW 41.50.500, the department of retirement systems shall  
36 pay to . . . . . (the obligee) . . . . . dollars from such payments  
37 or . . . percent of such payments. If the obligor's debt is expressed  
38 as a percentage of his or her periodic retirement payment and the

1 obligee does not have a survivorship interest in the obligor's benefit,  
2 the amount received by the obligee shall be the percentage of the  
3 periodic retirement payment that the obligor would have received had he  
4 or she selected a standard allowance.

5 If . . . . . (the obligor) requests or has requested a withdrawal  
6 of accumulated contributions as defined in RCW 41.50.500, or becomes  
7 eligible for a lump sum death benefit, the department of retirement  
8 systems shall pay to . . . . . (the obligee) . . . . . dollars plus  
9 interest at the rate paid by the department of retirement systems on  
10 member contributions. Such interest to accrue from the date of this  
11 order's entry with the court of record.

12 (3) This section does not require a member to select a standard  
13 allowance upon retirement nor does it require the department to  
14 recalculate the amount of a retiree's periodic retirement payment based  
15 on a change in survivor option.

16 (4) A court order under this section may not order the department  
17 to pay more than seventy-five percent of an obligor's periodic  
18 retirement payment to an obligee.

19 (5) Persons whose court decrees were entered between July 1, 1987,  
20 and July 28, 1991, shall also be entitled to receive direct payments of  
21 retirement benefits to satisfy court-ordered property divisions if the  
22 dissolution orders comply or are modified to comply with this section  
23 and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180,  
24 2.12.090, 41.26.053, section 209 of this act, 41.32.052, 41.35.100,  
25 41.34.070, 41.40.052, 43.43.310, and 26.09.138.

26 (6) The obligee must file a copy of the dissolution order with the  
27 department within ninety days of that order's entry with the court of  
28 record.

29 (7) A division of benefits pursuant to a dissolution order under  
30 this section shall be based upon the obligor's gross benefit prior to  
31 any deductions. If the department is required to withhold a portion of  
32 the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of  
33 that amount plus the amount owed to the obligee exceeds the total  
34 benefit, the department shall satisfy the withholding requirements  
35 under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee.  
36 The provisions of this subsection do not apply to amounts withheld  
37 pursuant to 26 U.S.C. Sec. 3402(i).

1       **Sec. 443.** RCW 41.56.030 and 2000 c 23 s 1 and 2000 c 19 s 1 are  
2 each reenacted and amended to read as follows:

3       As used in this chapter:

4       (1) "Public employer" means any officer, board, commission,  
5 council, or other person or body acting on behalf of any public body  
6 governed by this chapter, or any subdivision of such public body. For  
7 the purposes of this section, the public employer of district court or  
8 superior court employees for wage-related matters is the respective  
9 county legislative authority, or person or body acting on behalf of the  
10 legislative authority, and the public employer for nonwage-related  
11 matters is the judge or judge's designee of the respective district  
12 court or superior court.

13       (2) "Public employee" means any employee of a public employer  
14 except any person (a) elected by popular vote, or (b) appointed to  
15 office pursuant to statute, ordinance or resolution for a specified  
16 term of office as a member of a multimember board, commission, or  
17 committee, whether appointed by the executive head or body of the  
18 public employer, or (c) whose duties as deputy, administrative  
19 assistant or secretary necessarily imply a confidential relationship to  
20 (i) the executive head or body of the applicable bargaining unit, or  
21 (ii) any person elected by popular vote, or (iii) any person appointed  
22 to office pursuant to statute, ordinance or resolution for a specified  
23 term of office as a member of a multimember board, commission, or  
24 committee, whether appointed by the executive head or body of the  
25 public employer, or (d) who is a court commissioner or a court  
26 magistrate of superior court, district court, or a department of a  
27 district court organized under chapter 3.46 RCW, or (e) who is a  
28 personal assistant to a district court judge, superior court judge, or  
29 court commissioner, or (f) excluded from a bargaining unit under RCW  
30 41.56.201(2)(a). For the purpose of (e) of this subsection, no more  
31 than one assistant for each judge or commissioner may be excluded from  
32 a bargaining unit.

33       (3) "Bargaining representative" means any lawful organization which  
34 has as one of its primary purposes the representation of employees in  
35 their employment relations with employers.

36       (4) "Collective bargaining" means the performance of the mutual  
37 obligations of the public employer and the exclusive bargaining  
38 representative to meet at reasonable times, to confer and negotiate in  
39 good faith, and to execute a written agreement with respect to



1 grievance procedures and collective negotiations on personnel matters,  
2 including wages, hours and working conditions, which may be peculiar to  
3 an appropriate bargaining unit of such public employer, except that by  
4 such obligation neither party shall be compelled to agree to a proposal  
5 or be required to make a concession unless otherwise provided in this  
6 chapter.

7 (5) "Commission" means the public employment relations commission.

8 (6) "Executive director" means the executive director of the  
9 commission.

10 (7) "Uniformed personnel" means: (a) Law enforcement officers as  
11 defined in RCW 41.26.030 and section 202 of this act employed by the  
12 governing body of any city or town with a population of two thousand  
13 five hundred or more and law enforcement officers employed by the  
14 governing body of any county with a population of ten thousand or more;  
15 (b) correctional employees who are uniformed and nonuniformed,  
16 commissioned and noncommissioned security personnel employed in a jail  
17 as defined in RCW 70.48.020(5), by a county with a population of  
18 seventy thousand or more, and who are trained for and charged with the  
19 responsibility of controlling and maintaining custody of inmates in the  
20 jail and safeguarding inmates from other inmates; (c) general authority  
21 Washington peace officers as defined in RCW 10.93.020 employed by a  
22 port district in a county with a population of one million or more; (d)  
23 security forces established under RCW 43.52.520; (e) fire fighters as  
24 that term is defined in RCW 41.26.030 and section 202 of this act; (f)  
25 employees of a port district in a county with a population of one  
26 million or more whose duties include crash fire rescue or other fire  
27 fighting duties; (g) employees of fire departments of public employers  
28 who dispatch exclusively either fire or emergency medical services, or  
29 both; or (h) employees in the several classes of advanced life support  
30 technicians, as defined in RCW 18.71.200, who are employed by a public  
31 employer.

32 (8) "Institution of higher education" means the University of  
33 Washington, Washington State University, Central Washington University,  
34 Eastern Washington University, Western Washington University, The  
35 Evergreen State College, and the various state community colleges.

36 **Sec. 444.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 5 are each  
37 amended to read as follows:

1 (1) All earnings of investments of surplus balances in the state  
2 treasury shall be deposited to the treasury income account, which  
3 account is hereby established in the state treasury.

4 (2) The treasury income account shall be utilized to pay or receive  
5 funds associated with federal programs as required by the federal cash  
6 management improvement act of 1990. The treasury income account is  
7 subject in all respects to chapter 43.88 RCW, but no appropriation is  
8 required for refunds or allocations of interest earnings required by  
9 the cash management improvement act. Refunds of interest to the  
10 federal treasury required under the cash management improvement act  
11 fall under RCW 43.88.180 and shall not require appropriation. The  
12 office of financial management shall determine the amounts due to or  
13 from the federal government pursuant to the cash management improvement  
14 act. The office of financial management may direct transfers of funds  
15 between accounts as deemed necessary to implement the provisions of the  
16 cash management improvement act, and this subsection. Refunds or  
17 allocations shall occur prior to the distributions of earnings set  
18 forth in subsection (4) of this section.

19 (3) Except for the provisions of RCW 43.84.160, the treasury income  
20 account may be utilized for the payment of purchased banking services  
21 on behalf of treasury funds including, but not limited to, depository,  
22 safekeeping, and disbursement functions for the state treasury and  
23 affected state agencies. The treasury income account is subject in all  
24 respects to chapter 43.88 RCW, but no appropriation is required for  
25 payments to financial institutions. Payments shall occur prior to  
26 distribution of earnings set forth in subsection (4) of this section.

27 (4) Monthly, the state treasurer shall distribute the earnings  
28 credited to the treasury income account. The state treasurer shall  
29 credit the general fund with all the earnings credited to the treasury  
30 income account except:

31 (a) The following accounts and funds shall receive their  
32 proportionate share of earnings based upon each account's and fund's  
33 average daily balance for the period: The capitol building  
34 construction account, the Cedar River channel construction and  
35 operation account, the Central Washington University capital projects  
36 account, the charitable, educational, penal and reformatory  
37 institutions account, the common school construction fund, the county  
38 criminal justice assistance account, the county sales and use tax  
39 equalization account, the data processing building construction

1 account, the deferred compensation administrative account, the deferred  
2 compensation principal account, the department of retirement systems  
3 expense account, the drinking water assistance account, the Eastern  
4 Washington University capital projects account, the education  
5 construction fund, the emergency reserve fund, the federal forest  
6 revolving account, the health services account, the public health  
7 services account, the health system capacity account, the personal  
8 health services account, the state higher education construction  
9 account, the higher education construction account, the highway  
10 infrastructure account, the industrial insurance premium refund  
11 account, the judges' retirement account, the judicial retirement  
12 administrative account, the judicial retirement principal account, the  
13 local leasehold excise tax account, the local real estate excise tax  
14 account, the local sales and use tax account, the medical aid account,  
15 the mobile home park relocation fund, the multimodal transportation  
16 account, the municipal criminal justice assistance account, the  
17 municipal sales and use tax equalization account, the natural resources  
18 deposit account, the perpetual surveillance and maintenance account,  
19 the public employees' retirement system plan 1 account, the public  
20 employees' retirement system plan 2 account, the Puyallup tribal  
21 settlement account, the resource management cost account, the site  
22 closure account, the special wildlife account, the state employees'  
23 insurance account, the state employees' insurance reserve account, the  
24 state investment board expense account, the state investment board  
25 commingled trust fund accounts, the state surplus assets reserve  
26 account, the supplemental pension account, the teachers' retirement  
27 system plan 1 account, the teachers' retirement system combined plan 2  
28 and plan 3 account, the tobacco prevention and control account, the  
29 tobacco settlement account, the transportation infrastructure account,  
30 the tuition recovery trust fund, the University of Washington bond  
31 retirement fund, the University of Washington building account, the  
32 volunteer fire fighters' and reserve officers' relief and pension  
33 principal fund, the volunteer fire fighters' and reserve officers'  
34 administrative fund, the Washington judicial retirement system account,  
35 (~~the Washington law enforcement officers' and fire fighters' system~~  
36 ~~plan 1 retirement account,~~) the Washington law enforcement officers'  
37 and fire fighters' system plan 2 retirement account, the Washington  
38 school employees' retirement system combined plan 2 and 3 account, the  
39 Washington state health insurance pool account, the Washington state

1 patrol retirement account, the Washington State University building  
2 account, the Washington State University bond retirement fund, the  
3 water pollution control revolving fund, and the Western Washington  
4 University capital projects account. Earnings derived from investing  
5 balances of the agricultural permanent fund, the normal school  
6 permanent fund, the permanent common school fund, the scientific  
7 permanent fund, and the state university permanent fund shall be  
8 allocated to their respective beneficiary accounts. All earnings to be  
9 distributed under this subsection (4)(a) shall first be reduced by the  
10 allocation to the state treasurer's service fund pursuant to RCW  
11 43.08.190.

12 (b) The following accounts and funds shall receive eighty percent  
13 of their proportionate share of earnings based upon each account's or  
14 fund's average daily balance for the period: The aeronautics account,  
15 the aircraft search and rescue account, the county arterial  
16 preservation account, the department of licensing services account, the  
17 essential rail assistance account, the ferry bond retirement fund, the  
18 grade crossing protective fund, the high capacity transportation  
19 account, the highway bond retirement fund, the highway safety account,  
20 the motor vehicle fund, the motorcycle safety education account, the  
21 pilotage account, the public transportation systems account, the Puget  
22 Sound capital construction account, the Puget Sound ferry operations  
23 account, the recreational vehicle account, the rural arterial trust  
24 account, the safety and education account, the special category C  
25 account, the state patrol highway account, the transportation equipment  
26 fund, the transportation fund, the transportation improvement account,  
27 the transportation improvement board bond retirement account, and the  
28 urban arterial trust account.

29 (5) In conformance with Article II, section 37 of the state  
30 Constitution, no treasury accounts or funds shall be allocated earnings  
31 without the specific affirmative directive of this section.

32 **Sec. 445.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 6 are each  
33 amended to read as follows:

34 (1) All earnings of investments of surplus balances in the state  
35 treasury shall be deposited to the treasury income account, which  
36 account is hereby established in the state treasury.

37 (2) The treasury income account shall be utilized to pay or receive  
38 funds associated with federal programs as required by the federal cash

1 management improvement act of 1990. The treasury income account is  
2 subject in all respects to chapter 43.88 RCW, but no appropriation is  
3 required for refunds or allocations of interest earnings required by  
4 the cash management improvement act. Refunds of interest to the  
5 federal treasury required under the cash management improvement act  
6 fall under RCW 43.88.180 and shall not require appropriation. The  
7 office of financial management shall determine the amounts due to or  
8 from the federal government pursuant to the cash management improvement  
9 act. The office of financial management may direct transfers of funds  
10 between accounts as deemed necessary to implement the provisions of the  
11 cash management improvement act, and this subsection. Refunds or  
12 allocations shall occur prior to the distributions of earnings set  
13 forth in subsection (4) of this section.

14 (3) Except for the provisions of RCW 43.84.160, the treasury income  
15 account may be utilized for the payment of purchased banking services  
16 on behalf of treasury funds including, but not limited to, depository,  
17 safekeeping, and disbursement functions for the state treasury and  
18 affected state agencies. The treasury income account is subject in all  
19 respects to chapter 43.88 RCW, but no appropriation is required for  
20 payments to financial institutions. Payments shall occur prior to  
21 distribution of earnings set forth in subsection (4) of this section.

22 (4) Monthly, the state treasurer shall distribute the earnings  
23 credited to the treasury income account. The state treasurer shall  
24 credit the general fund with all the earnings credited to the treasury  
25 income account except:

26 (a) The following accounts and funds shall receive their  
27 proportionate share of earnings based upon each account's and fund's  
28 average daily balance for the period: The capitol building  
29 construction account, the Cedar River channel construction and  
30 operation account, the Central Washington University capital projects  
31 account, the charitable, educational, penal and reformatory  
32 institutions account, the common school construction fund, the county  
33 criminal justice assistance account, the county sales and use tax  
34 equalization account, the data processing building construction  
35 account, the deferred compensation administrative account, the deferred  
36 compensation principal account, the department of retirement systems  
37 expense account, the drinking water assistance account, the Eastern  
38 Washington University capital projects account, the education  
39 construction fund, the emergency reserve fund, the federal forest

1 revolving account, the health services account, the public health  
2 services account, the health system capacity account, the personal  
3 health services account, the state higher education construction  
4 account, the higher education construction account, the highway  
5 infrastructure account, the industrial insurance premium refund  
6 account, the judges' retirement account, the judicial retirement  
7 administrative account, the judicial retirement principal account, the  
8 local leasehold excise tax account, the local real estate excise tax  
9 account, the local sales and use tax account, the medical aid account,  
10 the mobile home park relocation fund, the multimodal transportation  
11 account, the municipal criminal justice assistance account, the  
12 municipal sales and use tax equalization account, the natural resources  
13 deposit account, the perpetual surveillance and maintenance account,  
14 the public employees' retirement system plan 1 account, the public  
15 employees' retirement system combined plan 2 and plan 3 account, the  
16 Puyallup tribal settlement account, the resource management cost  
17 account, the site closure account, the special wildlife account, the  
18 state employees' insurance account, the state employees' insurance  
19 reserve account, the state investment board expense account, the state  
20 investment board commingled trust fund accounts, the state surplus  
21 assets reserve account, the supplemental pension account, the teachers'  
22 retirement system plan 1 account, the teachers' retirement system  
23 combined plan 2 and plan 3 account, the tobacco prevention and control  
24 account, the tobacco settlement account, the transportation  
25 infrastructure account, the tuition recovery trust fund, the University  
26 of Washington bond retirement fund, the University of Washington  
27 building account, the volunteer fire fighters' and reserve officers'  
28 relief and pension principal fund, the volunteer fire fighters' and  
29 reserve officers' administrative fund, the Washington judicial  
30 retirement system account, (~~the Washington law enforcement officers'~~  
31 ~~and fire fighters' system plan 1 retirement account,~~) the Washington  
32 law enforcement officers' and fire fighters' system plan 2 retirement  
33 account, the Washington school employees' retirement system combined  
34 plan 2 and 3 account, the Washington state health insurance pool  
35 account, the Washington state patrol retirement account, the Washington  
36 State University building account, the Washington State University bond  
37 retirement fund, the water pollution control revolving fund, and the  
38 Western Washington University capital projects account. Earnings  
39 derived from investing balances of the agricultural permanent fund, the

1 normal school permanent fund, the permanent common school fund, the  
2 scientific permanent fund, and the state university permanent fund  
3 shall be allocated to their respective beneficiary accounts. All  
4 earnings to be distributed under this subsection (4)(a) shall first be  
5 reduced by the allocation to the state treasurer's service fund  
6 pursuant to RCW 43.08.190.

7 (b) The following accounts and funds shall receive eighty percent  
8 of their proportionate share of earnings based upon each account's or  
9 fund's average daily balance for the period: The aeronautics account,  
10 the aircraft search and rescue account, the county arterial  
11 preservation account, the department of licensing services account, the  
12 essential rail assistance account, the ferry bond retirement fund, the  
13 grade crossing protective fund, the high capacity transportation  
14 account, the highway bond retirement fund, the highway safety account,  
15 the motor vehicle fund, the motorcycle safety education account, the  
16 pilotage account, the public transportation systems account, the Puget  
17 Sound capital construction account, the Puget Sound ferry operations  
18 account, the recreational vehicle account, the rural arterial trust  
19 account, the safety and education account, the special category C  
20 account, the state patrol highway account, the transportation equipment  
21 fund, the transportation fund, the transportation improvement account,  
22 the transportation improvement board bond retirement account, and the  
23 urban arterial trust account.

24 (5) In conformance with Article II, section 37 of the state  
25 Constitution, no treasury accounts or funds shall be allocated earnings  
26 without the specific affirmative directive of this section.

27 **Sec. 446.** RCW 43.79A.040 and 2000 c 79 s 45 are each amended to  
28 read as follows:

29 (1) Money in the treasurer's trust fund may be deposited, invested,  
30 and reinvested by the state treasurer in accordance with RCW 43.84.080  
31 in the same manner and to the same extent as if the money were in the  
32 state treasury.

33 (2) All income received from investment of the treasurer's trust  
34 fund shall be set aside in an account in the treasury trust fund to be  
35 known as the investment income account.

36 (3) The investment income account may be utilized for the payment  
37 of purchased banking services on behalf of treasurer's trust funds  
38 including, but not limited to, depository, safekeeping, and

1 disbursement functions for the state treasurer or affected state  
2 agencies. The investment income account is subject in all respects to  
3 chapter 43.88 RCW, but no appropriation is required for payments to  
4 financial institutions. Payments shall occur prior to distribution of  
5 earnings set forth in subsection (4) of this section.

6 (4)(a) Monthly, the state treasurer shall distribute the earnings  
7 credited to the investment income account to the state general fund  
8 except under (b) and (c) of this subsection.

9 (b) The following accounts and funds shall receive their  
10 proportionate share of earnings based upon each account's or fund's  
11 average daily balance for the period: The Washington advanced college  
12 tuition payment program account, the agricultural local fund, the  
13 American Indian scholarship endowment fund, the basic health plan self-  
14 insurance reserve account, the Washington international exchange  
15 scholarship endowment fund, the developmental disabilities endowment  
16 trust fund, the energy account, the fair fund, the game farm  
17 alternative account, the grain inspection revolving fund, the juvenile  
18 accountability incentive account, the law enforcement officers' and  
19 fire fighters' medical benefits risk pool account, the rural  
20 rehabilitation account, the stadium and exhibition center account, the  
21 youth athletic facility ((grant)) account, the self-insurance revolving  
22 fund, the sulfur dioxide abatement account, the restated law  
23 enforcement officers' and fire fighters' defined benefit retirement  
24 fund, and the children's trust fund. However, the earnings to be  
25 distributed shall first be reduced by the allocation to the state  
26 treasurer's service fund pursuant to RCW 43.08.190.

27 (c) The following accounts and funds shall receive eighty percent  
28 of their proportionate share of earnings based upon each account's or  
29 fund's average daily balance for the period: The advanced right of way  
30 revolving fund, the advanced environmental mitigation revolving  
31 account, the federal narcotics asset forfeitures account, the high  
32 occupancy vehicle account, the local rail service assistance account,  
33 and the miscellaneous transportation programs account.

34 (5) In conformance with Article II, section 37 of the state  
35 Constitution, no trust accounts or funds shall be allocated earnings  
36 without the specific affirmative directive of this section.

37 **Sec. 447.** RCW 46.52.130 and 1998 c 165 s 11 are each amended to  
38 read as follows:



1 A certified abstract of the driving record shall be furnished only  
2 to the individual named in the abstract, an employer or prospective  
3 employer or an agent acting on behalf of an employer or prospective  
4 employer, the insurance carrier that has insurance in effect covering  
5 the employer or a prospective employer, the insurance carrier that has  
6 insurance in effect covering the named individual, the insurance  
7 carrier to which the named individual has applied, an alcohol/drug  
8 assessment or treatment agency approved by the department of social and  
9 health services, to which the named individual has applied or been  
10 assigned for evaluation or treatment, or city and county prosecuting  
11 attorneys. City attorneys and county prosecuting attorneys may provide  
12 the driving record to alcohol/drug assessment or treatment agencies  
13 approved by the department of social and health services to which the  
14 named individual has applied or been assigned for evaluation or  
15 treatment. The director, upon proper request, shall furnish a  
16 certified abstract covering the period of not more than the last three  
17 years to insurance companies. Upon proper request, the director shall  
18 furnish a certified abstract covering a period of not more than the  
19 last five years to state approved alcohol/drug assessment or treatment  
20 agencies, except that the certified abstract shall also include records  
21 of alcohol-related offenses as defined in RCW 46.01.260(2) covering a  
22 period of not more than the last ten years. Upon proper request, a  
23 certified abstract of the full driving record maintained by the  
24 department shall be furnished to a city or county prosecuting attorney,  
25 to the individual named in the abstract or to an employer or  
26 prospective employer or an agent acting on behalf of an employer or  
27 prospective employer of the named individual. The abstract, whenever  
28 possible, shall include an enumeration of motor vehicle accidents in  
29 which the person was driving; the total number of vehicles involved;  
30 whether the vehicles were legally parked or moving; whether the  
31 vehicles were occupied at the time of the accident; whether the  
32 accident resulted in any fatality; any reported convictions,  
33 forfeitures of bail, or findings that an infraction was committed based  
34 upon a violation of any motor vehicle law; and the status of the  
35 person's driving privilege in this state. The enumeration shall  
36 include any reports of failure to appear in response to a traffic  
37 citation or failure to respond to a notice of infraction served upon  
38 the named individual by an arresting officer. Certified abstracts  
39 furnished to prosecutors and alcohol/drug assessment or treatment

1 agencies shall also indicate whether a recorded violation is an  
2 alcohol-related offense as defined in RCW 46.01.260(2) that was  
3 originally charged as one of the alcohol-related offenses designated in  
4 RCW 46.01.260(2)(b)(i).

5 The abstract provided to the insurance company shall exclude any  
6 information, except that related to the commission of misdemeanors or  
7 felonies by the individual, pertaining to law enforcement officers or  
8 fire fighters as defined in RCW 41.26.030 or section 202 of this act,  
9 or any officer of the Washington state patrol, while driving official  
10 vehicles in the performance of occupational duty. The abstract  
11 provided to the insurance company shall include convictions for RCW  
12 46.61.5249 and 46.61.525 except that the abstract shall report them  
13 only as negligent driving without reference to whether they are for  
14 first or second degree negligent driving. The abstract provided to the  
15 insurance company shall exclude any deferred prosecution under RCW  
16 10.05.060, except that if a person is removed from a deferred  
17 prosecution under RCW 10.05.090, the abstract shall show the deferred  
18 prosecution as well as the removal.

19 The director shall collect for each abstract the sum of four  
20 dollars and fifty cents which shall be deposited in the highway safety  
21 fund.

22 Any insurance company or its agent receiving the certified abstract  
23 shall use it exclusively for its own underwriting purposes and shall  
24 not divulge any of the information contained in it to a third party.  
25 No policy of insurance may be canceled, nonrenewed, denied, or have the  
26 rate increased on the basis of such information unless the policyholder  
27 was determined to be at fault. No insurance company or its agent for  
28 underwriting purposes relating to the operation of commercial motor  
29 vehicles may use any information contained in the abstract relative to  
30 any person's operation of motor vehicles while not engaged in such  
31 employment, nor may any insurance company or its agent for underwriting  
32 purposes relating to the operation of noncommercial motor vehicles use  
33 any information contained in the abstract relative to any person's  
34 operation of commercial motor vehicles.

35 Any employer or prospective employer or an agent acting on behalf  
36 of an employer or prospective employer receiving the certified abstract  
37 shall use it exclusively for his or her own purpose to determine  
38 whether the licensee should be permitted to operate a commercial

1 vehicle or school bus upon the public highways of this state and shall  
2 not divulge any information contained in it to a third party.

3 Any alcohol/drug assessment or treatment agency approved by the  
4 department of social and health services receiving the certified  
5 abstract shall use it exclusively for the purpose of assisting its  
6 employees in making a determination as to what level of treatment, if  
7 any, is appropriate. The agency, or any of its employees, shall not  
8 divulge any information contained in the abstract to a third party.

9 Release of a certified abstract of the driving record of an  
10 employee or prospective employee requires a statement signed by: (1)  
11 The employee or prospective employee that authorizes the release of the  
12 record, and (2) the employer attesting that the information is  
13 necessary to determine whether the licensee should be employed to  
14 operate a commercial vehicle or school bus upon the public highways of  
15 this state. If the employer or prospective employer authorizes an  
16 agent to obtain this information on their behalf, this must be noted in  
17 the statement.

18 Any violation of this section is a gross misdemeanor.

19 **Sec. 448.** RCW 72.72.060 and 1983 c 279 s 5 are each amended to  
20 read as follows:

21 The state shall reimburse cities and counties for their costs  
22 incurred under chapters 41.26 and 41.26A RCW if the costs are the  
23 direct result of physical injuries sustained in the implementation of  
24 a contingency plan adopted under RCW 72.02.150 and if reimbursement is  
25 not precluded by the following provisions: If the secretary of  
26 corrections identifies in the contingency plan the prison walls or  
27 other perimeter of the secured area, then reimbursement will not be  
28 made unless the injuries occur within the walls or other perimeter of  
29 the secured area. If the secretary of corrections does not identify  
30 prison walls or other perimeter of the secured area, then reimbursement  
31 shall not be made unless the injuries result from providing assistance,  
32 requested by the secretary of corrections or the secretary's designee,  
33 which is beyond the description of the assistance contained in the  
34 contingency plan. In no case shall reimbursement be made when the  
35 injuries result from conduct which either is not requested by the  
36 secretary of corrections or the secretary's designee, or is in  
37 violation of orders by superiors of the local law enforcement agency.



1 (11) RCW 41.26.115 (Director of retirement systems to adopt rules  
2 governing disability boards--Remand of orders not in accordance with  
3 rules) and 1981 c 294 s 1;

4 (12) RCW 41.26.120 (Retirement for disability incurred in the line  
5 of duty) and 1991 c 35 s 19, 1986 c 176 s 5, 1985 c 102 s 2, 1981 c 294  
6 s 2, 1974 ex.s. c 120 s 10, 1972 ex.s. c 131 s 8, 1970 ex.s. c 6 s 7,  
7 & 1969 ex.s. c 209 s 12;

8 (13) RCW 41.26.125 (Retirement for disability not incurred in the  
9 line of duty) and 1986 c 176 s 6 & 1985 c 102 s 3;

10 (14) RCW 41.26.130 (Allowance on retirement for disability) and  
11 1991 c 35 s 20, 1987 c 185 s 11, 1981 c 294 s 3, 1970 ex.s. c 6 s 8, &  
12 1969 ex.s. c 209 s 13;

13 (15) RCW 41.26.135 (Cessation of disability--Determination) and  
14 1985 c 103 s 1;

15 (16) RCW 41.26.140 (Reexaminations of disability beneficiaries--  
16 Reentry--Appeal) and 1991 c 35 s 21, 1985 c 103 s 2, 1981 c 294 s 4,  
17 1974 ex.s. c 120 s 4, 1970 ex.s. c 6 s 9, & 1969 ex.s. c 209 s 14;

18 (17) RCW 41.26.150 (Sickness or disability benefits--Medical  
19 services) and 1992 c 22 s 3, 1991 c 35 s 22, 1987 c 185 s 12, 1983 c  
20 106 s 23, 1974 ex.s. c 120 s 11, 1971 ex.s. c 257 s 10, 1970 ex.s. c 6  
21 s 10, 1969 ex.s. c 219 s 4, & 1969 ex.s. c 209 s 15;

22 (18) RCW 41.26.160 (Death benefits--Duty connected) and 1999 c 134  
23 s 2 & 1991 sp.s. c 11 s 5;

24 (19) RCW 41.26.161 (Death benefits--Nonduty connected) and 1999 c  
25 134 s 3;

26 (20) RCW 41.26.162 (Ex spouse qualifying as surviving spouse--When)  
27 and 1991 sp.s. c 12 s 2;

28 (21) RCW 41.26.170 (Refund of contributions on discontinuance of  
29 service--Reentry) and 1994 c 197 s 6, 1991 c 35 s 24, 1970 ex.s. c 6 s  
30 14, & 1969 ex.s. c 209 s 22;

31 (22) RCW 41.26.190 (Credit for military service) and 1991 c 35 s  
32 26, 1970 ex.s. c 6 s 13, & 1969 ex.s. c 209 s 18;

33 (23) RCW 41.26.192 (Credit for service under prior pension system--  
34 Restoration of withdrawn contributions) and 1994 c 197 s 7 & 1992 c 157  
35 s 1;

36 (24) RCW 41.26.194 (Credit for service under prior pension system--  
37 Service not covered under prior system) and 1994 c 197 s 8 & 1992 c 157  
38 s 2;

1 (25) RCW 41.26.195 (Transfer of service credit from other  
2 retirement system--Irrevocable election allowed) and 1997 c 122 s 1;  
3 (26) RCW 41.26.197 (Service credit for paid leave of absence--  
4 Application to elected officials of labor organizations) and 1993 c 95  
5 s 3;  
6 (27) RCW 41.26.200 (Appeal to director of retirement systems) and  
7 1981 c 294 s 5, 1974 ex.s. c 120 s 6, 1971 ex.s. c 257 s 13, 1970 ex.s.  
8 c 6 s 11, & 1969 ex.s. c 209 s 16;  
9 (28) RCW 41.26.211 (Notice for hearing required prior to  
10 petitioning for judicial review) and 1984 c 184 s 16, 1981 c 294 s 6,  
11 & 1969 ex.s. c 209 s 19;  
12 (29) RCW 41.26.221 (Hearing--Conduct) and 1984 c 184 s 17, 1981 c  
13 294 s 7, & 1969 ex.s. c 209 s 20;  
14 (30) RCW 41.26.240 (Increases or decreases in retirement allowances  
15 to be determined by department in accordance with consumer price index)  
16 and 1991 c 35 s 27, 1974 ex.s. c 120 s 13, 1970 ex.s. c 6 s 16, & 1969  
17 ex.s. c 209 s 24;  
18 (31) RCW 41.26.250 (Increase in presently payable benefits for  
19 service or disability authorized) and 1975 1st ex.s. c 178 s 3, 1974  
20 ex.s. c 190 s 3, 1970 ex.s. c 37 s 2, & 1969 ex.s. c 209 s 34;  
21 (32) RCW 41.26.260 (Increase in certain presently payable death  
22 benefits authorized) and 1974 ex.s. c 190 s 4 & 1969 ex.s. c 209 s 35;  
23 (33) RCW 41.26.270 (Declaration of policy respecting benefits for  
24 injury or death--Civil actions abolished) and 1989 c 12 s 13, 1987 c  
25 185 s 13, 1985 c 102 s 4, & 1971 ex.s. c 257 s 14;  
26 (34) RCW 41.26.281 (Cause of action for injury or death, when) and  
27 1991 c 35 s 28 & 1971 ex.s. c 257 s 15;  
28 (35) RCW 41.26.3901 (Severability--1969 ex.s. c 209) and 1969 ex.s.  
29 c 209 s 42;  
30 (36) RCW 41.26.3902 (Act to control inconsistencies) and 1969 ex.s.  
31 c 209 s 43;  
32 (37) RCW 41.26.3903 (Effective date--1969 ex.s. c 209) and 1969  
33 ex.s. c 209 s 45; and  
34 (38) RCW 41.26.410 (Provisions applicable to plan 2) and 1991 c 35  
35 s 29 & 1977 ex.s. c 294 s 2.

36 NEW SECTION. **Sec. 502.** SAVINGS. The repeals in section 501 of  
37 this act do not affect any existing right acquired or liability or  
38 obligation incurred under the statutes repealed or under any rule or

1 order adopted under those statutes nor do they affect any proceeding  
2 instituted under them. Rules adopted by the department of retirement  
3 systems relating to plan 1 of the law enforcement officers' and fire  
4 fighters' retirement system under chapter 41.26 RCW shall continue in  
5 effect and apply to the restated law enforcement officers' and fire  
6 fighters' retirement system under chapter 41.26A RCW unless expressly  
7 inconsistent therewith and until repealed or superseded.

8 NEW SECTION. **Sec. 503.** NONSEVERABILITY. Sections 1 through 10 of  
9 this act are not severable, and if any provision of those sections is  
10 held invalid by a court of competent jurisdiction, this entire act is  
11 null and void.

12 NEW SECTION. **Sec. 504.** CAPTIONS. Part headings and captions used  
13 in this act are not any part of the law.

14 NEW SECTION. **Sec. 505.** EFFECTIVE DATE. Except as provided in  
15 section 449 of this act, this act takes effect December 1, 2001."

16 **ESSB 6166** - S AMD 425  
17 By Senator Brown

18 ADOPTED 06/08/01

19 On page 1, line 2 of the title, after "system;" strike the  
20 remainder of the title and insert "amending RCW 41.26.010, 41.26.040,  
21 41.26.061, 44.44.040, 48.62.031, 48.62.051, 2.10.155, 26.09.138,  
22 36.28A.010, 41.04.205, 41.04.270, 41.04.350, 41.04.400, 41.05.320,  
23 41.18.210, 41.20.170, 41.20.175, 41.24.400, 41.32.800, 41.32.860,  
24 41.35.230, 41.40.690, 41.40.850, 41.45.010, 41.45.010, 41.45.020,  
25 41.45.050, 41.45.050, 41.45.070, 41.48.030, 41.48.050, 41.50.030,  
26 41.50.055, 41.50.075, 41.50.075, 41.50.080, 41.50.090, 41.50.110,  
27 41.50.112, 41.50.150, 41.50.255, 41.50.500, 41.50.500, 41.50.670,  
28 43.84.092, 43.84.092, 43.79A.040, 46.52.130, and 72.72.060; reenacting  
29 and amending RCW 41.26.030, 6.15.020, 41.45.020, 41.45.060, 41.45.070,  
30 and 41.56.030; adding new chapters to Title 41 RCW; creating new  
31 sections; repealing RCW 41.26.005, 41.26.035, 41.26.045, 41.26.046,  
32 41.26.047, 41.26.075, 41.26.080, 41.26.090, 41.26.100, 41.26.110,  
33 41.26.115, 41.26.120, 41.26.125, 41.26.130, 41.26.135, 41.26.140,  
34 41.26.150, 41.26.160, 41.26.161, 41.26.162, 41.26.170, 41.26.190,

1 41.26.192, 41.26.194, 41.26.195, 41.26.197, 41.26.200, 41.26.211,  
2 41.26.221, 41.26.240, 41.26.250, 41.26.260, 41.26.270, 41.26.281,  
3 41.26.3901, 41.26.3902, 41.26.3903, and 41.26.410; providing effective  
4 dates; and providing an expiration date."

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