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HOUSE BILL 1580

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State of Washington

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By Representatives Sump, Doumit, Buck, Pearson, Rockefeller, G. Chandler, Ericksen, Jackley, Pennington, Eickmeyer, Murray, Armstrong, Roach, Mielke, Quall, Hunt, Linville, Cooper, Kirby, Delvin, Mulliken, Simpson, Van Luven, Kenney, Campbell, Conway, Esser, Dunn, Ogden, Santos and Hurst

Read first time 01/30/2001. Referred to Committee on Appropriations.

1 AN ACT Relating to law enforcement officers of the department of  
2 fish and wildlife; reenacting and amending RCW 41.26.030; and creating  
3 a new section.

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

5 NEW SECTION. **Sec. 1.** An employee who was a member of the public  
6 employees' retirement system plan 2 on or before January 1, 2001, and,  
7 on the effective date of this section is employed by the department of  
8 fish and wildlife as a law enforcement officer as defined in RCW  
9 41.26.030, will become a member of the law enforcement officers' and  
10 fire fighters' retirement system plan 2. All officers will be dual  
11 members as provided in RCW 41.54.010. Public employees' retirement  
12 system plan 2 service credit may not be transferred to the law  
13 enforcement officers' and fire fighters' retirement system plan 2.

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

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

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

3 (2)(a) "Employer" for plan 1 members, means the legislative  
4 authority of any city, town, county, or district or the elected  
5 officials of any municipal corporation that employs any law enforcement  
6 officer and/or fire fighter, any authorized association of such  
7 municipalities, and, except for the purposes of RCW 41.26.150, any  
8 labor guild, association, or organization, which represents the fire  
9 fighters or law enforcement officers of at least seven cities of over  
10 20,000 population and the membership of each local lodge or division of  
11 which is composed of at least sixty percent law enforcement officers or  
12 fire fighters as defined in this chapter.

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

16 (i) The legislative authority of any city, town, county, or  
17 district;

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

19 (iii) The governing body of any other general authority law  
20 enforcement agency; (~~(or)~~)

21 (iv) A four-year institution of higher education having a fully  
22 operational fire department as of January 1, 1996; or

23 (v) The department of fish and wildlife.

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

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

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

37 (c) Only such full time commissioned law enforcement personnel as  
38 have been appointed to offices, positions, or ranks in the police  
39 department which have been specifically created or otherwise expressly

1 provided for and designated by city charter provision or by ordinance  
2 enacted by the legislative body of the city shall be considered city  
3 police officers;

4 (d) The term "law enforcement officer" also includes the executive  
5 secretary of a labor guild, association or organization (which is an  
6 employer under RCW 41.26.030(2)) if that individual has five years  
7 previous membership in the retirement system established in chapter  
8 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to  
9 plan 2 members; ((and))

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

18 (f) The term "law enforcement officer" also includes a person  
19 employed on or after the effective date of this section by the  
20 department of fish and wildlife as a fish and wildlife officer.

21 (4) "Fire fighter" means:

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

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

28 (c) Supervisory fire fighter personnel;

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

32 (e) The executive secretary of a labor guild, association or  
33 organization (which is an employer under RCW 41.26.030(2) as now or  
34 hereafter amended), if such individual has five years previous  
35 membership in a retirement system established in chapter 41.16 or 41.18  
36 RCW. The provisions of this subsection (4)(e) shall not apply to plan  
37 2 members;

38 (f) Any person who is serving on a full time, fully compensated  
39 basis for an employer, as a fire dispatcher, in a department in which,

1 on March 1, 1970, a dispatcher was required to have passed a civil  
2 service examination for fire fighter; and

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

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

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

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

16 (i) A natural born child;

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

19 (iii) A posthumous child;

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

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

24 (b) A person shall also be deemed to be a child up to and including  
25 the age of twenty years and eleven months while attending any high  
26 school, college, or vocational or other educational institution  
27 accredited, licensed, or approved by the state, in which it is located,  
28 including the summer vacation months and all other normal and regular  
29 vacation periods at the particular educational institution after which  
30 the child returns to school.

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

37 (9) "Retirement fund" means the "Washington law enforcement  
38 officers' and fire fighters' retirement system fund" as provided for  
39 herein.

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

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

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

9 (12)(a) "Final average salary" for plan 1 members, means (i) for a  
10 member holding the same position or rank for a minimum of twelve months  
11 preceding the date of retirement, the basic salary attached to such  
12 same position or rank at time of retirement; (ii) for any other member,  
13 including a civil service member who has not served a minimum of twelve  
14 months in the same position or rank preceding the date of retirement,  
15 the average of the greatest basic salaries payable to such member  
16 during any consecutive twenty-four month period within such member's  
17 last ten years of service for which service credit is allowed, computed  
18 by dividing the total basic salaries payable to such member during the  
19 selected twenty-four month period by twenty-four; (iii) in the case of  
20 disability of any member, the basic salary payable to such member at  
21 the time of disability retirement; (iv) in the case of a member who  
22 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to  
23 such member at the time of vesting.

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

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

34 (b) "Basic salary" for plan 2 members, means salaries or wages  
35 earned by a member during a payroll period for personal services,  
36 including overtime payments, and shall include wages and salaries  
37 deferred under provisions established pursuant to sections 403(b),  
38 414(h), and 457 of the United States Internal Revenue Code, but shall  
39 exclude lump sum payments for deferred annual sick leave, unused

1 accumulated vacation, unused accumulated annual leave, or any form of  
2 severance pay. In any year in which a member serves in the legislature  
3 the member shall have the option of having such member's basic salary  
4 be the greater of:

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

7 (ii) Such member's actual basic salary received for nonlegislative  
8 public employment and legislative service combined. Any additional  
9 contributions to the retirement system required because basic salary  
10 under (b)(i) of this subsection is greater than basic salary under  
11 (b)(ii) of this subsection shall be paid by the member for both member  
12 and employer contributions.

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

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

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

4 (b) "Service" for plan 2 members, means periods of employment by a  
5 member for one or more employers for which basic salary is earned for  
6 ninety or more hours per calendar month which shall constitute a  
7 service credit month. Periods of employment by a member for one or  
8 more employers for which basic salary is earned for at least seventy  
9 hours but less than ninety hours per calendar month shall constitute  
10 one-half service credit month. Periods of employment by a member for  
11 one or more employers for which basic salary is earned for less than  
12 seventy hours shall constitute a one-quarter service credit month.

13 Members of the retirement system who are elected or appointed to a  
14 state elective position may elect to continue to be members of this  
15 retirement system.

16 Service credit years of service shall be determined by dividing the  
17 total number of service credit months of service by twelve. Any  
18 fraction of a service credit year of service as so determined shall be  
19 taken into account in the computation of such retirement allowance or  
20 benefits.

21 If a member receives basic salary from two or more employers during  
22 any calendar month, the individual shall receive one service credit  
23 month's service credit during any calendar month in which multiple  
24 service for ninety or more hours is rendered; or one-half service  
25 credit month's service credit during any calendar month in which  
26 multiple service for at least seventy hours but less than ninety hours  
27 is rendered; or one-quarter service credit month during any calendar  
28 month in which multiple service for less than seventy hours is  
29 rendered.

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

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

38 (17) "Actuarial valuation" means a mathematical determination of  
39 the financial condition of a retirement plan. It includes the

1 computation of the present monetary value of benefits payable to  
2 present members, and the present monetary value of future employer and  
3 employee contributions, giving effect to mortality among active and  
4 retired members and also to the rates of disability, retirement,  
5 withdrawal from service, salary and interest earned on investments.

6 (18) "Disability board" for plan 1 members means either the county  
7 disability board or the city disability board established in RCW  
8 41.26.110.

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

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

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

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

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

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

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

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

32 (i) The fees of the following:

33 (A) A physician or surgeon licensed under the provisions of chapter  
34 18.71 RCW;

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

37 (C) A chiropractor licensed under the provisions of chapter 18.25  
38 RCW.



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

4 (iii) The charges for the following medical services and supplies:  
5 (A) Drugs and medicines upon a physician's prescription;  
6 (B) Diagnostic x-ray and laboratory examinations;  
7 (C) X-ray, radium, and radioactive isotopes therapy;  
8 (D) Anesthesia and oxygen;  
9 (E) Rental of iron lung and other durable medical and surgical  
10 equipment;  
11 (F) Artificial limbs and eyes, and casts, splints, and trusses;  
12 (G) Professional ambulance service when used to transport the  
13 member to or from a hospital when injured by an accident or stricken by  
14 a disease;  
15 (H) Dental charges incurred by a member who sustains an accidental  
16 injury to his or her teeth and who commences treatment by a legally  
17 licensed dentist within ninety days after the accident;  
18 (I) Nursing home confinement or hospital extended care facility;  
19 (J) Physical therapy by a registered physical therapist;  
20 (K) Blood transfusions, including the cost of blood and blood  
21 plasma not replaced by voluntary donors;  
22 (L) An optometrist licensed under the provisions of chapter 18.53  
23 RCW.

24 (23) "Regular interest" means such rate as the director may  
25 determine.

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

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

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

33 (27) "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 (28) "Plan 1" means the law enforcement officers' and fire  
37 fighters' retirement system, plan 1 providing the benefits and funding  
38 provisions covering persons who first became members of the system  
39 prior to October 1, 1977.

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

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

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

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

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