
HOUSE BILL 1862

State of Washington

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By Representatives Ruderman, Barlean, Keiser, McIntire, Jarrett, McDermott, Conway, Santos, Edwards, Esser, Simpson, Quall, Cairnes, Kagi, Schual-Berke and Edmonds

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1 AN ACT Relating to housing allowances for nonsupervisory K-12
2 employees; amending RCW 28A.400.200, 84.52.0531, 41.32.010, 41.40.010,
3 and 41.40.010; adding a new section to chapter 28A.400 RCW; adding a
4 new section to chapter 28A.500 RCW; creating a new section; providing
5 an effective date; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** As the disparity in the cost-of-living
8 between school districts across the state has grown in recent years,
9 the purchasing power of equalized salaries has become more disparate
10 for K-12 employees. A major contributor to these costs is housing.
11 The purpose of this act is to provide a housing allowance for
12 nonsupervisory public school employees in order to minimize disparities
13 in purchasing power among educational employees across the state.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.400
15 RCW to read as follows:

16 (1) Eligible school districts shall provide a housing allowance for
17 nonsupervisory classified and certificated employees.

1 (2) The housing allowance shall be based on data reported for the
2 most recent annual period for which data are available for each
3 biennium in which the housing allowance amount will be funded. The
4 collection of data shall be done by a nationally recognized entity that
5 collects statistically valid housing cost data for federal government
6 agencies and businesses, selected by the superintendent of public
7 instruction and subject to approval by the legislative fiscal
8 committees and the office of financial management. The office of the
9 superintendent of public instruction shall contract with the entity
10 selected under this subsection (2) from funds provided for this
11 purpose.

12 (3) The cost of housing shall be calculated for each school
13 district in the state. The housing allowance shall be payable to
14 school districts having costs that exceed the statewide median cost of
15 housing based on a standard set of housing specifications but not to
16 exceed thirty percent of the median costs. The housing allowance shall
17 not be considered as within the definition of basic education for the
18 purposes of chapter 28A.150 RCW, nor is it earnable compensation as
19 defined in RCW 41.32.010 or compensation earnable as defined in RCW
20 41.40.010.

21 (4) The amount of the state housing allowance shall be allocated to
22 the eligible school district. Individual payment of the housing
23 allowance to nonsupervisory classified and certificated employees is
24 subject to collective bargaining.

25 (5) The housing allowance shall be paid only to actively employed
26 nonsupervisory classified and certificated employees and is not
27 earnable compensation or compensation earnable for purposes of
28 retirement benefits.

29 (6) In the 2001-2003 biennium, the state shall allocate housing
30 allowance funds for ten percent of the full cost of housing allowances.
31 In the 2003-2005 biennium the state shall allocate twenty percent of
32 the full cost of housing allowances. In the 2005-2007 biennium the
33 state shall allocate forty percent of the full cost of housing
34 allowances. In the 2007-2009 biennium the state shall allocate eighty
35 percent of the full cost of housing allowances.

36 (7) Local school districts that qualify for housing allowances may
37 submit to voters a separate excess general fund levy on real property
38 to support the state housing allowance amount. This levy is not
39 subject to the limitations in RCW 84.52.0531. The maximum amount of

1 the levy shall be the total of the remaining portion not funded by the
2 district's state housing allowance and any amount in excess of the
3 thirty-percent of the state median costs. This levy does not qualify
4 a school district for local effort assistance under chapter 28A.500
5 RCW.

6 (8) The office of the superintendent of public instruction shall
7 administer the housing allowance program and shall adopt rules for
8 implementation. The superintendent of public instruction shall
9 distribute the housing allowance to eligible school districts. The
10 office of the superintendent of public instruction shall receive
11 funding sufficient to purchase the data required under subsection (2)
12 of this section and administer the housing allowance program. Funding
13 for these purposes may not exceed one percent of the housing allowances
14 for that biennium.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.500
16 RCW to read as follows:

17 Levies authorized under section 2 of this act shall not be
18 considered in determining a school district's eligibility for local
19 effort assistance under this chapter.

20 **Sec. 4.** RCW 28A.400.200 and 1997 c 141 s 2 are each amended to
21 read as follows:

22 (1) Every school district board of directors shall fix, alter,
23 allow, and order paid salaries and compensation for all district
24 employees in conformance with this section.

25 (2)(a) Salaries for certificated instructional staff shall not be
26 less than the salary provided in the appropriations act in the
27 statewide salary allocation schedule for an employee with a
28 baccalaureate degree and zero years of service; and

29 (b) Salaries for certificated instructional staff with a masters
30 degree shall not be less than the salary provided in the appropriations
31 act in the statewide salary allocation schedule for an employee with a
32 masters degree and zero years of service;

33 (3)(a) The actual average salary paid to basic education and
34 special education certificated instructional staff shall not exceed the
35 district's average basic education and special education program
36 certificated instructional staff salary used for the state basic

1 education allocations for that school year as determined pursuant to
2 RCW 28A.150.410.

3 (b) Fringe benefit contributions for basic education and special
4 education certificated instructional staff shall be included as salary
5 under (a) of this subsection only to the extent that the district's
6 actual average benefit contribution exceeds the amount of the insurance
7 benefits allocation provided per certificated instructional staff unit
8 in the state operating appropriations act in effect at the time the
9 compensation is payable. For purposes of this section, fringe benefits
10 shall not include payment for unused leave for illness or injury under
11 RCW 28A.400.210; employer contributions for old age survivors
12 insurance, workers' compensation, unemployment compensation, and
13 retirement benefits under the Washington state retirement system; or
14 employer contributions for health benefits in excess of the insurance
15 benefits allocation provided per certificated instructional staff unit
16 in the state operating appropriations act in effect at the time the
17 compensation is payable. A school district may not use state funds to
18 provide employer contributions for such excess health benefits.

19 (c) Salary and benefits for certificated instructional staff in
20 programs other than basic education and special education shall be
21 consistent with the salary and benefits paid to certificated
22 instructional staff in the basic education and special education
23 programs.

24 (4) Salaries and benefits for certificated instructional staff may
25 exceed the limitations in subsection (3) of this section only by
26 separate contract for additional time, additional responsibilities, or
27 incentives. Supplemental contracts shall not cause the state to incur
28 any present or future funding obligation. Supplemental contracts shall
29 be subject to the collective bargaining provisions of chapter 41.59 RCW
30 and the provisions of RCW 28A.405.240, shall not exceed one year, and
31 if not renewed shall not constitute adverse change in accordance with
32 RCW 28A.405.300 through 28A.405.380. No district may enter into a
33 supplemental contract under this subsection for the provision of
34 services which are a part of the basic education program required by
35 Article IX, section 3 of the state Constitution.

36 (5) Employee benefit plans offered by any district shall comply
37 with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

1 (6) Housing allowances authorized in section 2 of this act shall
2 not be included as salary under this section and shall not be included
3 in salary limitations.

4 **Sec. 5.** RCW 84.52.0531 and 1997 c 259 s 2 are each amended to read
5 as follows:

6 The maximum dollar amount which may be levied by or for any school
7 district for maintenance and operation support under the provisions of
8 RCW 84.52.053 shall be determined as follows:

9 (1) For excess levies for collection in calendar year 1997, the
10 maximum dollar amount shall be calculated pursuant to the laws and
11 rules in effect in November 1996.

12 (2) For excess levies for collection in calendar year 1998 and
13 thereafter, the maximum dollar amount shall be the sum of (a) plus or
14 minus (b) and (c) of this subsection minus (d) of this subsection:

15 (a) The district's levy base as defined in subsection (3) of this
16 section multiplied by the district's maximum levy percentage as defined
17 in subsection (4) of this section;

18 (b) For districts in a high/nonhigh relationship, the high school
19 district's maximum levy amount shall be reduced and the nonhigh school
20 district's maximum levy amount shall be increased by an amount equal to
21 the estimated amount of the nonhigh payment due to the high school
22 district under RCW 28A.545.030(3) and 28A.545.050 for the school year
23 commencing the year of the levy;

24 (c) For districts in an interdistrict cooperative agreement, the
25 nonresident school district's maximum levy amount shall be reduced and
26 the resident school district's maximum levy amount shall be increased
27 by an amount equal to the per pupil basic education allocation included
28 in the nonresident district's levy base under subsection (3) of this
29 section multiplied by:

30 (i) The number of full-time equivalent students served from the
31 resident district in the prior school year; multiplied by:

32 (ii) The serving district's maximum levy percentage determined
33 under subsection (4) of this section; increased by:

34 (iii) The percent increase per full-time equivalent student as
35 stated in the state basic education appropriation section of the
36 biennial budget between the prior school year and the current school
37 year divided by fifty-five percent;

1 (d) The district's maximum levy amount shall be reduced by the
2 maximum amount of state matching funds for which the district is
3 eligible under RCW 28A.500.010.

4 (3) For excess levies for collection in calendar year 1998 and
5 thereafter, a district's levy base shall be the sum of allocations in
6 (a) through (c) of this subsection received by the district for the
7 prior school year, including allocations for compensation increases,
8 plus the sum of such allocations multiplied by the percent increase per
9 full time equivalent student as stated in the state basic education
10 appropriation section of the biennial budget between the prior school
11 year and the current school year and divided by fifty-five percent. A
12 district's levy base shall not include local school district property
13 tax levies or other local revenues, or state and federal allocations
14 not identified in (a) through (c) of this subsection.

15 (a) The district's basic education allocation as determined
16 pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

17 (b) State and federal categorical allocations for the following
18 programs:

19 (i) Pupil transportation;

20 (ii) Special education;

21 (iii) Education of highly capable students;

22 (iv) Compensatory education, including but not limited to learning
23 assistance, migrant education, Indian education, refugee programs, and
24 bilingual education;

25 (v) Food services; and

26 (vi) Statewide block grant programs; and

27 (c) Any other federal allocations for elementary and secondary
28 school programs, including direct grants, other than federal impact aid
29 funds and allocations in lieu of taxes.

30 (4) A district's maximum levy percentage shall be twenty-two
31 percent in 1998 and twenty-four percent in 1999 and every year
32 thereafter; plus, for qualifying districts, the grandfathered
33 percentage determined as follows:

34 (a) For 1997, the difference between the district's 1993 maximum
35 levy percentage and twenty percent; and

36 (b) For 1998 and thereafter, the percentage calculated as follows:

37 (i) Multiply the grandfathered percentage for the prior year times
38 the district's levy base determined under subsection (3) of this
39 section;

1 (ii) Reduce the result of (b)(i) of this subsection by any levy
2 reduction funds as defined in subsection (5) of this section that are
3 to be allocated to the district for the current school year;

4 (iii) Divide the result of (b)(ii) of this subsection by the
5 district's levy base; and

6 (iv) Take the greater of zero or the percentage calculated in
7 (b)(iii) of this subsection.

8 (5) "Levy reduction funds" shall mean increases in state funds from
9 the prior school year for programs included under subsection (3) of
10 this section: (a) That are not attributable to enrollment changes,
11 compensation increases, or inflationary adjustments; and (b) that are
12 or were specifically identified as levy reduction funds in the
13 appropriations act. If levy reduction funds are dependent on formula
14 factors which would not be finalized until after the start of the
15 current school year, the superintendent of public instruction shall
16 estimate the total amount of levy reduction funds by using prior school
17 year data in place of current school year data. Levy reduction funds
18 shall not include moneys received by school districts from cities or
19 counties.

20 (6) For the purposes of this section, "prior school year" means the
21 most recent school year completed prior to the year in which the levies
22 are to be collected.

23 (7) For the purposes of this section, "current school year" means
24 the year immediately following the prior school year.

25 (8) Funds collected from transportation vehicle fund tax levies
26 shall not be subject to the levy limitations in this section.

27 (9) The limitations in this section do not apply to excess general
28 fund levies for the support of the state housing allowance provided for
29 in section 2 of this act.

30 (10) The superintendent of public instruction shall develop rules
31 (~~and regulations~~) and inform school districts of the pertinent data
32 necessary to carry out the provisions of this section.

33 **Sec. 6.** RCW 41.32.010 and 1997 c 254 s 3 are each amended to read
34 as follows:

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

37 (1)(a) "Accumulated contributions" for plan 1 members, means the
38 sum of all regular annuity contributions and, except for the purpose of

1 withdrawal at the time of retirement, any amount paid under RCW
2 41.50.165(2) with regular interest thereon.

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

7 (2) "Actuarial equivalent" means a benefit of equal value when
8 computed upon the basis of such mortality tables and regulations as
9 shall be adopted by the director and regular interest.

10 (3) "Annuity" means the moneys payable per year during life by
11 reason of accumulated contributions of a member.

12 (4) "Member reserve" means the fund in which all of the accumulated
13 contributions of members are held.

14 (5)(a) "Beneficiary" for plan 1 members, means any person in
15 receipt of a retirement allowance or other benefit provided by this
16 chapter.

17 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
18 in receipt of a retirement allowance or other benefit provided by this
19 chapter resulting from service rendered to an employer by another
20 person.

21 (6) "Contract" means any agreement for service and compensation
22 between a member and an employer.

23 (7) "Creditable service" means membership service plus prior
24 service for which credit is allowable. This subsection shall apply
25 only to plan 1 members.

26 (8) "Dependent" means receiving one-half or more of support from a
27 member.

28 (9) "Disability allowance" means monthly payments during
29 disability. This subsection shall apply only to plan 1 members.

30 (10)(a) "Earnable compensation" for plan 1 members, means:

31 (i) All salaries and wages paid by an employer to an employee
32 member of the retirement system for personal services rendered during
33 a fiscal year. In all cases where compensation includes maintenance
34 the employer shall fix the value of that part of the compensation not
35 paid in money.

36 (ii) "Earnable compensation" for plan 1 members also includes the
37 following actual or imputed payments, which are not paid for personal
38 services:

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

8 (B) If a leave of absence, without pay, is taken by a member for
9 the purpose of serving as a member of the state legislature, and such
10 member has served in the legislature five or more years, the salary
11 which would have been received for the position from which the leave of
12 absence was taken shall be considered as compensation earnable if the
13 employee's contribution thereon is paid by the employee. In addition,
14 where a member has been a member of the state legislature for five or
15 more years, earnable compensation for the member's two highest
16 compensated consecutive years of service shall include a sum not to
17 exceed thirty-six hundred dollars for each of such two consecutive
18 years, regardless of whether or not legislative service was rendered
19 during those two years.

20 (iii) For members employed less than full time under written
21 contract with a school district, or community college district, in an
22 instructional position, for which the member receives service credit of
23 less than one year in all of the years used to determine the earnable
24 compensation used for computing benefits due under RCW 41.32.497,
25 41.32.498, and 41.32.520, the member may elect to have earnable
26 compensation defined as provided in RCW 41.32.345. For the purposes of
27 this subsection, the term "instructional position" means a position in
28 which more than seventy-five percent of the member's time is spent as
29 a classroom instructor (including office hours), a librarian, or a
30 counselor. Earnable compensation shall be so defined only for the
31 purpose of the calculation of retirement benefits and only as necessary
32 to insure that members who receive fractional service credit under RCW
33 41.32.270 receive benefits proportional to those received by members
34 who have received full-time service credit.

35 (iv) "Earnable compensation" does not include:

36 (A) Remuneration for unused sick leave authorized under RCW
37 41.04.340, 28A.400.210, or 28A.310.490;

38 (B) Remuneration for unused annual leave in excess of thirty days
39 as authorized by RCW 43.01.044 and 43.01.041;

1 (C) Housing allowances authorized in section 2 of this act.

2 (b) "Earnable compensation" for plan 2 and plan 3 members, means
3 salaries or wages earned by a member during a payroll period for
4 personal services, including overtime payments, and shall include wages
5 and salaries deferred under provisions established pursuant to sections
6 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
7 shall exclude lump sum payments for deferred annual sick leave, unused
8 accumulated vacation, unused accumulated annual leave, or any form of
9 severance pay.

10 "Earnable compensation" for plan 2 and plan 3 members also includes
11 the following actual or imputed payments which, except in the case of
12 (b)(ii)(B) of this subsection, are not paid for personal services:

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

20 (ii) In any year in which a member serves in the legislature the
21 member shall have the option of having such member's earnable
22 compensation be the greater of:

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

25 (B) Such member's actual earnable compensation received for
26 teaching and legislative service combined. Any additional
27 contributions to the retirement system required because compensation
28 earnable under (b)(ii)(A) of this subsection is greater than
29 compensation earnable under (b)(ii)(B) of this subsection shall be paid
30 by the member for both member and employer contributions.

31 (11) "Employer" means the state of Washington, the school district,
32 or any agency of the state of Washington by which the member is paid.

33 (12) "Fiscal year" means a year which begins July 1st and ends June
34 30th of the following year.

35 (13) "Former state fund" means the state retirement fund in
36 operation for teachers under chapter 187, Laws of 1923, as amended.

37 (14) "Local fund" means any of the local retirement funds for
38 teachers operated in any school district in accordance with the
39 provisions of chapter 163, Laws of 1917 as amended.

1 (15) "Member" means any teacher included in the membership of the
2 retirement system. Also, any other employee of the public schools who,
3 on July 1, 1947, had not elected to be exempt from membership and who,
4 prior to that date, had by an authorized payroll deduction, contributed
5 to the member reserve.

6 (16) "Membership service" means service rendered subsequent to the
7 first day of eligibility of a person to membership in the retirement
8 system: PROVIDED, That where a member is employed by two or more
9 employers the individual shall receive no more than one service credit
10 month during any calendar month in which multiple service is rendered.
11 The provisions of this subsection shall apply only to plan 1 members.

12 (17) "Pension" means the moneys payable per year during life from
13 the pension reserve.

14 (18) "Pension reserve" is a fund in which shall be accumulated an
15 actuarial reserve adequate to meet present and future pension
16 liabilities of the system and from which all pension obligations are to
17 be paid.

18 (19) "Prior service" means service rendered prior to the first date
19 of eligibility to membership in the retirement system for which credit
20 is allowable. The provisions of this subsection shall apply only to
21 plan 1 members.

22 (20) "Prior service contributions" means contributions made by a
23 member to secure credit for prior service. The provisions of this
24 subsection shall apply only to plan 1 members.

25 (21) "Public school" means any institution or activity operated by
26 the state of Washington or any instrumentality or political subdivision
27 thereof employing teachers, except the University of Washington and
28 Washington State University.

29 (22) "Regular contributions" means the amounts required to be
30 deducted from the compensation of a member and credited to the member's
31 individual account in the member reserve. This subsection shall apply
32 only to plan 1 members.

33 (23) "Regular interest" means such rate as the director may
34 determine.

35 (24)(a) "Retirement allowance" for plan 1 members, means monthly
36 payments based on the sum of annuity and pension, or any optional
37 benefits payable in lieu thereof.

1 (b) "Retirement allowance" for plan 2 and plan 3 members, means
2 monthly payments to a retiree or beneficiary as provided in this
3 chapter.

4 (25) "Retirement system" means the Washington state teachers'
5 retirement system.

6 (26)(a) "Service" for plan 1 members means the time during which a
7 member has been employed by an employer for compensation.

8 (i) If a member is employed by two or more employers the individual
9 shall receive no more than one service credit month during any calendar
10 month in which multiple service is rendered.

11 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
12 sick leave may be creditable as service solely for the purpose of
13 determining eligibility to retire under RCW 41.32.470.

14 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
15 state retirement system that covers teachers in public schools may be
16 applied solely for the purpose of determining eligibility to retire
17 under RCW 41.32.470.

18 (b) "Service" for plan 2 and plan 3 members, means periods of
19 employment by a member for one or more employers for which earnable
20 compensation is earned subject to the following conditions:

21 (i) A member employed in an eligible position or as a substitute
22 shall receive one service credit month for each month of September
23 through August of the following year if he or she earns earnable
24 compensation for eight hundred ten or more hours during that period and
25 is employed during nine of those months, except that a member may not
26 receive credit for any period prior to the member's employment in an
27 eligible position except as provided in RCW 41.32.812 and 41.50.132;

28 (ii) If a member is employed either in an eligible position or as
29 a substitute teacher for nine months of the twelve month period between
30 September through August of the following year but earns earnable
31 compensation for less than eight hundred ten hours but for at least six
32 hundred thirty hours, he or she will receive one-half of a service
33 credit month for each month of the twelve month period;

34 (iii) All other members in an eligible position or as a substitute
35 teacher shall receive service credit as follows:

36 (A) A service credit month is earned in those calendar months where
37 earnable compensation is earned for ninety or more hours;

1 (B) A half-service credit month is earned in those calendar months
2 where earnable compensation is earned for at least seventy hours but
3 less than ninety hours; and

4 (C) A quarter-service credit month is earned in those calendar
5 months where earnable compensation is earned for less than seventy
6 hours.

7 (iv) Any person who is a member of the teachers' retirement system
8 and who is elected or appointed to a state elective position may
9 continue to be a member of the retirement system and continue to
10 receive a service credit month for each of the months in a state
11 elective position by making the required member contributions.

12 (v) When an individual is employed by two or more employers the
13 individual shall only receive one month's service credit during any
14 calendar month in which multiple service for ninety or more hours is
15 rendered.

16 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
17 sick leave may be creditable as service solely for the purpose of
18 determining eligibility to retire under RCW 41.32.470. For purposes of
19 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
20 to two service credit months. Use of less than forty-five days of sick
21 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

30 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
31 state retirement system that covers teachers in public schools may be
32 applied solely for the purpose of determining eligibility to retire
33 under RCW 41.32.470.

34 (viii) The department shall adopt rules implementing this
35 subsection.

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) "Teacher" means any person qualified to teach who is engaged
2 by a public school in an instructional, administrative, or supervisory
3 capacity. The term includes state, educational service district, and
4 school district superintendents and their assistants and all employees
5 certificated by the superintendent of public instruction; and in
6 addition thereto any full time school doctor who is employed by a
7 public school and renders service of an instructional or educational
8 nature.

9 (30) "Average final compensation" for plan 2 and plan 3 members,
10 means the member's average earnable compensation of the highest
11 consecutive sixty service credit months prior to such member's
12 retirement, termination, or death. Periods constituting authorized
13 leaves of absence may not be used in the calculation of average final
14 compensation except under RCW 41.32.810(2).

15 (31) "Retiree" means any person who has begun accruing a retirement
16 allowance or other benefit provided by this chapter resulting from
17 service rendered to an employer while a member.

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

20 (33) "Director" means the director of the department.

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

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

26 (36) "Substitute teacher" means:

27 (a) A teacher who is hired by an employer to work as a temporary
28 teacher, except for teachers who are annual contract employees of an
29 employer and are guaranteed a minimum number of hours; or

30 (b) Teachers who either (i) work in ineligible positions for more
31 than one employer or (ii) work in an ineligible position or positions
32 together with an eligible position.

33 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
34 through September 1, 1991, means a position which normally requires two
35 or more uninterrupted months of creditable service during September
36 through August of the following year.

37 (b) "Eligible position" for plan 2 and plan 3 on and after
38 September 1, 1991, means a position that, as defined by the employer,
39 normally requires five or more months of at least seventy hours of

1 earnable compensation during September through August of the following
2 year.

3 (c) For purposes of this chapter an employer shall not define
4 "position" in such a manner that an employee's monthly work for that
5 employer is divided into more than one position.

6 (d) The elected position of the superintendent of public
7 instruction is an eligible position.

8 (38) "Plan 1" means the teachers' retirement system, plan 1
9 providing the benefits and funding provisions covering persons who
10 first became members of the system prior to October 1, 1977.

11 (39) "Plan 2" means the teachers' retirement system, plan 2
12 providing the benefits and funding provisions covering persons who
13 first became members of the system on and after October 1, 1977, and
14 prior to July 1, 1996.

15 (40) "Plan 3" means the teachers' retirement system, plan 3
16 providing the benefits and funding provisions covering persons who
17 first become members of the system on and after July 1, 1996, or who
18 transfer under RCW 41.32.817.

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

23 (42) "Index A" means the index for the year prior to the
24 determination of a postretirement adjustment.

25 (43) "Index B" means the index for the year prior to index A.

26 (44) "Index year" means the earliest calendar year in which the
27 index is more than sixty percent of index A.

28 (45) "Adjustment ratio" means the value of index A divided by index
29 B.

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

33 (47) "Member account" or "member's account" for purposes of plan 3
34 means the sum of the contributions and earnings on behalf of the member
35 in the defined contribution portion of plan 3.

36 (48) "Separation from service or employment" occurs when a person
37 has terminated all employment with an employer.

38 (49) "Employed" or "employee" means a person who is providing
39 services for compensation to an employer, unless the person is free

1 from the employer's direction and control over the performance of work.
2 The department shall adopt rules and interpret this subsection
3 consistent with common law.

4 **Sec. 7.** RCW 41.40.010 and 1998 c 341 s 601 are each amended to
5 read as follows:

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

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

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

12 (3) "State treasurer" means the treasurer of the state of
13 Washington.

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

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

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

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

1 (a) Any person who became a member of the system prior to April 1,
2 1949;

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

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

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

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

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

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

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

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

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

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

17 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
18 72.09.240;

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

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

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

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

31 (A) Remuneration for unused sick leave authorized under RCW
32 41.04.340, 28A.400.210, or 28A.310.490;

33 (B) Remuneration for unused annual leave in excess of thirty days
34 as authorized by RCW 43.01.044 and 43.01.041;

35 (C) Housing allowances authorized in section 2 of this act.

36 (b) "Compensation earnable" for plan 2 members, means salaries or
37 wages earned by a member during a payroll period for personal services,
38 including overtime payments, and shall include wages and salaries
39 deferred under provisions established pursuant to sections 403(b),

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (13) "Membership service" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (25) "Eligible position" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **Sec. 8.** RCW 41.40.010 and 2000 c 247 s 102 are each amended to
14 read as follows:

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

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

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

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

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

34 (b) "Employer" for plan 2 and plan 3 members, means every branch,
35 department, agency, commission, board, and office of the state, and any
36 political subdivision and municipal corporation of the state admitted
37 into the retirement system, including public agencies created pursuant
38 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August

1 31, 2000, school districts and educational service districts will no
2 longer be employers for the public employees' retirement system plan 2.

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

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

9 (a) Any person who became a member of the system prior to April 1,
10 1949;

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

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

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

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

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

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

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

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

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

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

24 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
25 72.09.240;

26 (D) Compensation that a member would have received but for a
27 disability occurring in the line of duty only as authorized by RCW
28 41.40.038;

29 (E) Compensation that a member receives due to participation in the
30 leave sharing program only as authorized by RCW 41.04.650 through
31 41.04.670; and

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

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

38 (A) Remuneration for unused sick leave authorized under RCW
39 41.04.340, 28A.400.210, or 28A.310.490;

1 (B) Remuneration for unused annual leave in excess of thirty days
2 as authorized by RCW 43.01.044 and 43.01.041;

3 (C) Housing allowances authorized in section 2 of this act.

4 (b) "Compensation earnable" for plan 2 and plan 3 members, means
5 salaries or wages earned by a member during a payroll period for
6 personal services, including overtime payments, and shall include wages
7 and salaries deferred under provisions established pursuant to sections
8 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
9 shall exclude nonmoney maintenance compensation and lump sum or other
10 payments for deferred annual sick leave, unused accumulated vacation,
11 unused accumulated annual leave, or any form of severance pay.

12 "Compensation earnable" for plan 2 and plan 3 members also includes
13 the following actual or imputed payments, which are not paid for
14 personal services:

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

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

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

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

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

35 (iv) Compensation that a member would have received but for a
36 disability occurring in the line of duty only as authorized by RCW
37 41.40.038;

1 (v) Compensation that a member receives due to participation in the
2 leave sharing program only as authorized by RCW 41.04.650 through
3 41.04.670; and

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

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

25 (i) Service by a state employee officially assigned by the state on
26 a temporary basis to assist another public agency, shall be considered
27 as service as a state employee: PROVIDED, That service to any other
28 public agency shall not be considered service as a state employee if
29 such service has been used to establish benefits in any other public
30 retirement system.

31 (ii) An individual shall receive no more than a total of twelve
32 service credit months of service during any calendar year. If an
33 individual is employed in an eligible position by one or more employers
34 the individual shall receive no more than one service credit month
35 during any calendar month in which multiple service for seventy or more
36 hours is rendered.

37 (iii) A school district employee may count up to forty-five days of
38 sick leave as creditable service solely for the purpose of determining
39 eligibility to retire under RCW 41.40.180 as authorized by RCW

1 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
2 28A.400.300 is equal to two service credit months. Use of less than
3 forty-five days of sick leave is creditable as allowed under this
4 subsection as follows:

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

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

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

10 (b) "Service" for plan 2 and plan 3 members, means periods of
11 employment by a member in an eligible position or positions for one or
12 more employers for which compensation earnable is paid. Compensation
13 earnable earned for ninety or more hours in any calendar month shall
14 constitute one service credit month except as provided in RCW
15 41.40.088. Compensation earnable earned for at least seventy hours but
16 less than ninety hours in any calendar month shall constitute one-half
17 service credit month of service. Compensation earnable earned for less
18 than seventy hours in any calendar month shall constitute one-quarter
19 service credit month of service. Time spent in standby status, whether
20 compensated or not, is not service.

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

23 (i) Service in any state elective position shall be deemed to be
24 full time service, except that persons serving in state elective
25 positions who are members of the Washington school employees'
26 retirement system, teachers' retirement system, or law enforcement
27 officers' and fire fighters' retirement system at the time of election
28 or appointment to such position may elect to continue membership in the
29 Washington school employees' retirement system, teachers' retirement
30 system, or law enforcement officers' and fire fighters' retirement
31 system.

32 (ii) A member shall receive a total of not more than twelve service
33 credit months of service for such calendar year. If an individual is
34 employed in an eligible position by one or more employers the
35 individual shall receive no more than one service credit month during
36 any calendar month in which multiple service for ninety or more hours
37 is rendered.

38 (iii) Up to forty-five days of sick leave may be creditable as
39 service solely for the purpose of determining eligibility to retire

1 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
2 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
3 to two service credit months. Use of less than forty-five days of sick
4 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

19 (13) "Membership service" means:

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

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

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

34 (d) Service not to exceed six consecutive months of probationary
35 service, rendered after October 1, 1947, and before April 1, 1949, and
36 prior to becoming a member, in the case of any member, upon payment in
37 full by such member of five percent of such member's salary during said
38 period of probationary service, except that the amount of the

1 employer's contribution shall be calculated by the director based on
2 the first month's compensation earnable as a member.

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

6 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
7 in receipt of a retirement allowance or other benefit provided by this
8 chapter resulting from service rendered to an employer by another
9 person.

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

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

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

22 (b) "Average final compensation" for plan 2 and plan 3 members,
23 means the member's average compensation earnable of the highest
24 consecutive sixty months of service credit months prior to such
25 member's retirement, termination, or death. Periods constituting
26 authorized leaves of absence may not be used in the calculation of
27 average final compensation except under RCW 41.40.710(2).

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

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

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

36 (21) "Retirement allowance" means the sum of the annuity and the
37 pension.

38 (22) "Employee" or "employed" means a person who is providing
39 services for compensation to an employer, unless the person is free

1 from the employer's direction and control over the performance of work.
2 The department shall adopt rules and interpret this subsection
3 consistent with common law.

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

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

9 (25) "Eligible position" means:

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

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

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

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

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

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

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

33 (31) "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 (32) "State actuary" or "actuary" means the person appointed
37 pursuant to RCW 44.44.010(2).

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

4 (34) "Plan 2" means the public employees' retirement system, plan
5 2 providing the benefits and funding provisions covering persons who
6 first became members of the system on and after October 1, 1977, and
7 are not included in plan 3.

8 (35) "Plan 3" means the public employees' retirement system, plan
9 3 providing the benefits and funding provisions covering persons who:

10 (a) First become a member on or after:

11 (i) March 1, 2002, and are employed by a state agency or institute
12 of higher education and who did not choose to enter plan 2; or

13 (ii) September 1, 2002, and are employed by other than a state
14 agency or institute of higher education and who did not choose to enter
15 plan 2; or

16 (b) Transferred to plan 3 under RCW 41.40.795.

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

21 (37) "Index A" means the index for the year prior to the
22 determination of a postretirement adjustment.

23 (38) "Index B" means the index for the year prior to index A.

24 (39) "Index year" means the earliest calendar year in which the
25 index is more than sixty percent of index A.

26 (40) "Adjustment ratio" means the value of index A divided by index
27 B.

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

31 (42) "Separation from service" occurs when a person has terminated
32 all employment with an employer.

33 (43) "Member account" or "member's account" for purposes of plan 3
34 means the sum of the contributions and earnings on behalf of the member
35 in the defined contribution portion of plan 3.

36 NEW SECTION. **Sec. 9.** Section 7 of this act expires March 1, 2002.

1 NEW SECTION. **Sec. 10.** Section 8 of this act takes effect March 1,
2 2002.

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