
HOUSE BILL 2201

State of Washington 57th Legislature 2001 Regular Session

By Representative Miloscia

Read first time 02/26/2001. Referred to Committee on Higher Education.

1 AN ACT Relating to housing allowances for eligible community and
2 technical college employees; amending RCW 28B.52.020, 41.32.010,
3 41.40.010, and 41.40.010; reenacting and amending RCW 41.56.030; adding
4 a new section to chapter 28B.50 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 among
8 community and technical college districts across the state has grown in
9 recent years, the purchasing power of equalized salaries has become
10 more disparate for employees of community and technical colleges. A
11 major contributor to these costs is housing. The purpose of this act
12 is to provide a housing allowance for community and technical college
13 employees in order to minimize disparities in purchasing power among
14 community and technical college employees across the state.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.50 RCW
16 to read as follows:

1 (1) Community and technical college districts shall provide a
2 housing allowance for eligible employees as provided for in this
3 section.

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

15 (3)(a) The cost of housing shall be calculated for each school
16 district in the state in accordance with subsection (2) of this
17 section.

18 (b) Except as provided in (c) of this subsection, the median
19 housing cost shall be based on data for the school district in which
20 the community and technical college district administrative office is
21 located.

22 (c) For community and technical college districts containing a
23 metropolitan area as defined in this section, the cost of housing shall
24 be calculated based on the metropolitan area in which the community and
25 technical college district administration is located, not the location
26 of the community and technical college district administration.

27 (4)(a) Housing allowances shall be available to community and
28 technical college districts in which the cost of housing as determined
29 under subsection (3) of this section exceeds the statewide median cost
30 of housing based on a standard set of housing specifications but not to
31 exceed thirty percent of the median costs.

32 (b) Housing allowances are not earnable compensation as defined in
33 RCW 41.32.010 or compensation earnable as defined in RCW 41.40.010.

34 (c) Housing allowances shall be a subject of collective bargaining
35 in each community and technical college district in which housing
36 allowances are available.

37 (5) The housing allowance shall be paid only to actively employed
38 eligible employees and is not earnable compensation or compensation
39 earnable for purposes of retirement benefits.

1 (6) In the 2001-2003 biennium, the state shall allocate housing
2 allowance funds for ten percent of the full cost of housing allowances.
3 In the 2003-2005 biennium the state shall allocate twenty percent of
4 the full cost of housing allowances. In the 2005-2007 biennium the
5 state shall allocate forty percent of the full cost of housing
6 allowances. In the 2007-2009 biennium the state shall allocate eighty
7 percent of the full cost of housing allowances.

8 (7) The college board shall administer the housing allowance
9 program and shall adopt rules for implementation. The college board
10 shall allocate the housing allowance to eligible community and
11 technical college districts. The college board shall arrange with the
12 superintendent of public instruction to receive data obtained under
13 subsection (2) of this section.

14 (8) The definitions in this subsection apply throughout this
15 section.

16 (a) "Eligible employees" means academic employees as defined in RCW
17 28B.52.020 and full and part-time technical college classified
18 employees subject to chapter 41.56 RCW.

19 (b) "Metropolitan area" means an area of more than one city where
20 the cities have adjoining boundaries, within a single community and
21 technical college district.

22 **Sec. 3.** RCW 28B.52.020 and 1991 c 238 s 146 are each amended to
23 read as follows:

24 As used in this chapter:

25 (1) "Employee organization" means any organization which includes
26 as members the academic employees of a college district and which has
27 as one of its purposes the representation of the employees in their
28 employment relations with the college district.

29 (2) "Academic employee" means any teacher, counselor, librarian, or
30 department head, who is employed by any college district, whether full
31 or part time, with the exception of the chief administrative officer
32 of, and any administrator in, each college district.

33 (3) "Administrator" means any person employed either full or part
34 time by the college district and who performs administrative functions
35 as at least fifty percent or more of his or her assignments, and has
36 responsibilities to hire, dismiss, or discipline other employees.
37 Administrators shall not be members of the bargaining unit unless a
38 majority of such administrators and a majority of the bargaining unit

1 elect by secret ballot for such inclusion pursuant to rules as adopted
2 in accordance with RCW 28B.52.080.

3 (4) "Commission" means the public employment relations commission.

4 (5) "Unfair labor practice" means any unfair labor practice listed
5 in RCW 28B.52.073.

6 (6) "Union security provision" means a provision in a collective
7 bargaining agreement under which some or all employees in the
8 bargaining unit may be required, as a condition of continued employment
9 on or after the thirtieth day following the beginning of such
10 employment or the effective date of the provision, whichever is later,
11 to become a member of the exclusive bargaining representative or pay an
12 agency fee equal to the periodic dues and initiation fees uniformly
13 required as a condition of acquiring or retaining membership in the
14 exclusive bargaining representative.

15 (7) "Exclusive bargaining representative" means any employee
16 organization which has:

17 (a) Been certified or recognized under this chapter as the
18 representative of the employees in an appropriate collective bargaining
19 unit; or

20 (b) Before July 26, 1987, been certified or recognized under a
21 predecessor statute as the representative of the employees in a
22 bargaining unit which continues to be appropriate under this chapter.

23 (8) "Collective bargaining" and "bargaining" mean the performance
24 of the mutual obligation of the representatives of the employer and the
25 exclusive bargaining representative to meet at reasonable times to
26 bargain in good faith in an effort to reach agreement with respect to
27 wages, hours, and other terms and conditions of employment, such as
28 procedures related to housing allowances, nonretention, dismissal,
29 denial of tenure, and reduction in force. Prior law, practice, or
30 interpretation shall be neither restrictive, expansive, nor
31 determinative with respect to the scope of bargaining. A written
32 contract incorporating any agreements reached shall be executed if
33 requested by either party. The obligation to bargain does not compel
34 either party to agree to a proposal or to make a concession.

35 In the event of a dispute between an employer and an exclusive
36 bargaining representative over the matters that are terms and
37 conditions of employment, the commission shall decide which items are
38 mandatory subjects for bargaining.

1 **Sec. 4.** RCW 41.56.030 and 2000 c 23 s 1 and 2000 c 19 s 1 are each
2 reenacted and amended to read as follows:

3 As used in this chapter:

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

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

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

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

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

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

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

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

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

35 **Sec. 5.** RCW 41.32.010 and 1997 c 254 s 3 are each amended to read
36 as follows:

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

1 (1)(a) "Accumulated contributions" for plan 1 members, means the
2 sum of all regular annuity contributions and, except for the purpose of
3 withdrawal at the time of retirement, any amount paid under RCW
4 41.50.165(2) with regular interest thereon.

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

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

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

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

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

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

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

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

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

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

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

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

1 (ii) "Earnable compensation" 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 wages which the
8 individual would have earned during a payroll period shall be
9 considered earnable compensation and the individual shall receive the
10 equivalent service credit.

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

23 (iii) For members employed less than full time under written
24 contract with a school district, or community college district, in an
25 instructional position, for which the member receives service credit of
26 less than one year in all of the years used to determine the earnable
27 compensation used for computing benefits due under RCW 41.32.497,
28 41.32.498, and 41.32.520, the member may elect to have earnable
29 compensation defined as provided in RCW 41.32.345. For the purposes of
30 this subsection, the term "instructional position" means a position in
31 which more than seventy-five percent of the member's time is spent as
32 a classroom instructor (including office hours), a librarian, or a
33 counselor. Earnable compensation shall be so defined only for the
34 purpose of the calculation of retirement benefits and only as necessary
35 to insure that members who receive fractional service credit under RCW
36 41.32.270 receive benefits proportional to those received by members
37 who have received full-time service credit.

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

1 (A) Remuneration for unused sick leave authorized under RCW
2 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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

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

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

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

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

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

37 (12) "Fiscal year" means a year which begins July 1st and ends June
38 30th of the following year.

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

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

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

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

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

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

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

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

30 (21) "Public school" means any institution or activity operated by
31 the state of Washington or any instrumentality or political subdivision
32 thereof employing teachers, except the University of Washington and
33 Washington State University.

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

38 (23) "Regular interest" means such rate as the director may
39 determine.

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

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

7 (25) "Retirement system" means the Washington state teachers'
8 retirement system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (viii) The department shall adopt rules implementing this
37 subsection.

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

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

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

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

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

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

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

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

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

28 (36) "Substitute teacher" means:

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

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

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

1 (b) "Eligible position" for plan 2 and plan 3 on and after
2 September 1, 1991, means a position that, as defined by the employer,
3 normally requires five or more months of at least seventy hours of
4 earnable compensation during September through August of the following
5 year.

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

9 (d) The elected position of the superintendent of public
10 instruction is an eligible position.

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

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

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

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

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

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

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

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

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

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

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

3 (49) "Employed" or "employee" means a person who is providing
4 services for compensation to an employer, unless the person is free
5 from the employer's direction and control over the performance of work.
6 The department shall adopt rules and interpret this subsection
7 consistent with common law.

8 **Sec. 6.** RCW 41.40.010 and 1998 c 341 s 601 are each amended to
9 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (b) "Compensation earnable" for plan 2 members, means salaries or
39 wages earned by a member during a payroll period for personal services,

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

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

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

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

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

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

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

30 (iv) Compensation that a member would have received but for a
31 disability occurring in the line of duty only as authorized by RCW
32 41.40.038;

33 (v) Compensation that a member receives due to participation in the
34 leave sharing program only as authorized by RCW 41.04.650 through
35 41.04.670; and

36 (vi) Compensation that a member receives for being in standby
37 status. For the purposes of this section, a member is in standby
38 status when not being paid for time actually worked and the employer

1 requires the member to be prepared to report immediately for work, if
2 the need arises, although the need may not arise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (13) "Membership service" means:

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

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

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

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

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

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

4 (15) "Regular interest" means such rate as the director may
5 determine.

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

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

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

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

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

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

30 (21) "Retirement allowance" means the sum of the annuity and the
31 pension.

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

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

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

3 (25) "Eligible position" means:

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

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

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

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

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

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

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

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

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

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

35 (34) "Plan 2" means the public employees' retirement system, plan
36 2 providing the benefits and funding provisions covering persons who
37 first became members of the system on and after October 1, 1977.

38 (35) "Index" means, for any calendar year, that year's annual
39 average consumer price index, Seattle, Washington area, for urban wage

1 earners and clerical workers, all items, compiled by the bureau of
2 labor statistics, United States department of labor.

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

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

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

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

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

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

15 **Sec. 7.** RCW 41.40.010 and 2000 c 247 s 102 are each amended to
16 read as follows:

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

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

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

23 (3) "State treasurer" means the treasurer of the state of
24 Washington.

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

36 (b) "Employer" for plan 2 and plan 3 members, means every branch,
37 department, agency, commission, board, and office of the state, and any
38 political subdivision and municipal corporation of the state admitted

1 into the retirement system, including public agencies created pursuant
2 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
3 31, 2000, school districts and educational service districts will no
4 longer be employers for the public employees' retirement system plan 2.

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

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

11 (a) Any person who became a member of the system prior to April 1,
12 1949;

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

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

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

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

32 (f) Any member who has been a contributor under the system for two
33 or more years and who has restored all contributions that may have been
34 withdrawn as provided by RCW 41.40.150 and who on the effective date of
35 the individual's retirement has rendered five or more years of service
36 for the state or any political subdivision prior to the time of the
37 admission of the employer into the system; except that the provisions
38 relating to the minimum amount of retirement allowance for the member

1 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
2 apply to the member.

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

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

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

13 (A) 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 wage which the
17 individual would have earned during a payroll period shall be
18 considered compensation earnable and the individual shall receive the
19 equivalent service credit;

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

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

28 (D) 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 (E) 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 (F) 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.

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

1 (A) Remuneration for unused sick leave authorized under RCW
2 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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

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

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

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

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

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

37 (iv) Compensation that a member would have received but for a
38 disability occurring in the line of duty only as authorized by RCW
39 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. 8.** Section 6 of this act expires March 1, 2002.

1 NEW SECTION. **Sec. 9.** Section 7 of this act takes effect March 1,
2 2002.

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