
SENATE BILL 5204

State of Washington 57th Legislature 2001 Regular Session

By Senators Fraser, Long, Winsley, Franklin, Snyder and Kohl-Welles

Read first time 01/16/2001. Referred to Committee on Ways & Means.

1 AN ACT Relating to making an irrevocable choice to become a member
2 of the Washington school employees' retirement system plan 2 or plan 3;
3 amending RCW 41.35.610 and 41.35.010; and providing an effective date.

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

5 **Sec. 1.** RCW 41.35.610 and 1998 c 341 s 202 are each amended to
6 read as follows:

7 All classified employees who first become employed by an employer
8 in an eligible position on or after September 1, ~~((2000))~~ 2002, shall
9 ~~((be members of plan III))~~ have a period of one hundred eighty days to
10 make an irrevocable choice to become a member of plan 2 or plan 3. At
11 the end of one hundred eighty days, if the member makes no choice, he
12 or she remains a member of plan 2.

13 (2) Until an employee elects to become a member of plan 3, the
14 member shall be reported to the department in plan 2, with member and
15 employer contributions. If the member exercises the option to enter
16 plan 3, all service credit and employer contributions shall be
17 transferred to the member's plan 3 defined benefit. All employee
18 contributions plus any interest earned shall be transferred to the
19 member's plan 3 defined contribution account.

1 **Sec. 2.** RCW 41.35.010 and 1998 c 341 s 2 are each amended to read
2 as follows:

3 The definitions in this section apply throughout this chapter,
4 unless the context clearly requires otherwise:

5 (1) "Retirement system" means the Washington school employees'
6 retirement system provided for in this chapter.

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

9 (3) "State treasurer" means the treasurer of the state of
10 Washington.

11 (4) "Employer," for plan 2 and plan 3 members, means a school
12 district or an educational service district.

13 (5) "Member" means any employee included in the membership of the
14 retirement system, as provided for in RCW 41.35.030.

15 (6)(a) "Compensation earnable" for plan 2 and plan 3 members, means
16 salaries or wages earned by a member during a payroll period for
17 personal services, including overtime payments, and shall include wages
18 and salaries deferred under provisions established pursuant to sections
19 403(b), 414(h), and 457 of the United States internal revenue code, but
20 shall exclude nonmoney maintenance compensation and lump sum or other
21 payments for deferred annual sick leave, unused accumulated vacation,
22 unused accumulated annual leave, or any form of severance pay.

23 (b) "Compensation earnable" for plan 2 and plan 3 members also
24 includes the following actual or imputed payments, which are not paid
25 for personal services:

26 (i) Retroactive payments to an individual by an employer on
27 reinstatement of the employee in a position, or payments by an employer
28 to an individual in lieu of reinstatement, which are awarded or granted
29 as the equivalent of the salary or wage which the individual would have
30 earned during a payroll period shall be considered compensation
31 earnable to the extent provided in this subsection, and the individual
32 shall receive the equivalent service credit;

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

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

38 (B) Such member's actual compensation earnable received for
39 nonlegislative public employment and legislative service combined. Any

1 additional contributions to the retirement system required because
2 compensation earnable under (b)(ii)(A) of this subsection is greater
3 than compensation earnable under this (b)(ii)(B) of this subsection
4 shall be paid by the member for both member and employer contributions;

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

7 (iv) Compensation that a member would have received but for a
8 disability occurring in the line of duty only as authorized by RCW
9 41.40.038;

10 (v) Compensation that a member receives due to participation in the
11 leave sharing program only as authorized by RCW 41.04.650 through
12 41.04.670; and

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

18 (7) "Service" for plan 2 and plan 3 members means periods of
19 employment by a member in an eligible position or positions for one or
20 more employers for which compensation earnable is paid. Compensation
21 earnable earned for ninety or more hours in any calendar month shall
22 constitute one service credit month except as provided in RCW
23 41.35.180. Compensation earnable earned for at least seventy hours but
24 less than ninety hours in any calendar month shall constitute one-half
25 service credit month of service. Compensation earnable earned for less
26 than seventy hours in any calendar month shall constitute one-quarter
27 service credit month of service. Time spent in standby status, whether
28 compensated or not, is not service.

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

31 (a) Service in any state elective position shall be deemed to be
32 full-time service.

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

1 (c) For purposes of plan 2 and 3 "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 (i) Less than eleven days equals one-quarter service credit month;

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

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

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

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

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

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

17 (10) "Membership service" means all service rendered as a member.

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

22 (12) "Regular interest" means such rate as the director may
23 determine.

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

28 (14) "Average final compensation" for plan 2 and plan 3 members
29 means the member's average compensation earnable of the highest
30 consecutive sixty months of service credit months prior to such
31 member's retirement, termination, or death. Periods constituting
32 authorized leaves of absence may not be used in the calculation of
33 average final compensation except under RCW 41.40.710(2).

34 (15) "Final compensation" means the annual rate of compensation
35 earnable by a member at the time of termination of employment.

36 (16) "Annuity" means payments for life derived from accumulated
37 contributions of a member. All annuities shall be paid in monthly
38 installments.

1 (17) "Pension" means payments for life derived from contributions
2 made by the employer. All pensions shall be paid in monthly
3 installments.

4 (18) "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 (19) "Employee" or "employed" means a person who is providing
8 services for compensation to an employer, unless the person is free
9 from the employer's direction and control over the performance of work.
10 The department shall adopt rules and interpret this subsection
11 consistent with common law.

12 (20) "Actuarial equivalent" means a benefit of equal value when
13 computed upon the basis of such mortality and other tables as may be
14 adopted by the director.

15 (21) "Retirement" means withdrawal from active service with a
16 retirement allowance as provided by this chapter.

17 (22) "Eligible position" means any position that, as defined by the
18 employer, normally requires five or more months of service a year for
19 which regular compensation for at least seventy hours is earned by the
20 occupant thereof. For purposes of this chapter an employer shall not
21 define "position" in such a manner that an employee's monthly work for
22 that employer is divided into more than one position.

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

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

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

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

35 (27) "Director" means the director of the department.

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

1 (29) "State actuary" or "actuary" means the person appointed
2 pursuant to RCW 44.44.010(2).

3 (30) "Plan 2" means the Washington school employees' retirement
4 system plan 2 providing the benefits and funding provisions covering
5 persons who first became members of the public employees' retirement
6 system on and after October 1, 1977, and transferred to the Washington
7 school employees' retirement system under RCW 41.40.750, and are not
8 included in plan 3.

9 (31) "Plan 3" means the Washington school employees' retirement
10 system plan 3 providing the benefits and funding provisions covering
11 persons who first became members of the system on and after September
12 1, 2000, and who chose to enter plan 3 or who transfer from plan 2
13 under RCW 41.35.510.

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

18 (33) "Index A" means the index for the year prior to the
19 determination of a postretirement adjustment.

20 (34) "Index B" means the index for the year prior to index A.

21 (35) "Adjustment ratio" means the value of index A divided by index
22 B.

23 (36) "Separation from service" occurs when a person has terminated
24 all employment with an employer.

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

28 (38) "Classified employee" means an employee of a school district
29 or an educational service district who is not eligible for membership
30 in the teachers' retirement system established under chapter 41.32 RCW.

31 NEW SECTION. **Sec. 3.** This act takes effect September 1, 2002.

--- END ---