
ENGROSSED HOUSE BILL 2771

State of Washington

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By Representatives Pettigrew, Cody, and Springer

Read first time 02/03/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to employer and employee relationships under the
2 state retirement systems; amending RCW 41.26.030, 41.32.010, and
3 41.40.010; reenacting and amending RCW 41.35.010 and 41.37.010; adding
4 a new section to chapter 41.04 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** (1) On August 18, 2011, the state supreme
7 court entered an opinion in the matter of *Dolan v. King County*, Cause
8 No. 82842-3. The court recognized that a public employees' retirement
9 system eligible employee must work for a public employees' retirement
10 system employer under RCW 41.40.010. However, the court did not
11 explain how such an employee can be an employee of a government
12 contractor and also of a government employer. The legislature
13 determines it necessary and appropriate to affirmatively state that a
14 governmental contractor is not an employer for purposes of the state's
15 public pension systems, including the public employees' retirement
16 system, whether or not the contractor is providing mandatory or
17 discretionary governmental services, and whether or not the contractor
18 is a for-profit or not-for-profit entity.

1 (2) The legislature has not intended in its pension legislation to
2 provide retirement system eligibility to employees of government
3 contractors. Only in specific circumstances, such as employees of
4 entities, including nonprofits, created by government under the
5 interlocal cooperation act in chapter 39.34 RCW, has the legislature
6 and department of retirement systems permitted retirement system
7 eligibility for employees of government contractors. The department's
8 rules in WAC 415-02-110 conform to the purpose and intent of the
9 legislature regarding public pension eligibility.

10 (3) It is the purpose of this act to more clearly state and to
11 confirm that employees of for-profit or not-for-profit corporations or
12 other entities providing services under governmental contracts are not,
13 as a result of providing such governmental service, eligible for
14 membership in the various public retirement programs. The state and
15 its local governments have not provided for such eligibility and such
16 eligibility would create unfunded liability for state and local
17 governments and potential impacts on the integrity of the public
18 pension systems.

19 (4) This act provides cross-references to existing statutes that
20 affect eligibility for pensions under the retirement systems authorized
21 by chapters 41.26, 41.32, 41.35, 41.37, 41.40, and 41.50 RCW and to the
22 relevant definition sections of those chapters. Except as provided,
23 this act is technical in nature and neither enhances nor diminishes
24 existing pension rights. It is not the intent of the legislature to
25 change the substance or effect of any statute previously enacted.
26 Rather, this act provides cross-references to applicable statutes in
27 order to aid with the administration of eligibility and benefits
28 authorized in chapters 41.26, 41.32, 41.35, 41.37, 41.40, and 41.50
29 RCW.

30 (5) This act is curative and remedial, but does not affect the
31 state supreme court decision in *Dolan v. King County*, Cause No. 82842-
32 3, and the right established therein of King county public defenders
33 and staff to public employees' retirement system enrollment and
34 eligibility.

35 **Sec. 2.** RCW 41.26.030 and 2011 1st sp.s. c 5 s 1 are each amended
36 to read as follows:

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

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

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

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

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

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

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

35 (ii) Such member's actual basic salary received for nonlegislative
36 public employment and legislative service combined. Any additional
37 contributions to the retirement system required because basic salary

1 under (b)(i) of this subsection is greater than basic salary under
2 (b)(ii) of this subsection shall be paid by the member for both member
3 and employer contributions.

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

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

10 (6)(a) "Child" or "children" means an unmarried person who is under
11 the age of eighteen or mentally or physically disabled as determined by
12 the department, except a person who is disabled and in the full time
13 care of a state institution, who is:

14 (i) A natural born child;

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

17 (iii) A posthumous child;

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

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

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

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

31 (8) "Director" means the director of the department.

32 (9) "Disability board" for plan 1 members means either the county
33 disability board or the city disability board established in RCW
34 41.26.110.

35 (10) "Disability leave" means the period of six months or any
36 portion thereof during which a member is on leave at an allowance equal
37 to the member's full salary prior to the commencement of disability

1 retirement. The definition contained in this subsection shall apply
2 only to plan 1 members.

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

6 (12) "Domestic partners" means two adults who have registered as
7 domestic partners under RCW 26.60.020.

8 (13) "Employee" means any law enforcement officer or firefighter as
9 defined in subsections (16) and (18) of this section.

10 (14)(a) "Employer" for plan 1 members, means the legislative
11 authority of any city, town, county, or district or the elected
12 officials of any municipal corporation that employs any law enforcement
13 officer and/or firefighter, any authorized association of such
14 municipalities, and, except for the purposes of RCW 41.26.150, any
15 labor guild, association, or organization, which represents the
16 firefighters or law enforcement officers of at least seven cities of
17 over 20,000 population and the membership of each local lodge or
18 division of which is composed of at least sixty percent law enforcement
19 officers or firefighters as defined in this chapter.

20 (b) "Employer" for plan 2 members, means the following entities to
21 the extent that the entity employs any law enforcement officer and/or
22 firefighter:

23 (i) The legislative authority of any city, town, county, or
24 district;

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

26 (iii) The governing body of any other general authority law
27 enforcement agency; or

28 (iv) A four-year institution of higher education having a fully
29 operational fire department as of January 1, 1996.

30 (c) Except as otherwise specifically provided in this chapter,
31 "employer" does not include a government contractor. For purposes of
32 this subsection, a "government contractor" is any entity, including a
33 partnership, limited liability company, for-profit or nonprofit
34 corporation, or person, that provides services pursuant to a contract
35 with an "employer." The determination whether an employer-employee
36 relationship has been established is not based on the relationship
37 between a government contractor and an "employer," but is based solely

1 on the relationship between a government contractor's employee and an
2 "employer" under this chapter.

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

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

23 (c) In calculating final average salary under (a) or (b) of this
24 subsection, the department of retirement systems shall include:

25 (i) Any compensation forgone by a member employed by a state agency
26 or institution during the 2009-2011 fiscal biennium as a result of
27 reduced work hours, mandatory or voluntary leave without pay, temporary
28 reduction in pay implemented prior to December 11, 2010, or temporary
29 layoffs if the reduced compensation is an integral part of the
30 employer's expenditure reduction efforts, as certified by the employer;
31 and

32 (ii) Any compensation forgone by a member employed by the state or
33 a local government employer during the 2011-2013 fiscal biennium as a
34 result of reduced work hours, mandatory leave without pay, temporary
35 layoffs, or reductions to current pay if the reduced compensation is an
36 integral part of the employer's expenditure reduction efforts, as
37 certified by the employer. Reductions to current pay shall not include
38 elimination of previously agreed upon future salary increases.

1 (16) "Firefighter" means:

2 (a) Any person who is serving on a full time, fully compensated
3 basis as a member of a fire department of an employer and who is
4 serving in a position which requires passing a civil service
5 examination for firefighter, and who is actively employed as such;

6 (b) Anyone who is actively employed as a full time firefighter
7 where the fire department does not have a civil service examination;

8 (c) Supervisory firefighter personnel;

9 (d) Any full time executive secretary of an association of fire
10 protection districts authorized under RCW 52.12.031. The provisions of
11 this subsection (16)(d) shall not apply to plan 2 members;

12 (e) The executive secretary of a labor guild, association or
13 organization (which is an employer under subsection (14) of this
14 section), if such individual has five years previous membership in a
15 retirement system established in chapter 41.16 or 41.18 RCW. The
16 provisions of this subsection (16)(e) shall not apply to plan 2
17 members;

18 (f) Any person who is serving on a full time, fully compensated
19 basis for an employer, as a fire dispatcher, in a department in which,
20 on March 1, 1970, a dispatcher was required to have passed a civil
21 service examination for firefighter;

22 (g) Any person who on March 1, 1970, was employed on a full time,
23 fully compensated basis by an employer, and who on May 21, 1971, was
24 making retirement contributions under the provisions of chapter 41.16
25 or 41.18 RCW; and

26 (h) Any person who is employed on a full-time, fully compensated
27 basis by an employer as an emergency medical technician.

28 (17) "General authority law enforcement agency" means any agency,
29 department, or division of a municipal corporation, political
30 subdivision, or other unit of local government of this state, and any
31 agency, department, or division of state government, having as its
32 primary function the detection and apprehension of persons committing
33 infractions or violating the traffic or criminal laws in general, but
34 not including the Washington state patrol. Such an agency, department,
35 or division is distinguished from a limited authority law enforcement
36 agency having as one of its functions the apprehension or detection of
37 persons committing infractions or violating the traffic or criminal
38 laws relating to limited subject areas, including but not limited to,

1 the state departments of natural resources and social and health
2 services, the state gambling commission, the state lottery commission,
3 the state parks and recreation commission, the state utilities and
4 transportation commission, the state liquor control board, and the
5 state department of corrections. A general authority law enforcement
6 agency under this chapter does not include a government contractor.

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

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

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

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

26 (d) The term "law enforcement officer" also includes the executive
27 secretary of a labor guild, association or organization (which is an
28 employer under subsection (14) of this section) if that individual has
29 five years previous membership in the retirement system established in
30 chapter 41.20 RCW. The provisions of this subsection (18)(d) shall not
31 apply to plan 2 members; and

32 (e) The term "law enforcement officer" also includes a person
33 employed on or after January 1, 1993, as a public safety officer or
34 director of public safety, so long as the job duties substantially
35 involve only either police or fire duties, or both, and no other duties
36 in a city or town with a population of less than ten thousand. The
37 provisions of this subsection (18)(e) shall not apply to any public

1 safety officer or director of public safety who is receiving a
2 retirement allowance under this chapter as of May 12, 1993.

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

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

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

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

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

16 (i) The fees of the following:

17 (A) A physician or surgeon licensed under the provisions of chapter
18 18.71 RCW;

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

21 (C) A chiropractor licensed under the provisions of chapter 18.25
22 RCW.

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

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

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

28 (B) Diagnostic X-ray and laboratory examinations;

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

30 (D) Anesthesia and oxygen;

31 (E) Rental of iron lung and other durable medical and surgical
32 equipment;

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

34 (G) Professional ambulance service when used to transport the
35 member to or from a hospital when injured by an accident or stricken by
36 a disease;

37 (H) Dental charges incurred by a member who sustains an accidental

1 injury to his or her teeth and who commences treatment by a legally
2 licensed dentist within ninety days after the accident;

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

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

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

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

9 (20) "Member" means any firefighter, law enforcement officer, or
10 other person as would apply under subsections (16) or (18) of this
11 section whose membership is transferred to the Washington law
12 enforcement officers' and firefighters' retirement system on or after
13 March 1, 1970, and every law enforcement officer and firefighter who is
14 employed in that capacity on or after such date.

15 (21) "Plan 1" means the law enforcement officers' and firefighters'
16 retirement system, plan 1 providing the benefits and funding provisions
17 covering persons who first became members of the system prior to
18 October 1, 1977.

19 (22) "Plan 2" means the law enforcement officers' and firefighters'
20 retirement system, plan 2 providing the benefits and funding provisions
21 covering persons who first became members of the system on and after
22 October 1, 1977.

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

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

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

31 (26) "Retirement fund" means the "Washington law enforcement
32 officers' and firefighters' retirement system fund" as provided for
33 herein.

34 (27) "Retirement system" means the "Washington law enforcement
35 officers' and firefighters' retirement system" provided herein.

36 (28)(a) "Service" for plan 1 members, means all periods of
37 employment for an employer as a firefighter or law enforcement officer,
38 for which compensation is paid, together with periods of suspension not

1 exceeding thirty days in duration. For the purposes of this chapter
2 service shall also include service in the armed forces of the United
3 States as provided in RCW 41.26.190. Credit shall be allowed for all
4 service credit months of service rendered by a member from and after
5 the member's initial commencement of employment as a firefighter or law
6 enforcement officer, during which the member worked for seventy or more
7 hours, or was on disability leave or disability retirement. Only
8 service credit months of service shall be counted in the computation of
9 any retirement allowance or other benefit provided for in this chapter.

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

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

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

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

37 Service credit years of service shall be determined by dividing the
38 total number of service credit months of service by twelve. Any

1 fraction of a service credit year of service as so determined shall be
2 taken into account in the computation of such retirement allowance or
3 benefits.

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

13 (29) "Service credit month" means a full service credit month or an
14 accumulation of partial service credit months that are equal to one.

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

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

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

22 (33) "Surviving spouse" means the surviving widow or widower of a
23 member. "Surviving spouse" shall not include the divorced spouse of a
24 member except as provided in RCW 41.26.162.

25 **Sec. 3.** RCW 41.32.010 and 2011 1st sp.s. c 5 s 2 are each amended
26 to read as follows:

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

29 (1)(a) "Accumulated contributions" for plan 1 members, means the
30 sum of all regular annuity contributions and, except for the purpose of
31 withdrawal at the time of retirement, any amount paid under RCW
32 41.50.165(2) with regular interest thereon.

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

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

4 (3) "Adjustment ratio" means the value of index A divided by index
5 B.

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

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

11 (6) "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 (7)(a) "Beneficiary" for plan 1 members, means any person in
18 receipt of a retirement allowance or other benefit provided by this
19 chapter.

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

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

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

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

31 (11) "Dependent" means receiving one-half or more of support from
32 a member.

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

34 (13) "Disability allowance" means monthly payments during
35 disability. This subsection shall apply only to plan 1 members.

36 (14)(a) "Earnable compensation" for plan 1 members, means:

37 (i) All salaries and wages paid by an employer to an employee
38 member of the retirement system for personal services rendered during

1 a fiscal year. In all cases where compensation includes maintenance
2 the employer shall fix the value of that part of the compensation not
3 paid in money.

4 (ii) For an employee member of the retirement system teaching in an
5 extended school year program, two consecutive extended school years, as
6 defined by the employer school district, may be used as the annual
7 period for determining earnable compensation in lieu of the two fiscal
8 years.

9 (iii) "Earnable compensation" for plan 1 members also includes the
10 following actual or imputed payments, which are not paid for personal
11 services:

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

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

31 (iv) For members employed less than full time under written
32 contract with a school district, or community college district, in an
33 instructional position, for which the member receives service credit of
34 less than one year in all of the years used to determine the earnable
35 compensation used for computing benefits due under RCW 41.32.497,
36 41.32.498, and 41.32.520, the member may elect to have earnable
37 compensation defined as provided in RCW 41.32.345. For the purposes of
38 this subsection, the term "instructional position" means a position in

1 which more than seventy-five percent of the member's time is spent as
2 a classroom instructor (including office hours), a librarian, a
3 psychologist, a social worker, a nurse, a physical therapist, an
4 occupational therapist, a speech language pathologist or audiologist,
5 or a counselor. Earnable compensation shall be so defined only for the
6 purpose of the calculation of retirement benefits and only as necessary
7 to insure that members who receive fractional service credit under RCW
8 41.32.270 receive benefits proportional to those received by members
9 who have received full-time service credit.

10 (v) "Earnable compensation" does not include:

11 (A) Remuneration for unused sick leave authorized under RCW
12 41.04.340, 28A.400.210, or 28A.310.490;

13 (B) Remuneration for unused annual leave in excess of thirty days
14 as authorized by RCW 43.01.044 and 43.01.041.

15 (b) "Earnable compensation" 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 lump sum payments for deferred annual sick leave, unused
21 accumulated vacation, unused accumulated annual leave, or any form of
22 severance pay.

23 "Earnable compensation" for plan 2 and plan 3 members also includes
24 the following actual or imputed payments which, except in the case of
25 (b)(ii)(B) of this subsection, are not paid 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 in a position which are
29 awarded or granted as the equivalent of the salary or wages which the
30 individual would have earned during a payroll period shall be
31 considered earnable compensation, to the extent provided above, and the
32 individual 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 earnable
35 compensation be the greater of:

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

1 (B) Such member's actual earnable compensation received for
2 teaching and legislative service combined. Any additional
3 contributions to the retirement system required because compensation
4 earnable under (b)(ii)(A) of this subsection is greater than
5 compensation earnable under (b)(ii)(B) of this subsection shall be paid
6 by the member for both member and employer contributions.

7 (c) In calculating earnable compensation under (a) or (b) of this
8 subsection, the department of retirement systems shall include:

9 (i) Any compensation forgone by a member employed by a state agency
10 or institution during the 2009-2011 fiscal biennium as a result of
11 reduced work hours, mandatory or voluntary leave without pay, temporary
12 reduction in pay implemented prior to December 11, 2010, or temporary
13 layoffs if the reduced compensation is an integral part of the
14 employer's expenditure reduction efforts, as certified by the employer;
15 and

16 (ii) Any compensation forgone by a member during the 2011-2013
17 fiscal biennium as a result of reduced work hours, mandatory leave
18 without pay, temporary layoffs, or reductions to current pay if the
19 reduced compensation is an integral part of the employer's expenditure
20 reduction efforts, as certified by the employer. Reductions to current
21 pay shall not include elimination of previously agreed upon future
22 salary reductions.

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

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

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

35 (d) The elected position of the superintendent of public
36 instruction is an eligible position.

37 (16) "Employed" or "employee" means a person who is providing
38 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 (17) "Employer" means the state of Washington, the school district,
5 or any agency of the state of Washington by which the member is paid.
6 Except as otherwise specifically provided in this chapter, "employer"
7 does not include a government contractor. For purposes of this
8 subsection, a "government contractor" is any entity, including a
9 partnership, limited liability company, for-profit or nonprofit
10 corporation, or person, that provides services pursuant to a contract
11 with an employer. The determination whether an employer-employee
12 relationship has been established is not based on the relationship
13 between a government contractor and an employer, but is based solely on
14 the relationship between a government contractor's employee and an
15 employer under this chapter.

16 (18) "Fiscal year" means a year which begins July 1st and ends June
17 30th of the following year.

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

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

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

26 (22) "Index B" means the index for the year prior to index A.

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

29 (24) "Local fund" means any of the local retirement funds for
30 teachers operated in any school district in accordance with the
31 provisions of chapter 163, Laws of 1917 as amended.

32 (25) "Member" means any teacher included in the membership of the
33 retirement system who has not been removed from membership under RCW
34 41.32.878 or 41.32.768. Also, any other employee of the public schools
35 who, on July 1, 1947, had not elected to be exempt from membership and
36 who, prior to that date, had by an authorized payroll deduction,
37 contributed to the member reserve.

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

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

6 (28) "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 (29) "Pension" means the moneys payable per year during life from
13 the pension reserve.

14 (30) "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 (31) "Plan 1" means the teachers' retirement system, plan 1
19 providing the benefits and funding provisions covering persons who
20 first became members of the system prior to October 1, 1977.

21 (32) "Plan 2" means the teachers' retirement system, plan 2
22 providing the benefits and funding provisions covering persons who
23 first became members of the system on and after October 1, 1977, and
24 prior to July 1, 1996.

25 (33) "Plan 3" means the teachers' retirement system, plan 3
26 providing the benefits and funding provisions covering persons who
27 first become members of the system on and after July 1, 1996, or who
28 transfer under RCW 41.32.817.

29 (34) "Prior service" means service rendered prior to the first date
30 of eligibility to membership in the retirement system for which credit
31 is allowable. The provisions of this subsection shall apply only to
32 plan 1 members.

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

36 (36) "Public school" means any institution or activity operated by
37 the state of Washington or any instrumentality or political subdivision

1 thereof employing teachers, except the University of Washington and
2 Washington State University.

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

7 (38) "Regular interest" means such rate as the director may
8 determine.

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

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

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

18 (41) "Retirement system" means the Washington state teachers'
19 retirement system.

20 (42) "Separation from service or employment" occurs when a person
21 has terminated all employment with an employer. Separation from
22 service or employment does not occur, and if claimed by an employer or
23 employee may be a violation of RCW 41.32.055, when an employee and
24 employer have a written or oral agreement to resume employment with the
25 same employer following termination. Mere expressions or inquiries
26 about postretirement employment by an employer or employee that do not
27 constitute a commitment to reemploy the employee after retirement are
28 not an agreement under this section.

29 (43)(a) "Service" for plan 1 members means the time during which a
30 member has been employed by an employer for compensation.

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

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

37 (iii) As authorized in RCW 41.32.065, service earned in an out-of-

1 state retirement system that covers teachers in public schools may be
2 applied solely for the purpose of determining eligibility to retire
3 under RCW 41.32.470.

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

7 (i) A member employed in an eligible position or as a substitute
8 shall receive one service credit month for each month of September
9 through August of the following year if he or she earns earnable
10 compensation for eight hundred ten or more hours during that period and
11 is employed during nine of those months, except that a member may not
12 receive credit for any period prior to the member's employment in an
13 eligible position except as provided in RCW 41.32.812 and 41.50.132.

14 (ii) Any other member employed in an eligible position or as a
15 substitute who earns earnable compensation during the period from
16 September through August shall receive service credit according to one
17 of the following methods, whichever provides the most service credit to
18 the member:

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

25 (B) If a member is employed in an eligible position or as a
26 substitute teacher for at least five months of a six-month period
27 between September through August of the following year and earns
28 earnable compensation for six hundred thirty or more hours within the
29 six-month period, he or she will receive a maximum of six service
30 credit months for the school year, which shall be recorded as one
31 service credit month for each month of the six-month period;

32 (C) All other members employed in an eligible position or as a
33 substitute teacher shall receive service credit as follows:

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

36 (II) A half-service credit month is earned in those calendar months
37 where earnable compensation is earned for at least seventy hours but
38 less than ninety hours; and

1 (III) A quarter-service credit month is earned in those calendar
2 months where earnable compensation is earned for less than seventy
3 hours.

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

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

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

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

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

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

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

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

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

31 (vii) The department shall adopt rules implementing this
32 subsection.

33 (44) "Service credit month" means a full service credit month or an
34 accumulation of partial service credit months that are equal to one.

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

37 (46) "State actuary" or "actuary" means the person appointed
38 pursuant to RCW 44.44.010(2).

1 (47) "State elective position" means any position held by any
2 person elected or appointed to statewide office or elected or appointed
3 as a member of the legislature.

4 (48) "Substitute teacher" means:

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

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

11 (49) "Teacher" means any person qualified to teach who is engaged
12 by a public school in an instructional, administrative, or supervisory
13 capacity. The term includes state, educational service district, and
14 school district superintendents and their assistants and all employees
15 certificated by the superintendent of public instruction; and in
16 addition thereto any full time school doctor who is employed by a
17 public school and renders service of an instructional or educational
18 nature.

19 **Sec. 4.** RCW 41.35.010 and 2011 1st sp.s. c 5 s 3 are each
20 reenacted and amended to read as follows:

21 The definitions in this section apply throughout this chapter,
22 unless the context clearly requires otherwise.

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

27 (2) "Actuarial equivalent" means a benefit of equal value when
28 computed upon the basis of such mortality and other tables as may be
29 adopted by the director.

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

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

35 (5)(a) "Average final compensation" for plan 2 and plan 3 members
36 means the member's average compensation earnable of the highest
37 consecutive sixty months of service credit months prior to such

1 member's retirement, termination, or death. Periods constituting
2 authorized leaves of absence may not be used in the calculation of
3 average final compensation except under RCW 41.40.710(2).

4 (b) In calculating average final compensation under (a) of this
5 subsection, the department of retirement systems shall include any
6 compensation forgone by a member during the 2011-2013 fiscal biennium
7 as a result of reduced work hours, mandatory leave without pay,
8 temporary layoffs, or reductions to current pay if the reduced
9 compensation is an integral part of the employer's expenditure
10 reduction efforts, as certified by the employer. Reductions to current
11 pay shall not include elimination of previously agreed upon future
12 salary reductions.

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

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

20 (8)(a) "Compensation earnable" for plan 2 and plan 3 members, means
21 salaries or wages earned by a member during a payroll period for
22 personal services, including overtime payments, and shall include wages
23 and salaries deferred under provisions established pursuant to sections
24 403(b), 414(h), and 457 of the United States internal revenue code, but
25 shall exclude nonmoney maintenance compensation and lump sum or other
26 payments for deferred annual sick leave, unused accumulated vacation,
27 unused accumulated annual leave, or any form of severance pay.

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

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

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

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

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

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

14 (iv) Compensation that a member would have received but for a
15 disability occurring in the line of duty only as authorized by RCW
16 41.40.038;

17 (v) Compensation that a member receives due to participation in the
18 leave sharing program only as authorized by RCW 41.04.650 through
19 41.04.670; and

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

25 (9) "Department" means the department of retirement systems created
26 in chapter 41.50 RCW.

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

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

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

1 (13) "Employer," for plan 2 and plan 3 members, means a school
2 district or an educational service district. Except as otherwise
3 specifically provided in this chapter, "employer" does not include a
4 government contractor. For purposes of this subsection, a "government
5 contractor" is any entity, including a partnership, limited liability
6 company, for-profit or nonprofit corporation, or person, that provides
7 services pursuant to a contract with an employer. The determination
8 whether an employer-employee relationship has been established is not
9 based on the relationship between a government contractor and an
10 employer, but is based solely on the relationship between a government
11 contractor's employee and an employer under this chapter.

12 (14) "Final compensation" means the annual rate of compensation
13 earnable by a member at the time of termination of employment.

14 (15) "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 (16) "Index A" means the index for the year prior to the
19 determination of a postretirement adjustment.

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

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

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

27 (20) "Member" means any employee included in the membership of the
28 retirement system, as provided for in RCW 41.35.030.

29 (21) "Member account" or "member's account" for purposes of plan 3
30 means the sum of the contributions and earnings on behalf of the member
31 in the defined contribution portion of plan 3.

32 (22) "Membership service" means all service rendered as a member.

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

36 (24) "Plan 2" means the Washington school employees' retirement
37 system plan 2 providing the benefits and funding provisions covering

1 persons who first became members of the public employees' retirement
2 system on and after October 1, 1977, and transferred to the Washington
3 school employees' retirement system under RCW 41.40.750.

4 (25) "Plan 3" means the Washington school employees' retirement
5 system plan 3 providing the benefits and funding provisions covering
6 persons who first became members of the system on and after September
7 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

8 (26) "Regular interest" means such rate as the director may
9 determine.

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

13 (28) "Retirement" means withdrawal from active service with a
14 retirement allowance as provided by this chapter.

15 (29) "Retirement allowance" for plan 2 and plan 3 members means
16 monthly payments to a retiree or beneficiary as provided in this
17 chapter.

18 (30) "Retirement system" means the Washington school employees'
19 retirement system provided for in this chapter.

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

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

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

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

37 (b) A member shall receive a total of not more than twelve service
38 credit months of service for such calendar year. If an individual is

1 employed in an eligible position by one or more employers the
2 individual shall receive no more than one service credit month during
3 any calendar month in which multiple service for ninety or more hours
4 is rendered.

5 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW
6 28A.400.300 is equal to two service credit months. Use of less than
7 forty-five days of sick leave is creditable as allowed under this
8 subsection as follows:

9 (i) Less than eleven days equals one-quarter service credit month;

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

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

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

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

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

19 (34) "Service credit year" means an accumulation of months of
20 service credit which is equal to one when divided by twelve.

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

23 (36) "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 (37) "State treasurer" means the treasurer of the state of
27 Washington.

28 (38) "Substitute employee" means a classified employee who is
29 employed by an employer exclusively as a substitute for an absent
30 employee.

31 **Sec. 5.** RCW 41.37.010 and 2011 1st sp.s. c 5 s 4 and 2011 c 68 s
32 1 are each reenacted and amended to read as follows:

33 The definitions in this section apply throughout this chapter,
34 unless the context clearly requires otherwise.

35 (1) "Accumulated contributions" means the sum of all contributions
36 standing to the credit of a member in the member's individual account,

1 including any amount paid under RCW 41.50.165(2), together with the
2 regular interest thereon.

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

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

8 (4) "Annuity" means payments for life derived from accumulated
9 contributions of a member. All annuities shall be paid in monthly
10 installments.

11 (5)(a) "Average final compensation" means the member's average
12 compensation earnable of the highest consecutive sixty months of
13 service credit months prior to such member's retirement, termination,
14 or death. Periods constituting authorized leaves of absence may not be
15 used in the calculation of average final compensation except under RCW
16 41.37.290.

17 (b) In calculating average final compensation under (a) of this
18 subsection, the department of retirement systems shall include:

19 (i) Any compensation forgone by a member employed by a state agency
20 or institution during the 2009-2011 fiscal biennium as a result of
21 reduced work hours, mandatory or voluntary leave without pay, temporary
22 reduction in pay implemented prior to December 11, 2010, or temporary
23 layoffs if the reduced compensation is an integral part of the
24 employer's expenditure reduction efforts, as certified by the employer;
25 and

26 (ii) Any compensation forgone by a member employed by the state or
27 a local government employer during the 2011-2013 fiscal biennium as a
28 result of reduced work hours, mandatory leave without pay, temporary
29 layoffs, or reductions to current pay if the reduced compensation is an
30 integral part of the employer's expenditure reduction efforts, as
31 certified by the employer. Reductions to current pay shall not include
32 elimination of previously agreed upon future salary increases.

33 (6) "Beneficiary" means any person in receipt of a retirement
34 allowance or other benefit provided by this chapter resulting from
35 service rendered to an employer by another person.

36 (7)(a) "Compensation earnable" for members, means salaries or wages
37 earned by a member during a payroll period for personal services,
38 including overtime payments, and shall include wages and salaries

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

6 (b) "Compensation earnable" for members also includes the following
7 actual or imputed payments, which are not paid for personal 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, which are awarded or granted
11 as the equivalent of the salary or wage which the individual would have
12 earned during a payroll period shall be considered compensation
13 earnable to the extent provided in this subsection, and the individual
14 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 41.37.060;

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

3 (9) "Director" means the director of the department.

4 (10) "Eligible position" means any permanent, full-time position
5 included in subsection (19) of this section.

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

11 (12) "Employer" means the Washington state department of
12 corrections, the Washington state parks and recreation commission, the
13 Washington state gambling commission, the Washington state patrol, the
14 Washington state department of natural resources, and the Washington
15 state liquor control board; any county corrections department; any city
16 corrections department not covered under chapter 41.28 RCW; and any
17 public corrections entity created under RCW 39.34.030 by counties,
18 cities not covered under chapter 41.28 RCW, or both. Except as
19 otherwise specifically provided in this chapter, "employer" does not
20 include a government contractor. For purposes of this subsection, a
21 "government contractor" is any entity, including a partnership, limited
22 liability company, for-profit or nonprofit corporation, or person, that
23 provides services pursuant to a contract with an employer. The
24 determination whether an employer-employee relationship has been
25 established is not based on the relationship between a government
26 contractor and an employer, but is based solely on the relationship
27 between a government contractor's employee and an employer under this
28 chapter.

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

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

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

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

1 (17) "Ineligible position" means any position which does not
2 conform with the requirements set forth in subsection (10) of this
3 section.

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

7 (19) "Member" means any employee employed by an employer on a full-
8 time basis:

9 (a) Who is in a position that requires completion of a certified
10 criminal justice training course and is authorized by their employer to
11 arrest, conduct criminal investigations, enforce the criminal laws of
12 the state of Washington, and carry a firearm as part of the job;

13 (b) Whose primary responsibility is to ensure the custody and
14 security of incarcerated or probationary individuals as a corrections
15 officer, probation officer, or jailer;

16 (c) Who is a limited authority Washington peace officer, as defined
17 in RCW 10.93.020, for an employer; or

18 (d) Whose primary responsibility is to supervise members eligible
19 under this subsection.

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

21 (21) "Pension" means payments for life derived from contributions
22 made by the employer. All pensions shall be paid in monthly
23 installments.

24 (22) "Plan" means the Washington public safety employees'
25 retirement system plan 2.

26 (23) "Regular interest" means such rate as the director may
27 determine.

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

31 (25) "Retirement" means withdrawal from active service with a
32 retirement allowance as provided by this chapter.

33 (26) "Retirement allowance" means monthly payments to a retiree or
34 beneficiary as provided in this chapter.

35 (27) "Retirement system" means the Washington public safety
36 employees' retirement system provided for in this chapter.

37 (28) "Separation from service" occurs when a person has terminated
38 all employment with an employer.

1 (29) "Service" means periods of employment by a member on or after
2 July 1, 2006, for one or more employers for which compensation earnable
3 is paid. Compensation earnable earned for ninety or more hours in any
4 calendar month shall constitute one service credit month. Compensation
5 earnable earned for at least seventy hours but less than ninety hours
6 in any calendar month shall constitute one-half service credit month of
7 service. Compensation earnable earned for less than seventy hours in
8 any calendar month shall constitute one-quarter service credit month of
9 service. Time spent in standby status, whether compensated or not, is
10 not service.

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

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

15 (b) A member shall receive a total of not more than twelve service
16 credit months of service for such calendar year. If an individual is
17 employed in an eligible position by one or more employers the
18 individual shall receive no more than one service credit month during
19 any calendar month in which multiple service for ninety or more hours
20 is rendered.

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

23 (31) "Service credit year" means an accumulation of months of
24 service credit which is equal to one when divided by twelve.

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

27 (33) "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 (34) "State treasurer" means the treasurer of the state of
31 Washington.

32 **Sec. 6.** RCW 41.40.010 and 2011 1st sp.s. c 5 s 5 are each amended
33 to read as follows:

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

36 (1) "Accumulated contributions" means the sum of all contributions

1 standing to the credit of a member in the member's individual account,
2 including any amount paid under RCW 41.50.165(2), together with the
3 regular interest thereon.

4 (2) "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 (3) "Adjustment ratio" means the value of index A divided by index
8 B.

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

12 (5) "Annuity" means payments for life derived from accumulated
13 contributions of a member. All annuities shall be paid in monthly
14 installments.

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

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

28 (c) In calculating average final compensation under this subsection
29 for a member of plan 1, 2, or 3, the department of retirement systems
30 shall include:

31 (i) Any compensation forgone by the member during the 2009-2011
32 fiscal biennium as a result of reduced work hours, voluntary leave
33 without pay, temporary reduction in pay implemented prior to December
34 11, 2010, or temporary furloughs if the reduced compensation is an
35 integral part of the employer's expenditure reduction efforts, as
36 certified by the employer; and

37 (ii) Any compensation forgone by a member employed by the state or
38 a local government during the 2011-2013 fiscal biennium as a result of

1 reduced work hours, mandatory leave without pay, temporary layoffs, or
2 reductions to current pay if the reduced compensation is an integral
3 part of the employer's expenditure reduction efforts, as certified by
4 the employer. Reductions to current pay shall not include elimination
5 of previously agreed upon future salary increases.

6 (7)(a) "Beneficiary" for plan 1 members, means any person in
7 receipt of a retirement allowance, pension or other benefit provided by
8 this chapter.

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

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

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

21 (A) Retroactive payments to an individual by an employer on
22 reinstatement of the employee in a position, or payments by an employer
23 to an individual in lieu of reinstatement in a position which are
24 awarded or granted as the equivalent of the salary or wage which the
25 individual would have earned during a payroll period shall be
26 considered compensation earnable and the individual shall receive the
27 equivalent service credit;

28 (B) If a leave of absence is taken by an individual for the purpose
29 of serving in the state legislature, the salary which would have been
30 received for the position from which the leave of absence was taken,
31 shall be considered as compensation earnable if the employee's
32 contribution is paid by the employee and the employer's contribution is
33 paid by the employer or employee;

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

36 (D) Compensation that a member would have received but for a
37 disability occurring in the line of duty only as authorized by RCW
38 41.40.038;

1 (E) 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 (F) 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 (ii) "Compensation earnable" does not include:

10 (A) Remuneration for unused sick leave authorized under RCW
11 41.04.340, 28A.400.210, or 28A.310.490;

12 (B) Remuneration for unused annual leave in excess of thirty days
13 as authorized by RCW 43.01.044 and 43.01.041.

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

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

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

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

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

37 (B) Such member's actual compensation earnable received for
38 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 (b)(ii)(B) of this subsection shall be
4 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 (9) "Department" means the department of retirement systems created
19 in chapter 41.50 RCW.

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

21 (11) "Eligible position" means:

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

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

32 (12) "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 (13)(a) "Employer" for plan 1 members, means every branch,
38 department, agency, commission, board, and office of the state, any

1 political subdivision or association of political subdivisions of the
2 state admitted into the retirement system, and legal entities
3 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
4 term shall also include any labor guild, association, or organization
5 the membership of a local lodge or division of which is comprised of at
6 least forty percent employees of an employer (other than such labor
7 guild, association, or organization) within this chapter. The term may
8 also include any city of the first class that has its own retirement
9 system.

10 (b) "Employer" for plan 2 and plan 3 members, means every branch,
11 department, agency, commission, board, and office of the state, and any
12 political subdivision and municipal corporation of the state admitted
13 into the retirement system, including public agencies created pursuant
14 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
15 31, 2000, school districts and educational service districts will no
16 longer be employers for the public employees' retirement system plan 2.

17 (c) Except as otherwise specifically provided in this chapter,
18 "employer" does not include a government contractor. For purposes of
19 this subsection, a "government contractor" is any entity, including a
20 partnership, limited liability company, for-profit or nonprofit
21 corporation, or person, that provides services pursuant to a contract
22 with an "employer." The determination whether an employer-employee
23 relationship has been established is not based on the relationship
24 between a government contractor and an "employer," but is based solely
25 on the relationship between a government contractor's employee and an
26 "employer" under this chapter.

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

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

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

35 (17) "Index B" means the index for the year prior to index A.

36 (18) "Index year" means the earliest calendar year in which the
37 index is more than sixty percent of index A.

1 (19) "Ineligible position" means any position which does not
2 conform with the requirements set forth in subsection (11) of this
3 section.

4 (20) "Leave of absence" means the period of time a member is
5 authorized by the employer to be absent from service without being
6 separated from membership.

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

12 (22) "Member account" or "member's account" for purposes of plan 3
13 means the sum of the contributions and earnings on behalf of the member
14 in the defined contribution portion of plan 3.

15 (23) "Membership service" means:

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

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

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

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

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

1 (25) "Original member" of this retirement system means:

2 (a) Any person who became a member of the system prior to April 1,
3 1949;

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

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

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

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

23 (f) Any member who has been a contributor under the system for two
24 or more years and who has restored all contributions that may have been
25 withdrawn as provided by RCW 41.40.150 and who on the effective date of
26 the individual's retirement has rendered five or more years of service
27 for the state or any political subdivision prior to the time of the
28 admission of the employer into the system; 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 (26) "Pension" means payments for life derived from contributions
33 made by the employer. All pensions shall be paid in monthly
34 installments.

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

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

5 (29) "Plan 3" means the public employees' retirement system, plan
6 providing the benefits and funding provisions covering persons who:

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

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

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

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

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

16 (31) "Regular interest" means such rate as the director may
17 determine.

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

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

23 (34) "Retirement allowance" means the sum of the annuity and the
24 pension.

25 (35) "Retirement system" means the public employees' retirement
26 system provided for in this chapter.

27 (36) "Separation from service" occurs when a person has terminated
28 all employment with an employer. Separation from service or employment
29 does not occur, and if claimed by an employer or employee may be a
30 violation of RCW 41.40.055, when an employee and employer have a
31 written or oral agreement to resume employment with the same employer
32 following termination. Mere expressions or inquiries about
33 postretirement employment by an employer or employee that do not
34 constitute a commitment to reemploy the employee after retirement are
35 not an agreement under this subsection.

36 (37)(a) "Service" for plan 1 members, except as provided in RCW
37 41.40.088, means periods of employment in an eligible position or
38 positions for one or more employers rendered to any employer for which

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

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

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

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

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

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

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

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

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

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

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

30 (iii) Up to forty-five days of sick leave may be creditable as
31 service solely for the purpose of determining eligibility to retire
32 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
33 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
34 to two service credit months. Use of less than forty-five days of sick
35 leave is creditable as allowed under this subsection as follows:

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

37 (B) Eleven or more days but less than twenty-two days equals one-
38 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 (38) "Service credit month" means a month or an accumulation of
7 months of service credit which is equal to one.

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

10 (40) "State actuary" or "actuary" means the person appointed
11 pursuant to RCW 44.44.010(2).

12 (41) "State elective position" means any position held by any
13 person elected or appointed to statewide office or elected or appointed
14 as a member of the legislature.

15 (42) "State treasurer" means the treasurer of the state of
16 Washington.

17 (43) "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 NEW SECTION. **Sec. 7.** A new section is added to chapter 41.04 RCW
21 to read as follows:

22 (1) This act is curative and remedial and is applicable to any
23 future determination of eligibility for membership in a retirement
24 system under chapters 41.26, 41.32, 41.35, 41.37, and 41.40 RCW.

25 (2) This act does not apply to or contravene any prior final
26 decision of the state supreme court regarding the interpretation of the
27 statutes addressed in this act.

28 NEW SECTION. **Sec. 8.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

--- END ---