
HOUSE BILL 2771

State of Washington 62nd Legislature 2012 Regular Session

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; creating a new section; and
5 declaring an emergency.

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

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

32 **Sec. 2.** RCW 41.26.030 and 2011 1st sp.s. c 5 s 1 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 employee's contributions

1 made by a member, including any amount paid under RCW 41.50.165(2),
2 plus accrued interest credited thereon.

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

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

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

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

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

32 (ii) Such member's actual basic salary received for nonlegislative
33 public employment and legislative service combined. Any additional
34 contributions to the retirement system required because basic salary
35 under (b)(i) of this subsection is greater than basic salary under
36 (b)(ii) of this subsection shall be paid by the member for both member
37 and employer contributions.

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

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

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

11 (i) A natural born child;

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

14 (iii) A posthumous child;

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

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

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

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

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

29 (9) "Disability board" for plan 1 members means either the county
30 disability board or the city disability board established in RCW
31 41.26.110.

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

37 (11) "Disability retirement" for plan 1 members, means the period

1 following termination of a member's disability leave, during which the
2 member is in receipt of a disability retirement allowance.

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

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

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

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

20 (i) The legislative authority of any city, town, county, or
21 district;

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

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

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

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

37 (15)(a) "Final average salary" for plan 1 members, means (i) for a
38 member holding the same position or rank for a minimum of twelve months

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

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

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

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

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

35 (16) "Firefighter" means:

36 (a) Any person who is serving on a full time, fully compensated
37 basis as a member of a fire department of an employer and who is

1 serving in a position which requires passing a civil service
2 examination for firefighter, and who is actively employed as such;

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

5 (c) Supervisory firefighter personnel;

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

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

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

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

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

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

1 transportation commission, the state liquor control board, and the
2 state department of corrections. A general authority law enforcement
3 agency under this chapter does not include a government contractor.

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

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

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

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

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

29 (e) The term "law enforcement officer" also includes a person
30 employed on or after January 1, 1993, as a public safety officer or
31 director of public safety, so long as the job duties substantially
32 involve only either police or fire duties, or both, and no other duties
33 in a city or town with a population of less than ten thousand. The
34 provisions of this subsection (18)(e) shall not apply to any public
35 safety officer or director of public safety who is receiving a
36 retirement allowance under this chapter as of May 12, 1993.

37 (19) "Medical services" for plan 1 members, shall include the

1 following as minimum services to be provided. Reasonable charges for
2 these services shall be paid in accordance with RCW 41.26.150.

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

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

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

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

13 (i) The fees of the following:

14 (A) A physician or surgeon licensed under the provisions of chapter
15 18.71 RCW;

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

18 (C) A chiropractor licensed under the provisions of chapter 18.25
19 RCW.

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

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

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

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

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

27 (D) Anesthesia and oxygen;

28 (E) Rental of iron lung and other durable medical and surgical
29 equipment;

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

31 (G) Professional ambulance service when used to transport the
32 member to or from a hospital when injured by an accident or stricken by
33 a disease;

34 (H) Dental charges incurred by a member who sustains an accidental
35 injury to his or her teeth and who commences treatment by a legally
36 licensed dentist within ninety days after the accident;

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

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

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

3 (L) An optometrist licensed under the provisions of chapter 18.53
4 RCW.

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

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

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

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

21 (24) "Regular interest" means such rate as the director may
22 determine.

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

27 (26) "Retirement fund" means the "Washington law enforcement
28 officers' and firefighters' retirement system fund" as provided for
29 herein.

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

32 (28)(a) "Service" for plan 1 members, means all periods of
33 employment for an employer as a firefighter or law enforcement officer,
34 for which compensation is paid, together with periods of suspension not
35 exceeding thirty days in duration. For the purposes of this chapter
36 service shall also include service in the armed forces of the United
37 States as provided in RCW 41.26.190. Credit shall be allowed for all
38 service credit months of service rendered by a member from and after

1 the member's initial commencement of employment as a firefighter or law
2 enforcement officer, during which the member worked for seventy or more
3 hours, or was on disability leave or disability retirement. Only
4 service credit months of service shall be counted in the computation of
5 any retirement allowance or other benefit provided for in this chapter.

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

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

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

30 Members of the retirement system who are elected or appointed to a
31 state elective position may elect to continue to be members of this
32 retirement system.

33 Service credit years of service shall be determined by dividing the
34 total number of service credit months of service by twelve. Any
35 fraction of a service credit year of service as so determined shall be
36 taken into account in the computation of such retirement allowance or
37 benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (14)(a) "Earnable compensation" for plan 1 members, means:
34 (i) All salaries and wages paid by an employer to an employee
35 member of the retirement system for personal services rendered during
36 a fiscal year. In all cases where compensation includes maintenance
37 the employer shall fix the value of that part of the compensation not
38 paid in money.

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

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

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

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

28 (iv) For members employed less than full time under written
29 contract with a school district, or community college district, in an
30 instructional position, for which the member receives service credit of
31 less than one year in all of the years used to determine the earnable
32 compensation used for computing benefits due under RCW 41.32.497,
33 41.32.498, and 41.32.520, the member may elect to have earnable
34 compensation defined as provided in RCW 41.32.345. For the purposes of
35 this subsection, the term "instructional position" means a position in
36 which more than seventy-five percent of the member's time is spent as
37 a classroom instructor (including office hours), a librarian, a
38 psychologist, a social worker, a nurse, a physical therapist, an

1 occupational therapist, a speech language pathologist or audiologist,
2 or a counselor. Earnable compensation shall be so defined only for the
3 purpose of the calculation of retirement benefits and only as necessary
4 to insure that members who receive fractional service credit under RCW
5 41.32.270 receive benefits proportional to those received by members
6 who have received full-time service credit.

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

8 (A) Remuneration for unused sick leave authorized under RCW
9 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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

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

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

35 (B) Such member's actual earnable compensation received for
36 teaching and legislative service combined. Any additional
37 contributions to the retirement system required because compensation

1 earnable under (b)(ii)(A) of this subsection is greater than
2 compensation earnable under (b)(ii)(B) of this subsection shall be paid
3 by the member for both member and employer contributions.

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

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

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

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

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

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

32 (d) The elected position of the superintendent of public
33 instruction is an eligible position.

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

13 (18) "Fiscal year" means a year which begins July 1st and ends June
14 30th of the following year.

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

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

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

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

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

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

29 (25) "Member" means any teacher included in the membership of the
30 retirement system who has not been removed from membership under RCW
31 41.32.878 or 41.32.768. Also, any other employee of the public schools
32 who, on July 1, 1947, had not elected to be exempt from membership and
33 who, prior to that date, had by an authorized payroll deduction,
34 contributed to the member reserve.

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

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

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

9 (29) "Pension" means the moneys payable per year during life from
10 the pension reserve.

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

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

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

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

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

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

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

37 (37) "Regular contributions" means the amounts required to be

1 deducted from the compensation of a member and credited to the member's
2 individual account in the member reserve. This subsection shall apply
3 only to plan 1 members.

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

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

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

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

15 (41) "Retirement system" means the Washington state teachers'
16 retirement system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (vii) The department shall adopt rules implementing this
29 subsection.

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

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

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

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

1 (48) "Substitute teacher" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (iv) Compensation that a member would have received but for a
12 disability occurring in the line of duty only as authorized by RCW
13 41.40.038;

14 (v) Compensation that a member receives due to participation in the
15 leave sharing program only as authorized by RCW 41.04.650 through
16 41.04.670; and

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

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

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

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

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

36 (13) "Employer," for plan 2 and plan 3 members, means a school
37 district or an educational service district. Except as otherwise
38 specifically provided in this chapter, "employer" does not include a

1 government contractor. For purposes of this subsection, a "government
2 contractor" is any entity, including a partnership, limited liability
3 company, for-profit or nonprofit corporation, or person, that provides
4 services pursuant to a contract with an employer. The determination
5 whether an employer-employee relationship has been established is not
6 based on the relationship between a government contractor and an
7 employer, but is based solely on the relationship between a government
8 contractor's employee and an employer under this chapter.

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

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

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

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

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

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

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

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

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

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

33 (24) "Plan 2" means the Washington school employees' retirement
34 system plan 2 providing the benefits and funding provisions covering
35 persons who first became members of the public employees' retirement
36 system on and after October 1, 1977, and transferred to the Washington
37 school employees' retirement system under RCW 41.40.750.

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

5 (26) "Regular interest" means such rate as the director may
6 determine.

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

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

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

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

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

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

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

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

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

1 any calendar month in which multiple service for ninety or more hours
2 is rendered.

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

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

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

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

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

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

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

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

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

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

24 (37) "State treasurer" means the treasurer of the state of
25 Washington.

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

29 **Sec. 5.** RCW 41.37.010 and 2011 1st sp.s. c 5 s 4 and 2011 c 68 s
30 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

34 (7)(a) "Compensation earnable" for members, means salaries or wages
35 earned by a member during a payroll period for personal services,
36 including overtime payments, and shall include wages and salaries
37 deferred under provisions established pursuant to sections 403(b),
38 414(h), and 457 of the United States internal revenue code, but shall

1 exclude nonmoney maintenance compensation and lump sum or other
2 payments for deferred annual sick leave, unused accumulated vacation,
3 unused accumulated annual leave, or any form of severance pay.

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

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

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

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

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

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

26 (iv) Compensation that a member would have received but for a
27 disability occurring in the line of duty only as authorized by RCW
28 41.37.060;

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

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

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

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

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

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

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

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

29 (14) "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 (15) "Index A" means the index for the year prior to the
34 determination of a postretirement adjustment.

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

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

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

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

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

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

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

15 (d) Whose primary responsibility is to supervise members eligible
16 under this subsection.

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

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

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

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

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

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

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

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

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

36 (29) "Service" means periods of employment by a member on or after
37 July 1, 2006, for one or more employers for which compensation earnable
38 is paid. Compensation earnable earned for ninety or more hours in any

1 calendar month shall constitute one service credit month. Compensation
2 earnable earned for at least seventy hours but less than ninety hours
3 in any calendar month shall constitute one-half service credit month of
4 service. Compensation earnable earned for less than seventy hours in
5 any calendar month shall constitute one-quarter service credit month of
6 service. Time spent in standby status, whether compensated or not, is
7 not service.

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

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

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

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

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

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

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

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

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

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

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

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

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 payments for life derived from accumulated
10 contributions of a member. All annuities shall be paid in monthly
11 installments.

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

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

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

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

34 (ii) Any compensation forgone by a member employed by the state or
35 a local government during the 2011-2013 fiscal biennium as a result of
36 reduced work hours, mandatory leave without pay, temporary layoffs, or
37 reductions to current pay if the reduced compensation is an integral

1 part of the employer's expenditure reduction efforts, as certified by
2 the employer. Reductions to current pay shall not include elimination
3 of previously agreed upon future salary increases.

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

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

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

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

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

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

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

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

37 (E) Compensation that a member receives due to participation in the

1 leave sharing program only as authorized by RCW 41.04.650 through
2 41.04.670; and

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

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

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

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

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

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

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

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

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

36 (B) Such member's actual compensation earnable received for
37 nonlegislative public employment and legislative service combined. Any
38 additional contributions to the retirement system required because

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

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

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

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

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

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

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

20 (11) "Eligible position" means:

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

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

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

36 (13)(a) "Employer" for plan 1 members, means every branch,
37 department, agency, commission, board, and office of the state, any
38 political subdivision or association of political subdivisions of the

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

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

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

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

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

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

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

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

37 (19) "Ineligible position" means any position which does not

1 conform with the requirements set forth in subsection (11) of this
2 section.

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

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

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

14 (23) "Membership service" means:

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

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

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

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

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

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

- 1 (a) Any person who became a member of the system prior to April 1,
2 1949;
- 3 (b) Any person who becomes a member through the admission of an
4 employer into the retirement system on and after April 1, 1949, and
5 prior to April 1, 1951;
- 6 (c) Any person who first becomes a member by securing employment
7 with an employer prior to April 1, 1951, provided the member has
8 rendered at least one or more years of service to any employer prior to
9 October 1, 1947;
- 10 (d) Any person who first becomes a member through the admission of
11 an employer into the retirement system on or after April 1, 1951,
12 provided, such person has been in the regular employ of the employer
13 for at least six months of the twelve-month period preceding the said
14 admission date;
- 15 (e) Any member who has restored all contributions that may have
16 been withdrawn as provided by RCW 41.40.150 and who on the effective
17 date of the individual's retirement becomes entitled to be credited
18 with ten years or more of membership service except that the provisions
19 relating to the minimum amount of retirement allowance for the member
20 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
21 apply to the member;
- 22 (f) Any member who has been a contributor under the system for two
23 or more years and who has restored all contributions that may have been
24 withdrawn as provided by RCW 41.40.150 and who on the effective date of
25 the individual's retirement has rendered five or more years of service
26 for the state or any political subdivision prior to the time of the
27 admission of the employer into the system; except that the provisions
28 relating to the minimum amount of retirement allowance for the member
29 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
30 apply to the member.
- 31 (26) "Pension" means payments for life derived from contributions
32 made by the employer. All pensions shall be paid in monthly
33 installments.
- 34 (27) "Plan 1" means the public employees' retirement system, plan
35 1 providing the benefits and funding provisions covering persons who
36 first became members of the system prior to October 1, 1977.
- 37 (28) "Plan 2" means the public employees' retirement system, plan

1 2 providing the benefits and funding provisions covering persons who
2 first became members of the system on and after October 1, 1977, and
3 are not included in plan 3.

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

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

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

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

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

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

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

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

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

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

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

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

35 (37)(a) "Service" for plan 1 members, except as provided in RCW
36 41.40.088, means periods of employment in an eligible position or
37 positions for one or more employers rendered to any employer for which
38 compensation is paid, and includes time spent in office as an elected

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

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

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

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

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

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

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

37 (b) "Service" for plan 2 and plan 3 members, means periods of
38 employment by a member in an eligible position or positions for one or

1 more employers for which compensation earnable is paid. Compensation
2 earnable earned for ninety or more hours in any calendar month shall
3 constitute one service credit month except as provided in RCW
4 41.40.088. Compensation earnable earned for at least seventy hours but
5 less than ninety hours in any calendar month shall constitute one-half
6 service credit month of service. Compensation earnable earned for less
7 than seventy hours in any calendar month shall constitute one-quarter
8 service credit month of service. Time spent in standby status, whether
9 compensated or not, is not service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 NEW SECTION. **Sec. 7.** A new section is added to chapter 41.04 RCW
20 to read as follows:

21 (1) This act is curative and remedial and is applicable to any
22 future determination of eligibility for membership in a retirement
23 system under chapters 41.26, 41.34, 41.35, 41.37, and 41.40 RCW.

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

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

31 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of the
33 state government and its existing public institutions, and takes effect

1 immediately.

--- END ---