CERTIFICATION OF ENROLLMENT

HOUSE BILL 2070

Chapter 5, Laws of 2011

62nd Legislature
2011 1st Special Session

PENSIONS--GOVERNMENT EMPLOYEES--AVERAGE SALARY DETERMINATION

EFFECTIVE DATE: 07/01/11

Passed by the House May 2, 2011
Yeas 90  Nays 4

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate May 9, 2011
Yeas 40  Nays 4

BRAD OWEN
President of the Senate
Approved May 31, 2011, 2:20 p.m.

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is HOUSE BILL 2070 as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARRBARA BAKER
Chief Clerk

Approved May 31, 2011, 2:20 p.m.

FILED
June 1, 2011

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
1 AN ACT Relating to determining average salary for the pension
2 purposes of state and local government employees as certified by their
3 employer; amending RCW 41.26.030, 41.35.010, and 43.43.120; reenacting
4 and amending RCW 41.32.010, 41.37.010, and 41.40.010; providing an
5 effective date; and declaring an emergency.
6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
8
9 Sec. 1. RCW 41.26.030 and 2010 2nd sp.s. c 1 s 903 are each
10 amended to read as follows:
11
12 As used in this chapter, unless a different meaning is plainly
13 required by the context:
14 (1) "Accumulated contributions" means the employee's contributions
15 made by a member, including any amount paid under RCW 41.50.165(2),
16 plus accrued interest credited thereon.
17 (2) "Actuarial reserve" means a method of financing a pension or
18 retirement plan wherein reserves are accumulated as the liabilities for
19 benefit payments are incurred in order that sufficient funds will be
20 available on the date of retirement of each member to pay the member's
21 future benefits during the period of retirement.
(3) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

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

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

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

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

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

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

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

(i) A natural born child;
(ii) A stepchild where that relationship was in existence prior to
the date benefits are payable under this chapter;
(iii) A posthumous child;
(iv) A child legally adopted or made a legal ward of a member prior
to the date benefits are payable under this chapter; or
(v) An illegitimate child legitimimized prior to the date any
benefits are payable under this chapter.

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

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

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

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

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

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

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

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

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

(b) "Employer" for plan 2 members, means the following entities to
the extent that the entity employs any law enforcement officer and/or
firefighter:
   (i) The legislative authority of any city, town, county, or
district;
   (ii) The elected officials of any municipal corporation;
   (iii) The governing body of any other general authority law
enforcement agency; or
   (iv) A four-year institution of higher education having a fully
operational fire department as of January 1, 1996.

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

(b) "Final average salary" for plan 2 members, means the monthly
average of the member's basic salary for the highest consecutive sixty
service credit months of service prior to such member's retirement,
termination, or death. Periods constituting authorized unpaid leaves
of absence may not be used in the calculation of final average salary.
(c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include:

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

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

(16) "Firefighter" means:

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

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

(c) Supervisory firefighter personnel;

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

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

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for firefighter;
(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW; and

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

(17) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections.

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

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

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

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

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

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

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

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

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

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

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

(i) The fees of the following:

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

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

(C) A chiropractor licensed under the provisions of chapter 18.25
RCW.
(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:
   (A) Drugs and medicines upon a physician's prescription;
   (B) Diagnostic X-ray and laboratory examinations;
   (C) X-ray, radium, and radioactive isotopes therapy;
   (D) Anesthesia and oxygen;
   (E) Rental of iron lung and other durable medical and surgical equipment;
   (F) Artificial limbs and eyes, and casts, splints, and trusses;
   (G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;
   (H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;
   (I) Nursing home confinement or hospital extended care facility;
   (J) Physical therapy by a registered physical therapist;
   (K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;
   (L) An optometrist licensed under the provisions of chapter 18.53 RCW.

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

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

(22) "Plan 2" means the law enforcement officers' and firefighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.
(23) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

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

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

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

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

(28)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.
(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

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

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

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

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

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

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

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

   (32) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.
(33) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

Sec. 2. RCW 41.32.010 and 2010 2nd sp.s. c 1 s 904 are each reenacted and amended to read as follows:

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

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

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

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

3. "Adjustment ratio" means the value of index A divided by index B.

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

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

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

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

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this
(8) "Contract" means any agreement for service and compensation between a member and an employer.

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

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

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

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

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

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

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

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

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

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

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

(iv) For members employed less than full time under written
contract with a school district, or community college district, in an
instructional position, for which the member receives service credit of
less than one year in all of the years used to determine the earnable
compensation used for computing benefits due under RCW 41.32.497,
41.32.498, and 41.32.520, the member may elect to have earnable
compensation defined as provided in RCW 41.32.345. For the purposes of
this subsection, the term "instructional position" means a position in
which more than seventy-five percent of the member's time is spent as
a classroom instructor (including office hours), a librarian, a
psychologist, a social worker, a nurse, a physical therapist, an
occupational therapist, a speech language pathologist or audiologist,
or a counselor. Earnable compensation shall be so defined only for the
purpose of the calculation of retirement benefits and only as necessary
to insure that members who receive fractional service credit under RCW
41.32.270 receive benefits proportional to those received by members
who have received full-time service credit.

(v) "Earnable compensation" does not include:
(A) Remuneration for unused sick leave authorized under RCW
41.04.340, 28A.400.210, or 28A.310.490;
(B) Remuneration for unused annual leave in excess of thirty days
as authorized by RCW 43.01.044 and 43.01.041.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(43)(a) "Service" for plan 1 members means the time during which a
member has been employed by an employer for compensation.
(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) As authorized in RCW 41.32.065, service earned in an out-of-
state retirement system that covers teachers in public schools may be
applied solely for the purpose of determining eligibility to retire
under RCW 41.32.470.
(vii) The department shall adopt rules implementing this subsection.

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

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

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

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

(48) "Substitute teacher" means:

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

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

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

Sec. 3. RCW 41.35.010 and 2003 c 157 s 1 are each amended to read as follows:

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

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

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

(3) "State treasurer" means the treasurer of the state of Washington.
(4) "Employer," for plan 2 and plan 3 members, means a school district or an educational service district.

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

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

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

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

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

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

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

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

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;
(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(27) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.
(28) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

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

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

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

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

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

(34) "Adjustment ratio" means the value of index A divided by index B.

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

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

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

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

Sec. 4. RCW 41.37.010 and 2010 2nd sp.s. c 1 s 905 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) "Employer" means the Washington state department of
corrections, the Washington state parks and recreation commission, the
Washington state gambling commission, the Washington state patrol, the
Washington state department of natural resources, and the Washington
state liquor control board; any county corrections department; or any
city corrections department not covered under chapter 41.28 RCW.

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

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

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

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

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

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

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

(a) Who is in a position that requires completion of a certified
criminal justice training course and is authorized by their employer to
arrest, conduct criminal investigations, enforce the criminal laws of
the state of Washington, and carry a firearm as part of the job;
(b) Whose primary responsibility is to ensure the custody and
security of incarcerated or probationary individuals as a corrections
officer, probation officer, or jailer;
(c) Who is a limited authority Washington peace officer, as defined
in RCW 10.93.020, for an employer; or
(d) Whose primary responsibility is to supervise members eligible
under this subsection.
(20) "Membership service" means all service rendered as a member.
(21) "Pension" means payments for life derived from contributions
made by the employer. All pensions shall be paid in monthly
installments.
(22) "Plan" means the Washington public safety employees' 
retirement system plan 2.
(23) "Regular interest" means such rate as the director may
determine.
(24) "Retiree" means any person who has begun accruing a retirement
allowance or other benefit provided by this chapter resulting from
service rendered to an employer while a member.
(25) "Retirement" means withdrawal from active service with a
retirement allowance as provided by this chapter.
(26) "Retirement allowance" means monthly payments to a retiree or
beneficiary as provided in this chapter.
(27) "Retirement system" means the Washington public safety 
employees' retirement system provided for in this chapter.
(28) "Separation from service" occurs when a person has terminated
all employment with an employer.
(29) "Service" means periods of employment by a member on or after
July 1, 2006, for one or more employers for which compensation earnable
is paid. Compensation earnable earned for ninety or more hours in any
calendar month shall constitute one service credit month. Compensation
earnable earned for at least seventy hours but less than ninety hours
in any calendar month shall constitute one-half service credit month of
service. Compensation earnable earned for less than seventy hours in
any calendar month shall constitute one-quarter service credit month of
service. Time spent in standby status, whether compensated or not, is
not service.
Any fraction of a year of service shall be taken into account in
the computation of such retirement allowance or benefits.

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

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

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

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

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

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

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

Sec. 5. RCW 41.40.010 and 2010 2nd sp.s. c 1 s 906 are each
reenacted and amended to read as follows:

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

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

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

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

(4) "Annual increase" means, initially, fifty-nine cents per month
per year of service which amount shall be increased each July 1st by
three percent, rounded to the nearest cent.
(5) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) "Compensation earnable" does not include:
(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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

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

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

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

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

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;
(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

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

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

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

(11) "Eligible position" means:

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

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

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

(13)(a) "Employer" for plan 1 members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.
(b) "Employer" for plan 2 and plan 3 members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

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

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

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

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

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

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

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

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

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

(23) "Membership service" means:

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

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;
(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

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

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

(25) "Original member" of this retirement system means:
(a) Any person who became a member of the system prior to April 1, 1949;
(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;
(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;
(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;
(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions

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relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

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

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

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

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

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

(a) First become a member on or after:

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

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

(b) Transferred to plan 3 under RCW 41.40.795.

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

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

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

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

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

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

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

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.
(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

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

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

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

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

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

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

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

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

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

(A) Less than eleven days equals one-quarter service credit month;
(B) Eleven or more days but less than twenty-two days equals one-half service credit month;
(C) Twenty-two days equals one service credit month;
(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;
(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

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

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

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

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

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

(43) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.
Sec. 6. RCW 43.43.120 and 2010 2nd sp.s. c 1 s 907 are each amended to read as follows:

As used in this section and RCW 43.43.130 through 43.43.320, unless a different meaning is plainly required by the context:

(1) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(2) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

(3)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

(c) In calculating average final salary under (a) or (b) of this subsection, the department of retirement systems shall include:
   (i) Any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief; and
   (ii) Any compensation forgone by a member during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief. Reductions to current pay shall not include elimination of previously agreed upon future salary reductions.
(4) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(5)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrol officers; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehouse workers.

(6) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(7) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

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

(9) "Director" means the director of the department of retirement systems.

(10) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.040.

(11) "Employee" means any commissioned employee of the Washington state patrol.

(12) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(13) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(14) "Member" means any person included in the membership of the retirement fund.

(15) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering
commissioned employees who first become members of the system on or after January 1, 2003.

(16) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(17) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(18) "Retirement board" means the board provided for in this chapter.

(19) "Retirement fund" means the Washington state patrol retirement fund.

(20) "Retirement system" means the Washington state patrol retirement system.

(21)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001.

(b) "Salary," for members commissioned on or after July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay.

(22) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(23) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).
(24) "State treasurer" means the treasurer of the state of Washington.

Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender.

**NEW SECTION. Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011.

Passed by the House May 2, 2011.
Passed by the Senate May 9, 2011.
Approved by the Governor May 31, 2011.
Filed in Office of Secretary of State June 1, 2011.