
SENATE BILL 5703

State of Washington

64th Legislature

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By Senators Hobbs, Billig, Miloscia, Mullet, Conway, Dansel, Roach, Chase, Hargrove, Keiser, Fraser, Jayapal, Frockt, Pearson, Lias, Hatfield, and Ranker

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1 AN ACT Relating to membership in the Washington public safety
2 employees' retirement system for employees who provide nursing care
3 to, or ensure the custody and safety of, offender, probationary, and
4 patient populations in institutions and centers; amending RCW
5 41.37.010; and adding a new section to chapter 41.37 RCW.

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

7 **Sec. 1.** RCW 41.37.010 and 2012 c 236 s 5 are each amended to
8 read as follows:

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

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

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

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

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

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

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

12 (i) Any compensation forgone by a member employed by a state
13 agency or institution during the 2009-2011 fiscal biennium as a
14 result of reduced work hours, mandatory or voluntary leave without
15 pay, temporary reduction in pay implemented prior to December 11,
16 2010, or temporary layoffs if the reduced compensation is an integral
17 part of the employer's expenditure reduction efforts, as certified by
18 the employer; and

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

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

30 (7)(a) "Compensation earnable" for members, means salaries or
31 wages earned by a member during a payroll period for personal
32 services, including overtime payments, and shall include wages and
33 salaries deferred under provisions established pursuant to sections
34 403(b), 414(h), and 457 of the United States internal revenue code,
35 but shall exclude nonmoney maintenance compensation and lump sum or
36 other payments for deferred annual sick leave, unused accumulated
37 vacation, unused accumulated annual leave, or any form of severance
38 pay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (d) Whose primary responsibility is to provide nursing care to,
16 or to ensure the custody and safety of, offender, probationary, or
17 patient populations; and who is in a position that requires
18 completion of defensive tactics training or deescalation training;
19 and who is employed by one of the following state institutions or
20 centers operated by the department of social and health services:

21 (i) Juvenile rehabilitation administration institutions;

22 (ii) Mental health hospitals;

23 (iii) Child study and treatment centers;

24 (iv) Special commitment centers; or

25 (v) Institutions or residential sites that serve developmentally
26 disabled patients or offenders;

27 (e) Whose primary responsibility is to provide nursing care to
28 offender and patient populations in institutions and centers operated
29 by the following employers: A city or county corrections department
30 as set forth in subsection (12) of this section, a public corrections
31 entity as set forth in subsection (12) of this section, the
32 Washington state department of corrections, or the Washington state
33 department of veterans affairs; or

34 (f) Whose primary responsibility is to supervise members eligible
35 under this subsection.

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

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

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

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

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

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

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

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

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

16 (29) "Service" means periods of employment by a member on or
17 after July 1, 2006, for one or more employers for which compensation
18 earnable is paid. Compensation earnable earned for ninety or more
19 hours in any calendar month shall constitute one service credit
20 month. Compensation earnable earned for at least seventy hours but
21 less than ninety hours in any calendar month shall constitute one-
22 half service credit month of service. Compensation earnable earned
23 for less than seventy hours in any calendar month shall constitute
24 one-quarter service credit month of service. Time spent in standby
25 status, whether compensated or not, is not service.

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

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

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

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

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

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

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

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

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.37
9 RCW to read as follows:

10 (1) An employee of an employer as defined in RCW 41.37.010(12)
11 who was a member of the public employees' retirement system plan 2 or
12 plan 3 before January 1, 2016, and on January 1, 2016, meets the
13 eligibility requirements set forth in RCW 41.37.010(19) has the
14 following options during the election period defined in subsection
15 (2) of this section:

16 (a) Remain in the public employees' retirement system; or

17 (b) Become a member of the public safety employees' retirement
18 system plan 2 and be a dual member as provided in chapter 41.54 RCW,
19 and public employees' retirement system service credit may not be
20 transferred to the public safety employees' retirement system.

21 (2) The "election period" is the period between January 1, 2016,
22 and March 1, 2016.

23 (3) During the election period, employees who are employed by an
24 employer as defined in RCW 41.37.010(12) remain members of the public
25 employees' retirement system plan 2 or plan 3 until they elect to
26 join the public safety employees' retirement system. Members who
27 elect to join the public safety employees' retirement system as
28 described in this section will have their membership begin
29 prospectively from the date of their election.

30 (4) If after March 1, 2016, the member has not made an election
31 to join the public safety employees' retirement system, he or she
32 will remain in the public employees' retirement system plan 2 or plan
33 3.

34 (5) An employee who was a member of the public employees'
35 retirement system plan 1 on or before January 1, 2016, and on or
36 after January 1, 2016, is employed by an employer as defined in RCW
37 41.37.010(12) as an employee who meets the eligibility requirements
38 included in RCW 41.37.010(19), shall remain a member of the public
39 employees' retirement system plan 1.

1 (6) All new employees hired on or after January 1, 2016, who
2 become employed by an employer as defined in RCW 41.37.010(12) as an
3 employee who meets the eligibility requirements included in RCW
4 41.37.010(19) will become members of the public safety employees'
5 retirement system.

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