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HOUSE BILL 2655

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State of Washington

66th Legislature

2020 Regular Session

By Representatives Griffey, Bergquist, Lovick, Sullivan, and Leavitt;  
by request of LEOFF Plan 2 Retirement Board

Read first time 01/16/20. Referred to Committee on Appropriations.

1 AN ACT Relating to the definition of period of war for pensions;  
2 and amending RCW 41.26.030, 41.26.520, 41.26.160, and 41.26.510.

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

4 **Sec. 1.** RCW 41.26.030 and 2018 c 230 s 1 are each amended to  
5 read as follows:

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

8 (1) "Accumulated contributions" means the employee's  
9 contributions made by a member, including any amount paid under RCW  
10 41.50.165(2), plus accrued interest credited thereon.

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

16 (3) "Actuarial valuation" means a mathematical determination of  
17 the financial condition of a retirement plan. It includes the  
18 computation of the present monetary value of benefits payable to  
19 present members, and the present monetary value of future employer  
20 and employee contributions, giving effect to mortality among active

1 and retired members and also to the rates of disability, retirement,  
2 withdrawal from service, salary and interest earned on investments.

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

8 (b) "Basic salary" for plan 2 members, means salaries or wages  
9 earned by a member during a payroll period for personal services,  
10 including overtime payments, and shall include wages and salaries  
11 deferred under provisions established pursuant to sections 403(b),  
12 414(h), and 457 of the United States Internal Revenue Code, but shall  
13 exclude lump sum payments for deferred annual sick leave, unused  
14 accumulated vacation, unused accumulated annual leave, or any form of  
15 severance pay. In any year in which a member serves in the  
16 legislature the member shall have the option of having such member's  
17 basic salary be the greater of:

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

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

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

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

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

36 (i) A natural born child;

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

39 (iii) A posthumous child;

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

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

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

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

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

15 (9) "Disability board" for plan 1 members means either the county  
16 disability board or the city disability board established in RCW  
17 41.26.110.

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

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

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

28 (13) "Employee" means any law enforcement officer or firefighter  
29 as defined in subsections (17) and (19) of this section.

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

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

4 (i) The legislative authority of any city, town, county,  
5 district, or public corporation established under RCW 35.21.730 to  
6 provide emergency medical services as defined in RCW 18.73.030;

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

8 (iii) The governing body of any other general authority law  
9 enforcement agency;

10 (iv) A four-year institution of higher education having a fully  
11 operational fire department as of January 1, 1996; or

12 (v) The department of social and health services or the  
13 department of corrections when employing firefighters serving at a  
14 prison or civil commitment center on an island.

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

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

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

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

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

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

24 (16) "Fire department" includes a fire station operated by the  
25 department of social and health services or the department of  
26 corrections when employing firefighters serving a prison or civil  
27 commitment center on an island.

28 (17) "Firefighter" means:

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

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

35 (c) Supervisory firefighter personnel;

36 (d) Any full time executive secretary of an association of fire  
37 protection districts authorized under RCW 52.12.031. The provisions  
38 of this subsection (17)(d) shall not apply to plan 2 members;

39 (e) The executive secretary of a labor guild, association or  
40 organization (which is an employer under subsection (14) of this

1 section), if such individual has five years previous membership in a  
2 retirement system established in chapter 41.16 or 41.18 RCW. The  
3 provisions of this subsection (17)(e) shall not apply to plan 2  
4 members;

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

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

13 (h) Any person who is employed on a full-time, fully compensated  
14 basis by an employer as an emergency medical technician that meets  
15 the requirements of RCW 18.71.200 or 18.73.030(12), and whose duties  
16 include providing emergency medical services as defined in RCW  
17 18.73.030.

18 (18) "General authority law enforcement agency" means any agency,  
19 department, or division of a municipal corporation, political  
20 subdivision, or other unit of local government of this state, and any  
21 agency, department, or division of state government, having as its  
22 primary function the detection and apprehension of persons committing  
23 infractions or violating the traffic or criminal laws in general, but  
24 not including the Washington state patrol. Such an agency,  
25 department, or division is distinguished from a limited authority law  
26 enforcement agency having as one of its functions the apprehension or  
27 detection of persons committing infractions or violating the traffic  
28 or criminal laws relating to limited subject areas, including but not  
29 limited to, the state departments of natural resources and social and  
30 health services, the state gambling commission, the state lottery  
31 commission, the state parks and recreation commission, the state  
32 utilities and transportation commission, the state liquor and  
33 cannabis board, and the state department of corrections. A general  
34 authority law enforcement agency under this chapter does not include  
35 a government contractor.

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

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

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

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

17 (d) The term "law enforcement officer" also includes the  
18 executive secretary of a labor guild, association or organization  
19 (which is an employer under subsection (14) of this section) if that  
20 individual has five years previous membership in the retirement  
21 system established in chapter 41.20 RCW. The provisions of this  
22 subsection (19)(d) shall not apply to plan 2 members; and

23 (e) The term "law enforcement officer" also includes a person  
24 employed on or after January 1, 1993, as a public safety officer or  
25 director of public safety, so long as the job duties substantially  
26 involve only either police or fire duties, or both, and no other  
27 duties in a city or town with a population of less than ten thousand.  
28 The provisions of this subsection (19)(e) shall not apply to any  
29 public safety officer or director of public safety who is receiving a  
30 retirement allowance under this chapter as of May 12, 1993.

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

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

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

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

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

4 (i) The fees of the following:

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

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

9 (C) A chiropractor licensed under the provisions of chapter 18.25  
10 RCW.

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

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

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

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

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

19 (D) Anesthesia and oxygen;

20 (E) Rental of iron lung and other durable medical and surgical  
21 equipment;

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

23 (G) Professional ambulance service when used to transport the  
24 member to or from a hospital when injured by an accident or stricken  
25 by a disease;

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

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

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

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

33 (L) An optometrist licensed under the provisions of chapter 18.53  
34 RCW.

35 (21) "Member" means any firefighter, law enforcement officer, or  
36 other person as would apply under subsection((s)) (17) or (19) of  
37 this section whose membership is transferred to the Washington law  
38 enforcement officers' and firefighters' retirement system on or after  
39 March 1, 1970, and every law enforcement officer and firefighter who  
40 is employed in that capacity on or after such date.



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

5 (23) "Plan 2" means the law enforcement officers' and  
6 firefighters' retirement system, plan 2 providing the benefits and  
7 funding provisions covering persons who first became members of the  
8 system on and after October 1, 1977.

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

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

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

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

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

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

36 (i) For members retiring after May 21, 1971 who were employed  
37 under the coverage of a prior pension act before March 1, 1970,  
38 "service" shall also include (A) such military service not exceeding  
39 five years as was creditable to the member as of March 1, 1970, under  
40 the member's particular prior pension act, and (B) such other periods

1 of service as were then creditable to a particular member under the  
2 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no  
3 event shall credit be allowed for any service rendered prior to March  
4 1, 1970, where the member at the time of rendition of such service  
5 was employed in a position covered by a prior pension act, unless  
6 such service, at the time credit is claimed therefor, is also  
7 creditable under the provisions of such prior act.

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

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

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

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

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

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

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

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

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

8 (34) "Surviving spouse" means the surviving widow or widower of a  
9 member. "Surviving spouse" shall not include the divorced spouse of a  
10 member except as provided in RCW 41.26.162.

11 (35) "Period of war" includes:

12 (a) World War I;

13 (b) World War II;

14 (c) The Korean conflict;

15 (d) The Vietnam era, which means:

16 (i) The period beginning on February 28, 1961, and ending on May  
17 7, 1975, in the case of a veteran who served in the Republic of  
18 Vietnam during that period; and

19 (ii) The period beginning August 5, 1964, and ending on May 7,  
20 1975;

21 (e) The Persian Gulf War, which was the period beginning August  
22 2, 1990, and ending on February 28, 1991, or ending on November 30,  
23 1995, if the participant was awarded a campaign badge or medal for  
24 such period;

25 (f) The period beginning on the date of any future declaration of  
26 war by the congress and ending on the date prescribed by presidential  
27 proclamation or concurrent resolution of the congress; and

28 (g) Any armed conflict, if the participant was awarded the  
29 respective campaign badge or medal, or if the service was such that a  
30 campaign badge or medal would have been awarded, except that the  
31 member already received a campaign badge or medal for a prior  
32 deployment during that same conflict.

33 **Sec. 2.** RCW 41.26.520 and 2016 c 115 s 2 are each amended to  
34 read as follows:

35 (1) A member who is on a paid leave of absence authorized by a  
36 member's employer shall continue to receive service credit as  
37 provided for under the provisions of RCW 41.26.410 through 41.26.550.

38 (2) A member who receives compensation from an employer while on  
39 an authorized leave of absence to serve as an elected official of a

1 labor organization, and whose employer is reimbursed by the labor  
2 organization for the compensation paid to the member during the  
3 period of absence, may also be considered to be on a paid leave of  
4 absence. This subsection shall only apply if the member's leave of  
5 absence is authorized by a collective bargaining agreement that  
6 provides that the member retains seniority rights with the employer  
7 during the period of leave. The basic salary reported for a member  
8 who establishes service credit under this subsection may not be  
9 greater than the salary paid to the highest paid job class covered by  
10 the collective bargaining agreement.

11 (3) Except as specified in subsection (7) of this section, a  
12 member shall be eligible to receive a maximum of two years service  
13 credit during a member's entire working career for those periods when  
14 a member is on an unpaid leave of absence authorized by an employer.  
15 Such credit may be obtained only if the member makes the employer,  
16 member, and state contributions plus interest as determined by the  
17 department for the period of the authorized leave of absence within  
18 five years of resumption of service or prior to retirement whichever  
19 comes sooner.

20 (4) A law enforcement member may be authorized by an employer to  
21 work part time and to go on a part-time leave of absence. During a  
22 part-time leave of absence a member is prohibited from any other  
23 employment with their employer. A member is eligible to receive  
24 credit for any portion of service credit not earned during a month of  
25 part-time leave of absence if the member makes the employer, member,  
26 and state contributions, plus interest, as determined by the  
27 department for the period of the authorized leave within five years  
28 of resumption of full-time service or prior to retirement whichever  
29 comes sooner. Any service credit purchased for a part-time leave of  
30 absence is included in the two-year maximum provided in subsection  
31 (3) of this section.

32 (5) If a member fails to meet the time limitations of subsection  
33 (3) or (4) of this section, the member may receive a maximum of two  
34 years of service credit during a member's working career for those  
35 periods when a member is on unpaid leave of absence authorized by an  
36 employer. This may be done by paying the amount required under RCW  
37 41.50.165(2) prior to retirement.

38 (6) For the purpose of subsection (3) or (4) of this section the  
39 contribution shall not include the contribution for the unfunded  
40 supplemental present value as required by RCW 41.45.060, 41.45.061,

1 and 41.45.067. The contributions required shall be based on the  
2 average of the member's basic salary at both the time the authorized  
3 leave of absence was granted and the time the member resumed  
4 employment.

5 (7) A member who leaves the employ of an employer to enter the  
6 uniformed services of the United States shall be entitled to  
7 retirement system service credit for up to five years of military  
8 service. This subsection shall be administered in a manner consistent  
9 with the requirements of the federal uniformed services employment  
10 and reemployment rights act.

11 (a) The member qualifies for service credit under this subsection  
12 if:

13 (i) Within ninety days of the member's honorable discharge from  
14 the uniformed services of the United States, the member applies for  
15 reemployment with the employer who employed the member immediately  
16 prior to the member entering the uniformed services; and

17 (ii) The member makes the employee contributions required under  
18 RCW 41.45.060, 41.45.061, and 41.45.067 within five years of  
19 resumption of service or prior to retirement, whichever comes sooner;  
20 or

21 (iii) Prior to retirement and not within ninety days of the  
22 member's honorable discharge or five years of resumption of service  
23 the member pays the amount required under RCW 41.50.165(2); or

24 (iv) Prior to retirement the member provides to the director  
25 proof that the member's interruptive military service was during a  
26 period of war (~~as defined in RCW 41.04.005~~). Any member who made  
27 payments for service credit for interruptive military service during  
28 a period of war (~~as defined in RCW 41.04.005~~) may, prior to  
29 retirement and on a form provided by the department, request a refund  
30 of the funds standing to his or her credit for up to five years of  
31 such service, and this amount shall be paid to him or her. Members  
32 with one or more periods of interruptive military service credit  
33 during a period of war may receive no more than five years of free  
34 retirement system service credit under this subsection.

35 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
36 or (e)(iii) of this subsection, or adequate proof under (a)(iv),  
37 (d)(iv), or (e)(iv) of this subsection, the department shall  
38 establish the member's service credit and shall bill the employer and  
39 the state for their respective contributions required under RCW

1 41.26.450 for the period of military service, plus interest as  
2 determined by the department.

3 (c) The contributions required under (a)(ii), (d)(iii), or  
4 (e)(iii) of this subsection shall be based on the compensation the  
5 member would have earned if not on leave, or if that cannot be  
6 estimated with reasonable certainty, the compensation reported for  
7 the member in the year prior to when the member went on military  
8 leave.

9 (d) The surviving spouse, domestic partner, or eligible child or  
10 children of a member who left the employ of an employer to enter the  
11 uniformed services of the United States and died while serving in the  
12 uniformed services may, on behalf of the deceased member, apply for  
13 retirement system service credit under this subsection up to the date  
14 of the member's death in the uniformed services. The department shall  
15 establish the deceased member's service credit if the surviving  
16 spouse or eligible child or children:

17 (i) Provides to the director proof of the member's death while  
18 serving in the uniformed services;

19 (ii) Provides to the director proof of the member's honorable  
20 service in the uniformed services prior to the date of death; and

21 (iii) Pays the employee contributions required under chapter  
22 41.45 RCW within five years of the date of death or prior to the  
23 distribution of any benefit, whichever comes first; or

24 (iv) Prior to the distribution of any benefit, provides to the  
25 director proof that the member's interruptive military service was  
26 during a period of war (~~as defined in RCW 41.04.005~~). If the  
27 deceased member made payments for service credit for interruptive  
28 military service during a period of war (~~as defined in RCW~~  
29 ~~41.04.005~~), the surviving spouse or eligible child or children may,  
30 prior to the distribution of any benefit and on a form provided by  
31 the department, request a refund of the funds standing to the  
32 deceased member's credit for up to five years of such service, and  
33 this amount shall be paid to the surviving spouse or children.  
34 Members with one or more periods of interruptive military service  
35 during a period of war may receive no more than five years of free  
36 retirement system service credit under this subsection.

37 (e) A member who leaves the employ of an employer to enter the  
38 uniformed services of the United States and becomes totally  
39 incapacitated for continued employment by an employer while serving  
40 in the uniformed services is entitled to retirement system service

1 credit under this subsection up to the date of discharge from the  
2 uniformed services if:

3 (i) The member obtains a determination from the director that he  
4 or she is totally incapacitated for continued employment due to  
5 conditions or events that occurred while serving in the uniformed  
6 services;

7 (ii) The member provides to the director proof of honorable  
8 discharge from the uniformed services; and

9 (iii) The member pays the employee contributions required under  
10 chapter 41.45 RCW within five years of the director's determination  
11 of total disability or prior to the distribution of any benefit,  
12 whichever comes first; or

13 (iv) Prior to retirement the member provides to the director  
14 proof that the member's interruptive military service was during a  
15 period of war (~~as defined in RCW 41.04.005~~). Any member who made  
16 payments for service credit for interruptive military service during  
17 a period of war (~~as defined in RCW 41.04.005~~) may, prior to  
18 retirement and on a form provided by the department, request a refund  
19 of the funds standing to his or her credit for up to five years of  
20 such service, and this amount shall be paid to him or her. Members  
21 with one or more periods of interruptive military service credit  
22 during a period of war may receive no more than five years of free  
23 retirement system service credit under this subsection.

24 (f) The surviving spouse, domestic partner, or eligible child or  
25 children of a member who left the employ of an employer to enter the  
26 uniformed services of the United States, federal emergency management  
27 agency, or national disaster medical system of the United States  
28 department of health and human services and died while performing  
29 service in response to a disaster, major emergency, special event,  
30 federal exercise, or official training on or after March 22, 2014,  
31 may, on behalf of the deceased member, apply for retirement system  
32 service credit under this subsection up to the date of the member's  
33 death in such service. The department shall establish the deceased  
34 member's service credit if the surviving spouse or eligible child or  
35 children provides to the director proof of the member's death while  
36 in such service.

37 (g) A member who leaves the employ of an employer to enter the  
38 uniformed services of the United States, federal emergency management  
39 agency, or national disaster medical system of the United States  
40 department of health and human services and becomes totally

1 incapacitated for continued employment by an employer while providing  
2 such service is entitled to retirement system service credit under  
3 this subsection up to the date of separation from such service if the  
4 member obtains a determination from the director that he or she is  
5 totally incapacitated for continued employment due to conditions or  
6 events that occurred while performing such service.

7 (8) A member receiving benefits under Title 51 RCW who is not  
8 receiving benefits under this chapter shall be deemed to be on  
9 unpaid, authorized leave of absence.

10 **Sec. 3.** RCW 41.26.160 and 2009 c 226 s 1 are each amended to  
11 read as follows:

12 (1) In the event of the duty connected death of any member who is  
13 in active service, or who has vested under the provisions of RCW  
14 41.26.090 with twenty or more service credit years of service, or who  
15 is on duty connected disability leave or retired for duty connected  
16 disability, or upon the death of a member who has left the employ of  
17 an employer due to service in the national guard or military reserves  
18 and dies while honorably serving in the national guard or military  
19 reserves during a period of war (~~as defined in RCW 41.04.005~~), the  
20 surviving spouse shall become entitled, subject to RCW 41.26.162, to  
21 receive a monthly allowance equal to fifty percent of the final  
22 average salary at the date of death if active, or the amount of  
23 retirement allowance the vested member would have received at age  
24 fifty, or the amount of the retirement allowance such retired member  
25 was receiving at the time of death if retired for duty connected  
26 disability. The amount of this allowance will be increased five  
27 percent of final average salary for each child as defined in RCW  
28 41.26.030(~~(+7)~~), subject to a maximum combined allowance of sixty  
29 percent of final average salary: PROVIDED, That if the child or  
30 children is or are in the care of a legal guardian, payment of the  
31 increase attributable to each child will be made to the child's legal  
32 guardian or, in the absence of a legal guardian and if the member has  
33 created a trust for the benefit of the child or children, payment of  
34 the increase attributable to each child will be made to the trust.

35 (2) If at the time of the duty connected death of a vested member  
36 with twenty or more service credit years of service as provided in  
37 subsection (1) of this section or a member retired for duty connected  
38 disability, or at the time of the death of a member who has left the  
39 employ of an employer due to service in the national guard or



1 military reserves and dies while honorably serving in the national  
2 guard or military reserves during a period of war (~~(as defined in RCW~~  
3 ~~41.04.005)~~), the surviving spouse has not been lawfully married to  
4 such member for one year prior to retirement or separation from  
5 service if a vested member, the surviving spouse shall not be  
6 eligible to receive the benefits under this section: PROVIDED, That  
7 if a member dies as a result of a disability incurred in the line of  
8 duty or while honorably serving in the national guard or military  
9 reserves during a period of war (~~(as defined in RCW 41.04.005)~~), then  
10 if he or she was married at the time he or she was disabled or left  
11 the employ of an employer due to service in the national guard or  
12 military reserves during a period of war (~~(as defined in RCW~~  
13 ~~41.04.005)~~), the surviving spouse shall be eligible to receive the  
14 benefits under this section.

15 (3) If there be no surviving spouse eligible to receive benefits  
16 at the time of such member's duty connected death, then the child or  
17 children of such member shall receive a monthly allowance equal to  
18 thirty percent of final average salary for one child and an  
19 additional ten percent for each additional child subject to a maximum  
20 combined payment, under this subsection, of sixty percent of final  
21 average salary. When there cease to be any eligible children as  
22 defined in RCW 41.26.030(~~((7))~~), there shall be paid to the legal  
23 heirs of the member the excess, if any, of accumulated contributions  
24 of the member at the time of death over all payments made to  
25 survivors on his or her behalf under this chapter: PROVIDED, That  
26 payments under this subsection to children shall be prorated equally  
27 among the children, if more than one. If the member has created a  
28 trust for the benefit of the child or children, the payment shall be  
29 made to the trust.

30 (4) In the event that there is no surviving spouse eligible to  
31 receive benefits under this section, and that there be no child or  
32 children eligible to receive benefits under this section, then the  
33 accumulated contributions shall be paid to the estate of the member.

34 (5) If a surviving spouse receiving benefits under this section  
35 remarries after June 13, 2002, the surviving spouse shall continue to  
36 receive the benefits under this section.

37 (6) If a surviving spouse receiving benefits under the provisions  
38 of this section thereafter dies and there are children as defined in  
39 RCW 41.26.030(~~((7))~~), payment to the spouse shall cease and the child

1 or children shall receive the benefits as provided in subsection (3)  
2 of this section.

3 (7) The payment provided by this section shall become due the day  
4 following the date of death and payments shall be retroactive to that  
5 date.

6 **Sec. 4.** RCW 41.26.510 and 2016 c 115 s 1 are each amended to  
7 read as follows:

8 (1) Except as provided in RCW 11.07.010, if a member or a vested  
9 member who has not completed at least ten years of service dies, the  
10 amount of the accumulated contributions standing to such member's  
11 credit in the retirement system at the time of such member's death,  
12 less any amount identified as owing to an obligee upon withdrawal of  
13 accumulated contributions pursuant to a court order filed under RCW  
14 41.50.670, shall be paid to the member's estate, or such person or  
15 persons, trust, or organization as the member shall have nominated by  
16 written designation duly executed and filed with the department. If  
17 there be no such designated person or persons still living at the  
18 time of the member's death, such member's accumulated contributions  
19 standing to such member's credit in the retirement system, less any  
20 amount identified as owing to an obligee upon withdrawal of  
21 accumulated contributions pursuant to a court order filed under RCW  
22 41.50.670, shall be paid to the member's surviving spouse or domestic  
23 partner as if in fact such spouse or domestic partner had been  
24 nominated by written designation, or if there be no such surviving  
25 spouse or domestic partner, then to such member's legal  
26 representatives.

27 (2) Except as provided in subsection (4) of this section, if a  
28 member who is killed in the course of employment or a member who is  
29 eligible for retirement or a member who has completed at least ten  
30 years of service dies, the surviving spouse, domestic partner, or  
31 eligible child or children shall elect to receive either:

32 (a) A retirement allowance computed as provided for in RCW  
33 41.26.430, actuarially reduced by the amount of any lump sum benefit  
34 identified as owing to an obligee upon withdrawal of accumulated  
35 contributions pursuant to a court order filed under RCW 41.50.670 and  
36 actuarially adjusted to reflect a joint and one hundred percent  
37 survivor option under RCW 41.26.460 and if the member was not  
38 eligible for normal retirement at the date of death a further  
39 reduction as described in RCW 41.26.430; if a surviving spouse or

1 domestic partner who is receiving a retirement allowance dies leaving  
2 a child or children of the member under the age of majority, then  
3 such child or children shall continue to receive an allowance in an  
4 amount equal to that which was being received by the surviving spouse  
5 or domestic partner, share and share alike, until such child or  
6 children reach the age of majority; if there is no surviving spouse  
7 or domestic partner eligible to receive an allowance at the time of  
8 the member's death, such member's child or children under the age of  
9 majority shall receive an allowance share and share alike calculated  
10 as herein provided making the assumption that the ages of the spouse  
11 or domestic partner and member were equal at the time of the member's  
12 death; or

13 (b) (i) The member's accumulated contributions, less any amount  
14 identified as owing to an obligee upon withdrawal of accumulated  
15 contributions pursuant to a court order filed under RCW 41.50.670; or

16 (ii) If the member dies on or after July 25, 1993, one hundred  
17 fifty percent of the member's accumulated contributions, less any  
18 amount identified as owing to an obligee upon withdrawal of  
19 accumulated contributions pursuant to a court order filed under RCW  
20 41.50.670. Any accumulated contributions attributable to restorations  
21 made under RCW 41.50.165(2) shall be refunded at one hundred percent.

22 (3) If a member who is eligible for retirement or a member who  
23 has completed at least ten years of service dies after October 1,  
24 1977, and is not survived by a spouse, domestic partner, or an  
25 eligible child, then the accumulated contributions standing to the  
26 member's credit, less any amount identified as owing to an obligee  
27 upon withdrawal of accumulated contributions pursuant to a court  
28 order filed under RCW 41.50.670, shall be paid:

29 (a) To an estate, a person or persons, trust, or organization as  
30 the member shall have nominated by written designation duly executed  
31 and filed with the department; or

32 (b) If there is no such designated person or persons still living  
33 at the time of the member's death, then to the member's legal  
34 representatives.

35 (4) The retirement allowance of a member:

36 (a) Who is killed in the course of employment, as determined by  
37 the director of the department of labor and industries,

38 (b) Who has left the employ of an employer due to service in the  
39 national guard or military reserves and dies while honorably serving

1 in the national guard or military reserves during a period of war  
2 (~~as defined in RCW 41.04.005~~), or

3 (c) Who has left the employ of an employer due to service in the  
4 national guard, military reserves, federal emergency management  
5 agency, or national disaster medical system of the United States  
6 department of health and human services and dies while performing  
7 service in response to a disaster, major emergency, special event,  
8 federal exercise, or official training on or after March 22, 2014,  
9 is not subject to an actuarial reduction for early retirement as  
10 provided in RCW 41.26.430 or an actuarial reduction to reflect a  
11 joint and one hundred percent survivor option under RCW 41.26.460.  
12 The member's retirement allowance is computed under RCW 41.26.420,  
13 except that the member shall be entitled to a minimum retirement  
14 allowance equal to ten percent of such member's final average salary.  
15 The member shall additionally receive a retirement allowance equal to  
16 two percent of such member's average final salary for each year of  
17 service beyond five.

18 (5) The retirement allowance paid to the spouse or domestic  
19 partner and dependent children of a member who is killed in the  
20 course of employment, as set forth in RCW 41.05.011(5), shall include  
21 reimbursement for any payments of premium rates to the Washington  
22 state health care authority pursuant to RCW 41.05.080.

23 (6) In addition to the benefits provided in subsection (4) of  
24 this section, if the surviving spouse or domestic partner of a member  
25 who is killed in the course of employment is not eligible to receive  
26 industrial insurance payments pursuant to RCW 51.32.050 due to  
27 remarriage, the surviving spouse or domestic partner shall receive an  
28 amount equal to the benefit they would receive pursuant to RCW  
29 51.32.050 but for the remarriage. This subsection applies to  
30 surviving spouses and domestic partners whose benefits pursuant to  
31 RCW 51.32.050 were suspended or terminated due to remarriage prior to  
32 July 24, 2015. The monthly payments to any surviving spouse or  
33 domestic partner who received a lump sum payment pursuant to RCW  
34 51.32.050 shall be actuarially reduced to reflect the amount of the  
35 lump sum payment.

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