
HOUSE BILL 1992

State of Washington

67th Legislature

2022 Regular Session

By Representatives Bateman, Leavitt, Berry, Macri, Frame, Pollet, Bronoske, Taylor, Valdez, Slatter, Kloba, and MacEwen

Read first time 01/14/22. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to vacation leave accrual for public employees;
2 amending RCW 43.01.044, 41.32.010, 41.40.010, 43.43.120, and
3 28A.400.300; reenacting and amending RCW 43.01.040; adding a new
4 section to chapter 28A.400 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the COVID-19
7 pandemic has emphasized the need for employees to have access to
8 leave for their own use and to comply with employer requirements for
9 quarantine and isolation. Educators and public employees have been
10 exposed at work and have needed to use leave when dependents are ill
11 or exposed to the virus, sometimes leading to multiple instances of
12 required isolation and quarantine, draining the leave balances of
13 many employees. It is the intent of the legislature to allow
14 employees to accumulate more leave to recognize the burdens that have
15 been placed on frontline workers during the pandemic.

16 **Sec. 2.** RCW 43.01.040 and 2017 c 168 s 1 and 2017 c 167 s 1 are
17 each reenacted and amended to read as follows:

18 Each subordinate officer and employee of the several offices,
19 departments, and institutions of the state government shall be
20 entitled under their contract of employment with the state government

1 to not less than eight hours of vacation leave with full pay for each
2 month of employment.

3 Each such subordinate officer and employee shall be entitled
4 under such contract of employment to not less than eight additional
5 hours of vacation with full pay each year for satisfactorily
6 completing the first two, three, and five continuous years of
7 employment respectively.

8 Such part-time officers or employees of the state government who
9 are employed on a regular schedule of duration of not less than one
10 year shall be entitled under their contract of employment to that
11 fractional part of the vacation leave that the total number of hours
12 of such employment bears to the total number of hours of full-time
13 employment.

14 Each subordinate officer and employee of the several offices,
15 departments, and institutions of the state government shall be
16 entitled under his or her contract of employment with the state
17 government to accrue unused vacation leave not to exceed (~~two~~
18 ~~hundred forty~~) 280 hours. However, employees of the Washington state
19 ferries covered by collective bargaining agreements containing
20 provisions in effect on June 30, 2017, allowing accrual of unused
21 vacation leave not to exceed three hundred twenty hours shall be
22 allowed to continue the higher accrual limit until such time as those
23 provisions are modified through collective bargaining, or the
24 bargaining unit changes its exclusive representative or is
25 decertified. Officers and employees transferring within the several
26 offices, departments, and institutions of the state government shall
27 be entitled to transfer such accrued vacation leave to each
28 succeeding state office, department, or institution. All vacation
29 leave shall be taken at the time convenient to the employing office,
30 department, or institution: PROVIDED, That if a subordinate officer's
31 or employee's request for vacation leave is deferred by reason of the
32 convenience of the employing office, department, or institution, and
33 a statement of the necessity therefor is retained by the agency, then
34 the aforesaid maximum (~~two hundred forty~~) 280 hours of accrued
35 unused vacation leave shall be extended for each month said leave is
36 so deferred.

37 **Sec. 3.** RCW 43.01.044 and 2017 c 167 s 2 are each amended to
38 read as follows:

1 As an alternative, in addition to the provisions of RCW 43.01.040
2 authorizing the accumulation of vacation leave in excess of (~~two~~
3 ~~hundred forty~~) 280 hours with the filing of a statement of
4 necessity, vacation leave in excess of (~~two hundred forty~~) 280
5 hours may also be accumulated as provided in this section but without
6 the filing of a statement of necessity. The accumulation of leave
7 under this alternative method shall be governed by the following
8 provisions:

9 (1) Each subordinate officer and employee of the several offices,
10 departments, and institutions of state government may accumulate the
11 vacation leave hours between the time (~~two hundred forty~~) 280 hours
12 is accrued and his or her anniversary date of state employment.

13 (2) All vacation hours accumulated under this section shall be
14 used by the anniversary date and at a time convenient to the
15 employing office, department, or institution. If an officer or
16 employee does not use the excess leave by the anniversary date, then
17 such leave shall be automatically extinguished and considered to have
18 never existed.

19 (3) This section shall not result in any increase in a retirement
20 allowance under any public retirement system in this state.

21 (4) Should the legislature revoke any benefits or rights provided
22 under this section, no affected officer or employee shall be entitled
23 thereafter to receive such benefits or exercise such rights as a
24 matter of contractual right.

25 (5) Vacation leave credit acquired and accumulated under this
26 section shall never, regardless of circumstances, be deferred by the
27 employing office, department, or institution by filing a statement of
28 necessity under the provisions of RCW 43.01.040.

29 (6) Notwithstanding any other provision of this chapter, on or
30 after July 24, 1983, a statement of necessity for excess leave shall,
31 (~~as [at]~~) at a minimum, include the following: (a) The specific
32 number of hours of excess leave; and (b) the date on which it was
33 authorized. A copy of any such authorization shall be sent to the
34 department of retirement systems.

35 **Sec. 4.** RCW 41.32.010 and 2021 c 12 s 3 are each amended to read
36 as follows:

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

1 (1) (a) "Accumulated contributions" for plan 1 members, means the
2 sum of all regular annuity contributions and, except for the purpose
3 of withdrawal at the time of retirement, any amount paid under RCW
4 41.50.165(2) with regular interest thereon.

5 (b) "Accumulated contributions" for plan 2 members, means the sum
6 of all contributions standing to the credit of a member in the
7 member's individual account, including any amount paid under RCW
8 41.50.165(2), together with the regular interest thereon.

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

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

14 (4) "Annual increase" means, initially, fifty-nine cents per
15 month per year of service which amount shall be increased each July
16 1st by three percent, rounded to the nearest cent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (iv) For members employed less than full time under written
38 contract with a school district, or community college district, in an
39 instructional position, for which the member receives service credit
40 of less than one year in all of the years used to determine the

1 earnable compensation used for computing benefits due under RCW
2 41.32.497, 41.32.498, and 41.32.520, the member may elect to have
3 earnable compensation defined as provided in RCW 41.32.345. For the
4 purposes of this subsection, the term "instructional position" means
5 a position in which more than seventy-five percent of the member's
6 time is spent as a classroom instructor (including office hours), a
7 librarian, a psychologist, a social worker, a nurse, a physical
8 therapist, an occupational therapist, a speech language pathologist
9 or audiologist, or a counselor. Earnable compensation shall be so
10 defined only for the purpose of the calculation of retirement
11 benefits and only as necessary to insure that members who receive
12 fractional service credit under RCW 41.32.270 receive benefits
13 proportional to those received by members who have received full-time
14 service credit.

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

16 (A) Remuneration for unused sick leave authorized under RCW
17 41.04.340, 28A.400.210, or 28A.310.490;

18 (B) Remuneration for unused annual leave in excess of two hundred
19 forty hours (~~as authorized by RCW 43.01.044 and 43.01.041~~).

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

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

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

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

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

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

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

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

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

28 (iii) Any compensation forgone by a member during the 2019-2021
29 and 2021-2023 fiscal biennia as a result of reduced work hours,
30 mandatory leave without pay, temporary layoffs, furloughs, reductions
31 to current pay, or other similar measures resulting from the COVID-19
32 budgetary crisis, if the reduced compensation is an integral part of
33 the employer's expenditure reduction efforts, as certified by the
34 employer. Reductions to current pay shall not include elimination of
35 previously agreed upon future salary increases.

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

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

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

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

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

16 (17) "Employer" means the state of Washington, the school
17 district, or any agency of the state of Washington by which the
18 member is paid. Except as otherwise specifically provided in this
19 chapter, "employer" does not include a government contractor. For
20 purposes of this subsection, a "government contractor" is any entity,
21 including a partnership, limited liability company, for-profit or
22 nonprofit corporation, or person, that provides services pursuant to
23 a contract with an employer. The determination whether an employer-
24 employee relationship has been established is not based on the
25 relationship between a government contractor and an employer, but is
26 based solely on the relationship between a government contractor's
27 employee and an employer under this chapter. For the purposes of
28 retirement plan membership, this subsection includes tribal schools
29 who have chosen to participate in the retirement system and satisfied
30 the requirements of RCW 28A.715.010(7).

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

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

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

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

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

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

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

7 (25) "Member" means any teacher included in the membership of the
8 retirement system who has not been removed from membership under RCW
9 41.32.878 or 41.32.768. Also, any other employee of the public
10 schools who, on July 1, 1947, had not elected to be exempt from
11 membership and who, prior to that date, had by an authorized payroll
12 deduction, contributed to the member reserve.

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

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

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

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

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

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

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

38 (33) "Plan 3" means the teachers' retirement system, plan 3
39 providing the benefits and funding provisions covering persons who

1 first become members of the system on and after July 1, 1996, or who
2 transfer under RCW 41.32.817.

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

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

10 (36) "Public school" means any institution or activity operated
11 by the state of Washington or any instrumentality or political
12 subdivision thereof employing teachers, except the University of
13 Washington and Washington State University. For the purposes of
14 retirement plan membership, this subsection includes tribal schools
15 who have chosen to participate in the retirement system and satisfied
16 the requirements of RCW 28A.715.010(7).

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

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

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

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

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

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

34 (42) "Separation from service or employment" occurs when a person
35 has terminated all employment with an employer. Separation from
36 service or employment does not occur, and if claimed by an employer
37 or employee may be a violation of RCW 41.32.055, when an employee and
38 employer have a written or oral agreement to resume employment with
39 the same employer following termination. Mere expressions or
40 inquiries about postretirement employment by an employer or employee

1 that do not constitute a commitment to reemploy the employee after
2 retirement are not an agreement under this section.

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

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

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

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

15 (iv) Reduction efforts such as furloughs, reduced work hours,
16 mandatory leave without pay, temporary layoffs, or other similar
17 situations as contemplated by subsection (14) (c) (iii) of this section
18 do not result in a reduction in service credit that otherwise would
19 have been earned for that month of work, and the member shall receive
20 the full service credit for the hours that were scheduled to be
21 worked before the reduction.

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

25 (i) A member employed in an eligible position or as a substitute
26 shall receive one service credit month for each month of September
27 through August of the following year if he or she earns earnable
28 compensation for eight hundred ten or more hours during that period
29 and is employed during nine of those months, except that a member may
30 not receive credit for any period prior to the member's employment in
31 an eligible position except as provided in RCW 41.32.812 and
32 41.50.132.

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

38 (A) If a member is employed either in an eligible position or as
39 a substitute teacher for nine months of the twelve-month period
40 between September through August of the following year but earns

1 earnable compensation for less than eight hundred ten hours but for
2 at least six hundred thirty hours, he or she will receive one-half of
3 a service credit month for each month of the twelve-month period;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (vii) Reduction efforts such as furloughs, reduced work hours,
11 mandatory leave without pay, temporary layoffs, or other similar
12 situations as contemplated by subsection (14)(c)(iii) of this section
13 do not result in a reduction in service credit that otherwise would
14 have been earned for that month of work, and the member shall receive
15 the full service credit for the hours that were scheduled to be
16 worked before the reduction.

17 (viii) The department shall adopt rules implementing this
18 subsection.

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

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

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

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

29 (48) "Substitute teacher" means:

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

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

36 (49) "Teacher" means any person qualified to teach who is engaged
37 by a public school in an instructional, administrative, or
38 supervisory capacity. The term includes state, educational service
39 district, and school district superintendents and their assistants
40 and all employees certificated by the superintendent of public

1 instruction; and in addition thereto any full time school doctor who
2 is employed by a public school and renders service of an
3 instructional or educational nature.

4 **Sec. 5.** RCW 41.40.010 and 2021 c 12 s 7 are each amended to read
5 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 sum of all
9 contributions standing to the credit of a member in the member's
10 individual account, including any amount paid under RCW 41.50.165(2),
11 together with the regular interest thereon.

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

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

17 (4) "Annual increase" means, initially, fifty-nine cents per
18 month per year of service which amount shall be increased each July
19 1st by three percent, rounded to the nearest cent.

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

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

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

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

1 (i) Any compensation forgone by the member during the 2009-2011
2 fiscal biennium as a result of reduced work hours, voluntary leave
3 without pay, temporary reduction in pay implemented prior to December
4 11, 2010, or temporary furloughs if the reduced compensation is an
5 integral part of the employer's expenditure reduction efforts, as
6 certified by the employer;

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

15 (iii) Any compensation forgone by a member during the 2019-2021
16 and 2021-2023 fiscal biennia as a result of reduced work hours,
17 mandatory leave without pay, temporary layoffs, furloughs, reductions
18 to current pay, or other similar measures resulting from the COVID-19
19 budgetary crisis, if the reduced compensation is an integral part of
20 the employer's expenditure reduction efforts, as certified by the
21 employer. Reductions to current pay shall not include elimination of
22 previously agreed upon future salary increases.

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

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

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

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

38 (A) Retroactive payments to an individual by an employer on
39 reinstatement of the employee in a position, or payments by an
40 employer to an individual in lieu of reinstatement in a position

1 which are awarded or granted as the equivalent of the salary or wage
2 which the individual would have earned during a payroll period shall
3 be considered compensation earnable and the individual shall receive
4 the equivalent service credit;

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

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

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

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

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

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

25 (A) Remuneration for unused sick leave authorized under RCW
26 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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

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

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

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

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

22 (iv) Compensation that a member would have received but for a
23 disability occurring in the line of duty only as authorized by RCW
24 41.40.038;

25 (v) Compensation that a member receives due to participation in
26 the leave sharing program only as authorized by RCW 41.04.650 through
27 41.04.670; and

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

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

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

36 (11) "Eligible position" means:

37 (a) Any position that, as defined by the employer, normally
38 requires five or more months of service a year for which regular
39 compensation for at least seventy hours is earned by the occupant
40 thereof. For purposes of this chapter an employer shall not define

1 "position" in such a manner that an employee's monthly work for that
2 employer is divided into more than one position;

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

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

12 (13)(a) "Employer" for plan 1 members, means every branch,
13 department, agency, commission, board, and office of the state, any
14 political subdivision or association of political subdivisions of the
15 state admitted into the retirement system, and legal entities
16 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and
17 the term shall also include any labor guild, association, or
18 organization the membership of a local lodge or division of which is
19 comprised of at least forty percent employees of an employer (other
20 than such labor guild, association, or organization) within this
21 chapter. The term may also include any city of the first class that
22 has its own retirement system.

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

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

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

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

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

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

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

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

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

18 (21) "Member" means any employee included in the membership of
19 the retirement system, as provided for in RCW 41.40.023. RCW
20 41.26.045 does not prohibit a person otherwise eligible for
21 membership in the retirement system from establishing such membership
22 effective when he or she first entered an eligible position.

23 (22) "Member account" or "member's account" for purposes of plan
24 3 means the sum of the contributions and earnings on behalf of the
25 member in the defined contribution portion of plan 3.

26 (23) "Membership service" means:

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

28 (b) All service after October 1, 1947, to any employer prior to
29 the time of its admission into the retirement system for which member
30 and employer contributions, plus interest as required by RCW
31 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

32 (c) Service not to exceed six consecutive months of probationary
33 service rendered after April 1, 1949, and prior to becoming a member,
34 in the case of any member, upon payment in full by such member of the
35 total amount of the employer's contribution to the retirement fund
36 which would have been required under the law in effect when such
37 probationary service was rendered if the member had been a member
38 during such period, except that the amount of the employer's
39 contribution shall be calculated by the director based on the first
40 month's compensation earnable as a member;

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

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

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

12 (a) Any person who became a member of the system prior to April
13 1, 1949;

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

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

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

26 (e) Any member who has restored all contributions that may have
27 been withdrawn as provided by RCW 41.40.150 and who on the effective
28 date of the individual's retirement becomes entitled to be credited
29 with ten years or more of membership service except that the
30 provisions relating to the minimum amount of retirement allowance for
31 the member upon retirement at age seventy as found in RCW
32 41.40.190(4) shall not apply to the member;

33 (f) Any member who has been a contributor under the system for
34 two or more years and who has restored all contributions that may
35 have been withdrawn as provided by RCW 41.40.150 and who on the
36 effective date of the individual's retirement has rendered five or
37 more years of service for the state or any political subdivision
38 prior to the time of the admission of the employer into the system;
39 except that the provisions relating to the minimum amount of

1 retirement allowance for the member upon retirement at age seventy as
2 found in RCW 41.40.190(4) shall not apply to the member.

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

6 (27) "Plan 1" means the public employees' retirement system, plan
7 1 providing the benefits and funding provisions covering persons who
8 first became members of the system prior to October 1, 1977.

9 (28) "Plan 2" means the public employees' retirement system, plan
10 2 providing the benefits and funding provisions covering persons who
11 first became members of the system on and after October 1, 1977, and
12 are not included in plan 3.

13 (29) "Plan 3" means the public employees' retirement system, plan
14 3 providing the benefits and funding provisions covering persons who:

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

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

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

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

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

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

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

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

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

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

36 (36) "Separation from service" occurs when a person has
37 terminated all employment with an employer. Separation from service
38 or employment does not occur, and if claimed by an employer or
39 employee may be a violation of RCW 41.40.055, when an employee and
40 employer have a written or oral agreement to resume employment with

1 the same employer following termination. Mere expressions or
2 inquiries about postretirement employment by an employer or employee
3 that do not constitute a commitment to reemploy the employee after
4 retirement are not an agreement under this subsection.

5 (37)(a) "Service" for plan 1 members, except as provided in RCW
6 41.40.088, means periods of employment in an eligible position or
7 positions for one or more employers rendered to any employer for
8 which compensation is paid, and includes time spent in office as an
9 elected or appointed official of an employer. Compensation earnable
10 earned in full time work for seventy hours or more in any given
11 calendar month shall constitute one service credit month except as
12 provided in RCW 41.40.088. Compensation earnable earned for less than
13 seventy hours in any calendar month shall constitute one-quarter
14 service credit month of service except as provided in RCW 41.40.088.
15 Only service credit months and one-quarter service credit months
16 shall be counted in the computation of any retirement allowance or
17 other benefit provided for in this chapter. Any fraction of a year of
18 service shall be taken into account in the computation of such
19 retirement allowance or benefits. Time spent in standby status,
20 whether compensated or not, is not service.

21 (i) Service by a state employee officially assigned by the state
22 on a temporary basis to assist another public agency, shall be
23 considered as service as a state employee: PROVIDED, That service to
24 any other public agency shall not be considered service as a state
25 employee if such service has been used to establish benefits in any
26 other public retirement system.

27 (ii) An individual shall receive no more than a total of twelve
28 service credit months of service during any calendar year. If an
29 individual is employed in an eligible position by one or more
30 employers the individual shall receive no more than one service
31 credit month during any calendar month in which multiple service for
32 seventy or more hours is rendered.

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

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

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

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

6 (iv) Reduction efforts such as furloughs, reduced work hours,
7 mandatory leave without pay, temporary layoffs, or other similar
8 situations as contemplated by subsection (6)(c)(iii) of this section
9 do not result in a reduction in service credit that otherwise would
10 have been earned for that month of work, and the member shall receive
11 the full service credit for the hours that were scheduled to be
12 worked before the reduction.

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

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

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

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

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

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

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

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

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

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

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

19 (iv) Reduction efforts such as furloughs, reduced work hours,
20 mandatory leave without pay, temporary layoffs, or other similar
21 situations as contemplated by subsection (6)(c)(iii) of this section
22 do not result in a reduction in service credit that otherwise would
23 have been earned for that month of work, and the member shall receive
24 the full service credit for the hours that were scheduled to be
25 worked before the reduction.

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

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

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

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

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

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

1 **Sec. 6.** RCW 43.43.120 and 2021 c 12 s 8 are each amended to read
2 as follows:

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

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

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

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

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

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

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

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

1 (iii) Any compensation forgone by a member during the 2019-2021
2 and 2021-2023 fiscal biennia as a result of reduced work hours,
3 mandatory leave without pay, temporary layoffs, furloughs, reductions
4 to current pay, or other similar measures resulting from the COVID-19
5 budgetary crisis, if the reduced compensation is an integral part of
6 the employer's expenditure reduction efforts, as certified by the
7 chief. Reductions to current pay shall not include elimination of
8 previously agreed upon future salary increases.

9 (4) "Beneficiary" means any person in receipt of retirement
10 allowance or any other benefit allowed by this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (21)(a) "Salary," for members commissioned prior to July 1, 2001,
23 shall exclude any overtime earnings related to RCW 47.46.040, or any
24 voluntary overtime, earned on or after July 1, 2001, and prior to
25 July 1, 2017, and lump sum payments for unused accumulated vacation
26 or annual leave in excess of 240 hours, plus hours earned since the
27 member's anniversary date. On or after July 1, 2017, salary shall
28 exclude overtime earnings in excess of seventy hours per year in
29 total related to either RCW 47.46.040 or any voluntary overtime.

30 (b) "Salary," for members commissioned from July 1, 2001, to
31 December 31, 2002, shall exclude any overtime earnings related to RCW
32 47.46.040 or any voluntary overtime, earned prior to July 1, 2017,
33 lump sum payments for deferred annual sick leave, or any form of
34 severance pay. On or after July 1, 2017, salary shall exclude
35 overtime earnings in excess of seventy hours per year in total
36 related to either RCW 47.46.040 or any voluntary overtime.

37 (c) "Salary," for members commissioned on or after January 1,
38 2003, shall exclude any overtime earnings related to RCW 47.46.040 or
39 any voluntary overtime, earned prior to July 1, 2017, lump sum
40 payments for deferred annual sick leave, unused accumulated vacation,

1 unused accumulated annual leave, holiday pay, or any form of
2 severance pay. On or after July 1, 2017, salary shall exclude
3 overtime earnings in excess of seventy hours per year in total
4 related to either RCW 47.46.040 or any voluntary overtime.

5 (d) The addition of overtime earnings related to RCW 47.46.040 or
6 any voluntary overtime earned on or after July 1, 2017, in chapter
7 181, Laws of 2017 is a benefit improvement that increases the member
8 maximum contribution rate under RCW 41.45.0631(1) by 1.10 percent.

9 (22)(a) "Service" shall mean services rendered to the state of
10 Washington or any political subdivisions thereof for which
11 compensation has been paid. Full time employment for seventy or more
12 hours in any given calendar month shall constitute one month of
13 service. An employee who is reinstated in accordance with RCW
14 43.43.110 shall suffer no loss of service for the period reinstated
15 subject to the contribution requirements of this chapter. Only months
16 of service shall be counted in the computation of any retirement
17 allowance or other benefit provided for herein. Years of service
18 shall be determined by dividing the total number of months of service
19 by twelve. Any fraction of a year of service as so determined shall
20 be taken into account in the computation of such retirement allowance
21 or benefit.

22 (b) Reduction efforts such as furloughs, reduced work hours,
23 mandatory leave without pay, temporary layoffs, or other similar
24 situations as contemplated by subsection (3)(c)(iii) of this section
25 do not result in a reduction in service credit that otherwise would
26 have been earned for that month of work, and the member shall receive
27 the full service credit for the hours that were scheduled to be
28 worked before the reduction.

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

31 (24) "State treasurer" means the treasurer of the state of
32 Washington.

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

37 **Sec. 7.** RCW 28A.400.300 and 2019 c 266 s 19 are each amended to
38 read as follows:

1 (1) Every board of directors, unless otherwise specially provided
2 by law, shall:

3 (a) Except as provided in subsection (3) of this section, employ
4 for not more than one year, and for sufficient cause discharge all
5 certificated and classified employees;

6 (b) Adopt written policies granting leaves to persons under
7 contracts of employment with the school district(s) in positions
8 requiring either certification or classified qualifications,
9 including but not limited to leaves for attendance at official or
10 private institutes and conferences and sabbatical leaves for
11 employees in positions requiring certification qualification, and
12 leaves for illness, injury, bereavement and, emergencies for both
13 certificated and classified employees, and with such compensation as
14 the board of directors prescribe. However, the board of directors
15 shall adopt written policies granting to such persons annual leave
16 with compensation for illness, injury and emergencies as follows:

17 (i) For such persons under contract with the school district for
18 a full year, at least ten days;

19 (ii) For such persons under contract with the school district as
20 part time employees, at least that portion of ten days as the total
21 number of days contracted for bears to one hundred eighty days;

22 (iii) For certificated and classified employees, annual leave
23 with compensation for illness, injury, and emergencies shall be
24 granted and accrue at a rate not to exceed twelve days per year;
25 provisions of any contract in force on June 12, 1980, which conflict
26 with requirements of this subsection shall continue in effect until
27 contract expiration; after expiration, any new contract executed
28 between the parties shall be consistent with this subsection;

29 (iv) Compensation for leave for illness or injury actually taken
30 shall be the same as the compensation such person would have received
31 had such person not taken the leave provided in this proviso;

32 (v) Leave provided in this (~~proviso~~) section not taken shall
33 accumulate from year to year (~~up to a maximum of one hundred eighty~~
34 ~~days for the purposes of RCW 28A.400.210 and 28A.400.220, and for~~
35 ~~leave purposes up to a maximum of the number of contract days agreed~~
36 ~~to in a given contract, but not greater than one year)). Such~~
37 accumulated time may be taken at any time during the school year or
38 (~~up to twelve days per year~~) may be used for the purpose of
39 payments for unused sick leave in accordance with RCW 28A.400.210;

1 (vi) Sick leave heretofore accumulated under section 1, chapter
2 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated
3 under administrative practice of school districts prior to the
4 effective date of section 1, chapter 195, Laws of 1959 (former RCW
5 28.58.430) is hereby declared valid, and shall be added to leave for
6 illness or injury accumulated under this proviso;

7 (vii) Any leave for injury or illness accumulated up to a maximum
8 of forty-five days shall be creditable as service rendered for the
9 purpose of determining the time at which an employee is eligible to
10 retire, if such leave is taken it may not be compensated under the
11 provisions of RCW 28A.400.210 and 28A.310.490;

12 (viii) Accumulated leave under this proviso shall be transferred
13 to and from one district to another, the office of superintendent of
14 public instruction, offices of educational service district
15 superintendents and boards, the state school for the blind, the
16 Washington center for deaf and hard of hearing youth, institutions of
17 higher education, and community and technical colleges, to and from
18 such districts, schools, offices, institutions of higher education,
19 and community and technical colleges;

20 (ix) Leave accumulated by a person in a district prior to leaving
21 said district may, under rules of the board, be granted to such
22 person when the person returns to the employment of the district.

23 (2) When any certificated or classified employee leaves one
24 school district within the state and commences employment with
25 another school district within the state, the employee shall retain
26 the same seniority, leave benefits and other benefits that the
27 employee had in his or her previous position. However, classified
28 employees who transfer between districts after July 28, 1985, shall
29 not retain any seniority rights other than longevity when leaving one
30 school district and beginning employment with another. If the school
31 district to which the person transfers has a different system for
32 computing seniority, leave benefits, and other benefits, then the
33 employee shall be granted the same seniority, leave benefits and
34 other benefits as a person in that district who has similar
35 occupational status and total years of service.

36 (3) Notwithstanding subsection (1)(a) of this section, discharges
37 of certificated and classified employees in school districts that are
38 dissolved due to financial insolvency shall be conducted in
39 accordance with RCW 28A.315.229.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.400
2 RCW to read as follows:

3 During a public health emergency where a presidential or
4 gubernatorial declaration of emergency includes all or relevant areas
5 of the state of Washington, each school district in the affected area
6 shall establish a pool of paid emergency leave that will be available
7 to staff who become ill or need to quarantine and who have limited
8 sick leave balances, with priority given to those with 10 days or
9 less of available sick leave.

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