
SUBSTITUTE HOUSE BILL 1268

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Spanel, Silver, Hine, Forner, Paris, May, P. Johnson, Winsley, Zellinsky, Hochstatter, Nealey, Wynne, Edmondson, Bowman, D. Sommers, Brumsickle, Betrozoff, Wood, Miller, Ballard, Tate, McLean, Jacobsen, Nelson, Jones, Wineberry, Pruitt, Dellwo, R. Johnson, Ogden, Bray, Roland and Basich; by request of Joint Committee on Pension Policy).

Read first time February 21, 1991.

1 AN ACT Relating to granting whole and partial retirement service
2 credit; amending RCW 41.32.010, 41.32.013, 41.32.765, 41.40.010,
3 41.40.185, 41.40.235, 41.40.450, 41.40.620, 41.40.630, 41.26.030,
4 41.26.090, 41.26.100, 41.26.160, and 41.26.430; adding a new section to
5 chapter 41.50 RCW; creating new sections; providing effective dates;
6 and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds:

9 (1) There is a dichotomy in the provision of service credit within
10 the major two retirement systems of the state. Within plan I of the
11 public employees' retirement system, credit is given in whole months
12 upon completing seventy hours per month. Within plan I of the
13 teachers' retirement system, full annual service credit is given for
14 full-time employment of four-fifths or more of a school year and
15 partial annual service credit is given for employment of less than

1 four-fifths of a school year but more than twenty days in a school
2 year. Plan II of both the public employees' and teachers' retirement
3 systems' full monthly service credit is based on completing ninety
4 hours in each month.

5 (2) There is an expressed interest by public employers in
6 encouraging job-sharing or tandem positions wherein two persons perform
7 one job. This is seen as opening up job opportunities for those
8 persons who have family responsibilities prohibiting full-time
9 employment.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.50 RCW
11 to read as follows:

12 The legislature sets forth as retirement policy and intent:

13 (1) The retirement systems of the state shall provide similar
14 benefits wherever possible.

15 (2) Persons hired into eligible positions shall accrue service
16 credit for all service rendered.

17 (3) The calculation of benefits shall be done in such a manner as
18 to prevent the arithmetic lowering of benefits.

19 (4) Liberalization of the granting of service credit shall not
20 jeopardize part-time employment of retirees in ineligible positions.

21 **Sec. 3.** RCW 41.32.010 and 1990 c 274 s 2 are each amended to read
22 as follows:

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

25 (1)(a) "Accumulated contributions" for persons who establish
26 membership in the retirement system on or before September 30, 1977,
27 means the sum of all regular annuity contributions with regular
28 interest thereon.

1 (b) "Accumulated contributions" for persons who establish
2 membership in the retirement system on or after October 1, 1977, means
3 the sum of all contributions standing to the credit of a member in the
4 member's individual account together with the regular interest thereon.

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

8 (3) "Annuity" means the moneys payable per year during life by
9 reason of accumulated contributions of a member.

10 (4) "Annuity fund" means the fund in which all of the accumulated
11 contributions of members are held.

12 (5) "Annuity reserve fund" means the fund to which all accumulated
13 contributions are transferred upon retirement.

14 (6)(a) "Beneficiary" for persons who establish membership in the
15 retirement system on or before September 30, 1977, means any person in
16 receipt of a retirement allowance or other benefit provided by this
17 chapter.

18 (b) "Beneficiary" for persons who establish membership in the
19 retirement system on or after October 1, 1977, means any person in
20 receipt of a retirement allowance or other benefit provided by this
21 chapter resulting from service rendered to an employer by another
22 person.

23 (7) "Contract" means any agreement for service and compensation
24 between a member and an employer.

25 (8) "Creditable service" means membership service plus prior
26 service for which credit is allowable. This subsection shall apply
27 only to persons who establish membership in the retirement system on or
28 before September 30, 1977.

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

1 (10) "Disability allowance" means monthly payments during
2 disability. This subsection shall apply only to persons who establish
3 membership in the retirement system on or before September 30, 1977.

4 (11)(a)(i) "Earnable compensation" for persons who establish
5 membership in the retirement system on or before September 30, 1977,
6 means all salaries and wages paid by an employer to an employee member
7 of the retirement system for personal services rendered during a fiscal
8 year. In all cases where compensation includes maintenance the
9 employer shall fix the value of that part of the compensation not paid
10 in money: PROVIDED, That retroactive payments to an individual by an
11 employer on reinstatement of the employee in a position, or payments by
12 an employer to an individual in lieu of reinstatement in a position
13 which are awarded or granted as the equivalent of the salary or wages
14 which the individual would have earned during a payroll period shall be
15 considered earnable compensation and the individual shall receive the
16 equivalent service credit: PROVIDED FURTHER, That if a leave of
17 absence, without pay, is taken by a member for the purpose of serving
18 as a member of the state legislature, and such member has served in the
19 legislature five or more years, the salary which would have been
20 received for the position from which the leave of absence was taken
21 shall be considered as compensation earnable if the employee's
22 contribution thereon is paid by the employee. In addition, where a
23 member has been a member of the state legislature for five or more
24 years, earnable compensation for the member's two highest compensated
25 consecutive years of service shall include a sum not to exceed
26 thirty-six hundred dollars for each of such two consecutive years,
27 regardless of whether or not legislative service was rendered during
28 those two years.

29 (ii) For members employed less than full time under written
30 contract with a school district, or community college district, in an

1 instructional position, for which the member receives service credit of
2 less than one year in all of the years used to determine the earnable
3 compensation used for computing benefits due under RCW 41.32.497,
4 41.32.498, and 41.32.520, the member may elect to have earnable
5 compensation defined as provided in RCW 41.32.011. For the purposes of
6 this subsection, the term "instructional position" means a position in
7 which more than seventy-five percent of the member's time is spent as
8 a classroom instructor (including office hours), a librarian, or a
9 counselor. Earnable compensation shall be so defined only for the
10 purpose of the calculation of retirement benefits and only as necessary
11 to insure that members who receive fractional service credit under RCW
12 41.32.270 receive benefits proportional to those received by members
13 who have received full-time service credit.

14 (b) "Earnable compensation" for persons who establish membership in
15 the retirement system on or after October 1, 1977, means salaries or
16 wages earned by a member during a payroll period for personal services,
17 including overtime payments, and shall include wages and salaries
18 deferred under provisions established pursuant to sections 403(b),
19 414(h), and 457 of the United States Internal Revenue Code, but shall
20 exclude lump sum payments for deferred annual sick leave, unused
21 accumulated vacation, unused accumulated annual leave, or any form of
22 severance pay: PROVIDED, That retroactive payments to an individual by
23 an employer on reinstatement of the employee in a position or payments
24 by an employer to an individual in lieu of reinstatement in a position
25 which are awarded or granted as the equivalent of the salary or wages
26 which the individual would have earned during a payroll period shall be
27 considered earnable compensation, to the extent provided above, and the
28 individual shall receive the equivalent service credit: PROVIDED
29 FURTHER, That in any year in which a member serves in the legislature

1 the member shall have the option of having such member's earnable
2 compensation be the greater of:

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

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

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

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

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

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

20 (16) "Member" means any teacher included in the membership of the
21 retirement system. Also, any other employee of the public schools who,
22 on July 1, 1947, had not elected to be exempt from membership and who,
23 prior to that date, had by an authorized payroll deduction, contributed
24 to the annuity fund.

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

1 apply only to persons who establish membership in the retirement system
2 on or before September 30, 1977.

3 (18) "Pension" means the moneys payable per year during life from
4 the pension reserve fund.

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

9 (20) "Prior service" means service rendered prior to the first date
10 of eligibility to membership in the retirement system for which credit
11 is allowable. The provisions of this subsection shall apply only to
12 persons who establish membership in the retirement system on or before
13 September 30, 1977.

14 (21) "Prior service contributions" means contributions made by a
15 member to secure credit for prior service. The provisions of this
16 subsection shall apply only to persons who establish membership in the
17 retirement system on or before September 30, 1977.

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

22 (23) "Regular contributions" means the amounts required to be
23 deducted from the compensation of a member and credited to the member's
24 individual account in the annuity fund. This subsection shall apply
25 only to persons establishing membership in the retirement system on or
26 before September 30, 1977.

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

29 (25)(a) "Retirement allowance" for persons who establish membership
30 in the retirement system on or before September 30, 1977, means the sum

1 of annuity and pension or any optional benefits payable in lieu
2 thereof.

3 (b) "Retirement allowance" for persons who establish membership in
4 the retirement system on or after October 1, 1977, means monthly
5 payments to a retiree or beneficiary as provided in this chapter.

6 (26) "Retirement system" means the Washington state teachers'
7 retirement system.

8 (27)(a) "Service" means the time during which a member has been
9 employed by an employer for compensation: PROVIDED, That where a
10 member is employed by two or more employers the individual shall
11 ~~((only))~~ receive no more than one ~~((month's))~~ service credit month
12 during any calendar month in which multiple service is rendered.

13 (b) "Service" for persons who establish membership in the
14 retirement system on or after October 1, 1977, means periods of
15 employment by a member for one or more employers for which earnable
16 compensation is earned subject to the following conditions:

17 (i) A member employed in an eligible position or as a substitute
18 shall receive one service credit month for each month of September
19 through August of the following year if he or she earns earnable
20 compensation for eight hundred ten or more hours during that period and
21 is employed during nine of those months, except that a member may not
22 receive credit for any period prior to the member's employment in an
23 eligible position except as provided in sections 12 and 13 of this act;

24 (ii) If a member is employed either in an eligible position ~~((does~~
25 ~~not meet the requirements of (b)(i) of this subsection))~~ or as a
26 substitute teacher for nine months of the twelve month period between
27 September through August of the following year but earns earnable
28 compensation for less than eight hundred ten hours but for at least six
29 hundred thirty hours, he or she will receive one-half of a service
30 credit ~~((only))~~ month for ~~((those calendar months during which he or~~

1 ~~she has received compensation for ninety or more hours))~~ each month of
2 the twelve month period;

3 (iii) All other members in an eligible position or as a substitute
4 teacher shall receive service credit as follows:

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

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

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

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

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

22 Notwithstanding RCW 41.32.240, teachers covered by RCW 41.32.755
23 through 41.32.825, who render service need not serve for ninety days to
24 obtain membership so long as the required contribution is submitted for
25 such ninety-day period. Where a member did not receive service credit
26 under RCW 41.32.775 through 41.32.825 due to the ninety-day period in
27 RCW 41.32.240 the member may receive service credit for that period so
28 long as the required contribution is submitted for the period. Anyone
29 entering membership on or after October 1, 1977, and prior to July 1,

1 1979, shall have until June 30, 1980, to make the required contribution
2 in one lump sum.

3 The department shall adopt rules implementing this subsection
4 (~~((27)(b))~~).

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

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

9 (30) "Survivors' benefit fund" means the fund from which survivor
10 benefits are paid to dependents of deceased members. This subsection
11 shall apply only to persons establishing membership in the retirement
12 system on or before September 30, 1977.

13 (~~((29))~~) (31) "Teacher" means any person qualified to teach who is
14 engaged by a public school in an instructional, administrative, or
15 supervisory capacity. The term includes state, educational service
16 district, and school district superintendents and their assistants and
17 all employees certificated by the superintendent of public instruction;
18 and in addition thereto any full time school doctor who is employed by
19 a public school and renders service of an instructional or educational
20 nature.

21 (~~((30))~~) (32) "Average final compensation" for persons who
22 establish membership in the retirement system on or after October 1,
23 1977, means the member's average earnable compensation of the highest
24 consecutive sixty service credit months (~~((of service))~~) prior to such
25 member's retirement, termination, or death. Periods constituting
26 authorized leaves of absence may not be used in the calculation of
27 average final compensation.

28 (~~((31))~~) (33) "Retiree" means any member in receipt of a retirement
29 allowance or other benefit provided by this chapter resulting from
30 service rendered to an employer by such member.

1 (~~(32)~~) (34) "Department" means the department of retirement
2 systems created in chapter 41.50 RCW.

3 (~~(33)~~) (35) "Director" means the director of the department.

4 (~~(34)~~) (36) "State elective position" means any position held by
5 any person elected or appointed to state-wide office or elected or
6 appointed as a member of the legislature.

7 (~~(35)~~) (37) "State actuary" or "actuary" means the person
8 appointed pursuant to RCW 44.44.010(2).

9 (~~(36)~~) (38) "Retirement board" means the director of retirement
10 systems.

11 (~~(37)~~) (39) "Substitute teacher" means:

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

16 (b) (~~(Persons)~~) Teachers who either (i) work in ineligible
17 positions (~~(in)~~) for more than one (~~(school district)~~) employer or (ii)
18 work in an ineligible position or positions together with an eligible
19 position.

20 (~~(38)~~) (40)(a) "Eligible position" (~~(in)~~) for plan II members
21 from June 7, 1990 through the effective date of this section means a
22 position which normally requires two or more uninterrupted months of
23 creditable service during September through August of the following
24 year.

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

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

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

6 **Sec. 4.** RCW 41.32.013 and 1990 c 274 s 5 are each amended to read
7 as follows:

8 Substitute teachers may apply to the department to receive service
9 credit or credit for earnable compensation or both after the end of the
10 last day of instruction of the school year during which the service was
11 performed.

12 (1) The application must:

13 (a) Include a list of the employers the substitute teacher has
14 worked for;

15 (b) Include proof of hours worked and compensation earned; and

16 (c) Be made prior to retirement.

17 (2) If the department accepts the substitute teacher's application
18 for service credit, the substitute teacher may obtain service credit by
19 paying the required contribution to the retirement system. The
20 employer must pay the required employer contribution upon notice from
21 the department that the substitute teacher has made contributions under
22 this section.

23 (3) The department shall charge interest prospectively on employee
24 contributions that are submitted under this section more than six
25 months after the end of the school year, as defined in RCW 28A.150.040,
26 for which the substitute teacher is seeking service credit. The
27 interest rate charged to the employee shall take into account interest
28 lost on employer contributions delayed for more than six months after
29 the end of the school year.

1 (4) Each (~~school district~~) employer shall quarterly notify each
2 substitute teacher it has employed during the school year of the number
3 of hours worked by, and the compensation paid to, the substitute
4 teacher.

5 (5) The department shall adopt rules implementing this section.

6 (6) If a substitute teacher as defined in RCW 41.32.010(39)(b)(ii)
7 applies to the department under this section for credit for earnable
8 compensation earned from an employer the substitute teacher must make
9 contributions for all periods of service for that employer.

10 **Sec. 5.** RCW 41.32.765 and 1977 ex.s. c 293 s 4 are each amended to
11 read as follows:

12 (1) NORMAL RETIREMENT. Any member with at least five service
13 credit years of service who has attained at least age sixty-five shall
14 be eligible to retire and to receive a retirement allowance computed
15 according to the provisions of RCW 41.32.760.

16 (2) EARLY RETIREMENT. Any member who has completed at least twenty
17 service credit years of service who has attained at least age
18 fifty-five shall be eligible to retire and to receive a retirement
19 allowance computed according to the provisions of RCW 41.32.760, except
20 that a member retiring pursuant to this subsection shall have the
21 retirement allowance actuarially reduced to reflect the difference in
22 the number of years between age at retirement and the attainment of age
23 sixty-five.

24 **Sec. 6.** RCW 41.40.010 and 1990 c 274 s 3 are each amended to read
25 as follows:

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

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

3 (2) "Retirement board" means the board provided for in this chapter
4 and chapter 41.26 RCW.

5 (3) "State treasurer" means the treasurer of the state of
6 Washington.

7 (4)(a) "Employer" for persons who establish membership in the
8 retirement system on or before September 30, 1977, means every branch,
9 department, agency, commission, board, and office of the state, any
10 political subdivision or association of political subdivisions of the
11 state admitted into the retirement system, and legal entities
12 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW as now
13 or hereafter amended; and the term shall also include any labor guild,
14 association, or organization the membership of a local lodge or
15 division of which is comprised of at least forty percent employees of
16 an employer (other than such labor guild, association, or organization)
17 within this chapter. The term may also include any city of the first
18 class that has its own retirement system.

19 (b) "Employer" for persons who establish membership in the
20 retirement system on or after October 1, 1977, means every branch,
21 department, agency, commission, board, and office of the state, and any
22 political subdivision and municipal corporation of the state admitted
23 into the retirement system, including public agencies created pursuant
24 to RCW 35.63.070, 36.70.060, and 39.34.030.

25 (5) "Member" means any employee included in the membership of the
26 retirement system, as provided for in RCW 41.40.120.

27 (6) "Original member" of this retirement system means:

28 (a) Any person who became a member of the system prior to April 1,
29 1949;

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

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

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

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

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

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

1 (8)(a) "Compensation earnable" for persons who establish membership
2 in the retirement system on or before September 30, 1977, means
3 salaries or wages earned during a payroll period for personal services
4 and where the compensation is not all paid in money, maintenance
5 compensation shall be included upon the basis of the schedules
6 established by the member's employer: PROVIDED, That retroactive
7 payments to an individual by an employer on reinstatement of the
8 employee in a position, or payments by an employer to an individual in
9 lieu of reinstatement in a position which are awarded or granted as the
10 equivalent of the salary or wage which the individual would have earned
11 during a payroll period shall be considered compensation earnable and
12 the individual shall receive the equivalent service credit: PROVIDED
13 FURTHER, That if a leave of absence is taken by an individual for the
14 purpose of serving in the state legislature, the salary which would
15 have been received for the position from which the leave of absence was
16 taken, shall be considered as compensation earnable if the employee's
17 contribution is paid by the employee and the employer's contribution is
18 paid by the employer or employee.

19 (b) "Compensation earnable" for persons who establish membership in
20 the retirement system on or after October 1, 1977, means salaries or
21 wages earned by a member during a payroll period for personal services,
22 including overtime payments, and shall include wages and salaries
23 deferred under provisions established pursuant to sections 403(b),
24 414(h), and 457 of the United States Internal Revenue Code, but shall
25 exclude nonmoney maintenance compensation and lump sum payments for
26 deferred annual sick leave, unused accumulated vacation, unused
27 accumulated annual leave, or any form of severance pay: PROVIDED, That
28 retroactive payments to an individual by an employer on reinstatement
29 of the employee in a position, or payments by an employer to an
30 individual in lieu of reinstatement in a position which are awarded or

1 granted as the equivalent of the salary or wage which the individual
2 would have earned during a payroll period shall be considered
3 compensation earnable to the extent provided above, and the individual
4 shall receive the equivalent service credit: PROVIDED FURTHER, That in
5 any year in which a member serves in the legislature, the member shall
6 have the option of having such member's compensation earnable be the
7 greater of:

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

10 (ii) Such member's actual compensation earnable received for
11 nonlegislative public employment and legislative service combined. Any
12 additional contributions to the retirement system required because
13 compensation earnable under subparagraph (i) of this subsection is
14 greater than compensation earnable under subparagraph (ii) of this
15 subsection shall be paid by the member for both member and employer
16 contributions.

17 (9)(a) "Service" for persons who establish membership in the
18 retirement system on or before September 30, 1977, except as provided
19 in RCW 41.40.450, means periods of employment in an eligible position
20 or positions for one or more employers rendered to any employer for
21 which compensation is paid, and includes time spent in office as an
22 elected or appointed official of an employer. Compensation earnable
23 earned in full time work for seventy hours or more in any given
24 calendar month shall constitute one ((month of)) service credit month
25 except as provided in RCW 41.40.450. Compensation earnable earned for
26 less than seventy hours in any calendar month shall constitute one-
27 quarter service credit month of service except as provided in RCW
28 41.40.450. Only service credit months ((of service)) and one-quarter
29 service credit months shall be counted in the computation of any
30 retirement allowance or other benefit provided for in this chapter.

1 (~~Years of service shall be determined by dividing the total number of~~
2 ~~months of service by twelve.~~) Any fraction of a year of service (~~as~~
3 ~~so determined~~) shall be taken into account in the computation of such
4 retirement allowance or benefits.

5 Service by a state employee officially assigned by the state on a
6 temporary basis to assist another public agency, shall be considered as
7 service as a state employee: PROVIDED, That service to any other
8 public agency shall not be considered service as a state employee if
9 such service has been used to establish benefits in any other public
10 retirement system: PROVIDED FURTHER, That an individual shall receive
11 no more than a total of twelve service credit months of service
12 (~~credit~~) during any calendar year: PROVIDED FURTHER, That where an
13 individual is employed in an eligible position by (~~two or more~~) one
14 or more employers the individual shall (~~only~~) receive no more than
15 one (~~months~~) service credit month during any calendar month in which
16 multiple service for seventy or more hours is rendered.

17 (b) "Service" for persons who establish membership in the
18 retirement system on or after October 1, 1977, means periods of
19 employment by a member in an eligible position or positions for one or
20 more employers for which compensation earnable is paid. Compensation
21 earnable earned for ninety or more hours (~~per~~) in any calendar month
22 shall constitute one service credit month except as provided in RCW
23 41.40.450. Compensation earnable earned for at least seventy hours but
24 less than ninety hours in any calendar month shall constitute one-half
25 service credit month of service. Compensation earnable earned for less
26 than seventy hours in any calendar month shall constitute one-quarter
27 service credit month of service.

28 (~~Years of service shall be determined by dividing the total number~~
29 ~~of months of service by twelve.~~) Any fraction of a year of service

1 ((as so determined)) shall be taken into account in the computation of
2 such retirement allowance or benefits.

3 Service in any state elective position shall be deemed to be full
4 time service, except that persons serving in state elective positions
5 who are members of the teachers' retirement system or law enforcement
6 officers' and fire fighters' retirement system at the time of election
7 or appointment to such position may elect to continue membership in the
8 teachers' retirement system or law enforcement officers' and fire
9 fighters' retirement system.

10 A member shall receive a total of not more than twelve service
11 credit months of service for such calendar year: PROVIDED, That when
12 an individual is employed in an eligible position by ((two)) one or
13 more employers the individual shall ((only)) receive no more than one
14 ((month's)) service credit month during any calendar month in which
15 multiple service for ninety or more hours is rendered.

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

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

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

22 ((+11)) (13) "Membership service" means:

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

24 (b) All service after October 1, 1947, to any employer prior to the
25 time of its admission into the retirement system: PROVIDED, That an
26 amount equal to the employer and employee contributions which would
27 have been paid to the retirement system on account of such service
28 shall have been paid to the retirement system with interest (as
29 computed by the department) on the employee's portion prior to
30 retirement of such person, by the employee or his employer, except as

1 qualified by RCW 41.40.120: PROVIDED FURTHER, That employer
2 contributions plus employee contributions with interest submitted by
3 the employee under this subsection shall be placed in the employee's
4 individual account in the employees' savings fund and be treated as any
5 other contribution made by the employee, with the exception that the
6 contributions submitted by the employee in payment of the employer's
7 obligation, together with the interest the director may apply to the
8 employer's contribution, shall be excluded from the calculation of the
9 member's annuity in the event the member selects a benefit with an
10 annuity option;

11 (c) Service not to exceed six consecutive months of probationary
12 service rendered after April 1, 1949, and prior to becoming a member,
13 in the case of any member, upon payment in full by such member of the
14 total amount of the employer's contribution to the retirement fund
15 which would have been required under the law in effect when such
16 probationary service was rendered if the member had been a member
17 during such period, except that the amount of the employer's
18 contribution shall be calculated by the director based on the first
19 month's compensation earnable as a member;

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

27 (~~(12)~~) (14)(a) "Beneficiary" for persons who establish membership
28 in the retirement system on or before September 30, 1977, means any
29 person in receipt of a retirement allowance, pension or other benefit
30 provided by this chapter.

1 (b) "Beneficiary" for persons who establish membership in the
2 retirement system on or after October 1, 1977, means any person in
3 receipt of a retirement allowance or other benefit provided by this
4 chapter resulting from service rendered to an employer by another
5 person.

6 (~~(13)~~) (15) "Regular interest" means such rate as the director
7 may determine.

8 (~~(14)~~) (16) "Accumulated contributions" means the sum of all
9 contributions standing to the credit of a member in the member's
10 individual account together with the regular interest thereon.

11 (~~(15)~~) (17)(a) "Average final compensation" for persons who
12 establish membership in the retirement system on or before September
13 30, 1977, means the annual average of the greatest compensation
14 earnable by a member during any consecutive two year period of service
15 credit months for which service credit is allowed; or if the member has
16 less than two years of service credit months then the annual average
17 compensation earnable during the total years of service for which
18 service credit is allowed.

19 (b) "Average final compensation" for persons who establish
20 membership in the retirement system on or after October 1, 1977, means
21 the member's average compensation earnable of the highest consecutive
22 sixty months of service credit months prior to such member's
23 retirement, termination, or death. Periods constituting authorized
24 leaves of absence may not be used in the calculation of average final
25 compensation.

26 (~~(16)~~) (18) "Final compensation" means the annual rate of
27 compensation earnable by a member at the time of termination of
28 employment.

1 (~~(17)~~) (19) "Annuity" means payments for life derived from
2 accumulated contributions of a member. All annuities shall be paid in
3 monthly installments.

4 (~~(18)~~) (20) "Pension" means payments for life derived from
5 contributions made by the employer. All pensions shall be paid in
6 monthly installments.

7 (~~(19)~~) (21) "Retirement allowance" means the sum of the annuity
8 and the pension.

9 (~~(20)~~) (22) "Employee" means any person who may become eligible
10 for membership under this chapter, as set forth in RCW 41.40.120.

11 (~~(21)~~) (23) "Actuarial equivalent" means a benefit of equal value
12 when computed upon the basis of such mortality and other tables as may
13 be adopted by the director.

14 (~~(22)~~) (24) "Retirement" means withdrawal from active service
15 with a retirement allowance as provided by this chapter.

16 (~~(23)~~) (25) "Eligible position" means:

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

23 (b) Any position occupied by an elected official or person
24 appointed directly by the governor for which compensation is paid.

25 (~~(24)~~) (26) "Ineligible position" means any position which does
26 not conform with the requirements set forth in (~~(subdivision (23))~~)
27 subsection (25) of this section.

28 (~~(25)~~) (27) "Leave of absence" means the period of time a member
29 is authorized by the employer to be absent from service without being
30 separated from membership.

1 (~~(26)~~) (28) "Totally incapacitated for duty" means total
2 inability to perform the duties of a member's employment or office or
3 any other work for which the member is qualified by training or
4 experience.

5 (~~(27)~~) (29) "Retiree" means any member in receipt of a retirement
6 allowance or other benefit provided by this chapter resulting from
7 service rendered to an employer by such member.

8 (~~(28)~~) (30) "Department" means the department of retirement
9 systems created in chapter 41.50 RCW.

10 (~~(29)~~) (31) "Director" means the director of the department.

11 (~~(30)~~) (32) "State elective position" means any position held by
12 any person elected or appointed to state-wide office or elected or
13 appointed as a member of the legislature.

14 (~~(31)~~) (33) "State actuary" or "actuary" means the person
15 appointed pursuant to RCW 44.44.010(2).

16 **Sec. 7.** RCW 41.40.185 and 1990 c 249 s 7 are each amended to read
17 as follows:

18 Upon retirement from service, as provided for in RCW 41.40.180 or
19 41.40.210, a member shall be eligible for a service retirement
20 allowance computed on the basis of the law in effect at the time of
21 retirement, together with such post-retirement pension increases as may
22 from time to time be expressly authorized by the legislature. The
23 service retirement allowance payable to members retiring on and after
24 February 25, 1972 shall consist of:

25 (1) An annuity which shall be the actuarial equivalent of his or
26 her additional contributions made pursuant to RCW 41.40.330(2).

27 (2) A membership service pension, subject to the provisions of
28 subsection (4) of this section, which shall be equal to two percent of

1 his or her average final compensation for each service credit year or
2 fraction of a service credit year of membership service.

3 (3) A prior service pension which shall be equal to one-seventieth
4 of his or her average final compensation for each year or fraction of
5 a year of prior service not to exceed thirty years credited to his or
6 her service accounts. In no event, except as provided in this 1972
7 amendatory act, shall any member receive a retirement allowance
8 pursuant to subsections (2) and (3) of this section of more than sixty
9 percent of his or her average final compensation: PROVIDED, That no
10 member shall receive a pension under this section of less than nine
11 hundred dollars per annum if such member has twelve or more years of
12 service credit, or less than one thousand and two hundred dollars per
13 annum if such member has sixteen or more years of service credit, or
14 less than one thousand five hundred and sixty dollars per annum if such
15 member has twenty or more years of service credit.

16 (4) Notwithstanding the provisions of subsections (1) through (3)
17 of this section, the retirement allowance payable for service where a
18 member was elected or appointed pursuant to Articles II or III of the
19 Constitution of the state of Washington or RCW 48.02.010 and the
20 implementing statutes shall be a combined pension and annuity. Said
21 retirement allowance shall be equal to three percent of the average
22 final compensation for each year of such service. Any member covered
23 by this subsection who upon retirement has served ten or more years
24 shall receive a retirement allowance of at least one thousand two
25 hundred dollars per annum; such member who has served fifteen or more
26 years shall receive a retirement allowance of at least one thousand
27 eight hundred dollars per annum; and such member who has served twenty
28 or more years shall receive a retirement allowance of at least two
29 thousand four hundred dollars per annum: PROVIDED, That the initial
30 retirement allowance of a member retiring only under the provisions of

1 this subsection shall not exceed the average final compensation upon
2 which the retirement allowance is based. The minimum benefits provided
3 in this subsection shall apply to all retired members or to the
4 surviving spouse of deceased members who were elected to the office of
5 state senator or state representative.

6 **Sec. 8.** RCW 41.40.235 and 1986 c 176 s 4 are each amended to read
7 as follows:

8 (1) Upon retirement, a member shall receive a nonduty disability
9 retirement allowance equal to two percent of average final compensation
10 for each service credit year of service: PROVIDED, That such allowance
11 shall be reduced by two percent of itself for each year or fraction
12 thereof that his or her age is less than fifty-five years: PROVIDED
13 FURTHER, That in no case may the allowance provided by this section
14 exceed sixty percent of average final compensation.

15 (2) If the recipient of a retirement allowance under this section
16 dies before the total of the retirement allowance paid to the recipient
17 equals the amount of the accumulated contributions at the date of
18 retirement, then the balance shall be paid to such person or persons
19 having an insurable interest in his or her life as the recipient has
20 nominated by written designation duly executed and filed with the
21 director or, if there is no such designated person or persons still
22 living at the time of the recipient's death, then to the surviving
23 spouse or, if there is neither such designated person or persons still
24 living at the time of his or her death nor a surviving spouse, then to
25 his or her legal representative.

26 **Sec. 9.** RCW 41.40.450 and 1990 c 274 s 4 are each amended to read
27 as follows:

1 (1) A plan I member who is employed by a school district or
2 districts, an educational (~~(school-[service])~~) service district, the
3 state school for the deaf, the state school for the blind, institutions
4 of higher education, or community colleges:

5 (a) Shall receive a service credit month for each month of the
6 period from September through August of the following year if he or she
7 is employed in an eligible position, earns compensation earnable for
8 six hundred thirty hours or more during that period, and is employed
9 during nine months of that period, except that a member may not receive
10 credit for any period prior to the member's employment in an eligible
11 position;

12 (b) If a member in an eligible position does not meet the
13 requirements of (a) of this subsection, the member is entitled to a
14 service credit (~~(only)~~) month for (~~(those calendar months during which~~
15 ~~he or she received)~~) each month of the period he or she earns earnable
16 compensation for seventy or more hours; and the member is entitled to
17 a one-quarter service credit month for those calendar months during
18 which he or she earned compensation for less than seventy hours.

19 (2) Except for any period prior to the member's employment in an
20 eligible position, a plan II member who is employed by a school
21 district or districts, an educational (~~(school-[service])~~) service
22 district, the state school for the blind, the state school for the
23 deaf, institutions of higher education, or community colleges:

24 (a) Shall receive a service credit month for each month of the
25 period from September through August of the following year if he or she
26 is employed in an eligible position, earns compensation earnable for
27 eight hundred ten hours or more during that period, and is employed
28 during nine months of that period(~~(, except that a member may not~~
29 ~~receive credit for any period prior to the member's employment in an~~
30 ~~eligible position))~~);

1 (b) If a member in an eligible position for each month of the
2 period from September through August of the following year does not
3 meet the hours requirements of (a) of this subsection, the member is
4 entitled to one-half service credit (~~((only))~~) month for (~~((those calendar~~
5 ~~months during which he or she received))~~) each month of the period if he
6 or she earns earnable compensation for (~~((ninety or more hours))~~) at
7 least six hundred thirty hours but less than eight hundred ten hours
8 during that period, and is employed nine months of that period.

9 (c) In all other instances, a member in an eligible position is
10 entitled to service credit months as follows:

11 (i) One service credit month for each month in which compensation
12 is earned for ninety or more hours;

13 (ii) One-half service credit month for each month in which
14 compensation is earned for at least seventy hours but less than ninety
15 hours; and

16 (iii) One-quarter service credit month for each month in which
17 compensation is earned for less than seventy hours.

18 (3) The department shall adopt rules implementing this section.

19 **Sec. 10.** RCW 41.40.620 and 1977 ex.s. c 295 s 3 are each amended
20 to read as follows:

21 A member of the retirement system shall receive a retirement
22 allowance equal to two percent of such member's average final
23 compensation for each service credit year of service.

24 **Sec. 11.** RCW 41.40.630 and 1977 ex.s. c 295 s 4 are each amended
25 to read as follows:

26 (1) NORMAL RETIREMENT. Any member with at least five service
27 credit years (~~((of service))~~) who has attained at least age sixty-five

1 shall be eligible to retire and to receive a retirement allowance
2 computed according to the provisions of RCW 41.40.620.

3 (2) EARLY RETIREMENT. Any member who has completed at least twenty
4 service credit years (~~(of service)~~) and has attained age fifty-five
5 shall be eligible to retire and to receive a retirement allowance
6 computed according to the provisions of RCW 41.40.620, except that a
7 member retiring pursuant to this subsection shall have the retirement
8 allowance actuarially reduced to reflect the difference in the number
9 of years between age at retirement and the attainment of age sixty-
10 five.

11 NEW SECTION. Sec. 12. The department of retirement systems
12 shall credit at least one-half service credit month for each month of
13 each school year, as defined by RCW 28A.150.040, from October 1, 1977,
14 through December 31, 1986, to a member of the teachers' retirement
15 system plan II who was employed by an employer, as defined by RCW
16 41.32.010(12), under a contract for half-time employment as determined
17 by the department for such school year and from whose compensation
18 contributions were paid by the employee or picked up by the employer.
19 Any withdrawn contributions shall be restored under RCW 41.32.500(1)
20 prior to crediting any service.

21 NEW SECTION. Sec. 13. (1) By December 31, 1992, the
22 department of retirement systems shall implement and complete the
23 following process for those members of the law enforcement officers'
24 and fire fighters' retirement system plan II, public employees'
25 retirement system plans I and II, and teachers' retirement system plan
26 II who erroneously had contributions either deducted or picked-up from
27 their earnings on and after January 1, 1987:

1 (a) Create a list of transactions by employer for those members
2 whose employer either deducted or picked-up employee contributions
3 during a month where an employee did not work sufficient hours to earn
4 service credit;

5 (b) Provide the affected employers with direction and guidance for
6 the review of the transmitted lists from this subsection and the
7 employers' preparation of any necessary correcting transactions to the
8 department's records;

9 (c) Receive all correcting transactions submitted by the employer.

10 (2) All debits and credits to all member accounts affected by this
11 remedial process shall be reconciled by the department.

12 (3) All moneys payable to an affected member, or any moneys to be
13 further deducted or picked-up from such member's earnings, shall be
14 determined and accomplished solely by the employer.

15 (4) After December 31, 1992, no credit of employer contributions
16 shall be made.

17 (5) Return of contributions to an employee by the department is
18 limited solely to when such member retires or otherwise terminates his
19 or her membership and chooses to withdraw them with any accumulated
20 interest.

21 (6) Employer contributions forfeited under this section shall be
22 transferred to the department of retirement systems expense account.

23 **Sec. 14.** RCW 41.26.030 and 1987 c 418 s 1 are each amended to read
24 as follows:

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

27 (1) "Retirement system" means the "Washington law enforcement
28 officers' and fire fighters' retirement system" provided herein.

1 (2)(a) "Employer" for persons who establish membership in the
2 retirement system on or before September 30, 1977, means the
3 legislative authority of any city, town, county or district or the
4 elected officials of any municipal corporation that employs any law
5 enforcement officer and/or fire fighter, any authorized association of
6 such municipalities, and, except for the purposes of RCW 41.26.150, any
7 labor guild, association, or organization, which represents the fire
8 fighters or law enforcement officers of at least seven cities of over
9 20,000 population and the membership of each local lodge or division of
10 which is composed of at least sixty percent law enforcement officers or
11 fire fighters as defined in this chapter.

12 (b) "Employer" for persons who establish membership in the
13 retirement system on or after October 1, 1977, means the legislative
14 authority of any city, town, county, or district or the elected
15 officials of any municipal corporation that employs any law enforcement
16 officer and/or fire fighter.

17 (3) "Law enforcement officer" means any person who is serving on a
18 full time, fully compensated basis as a county sheriff or deputy
19 sheriff, including sheriffs or deputy sheriffs serving under a
20 different title pursuant to a county charter, city police officer, or
21 town marshal or deputy marshal, with the following qualifications:

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

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

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

7 (d) The term "law enforcement officer" also includes the executive
8 secretary of a labor guild, association or organization (which is an
9 employer under RCW 41.26.030(2) as now or hereafter amended) if such
10 individual has five years previous membership in the retirement system
11 established in chapter 41.20 RCW: PROVIDED, That for persons who
12 establish membership in the retirement system on or after October 1,
13 1977, the provisions of this subparagraph shall not apply; and

14 (e) The term "law enforcement officer" also includes any person
15 employed on or after November 1, 1975, and prior to December 1, 1975,
16 as a director of public safety so long as the duties of the director
17 substantially involve only police and/or fire duties and no other
18 duties.

19 (4) "Fire fighter" means:

20 (a) any person who is serving on a full time, fully compensated
21 basis as a member of a fire department of an employer and who is
22 serving in a position which requires passing a civil service
23 examination for fire fighter, or fireman if this title is used by the
24 department, and who is actively employed as such;

25 (b) anyone who is actively employed as a full time fire fighter
26 where the fire department does not have a civil service examination;

27 (c) supervisory fire fighter personnel;

28 (d) any full time executive secretary of an association of fire
29 protection districts authorized under RCW 52.12.031: PROVIDED, That
30 for persons who establish membership in the retirement system on or

1 after October 1, 1977, the provisions of this subparagraph shall not
2 apply;

3 (e) the executive secretary of a labor guild, association or
4 organization (which is an employer under RCW 41.26.030(2) as now or
5 hereafter amended), if such individual has five years previous
6 membership in a retirement system established in chapter 41.16 or 41.18
7 RCW: PROVIDED, That for persons who establish membership in the
8 retirement system on or after October 1, 1977, the provisions of this
9 subparagraph shall not apply;

10 (f) any person who is serving on a full time, fully compensated
11 basis for an employer, as a fire dispatcher, in a department in which,
12 on March 1, 1970, a dispatcher was required to have passed a civil
13 service examination for fireman or fire fighter;

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

18 (h) the term "fire fighter" also includes any person employed on or
19 after November (~~{1,}~~) 1, 1975, and prior to December 1, 1975, as a
20 director of public safety so long as the duties of the director
21 substantially involve only police and/or fire duties and no other
22 duties.

23 (5) "Retirement board" means the Washington public employees'
24 retirement system board established in chapter 41.40 RCW, including two
25 members of the retirement system and two employer representatives as
26 provided for in RCW 41.26.050. The retirement board shall be called
27 the Washington law enforcement officers' and fire fighters' retirement
28 board and may enter in legal relationships in that name. Any legal
29 relationships entered into in that name prior to the adoption of this
30 1972 amendatory act are hereby ratified.

1 (6) "Surviving spouse" means the surviving widow or widower of a
2 member. The word shall not include the divorced spouse of a member.

3 (7) "Child" or "children" whenever used in this chapter means every
4 natural born child and stepchild where that relationship was in
5 existence prior to the date benefits are payable under this chapter,
6 posthumous child, child legally adopted or made a legal ward of a
7 member prior to the date benefits are payable under this chapter, and
8 illegitimate child legitimized prior to the date any benefits are
9 payable under this chapter, all while unmarried, and either under the
10 age of eighteen years or mentally or physically handicapped as
11 determined by the retirement board except a handicapped person in the
12 full time care of a state institution. A person shall also be deemed
13 to be a child up to and including the age of twenty years and eleven
14 months while attending any high school, college, or vocational or other
15 educational institution accredited, licensed, or approved by the state,
16 in which it is located, including the summer vacation months and all
17 other normal and regular vacation periods at the particular educational
18 institution after which the child returns to school.

19 (8) "Member" means any fire fighter, law enforcement officer, or
20 other person as would apply under subsections (3) or (4) of this
21 section whose membership is transferred to the Washington law
22 enforcement officers' and fire fighters' retirement system on or after
23 March 1, 1970, and every law enforcement officer and fire fighter who
24 is employed in that capacity on or after such date.

25 (9) "Retirement fund" means the "Washington law enforcement
26 officers' and fire fighters' retirement system fund" as provided for
27 herein.

28 (10) "Employee" means any law enforcement officer or fire fighter
29 as defined in subsections (3) and (4) (~~above~~) of this section.

1 (11)(a) "Beneficiary" for persons who establish membership in the
2 retirement system on or before September 30, 1977, means any person in
3 receipt of a retirement allowance, disability allowance, death benefit,
4 or any other benefit described herein.

5 (b) "Beneficiary" for persons who establish membership in the
6 retirement system on or after October 1, 1977, means any person in
7 receipt of a retirement allowance or other benefit provided by this
8 chapter resulting from service rendered to an employer by another
9 person.

10 (12)(a) "Final average salary" for persons who establish membership
11 in the retirement system on or before September 30, 1977, means (i) for
12 a member holding the same position or rank for a minimum of twelve
13 months preceding the date of retirement, the basic salary attached to
14 such same position or rank at time of retirement; (ii) for any other
15 member, including a civil service member who has not served a minimum
16 of twelve months in the same position or rank preceding the date of
17 retirement, the average of the greatest basic salaries payable to such
18 member during any consecutive twenty-four month period within such
19 member's last ten years of service for which service credit is allowed,
20 computed by dividing the total basic salaries payable to such member
21 during the selected twenty-four month period by twenty-four; (iii) in
22 the case of disability of any member, the basic salary payable to such
23 member at the time of disability retirement; (iv) in the case of a
24 member who hereafter vests pursuant to RCW 41.26.090, the basic salary
25 payable to such member at the time of vesting.

26 (b) "Final average salary" for persons who establish membership in
27 the retirement system on or after October 1, 1977, means the monthly
28 average of the member's basic salary for the highest consecutive sixty
29 service credit months of service prior to such member's retirement,

1 termination, or death. Periods constituting authorized unpaid leaves
2 of absence may not be used in the calculation of final average salary.

3 (13)(a) "Basic salary" for persons who establish membership in the
4 retirement system on or before September 30, 1977, means the basic
5 monthly rate of salary or wages, including longevity pay but not
6 including overtime earnings or special salary or wages, upon which
7 pension or retirement benefits will be computed and upon which employer
8 contributions and salary deductions will be based.

9 (b) "Basic salary" for persons who establish membership in the
10 retirement system on or after October 1, 1977, means salaries or wages
11 earned by a member during a payroll period for personal services,
12 including overtime payments, and shall include wages and salaries
13 deferred under provisions established pursuant to sections 403(b),
14 414(h), and 457 of the United States Internal Revenue Code, but shall
15 exclude lump sum payments for deferred annual sick leave, unused
16 accumulated vacation, unused accumulated annual leave, or any form of
17 severance pay: PROVIDED, That in any year in which a member serves in
18 the legislature the member shall have the option of having such
19 member's basic salary be the greater of:

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

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

28 (14)(a) "Service" for persons who establish membership in the
29 retirement system on or before September 30, 1977, means all periods of
30 employment for an employer as a fire fighter or law enforcement

1 officer, for which compensation is paid, together with periods of
2 suspension not exceeding thirty days in duration. For the purposes of
3 this chapter service shall also include service in the armed forces of
4 the United States as provided in RCW 41.26.190. Credit shall be
5 allowed for all service credit months of service rendered by a member
6 from and after the member's initial commencement of employment as a
7 fire fighter or law enforcement officer, during which the member worked
8 for seventy or more hours, or was on disability leave or disability
9 retirement. Only service credit months of service shall be counted in
10 the computation of any retirement allowance or other benefit provided
11 for in this chapter. In addition to the foregoing, for members
12 retiring after May 21, 1971 who were employed under the coverage of a
13 prior pension act before March 1, 1970, "service" shall include (i)
14 such military service not exceeding five years as was creditable to the
15 member as of March 1, 1970, under the member's particular prior pension
16 act, and (ii) such other periods of service as were then creditable to
17 a particular member under the provisions of RCW 41.18.165, 41.20.160 or
18 41.20.170. However, in no event shall credit be allowed for any service
19 rendered prior to March 1, 1970, where the member at the time of
20 rendition of such service was employed in a position covered by a prior
21 pension act, unless such service, at the time credit is claimed
22 therefor, is also creditable under the provisions of such prior act:
23 PROVIDED, That if such member's prior service is not creditable due to
24 the withdrawal of his contributions plus accrued interest thereon from
25 a prior pension system, such member shall be credited with such prior
26 service, as a law enforcement officer or fire fighter, by paying to the
27 Washington law enforcement officers' and fire fighters' retirement
28 system, on or before March 1, 1975, an amount which is equal to that
29 which was withdrawn from the prior system by such member, as a law
30 enforcement officer or fire fighter: PROVIDED FURTHER, That if such

1 member's prior service is not creditable because, although employed in
2 a position covered by a prior pension act, such member had not yet
3 become a member of the pension system governed by such act, such member
4 shall be credited with such prior service as a law enforcement officer
5 or fire fighter, by paying to the Washington law enforcement officers'
6 and fire fighters' retirement system, on or before March 1, 1975, an
7 amount which is equal to the employer's contributions which would have
8 been required under the prior act when such service was rendered if the
9 member had been a member of such system during such period: AND
10 PROVIDED FURTHER, That where a member is employed by two employers at
11 the same time, ((he)) the member shall only be credited with service to
12 one such employer for any month during which ((he)) the member rendered
13 such dual service.

14 (b) "Service" for persons who establish membership in the
15 retirement system on or after October 1, 1977, means periods of
16 employment by a member for one or more employers for which basic salary
17 is earned for ninety or more hours per calendar month which shall
18 constitute a service credit month. Periods of employment by a member
19 for one or more employers for which basic salary is earned for at least
20 seventy hours but less than ninety hours per calendar month shall
21 constitute one-half service credit month. Periods of employment by a
22 member for one or more employers for which basic salary is earned for
23 less than seventy hours shall constitute a one-quarter service credit
24 month.

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

28 Service credit years of service shall be determined by dividing the
29 total number of service credit months of service by twelve. Any
30 fraction of a service credit year of service as so determined shall be

1 taken into account in the computation of such retirement allowance or
2 benefits.

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

12 (15) "Accumulated contributions" means the employee's contributions
13 made by a member plus accrued interest credited thereon.

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

19 (17) "Actuarial valuation" means a mathematical determination of
20 the financial condition of a retirement plan. It includes the
21 computation of the present monetary value of benefits payable to
22 present members, and the present monetary value of future employer and
23 employee contributions, giving effect to mortality among active and
24 retired members and also to the rates of disability, retirement,
25 withdrawal from service, salary and interest earned on investments.

26 (18) "Disability board" means either the county disability board or
27 the city disability board established in RCW 41.26.110 for persons who
28 establish membership in the retirement system on or before September
29 30, 1977.

1 (19) "Disability leave" means the period of six months or any
2 portion thereof during which a member is on leave at an allowance equal
3 to the member's full salary prior to the commencement of disability
4 retirement. The definition contained in this subsection shall apply
5 only to persons who establish membership in the retirement system on or
6 before September 30, 1977.

7 (20) "Disability retirement" for persons who establish membership
8 in the retirement system on or before September 30, 1977, means the
9 period following termination of a member's disability leave, during
10 which the member is in receipt of a disability retirement allowance.

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

13 (22) "Medical services" for persons who establish membership in the
14 retirement system on or before September 30, 1977, shall include the
15 following as minimum services to be provided. Reasonable charges for
16 these services shall be paid in accordance with RCW 41.26.150.

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

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

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

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

27 (i) The fees of the following:

28 (A) A physician or surgeon licensed under the provisions of chapter
29 18.71 RCW;

1 (B) An osteopath licensed under the provisions of chapter 18.57

2 RCW;

3 (C) A chiropractor licensed under the provisions of chapter 18.25

4 RCW.

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

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

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

10 (B) Diagnostic x-ray and laboratory examinations;

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

12 (D) Anesthesia and oxygen;

13 (E) Rental of iron lung and other durable medical and surgical
14 equipment;

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

16 (G) Professional ambulance service when used to transport the
17 member to or from a hospital when he or she is injured by an accident
18 or stricken by a disease;

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

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

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

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

26 (L) An optometrist licensed under the provisions of chapter 18.53
27 RCW.

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

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

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

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

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

10 (28) "State elective position" means any position held by any
11 person elected or appointed to state-wide office or elected or
12 appointed as a member of the legislature.

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

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

17 **Sec. 15.** RCW 41.26.090 and 1977 ex.s. c 294 s 22 are each amended
18 to read as follows:

19 Retirement of a member for service shall be made by the board as
20 follows:

21 (1) Any member having five or more service credit years of service
22 and having attained the age of fifty years shall be eligible for a
23 service retirement allowance and shall be retired upon his or her
24 written request effective the first day following the date upon which
25 the member is separated from service.

26 (2) Any member having five or more service credit years of service,
27 who terminates his or her employment with any employer, may leave his
28 or her contributions in the fund. Any employee who so elects, upon
29 attaining age fifty, shall be eligible to apply for and receive a

1 service retirement allowance based on his or her years of service,
2 commencing on the first day following ((his)) attainment of age fifty.
3 This section shall also apply to a person who rendered service as a law
4 enforcement officer or fire fighter, as those terms are defined in RCW
5 41.26.030, on or after July 1, 1969, but who was not employed as a law
6 enforcement officer or fire fighter on March 1, 1970, by reason of his
7 or her having been elected to a public office. Any member selecting
8 this optional vesting with less than twenty service credit years of
9 service shall not be covered by the provisions of RCW 41.26.150, and
10 his or her survivors shall not be entitled to the benefits of RCW
11 41.26.160 unless his or her death occurs after he or she has attained
12 the age of fifty years. Those members selecting this optional vesting
13 with twenty or more years service shall not be covered by the
14 provisions of RCW 41.26.150 until the attainment of the age of fifty
15 years: PROVIDED, That a member selecting this option, with less than
16 twenty service credit years of service credit, who shall die prior to
17 attaining the age of fifty years, shall have paid from the Washington
18 law enforcement officers' and fire fighters' retirement fund, to such
19 member's surviving spouse, if any, otherwise to such beneficiary as the
20 member shall have designated in writing, or if no such designation has
21 been made, to the personal representative of his or her estate, a lump
22 sum which is equal to the amount of such member's accumulated
23 contributions plus accrued interest: PROVIDED FURTHER, That if the
24 vested member has twenty or more service credit years of service credit
25 the surviving spouse or children shall then become eligible for the
26 benefits of RCW 41.26.160 regardless of his or her age at the time of
27 ((his)) death, to the exclusion of the lump sum amount provided by this
28 subsection.

29 (3) Any member who has attained the age of sixty years shall be
30 retired on the first day of the calendar month next succeeding that in

1 which said member shall have attained the age of sixty and may not
2 thereafter be employed as a law enforcement officer or fire fighter:
3 PROVIDED, That for any member who is elected or appointed to the office
4 of sheriff, chief of police, or fire chief, his or her election or
5 appointment shall be considered as a waiver of the age sixty provision
6 for retirement and nonemployment for whatever number of years remain in
7 his or her present term of office and any succeeding periods for which
8 he or she may be so elected or appointed: PROVIDED FURTHER, That the
9 provisions of this subsection shall not apply to any member who is
10 employed as a law enforcement officer or fire fighter on March 1, 1970.

11 **Sec. 16.** RCW 41.26.100 and 1974 ex.s. c 120 s 3 are each amended
12 to read as follows:

13 A member upon retirement for service shall receive a monthly
14 retirement allowance computed according to his or her completed
15 creditable service credit years of service as follows: Five years but
16 under ten years, one-twelfth of one percent of his or her final average
17 salary for each month of service; ten years but under twenty years,
18 one-twelfth of one and one-half percent of his or her final average
19 salary for each month of service; and twenty years and over one-twelfth
20 of two percent of his or her final average salary for each month of
21 service: PROVIDED, That the recipient of a retirement allowance who
22 shall return to service as a law enforcement officer or fire fighter
23 shall be considered to have terminated his or her retirement status and
24 he or she shall immediately become a member of the retirement system
25 with the status of membership he or she had as of the date of ((his))
26 retirement. Retirement benefits shall be suspended during the period
27 of his or her return to service and he or she shall make contributions
28 and receive service credit. Such a member shall have the right to
29 again retire at any time and his or her retirement allowance shall be

1 recomputed, and paid, based upon additional service rendered and any
2 change in final average salary: PROVIDED FURTHER, That no retirement
3 allowance paid pursuant to this section shall exceed sixty percent of
4 final average salary, except as such allowance may be increased by
5 virtue of RCW 41.26.240, as now or hereafter amended.

6 **Sec. 17.** RCW 41.26.160 and 1986 c 176 s 7 are each amended to read
7 as follows:

8 (1) In the event of the death of any member who is in active
9 service, or who has vested under the provisions of RCW 41.26.090 with
10 twenty or more service credit years of service, or who is on disability
11 leave or retired, whether for disability or service, his or her
12 surviving spouse shall become entitled to receive a monthly allowance
13 equal to fifty percent of his or her final average salary at the date
14 of death if active, or the amount of retirement allowance the vested
15 member would have received at age fifty, or the amount of the
16 retirement allowance such retired member was receiving at the time of
17 ((his)) death if retired for service or disability. The amount of this
18 allowance will be increased five percent of final average salary for
19 each child as defined in RCW 41.26.030(7), as now or hereafter amended,
20 subject to a maximum combined allowance of sixty percent of final
21 average salary: PROVIDED, That if the child or children is or are in
22 the care of a legal guardian, payment of the increase attributable to
23 each child will be made to the child's legal guardian or, in the
24 absence of a legal guardian and if the member has created a trust for
25 the benefit of the child or children, payment of the increase
26 attributable to each child will be made to the trust.

27 (2) If at the time of the death of a vested member with twenty or
28 more service credit years of service as provided above or a member
29 retired for service or disability, the surviving spouse has not been

1 lawfully married to such member for one year prior to ((his)) the
2 member's retirement or separation from service if a vested member, the
3 surviving spouse shall not be eligible to receive the benefits under
4 this section: PROVIDED, That if a member dies as a result of a
5 disability incurred in the line of duty, then if he or she was married
6 at the time he or she was disabled, ((his)) the surviving spouse shall
7 be eligible to receive the benefits under this section.

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

23 (4) In the event that there is no surviving spouse eligible to
24 receive benefits under this section, and that there be no child or
25 children eligible to receive benefits under this section, then the
26 accumulated contributions shall be paid to the estate of said member.

27 (5) If a surviving spouse receiving benefits under the provisions
28 of this section thereafter dies and there are children as defined in
29 RCW 41.26.030(7), as now or hereafter amended, payment to the spouse

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

3 (6) 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. 18.** RCW 41.26.430 and 1977 ex.s. c 294 s 4 are each amended
7 to read as follows:

8 (1) NORMAL RETIREMENT. Any member with at least five service
9 credit years of service who has attained at least age fifty-eight shall
10 be eligible to retire and to receive a retirement allowance computed
11 according to the provisions of RCW 41.26.420.

12 (2) EARLY RETIREMENT. Any member who has completed at least twenty
13 service credit years of service and has attained age fifty shall be
14 eligible to retire and to receive a retirement allowance computed
15 according to the provisions of RCW 41.26.420, except that a member
16 retiring pursuant to this subsection shall have the retirement
17 allowance actuarially reduced to reflect the difference in the number
18 of years between age at retirement and the attainment of age
19 fifty-eight.

20 NEW SECTION. **Sec. 19.** (1) Sections 3 through 11 and 14
21 through 18 of this act shall take effect September 1, 1991.

22 (2) The remainder of this act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and shall take
25 effect July 1, 1991.