
SUBSTITUTE HOUSE BILL 1670

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Sommers, Heavey, Locke, King, Jacobsen, Vance, Wineberry, Mielke, Linville, Lisk, J. Kohl, Wolfe, Basich, Orr, Valle, Veloria, Anderson, G. Cole, Dorn, Jones, R. Fisher, Holm, Ogden and Kremen)

Read first time 03/08/93.

1 AN ACT Relating to providing service credit for periods of paid
2 leave; amending RCW 41.40.710, 41.26.520, and 41.32.810; reenacting and
3 amending RCW 41.32.010 and 41.40.010; adding a new section to chapter
4 41.40 RCW; adding a new section to chapter 41.26 RCW; adding a new
5 section to chapter 41.32 RCW; creating a new section; repealing RCW
6 41.32.034 and 41.32.355; repealing 1992 c 3 s 4 (uncodified); and
7 declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.40 RCW
10 under the subchapter heading "Plan I" to read as follows:

11 (1) A member who is on a paid leave of absence authorized by a
12 member's employer shall continue to receive service credit as provided
13 under the provisions of RCW 41.40.145 through 41.40.363.

14 (2) A member who receives compensation from an employer while on an
15 authorized leave of absence to serve as an elected official of a labor
16 organization, and whose employer is reimbursed by the labor
17 organization for the compensation paid to the member during the period
18 of absence, may also be considered to be on a paid leave of absence.
19 This subsection shall only apply if the member's leave of absence is

1 authorized by a collective bargaining agreement that provides that the
2 member retains seniority rights with the employer during the period of
3 leave. For periods of leave occurring after July 1, 1993, a member may
4 receive a maximum of four years of service credit under this
5 subsection. For periods of leave occurring after July 1, 1993, the
6 compensation earnable reported for a member who establishes service
7 credit under this subsection may not be greater than the salary the
8 member would have been paid by the employer for the position the member
9 occupied immediately prior to taking leave, as established in the
10 collective bargaining agreement.

11 **Sec. 2.** RCW 41.40.710 and 1992 c 119 s 3 are each amended to read
12 as follows:

13 (1) A member who is on a paid leave of absence authorized by a
14 member's employer shall continue to receive service credit as provided
15 for under the provisions of RCW 41.40.610 through 41.40.740.

16 (2) A member who receives compensation from an employer while on an
17 authorized leave of absence to serve as an elected official of a labor
18 organization, and whose employer is reimbursed by the labor
19 organization for the compensation paid to the member during the period
20 of absence, may also be considered to be on a paid leave of absence.
21 This subsection shall only apply if the member's leave of absence is
22 authorized by a collective bargaining agreement that provides that the
23 member retains seniority rights with the employer during the period of
24 leave. For periods of leave occurring after July 1, 1993, a member may
25 receive a maximum of four years of service credit under this
26 subsection. For periods of leave occurring after July 1, 1993, the
27 compensation earnable reported for a member who establishes service
28 credit under this subsection may not be greater than the salary the
29 member would have been paid by the employer for the position the member
30 occupied immediately prior to taking leave, as established in the
31 collective bargaining agreement.

32 (3) Except as specified in subsection ~~((3))~~ (4) of this section,
33 a member shall be eligible to receive a maximum of two years service
34 credit during a member's entire working career for those periods when
35 a member is on an unpaid leave of absence authorized by an employer.
36 Such credit may be obtained only if the member makes both the plan II
37 employer and member contributions plus interest as determined by the
38 department for the period of the authorized leave of absence within

1 five years of resumption of service or prior to retirement whichever
2 comes sooner. The contributions required shall be based on the average
3 of the member's compensation earnable at both the time the authorized
4 leave of absence was granted and the time the member resumed
5 employment.

6 ~~((+3+))~~ (4) A member who leaves the employ of an employer to enter
7 the armed forces of the United States shall be entitled to retirement
8 system service credit for up to four years of military service.

9 (a) The member qualifies for service credit under this subsection
10 if:

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

15 (ii) The member makes the employee contributions required under RCW
16 41.40.650 plus interest as determined by the department within five
17 years of resumption of service or prior to retirement, whichever comes
18 sooner.

19 (b) Upon receipt of member contributions under (a)(ii) of this
20 subsection, the department shall bill the employer for its contribution
21 required under RCW 41.40.650 for the period of military service, plus
22 interest as determined by the department.

23 (c) The contributions required shall be based on the average of the
24 member's compensation earnable at both the time the member left the
25 employ of the employer to enter the armed forces and the time the
26 member resumed employment.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.26 RCW
28 under the subchapter heading "Plan I" to read as follows:

29 (1) A member who is on a paid leave of absence authorized by a
30 member's employer shall continue to receive service credit as provided
31 under the provisions of RCW 41.26.080 through 41.26.3903.

32 (2) A member who receives compensation from an employer while on an
33 authorized leave of absence to serve as an elected official of a labor
34 organization, and whose employer is reimbursed by the labor
35 organization for the compensation paid to the member during the period
36 of absence, may also be considered to be on a paid leave of absence.
37 This subsection shall only apply if the member's leave of absence is
38 authorized by a collective bargaining agreement that provides that the

1 member retains seniority rights with the employer during the period of
2 leave. For periods of leave occurring after July 1, 1993, a member may
3 receive a maximum of four years of service credit under this
4 subsection. For periods of leave occurring after July 1, 1993, the
5 basic salary reported for a member who establishes service credit under
6 this subsection may not be greater than the salary the member would
7 have been paid by the employer for the position the member occupied
8 immediately prior to taking leave, as established in the collective
9 bargaining agreement.

10 **Sec. 4.** RCW 41.26.520 and 1992 c 119 s 1 are each amended to read
11 as follows:

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

15 (2) A member who receives compensation from an employer while on an
16 authorized leave of absence to serve as an elected official of a labor
17 organization, and whose employer is reimbursed by the labor
18 organization for the compensation paid to the member during the period
19 of absence, may also be considered to be on a paid leave of absence.
20 This subsection shall only apply if the member's leave of absence is
21 authorized by a collective bargaining agreement that provides that the
22 member retains seniority rights with the employer during the period of
23 leave. For periods of leave occurring after July 1, 1993, a member may
24 receive a maximum of four years of service credit under this
25 subsection. For periods of leave occurring after July 1, 1993, the
26 basic salary reported for a member who establishes service credit under
27 this subsection may not be greater than the salary the member would
28 have been paid by the employer for the position the member occupied
29 immediately prior to taking leave, as established in the collective
30 bargaining agreement.

31 (3) Except as specified in subsection (~~(3)~~) (4) of this section,
32 a member shall be eligible to receive a maximum of two years service
33 credit during a member's entire working career for those periods when
34 a member is on an unpaid leave of absence authorized by an employer.
35 Such credit may be obtained only if the member makes the employer,
36 member, and state contributions plus interest as determined by the
37 department for the period of the authorized leave of absence within
38 five years of resumption of service or prior to retirement whichever

1 comes sooner: PROVIDED, That for the purpose of this subsection the
2 contribution shall not include the contribution for the unfunded
3 supplemental present value as required by RCW 41.26.450. The
4 contributions required shall be based on the average of the member's
5 basic salary at both the time the authorized leave of absence was
6 granted and the time the member resumed employment.

7 ~~((3))~~ (4) A member who leaves the employ of an employer to enter
8 the armed forces of the United States shall be entitled to retirement
9 system service credit for up to four years of military service.

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

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

16 (ii) The member makes the employee contributions required under RCW
17 41.26.450 plus interest as determined by the department within five
18 years of resumption of service or prior to retirement, whichever comes
19 sooner.

20 (b) Upon receipt of member contributions under (a)(ii) of this
21 subsection, the department shall bill the employer and the state for
22 their respective contributions required under RCW 41.26.450 for the
23 period of military service, plus interest as determined by the
24 department.

25 (c) The contributions required shall be based on the average of the
26 member's basic salary at both the time the member left the employ of
27 the employer to enter the armed forces and the time the member resumed
28 employment.

29 ~~((4))~~ (5) A member receiving benefits under Title 51 RCW who is
30 not receiving benefits under this chapter shall be deemed to be on
31 unpaid, authorized leave of absence.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.32 RCW
33 under the subchapter heading "Plan I" to read as follows:

34 (1) A member who is on a paid leave of absence authorized by a
35 member's employer shall continue to receive service credit as provided
36 under the provisions of RCW 41.32.240 through 41.32.575.

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

1 organization, and whose employer is reimbursed by the labor
2 organization for the compensation paid to the member during the period
3 of absence, may also be considered to be on a paid leave of absence.
4 This subsection shall only apply if the member's leave of absence is
5 authorized by a collective bargaining agreement that provides that the
6 member retains seniority rights with the employer during the period of
7 leave. For periods of leave occurring after July 1, 1993, a member may
8 receive a maximum of four years of service credit under this
9 subsection. For periods of leave occurring after July 1, 1993, the
10 earnable compensation reported for a member who establishes service
11 credit under this subsection may not be greater than the salary the
12 member would have been paid by the employer for the position the member
13 occupied immediately prior to taking leave, as established in the
14 collective bargaining agreement.

15 **Sec. 6.** RCW 41.32.810 and 1992 c 119 s 2 are each amended to read
16 as follows:

17 (1) A member who is on a paid leave of absence authorized by a
18 member's employer shall continue to receive service credit as provided
19 for under the provisions of RCW 41.32.755 through 41.32.825.

20 (2) A member who receives compensation from an employer while on an
21 authorized leave of absence to serve as an elected official of a labor
22 organization, and whose employer is reimbursed by the labor
23 organization for the compensation paid to the member during the period
24 of absence, may also be considered to be on a paid leave of absence.
25 This subsection shall only apply if the member's leave of absence is
26 authorized by a collective bargaining agreement that provides that the
27 member retains seniority rights with the employer during the period of
28 leave. For periods of leave occurring after July 1, 1993, a member may
29 receive a maximum of four years of service credit under this
30 subsection. For periods of leave occurring after July 1, 1993, the
31 earnable compensation reported for a member who establishes service
32 credit under this subsection may not be greater than the salary the
33 member would have been paid by the employer for the position the member
34 occupied immediately prior to taking leave, as established in the
35 collective bargaining agreement.

36 (3) Except as specified in subsection ((+3)) (4) of this section,
37 a member shall be eligible to receive a maximum of two years service
38 credit during a member's entire working career for those periods when

1 a member is on an unpaid leave of absence authorized by an employer.
2 Such credit may be obtained only if the member makes both the employer
3 and member contributions plus interest as determined by the department
4 for the period of the authorized leave of absence within five years of
5 resumption of service or prior to retirement whichever comes sooner:
6 PROVIDED, That for the purpose of this subsection the contribution
7 shall not include the contribution for the unfunded supplemental
8 present value as required by RCW 41.32.775. The contributions required
9 shall be based on the average of the member's earnable compensation at
10 both the time the authorized leave of absence was granted and the time
11 the member resumed employment.

12 ~~((+3+))~~ (4) A member who leaves the employ of an employer to enter
13 the armed forces of the United States shall be entitled to retirement
14 system service credit for up to four years of military service.

15 (a) The member qualifies for service credit under this subsection
16 if:

17 (i) Within ninety days of the member's honorable discharge from the
18 United States armed forces, the member applies for reemployment with
19 the employer who employed the member immediately prior to the member
20 entering the United States armed forces; and

21 (ii) The member makes the employee contributions required under RCW
22 41.32.775 plus interest as determined by the department within five
23 years of resumption of service or prior to retirement, whichever comes
24 sooner.

25 (b) Upon receipt of member contributions under (a)(ii) of this
26 subsection, the department shall bill the employer for its contribution
27 required under RCW 41.32.775 for the period of military service, plus
28 interest as determined by the department.

29 (c) The contributions required shall be based on the average of the
30 member's earnable compensation at both the time the member left the
31 employ of the employer to enter the armed forces and the time the
32 member resumed employment.

33 **Sec. 7.** RCW 41.32.010 and 1992 c 212 s 1 and 1992 c 3 s 3 are each
34 reenacted and amended to read as follows:

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

37 (1)(a) "Accumulated contributions" for plan I members, means the
38 sum of all regular annuity contributions with regular interest thereon.

1 (b) "Accumulated contributions" for plan II members, means the sum
2 of all contributions standing to the credit of a member in the member's
3 individual account together with the regular interest thereon.

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

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

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

11 (5)(a) "Beneficiary" for plan I members, means any person in
12 receipt of a retirement allowance or other benefit provided by this
13 chapter.

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

17 (6) "Contract" means any agreement for service and compensation
18 between a member and an employer.

19 (7) "Creditable service" means membership service plus prior
20 service for which credit is allowable. This subsection shall apply
21 only to plan I members.

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

24 (9) "Disability allowance" means monthly payments during
25 disability. This subsection shall apply only to plan I members.

26 (10)(a) "Earnable compensation" for plan I members, means:

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

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

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

13 (ii) For members employed less than full time under written
14 contract with a school district, or community college district, in an
15 instructional position, for which the member receives service credit of
16 less than one year in all of the years used to determine the earnable
17 compensation used for computing benefits due under RCW 41.32.497,
18 41.32.498, and 41.32.520, the member may elect to have earnable
19 compensation defined as provided in RCW 41.32.345. For the purposes of
20 this subsection, the term "instructional position" means a position in
21 which more than seventy-five percent of the member's time is spent as
22 a classroom instructor (including office hours), a librarian, or a
23 counselor. Earnable compensation shall be so defined only for the
24 purpose of the calculation of retirement benefits and only as necessary
25 to insure that members who receive fractional service credit under RCW
26 41.32.270 receive benefits proportional to those received by members
27 who have received full-time service credit.

28 ~~((iii) For members who receive service credit pursuant to RCW~~
29 ~~41.32.034 or 41.32.355 for a period of authorized leave from a school~~
30 ~~district, the earnable compensation allowable for calculation of the~~
31 ~~member's average final compensation shall be the salary the member~~
32 ~~would have been paid by the district for the position the member~~
33 ~~occupied immediately prior to taking leave, as established in the~~
34 ~~district's collective bargaining agreement for nonsupervisory~~
35 ~~certificated employees.~~

36 ~~(iv) For members who receive service credit pursuant to RCW~~
37 ~~41.32.034 or 41.32.355 for a period of authorized leave from a~~
38 ~~community or technical college district, the earnable compensation~~
39 ~~allowable for calculation of average final compensation for periods of~~

1 ~~service authorized under this chapter shall be the average of the~~
2 ~~member's compensation earnable at both the time the authorized leave of~~
3 ~~absence was granted and the time the member resumed employment.))~~

4 (b) "Earnable compensation" for plan II members, means salaries or
5 wages earned by a member during a payroll period for personal services,
6 including overtime payments, and shall include wages and salaries
7 deferred under provisions established pursuant to sections 403(b),
8 414(h), and 457 of the United States Internal Revenue Code, but shall
9 exclude lump sum payments for deferred annual sick leave, unused
10 accumulated vacation, unused accumulated annual leave, or any form of
11 severance pay.

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

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

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

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

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

32 (12) "Fiscal year" means a year which begins July 1st and ends June
33 30th of the following year.

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

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

1 (15) "Member" means any teacher included in the membership of the
2 retirement system. Also, any other employee of the public schools who,
3 on July 1, 1947, had not elected to be exempt from membership and who,
4 prior to that date, had by an authorized payroll deduction, contributed
5 to the member reserve.

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

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

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

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

22 (20) "Prior service contributions" means contributions made by a
23 member to secure credit for prior service. The provisions of this
24 subsection shall apply only to plan I members.

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

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

33 (23) "Regular interest" means such rate as the director may
34 determine.

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

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

1 (25) "Retirement system" means the Washington state teachers'
2 retirement system.

3 (26)(a) "Service" means the time during which a member has been
4 employed by an employer for compensation: PROVIDED, That where a
5 member is employed by two or more employers the individual shall
6 receive no more than one service credit month during any calendar month
7 in which multiple service is rendered.

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

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

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

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

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

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

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

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

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

5 The department shall adopt rules implementing this subsection.

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

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

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

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

24 (31) "Retiree" means any member in receipt of a retirement
25 allowance or other benefit provided by this chapter resulting from
26 service rendered to an employer by such member.

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

29 (33) "Director" means the director of the department.

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

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

35 (36) "Substitute teacher" means:

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

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

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

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

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

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

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

20 (39) "Plan II" means the teachers' retirement system, plan II
21 providing the benefits and funding provisions covering persons who
22 first became members of the system on and after October 1, 1977.

23 (~~(40) "Education association" means an association organized to~~
24 ~~carry out collective bargaining activities, the majority of whose~~
25 ~~members are employees covered by chapter 41.59 RCW or academic~~
26 ~~employees covered by chapter 28B.52 RCW.))~~

27 **Sec. 8.** RCW 41.40.010 and 1991 c 343 s 6 and 1991 c 35 s 70 are
28 each reenacted and amended to read as follows:

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

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

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

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

37 (4)(a) "Employer" for plan I members, means every branch,
38 department, agency, commission, board, and office of the state, any

1 political subdivision or association of political subdivisions of the
2 state admitted into the retirement system, and legal entities
3 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW as now
4 or hereafter amended; and the term shall also include any labor guild,
5 association, or organization the membership of a local lodge or
6 division of which is comprised of at least forty percent employees of
7 an employer (other than such labor guild, association, or organization)
8 within this chapter. The term may also include any city of the first
9 class that has its own retirement system.

10 (b) "Employer" for plan II members, means every branch, department,
11 agency, commission, board, and office of the state, and any political
12 subdivision and municipal corporation of the state admitted into the
13 retirement system, including public agencies created pursuant to RCW
14 35.63.070, 36.70.060, and 39.34.030.

15 (5) "Member" means any employee included in the membership of the
16 retirement system, as provided for in RCW 41.40.023.

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

18 (a) Any person who became a member of the system prior to April 1,
19 1949;

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

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

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

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

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

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

12 (8)(a) "Compensation earnable" for plan I members, means salaries
13 or wages earned during a payroll period for personal services and where
14 the compensation is not all paid in money, maintenance compensation
15 shall be included upon the basis of the schedules established by the
16 member's employer: PROVIDED, That retroactive payments to an
17 individual by an employer on reinstatement of the employee in a
18 position, or payments by an employer to an individual in lieu of
19 reinstatement in a position which are awarded or granted as the
20 equivalent of the salary or wage which the individual would have earned
21 during a payroll period shall be considered compensation earnable and
22 the individual shall receive the equivalent service credit: PROVIDED
23 FURTHER, That if a leave of absence is taken by an individual for the
24 purpose of serving in the state legislature, the salary which would
25 have been received for the position from which the leave of absence was
26 taken, shall be considered as compensation earnable if the employee's
27 contribution is paid by the employee and the employer's contribution is
28 paid by the employer or employee.

29 (b) "Compensation earnable" for plan II members, means salaries or
30 wages earned by a member during a payroll period for personal services,
31 including overtime payments, and shall include wages and salaries
32 deferred under provisions established pursuant to sections 403(b),
33 414(h), and 457 of the United States Internal Revenue Code, but shall
34 exclude nonmoney maintenance compensation and lump sum payments for
35 deferred annual sick leave, unused accumulated vacation, unused
36 accumulated annual leave, or any form of severance pay: PROVIDED, That
37 retroactive payments to an individual by an employer on reinstatement
38 of the employee in a position, or payments by an employer to an
39 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 plan I members, except as provided in RCW
18 41.40.088, means periods of employment in an eligible position or
19 positions for one or more employers rendered to any employer for which
20 compensation is paid, and includes time spent in office as an elected
21 or appointed official of an employer. Compensation earnable earned in
22 full time work for seventy hours or more in any given calendar month
23 shall constitute one service credit month except as provided in RCW
24 41.40.088. Compensation earnable earned for less than seventy hours in
25 any calendar month shall constitute one-quarter service credit month of
26 service except as provided in RCW 41.40.088. Only service credit
27 months and one-quarter service credit months shall be counted in the
28 computation of any retirement allowance or other benefit provided for
29 in this chapter. Any fraction of a year of service shall be taken into
30 account in the computation of such retirement allowance or benefits.

31 Service by a state employee officially assigned by the state on a
32 temporary basis to assist another public agency, shall be considered as
33 service as a state employee: PROVIDED, That service to any other
34 public agency shall not be considered service as a state employee if
35 such service has been used to establish benefits in any other public
36 retirement system: PROVIDED FURTHER, That an individual shall receive
37 no more than a total of twelve service credit months of service during
38 any calendar year: PROVIDED FURTHER, That where an individual is
39 employed in an eligible position by one or more employers the

1 individual shall receive no more than one service credit month during
2 any calendar month in which multiple service for seventy or more hours
3 is rendered.

4 (b) "Service" for plan II members, means periods of employment by
5 a member in an eligible position or positions for one or more employers
6 for which compensation earnable is paid. Compensation earnable earned
7 for ninety or more hours in any calendar month shall constitute one
8 service credit month except as provided in RCW 41.40.088. Compensation
9 earnable earned for at least seventy hours but less than ninety hours
10 in any calendar month shall constitute one-half service credit month of
11 service. Compensation earnable earned for less than seventy hours in
12 any calendar month shall constitute one-quarter service credit month of
13 service.

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

16 Service in any state elective position shall be deemed to be full
17 time service, except that persons serving in state elective positions
18 who are members of the teachers' retirement system or law enforcement
19 officers' and fire fighters' retirement system at the time of election
20 or appointment to such position may elect to continue membership in the
21 teachers' retirement system or law enforcement officers' and fire
22 fighters' retirement system.

23 A member shall receive a total of not more than twelve service
24 credit months of service for such calendar year: PROVIDED, That when
25 an individual is employed in an eligible position by one or more
26 employers the individual shall receive no more than one service credit
27 month during any calendar month in which multiple service for ninety or
28 more hours is rendered.

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

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

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

35 (13) "Membership service" means:

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

37 (b) All service after October 1, 1947, to any employer prior to the
38 time of its admission into the retirement system: PROVIDED, That an
39 amount equal to the employer and employee contributions which would

1 have been paid to the retirement system on account of such service
2 shall have been paid to the retirement system with interest (as
3 computed by the department) on the employee's portion prior to
4 retirement of such person, by the employee or his employer, except as
5 qualified by RCW 41.40.023: PROVIDED FURTHER, That employer
6 contributions plus employee contributions with interest submitted by
7 the employee under this subsection shall be placed in the employee's
8 individual account in the employees' savings fund and be treated as any
9 other contribution made by the employee, with the exception that the
10 contributions submitted by the employee in payment of the employer's
11 obligation, together with the interest the director may apply to the
12 employer's contribution, shall be excluded from the calculation of the
13 member's annuity in the event the member selects a benefit with an
14 annuity option;

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

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

31 (14)(a) "Beneficiary" for plan I members, means any person in
32 receipt of a retirement allowance, pension or other benefit provided by
33 this chapter.

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

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

1 (16) "Accumulated contributions" means the sum of all contributions
2 standing to the credit of a member in the member's individual account
3 together with the regular interest thereon.

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

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

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

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

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

24 (21) "Retirement allowance" means the sum of the annuity and the
25 pension.

26 (22) "Employee" means any person who may become eligible for
27 membership under this chapter, as set forth in RCW 41.40.023.

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

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

33 (25) "Eligible position" means:

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

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

3 (26) "Ineligible position" means any position which does not
4 conform with the requirements set forth in subsection (25) of this
5 section.

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

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

12 (29) "Retiree" means any member in receipt of a retirement
13 allowance or other benefit provided by this chapter resulting from
14 service rendered to an employer by such member.

15 (30) "Director" means the director of the department.

16 (31) "State elective position" means any position held by any
17 person elected or appointed to state-wide office or elected or
18 appointed as a member of the legislature.

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

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

24 (34) "Plan II" means the public employees' retirement system, plan
25 II providing the benefits and funding provisions covering persons who
26 first became members of the system on and after October 1, 1977.

27 NEW SECTION. **Sec. 9.** This act applies on a retroactive basis to
28 members for whom compensation and hours were reported under the
29 circumstances described in sections 1 through 6 of this act. Sections
30 5 and 6 of this act may be applied retroactively to July 1, 1992, for
31 any persons who were eligible to establish service credit under chapter
32 3, Laws of 1992.

33 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
34 each repealed:

35 (1) RCW 41.32.034 and 1992 c 3 s 1;

36 (2) RCW 41.32.355 and 1992 c 3 s 2; and

37 (3) 1992 c 3 s 4 (uncodified).

1 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and shall take
4 effect immediately.

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