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**SUBSTITUTE HOUSE BILL 1206**

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**State of Washington                      54th Legislature                      1995 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives Carlson, Sommers, Cooke and Dellwo)

Read first time 03/06/95.

1            AN ACT Relating to creating new retirement systems; amending RCW  
2 41.40.005, 41.40.045, 41.32.005, 41.32.032, 41.45.010, 41.45.020,  
3 41.45.030, 41.45.050, 41.45.060, 41.45.070, 41.50.075, 41.50.110,  
4 41.50.030, 41.50.050, 41.50.060, 41.54.030, 41.04.440, 41.04.445, and  
5 41.04.450; reenacting and amending RCW 41.40.010, 41.40.088, and  
6 41.32.010; adding new sections to chapter 41.40 RCW; adding new  
7 sections to chapter 41.32 RCW; adding new sections to chapter 41.50  
8 RCW; adding a new section to chapter 41.45 RCW; adding a new section to  
9 chapter 41.54 RCW; adding a new section to chapter 43.33A RCW; adding  
10 a new chapter to Title 41 RCW; creating new sections; repealing RCW  
11 41.04.250, 41.04.255, 41.04.260, 41.32.775, 41.40.650, 41.45.040,  
12 41.45.0601, 41.45.901, 41.50.032, and 41.50.250; and providing an  
13 effective date.

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

15            NEW SECTION.    **Sec. 1.**    The legislature recognizes that public  
16 employees need the ability to make transitions to other private or  
17 public sector careers, and that the retirement system should not be a  
18 barrier to exercise of employee choice.    The legislature also  
19 recognizes that public employees need a secure and viable retirement

1 benefit, not only for their own financial protection, but also that  
2 public funds are spent prudently for their intended purpose.

3 It is the legislative intent to create a new public retirement  
4 system that balances flexibility with stability, provides both  
5 increased employee control of investments and responsible protection of  
6 the public's investment in employee benefits, and encourages the  
7 pursuit of public sector careers without preventing employees from  
8 transitioning into other public or private sector employment.

9 Therefore, the purpose of chapter . . . , Laws of 1995 (this act) is  
10 to continue to provide public employees with a guaranteed pension at  
11 retirement age based on years of public service with an element of  
12 inflation protection. It is further the purpose of chapter . . . , Laws  
13 of 1995 (this act) to create a parallel retirement plan where employees  
14 have options regarding the investment of their retirement contributions  
15 and have the opportunity, along with the accompanying risk, to receive  
16 a full rate of return on their investments and where employees who  
17 leave public employment prior to retirement receive a fair and  
18 reasonable value from the retirement system.

19 **PART I**

20 **DEFINED BENEFIT--PERS III**

21 **Sec. 101.** RCW 41.40.005 and 1992 c 72 s 8 are each amended to read  
22 as follows:

23 RCW 41.40.010 through ((41.40.112)) 41.40.108 shall apply to  
24 members of plan I ((and)), plan II, and plan III.

25 **Sec. 102.** RCW 41.40.010 and 1994 c 298 s 2, 1994 c 247 s 5, 1994  
26 c 197 s 23, and 1994 c 177 s 8 are each reenacted and amended to read  
27 as follows:

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

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

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

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

1 (4)(a) "Employer" for plan I members, means every branch,  
2 department, agency, commission, board, and office of the state, any  
3 political subdivision or association of political subdivisions of the  
4 state admitted into the retirement system, and legal entities  
5 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the  
6 term shall also include any labor guild, association, or organization  
7 the membership of a local lodge or division of which is comprised of at  
8 least forty percent employees of an employer (other than such labor  
9 guild, association, or organization) within this chapter. The term may  
10 also include any city of the first class that has its own retirement  
11 system.

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

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

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

23 (a) Any person who became a member of the system prior to April 1,  
24 1949;

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

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

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

37 (e) Any member who has restored all contributions that may have  
38 been withdrawn as provided by RCW 41.40.150 and who on the effective  
39 date of the individual's retirement becomes entitled to be credited

1 with ten years or more of membership service except that the provisions  
2 relating to the minimum amount of retirement allowance for the member  
3 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
4 apply to the member;

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

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

16 (8)(a) "Compensation earnable" for plan I members, means salaries  
17 or wages earned during a payroll period for personal services and where  
18 the compensation is not all paid in money, maintenance compensation  
19 shall be included upon the basis of the schedules established by the  
20 member's employer. Compensation that a member receives for being in  
21 standby status is also compensation earnable, subject to the conditions  
22 of this subsection. A member is in standby status when not being paid  
23 for time actually worked and only when both of the following conditions  
24 exist: (i) The member is required to be present at, or in the  
25 immediate vicinity of, a specified location; and (ii) the employer  
26 requires the member to be prepared to report immediately for work, if  
27 the need arises, although the need may not arise. Standby compensation  
28 is regular salary for the purposes of RCW 41.50.150(2).

29 (A) "Compensation earnable" for plan I members also includes the  
30 following actual or imputed payments, which are not paid for personal  
31 services:

32 (I) Retroactive payments to an individual by an employer on  
33 reinstatement of the employee in a position, or payments by an 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 wage which the  
36 individual would have earned during a payroll period shall be  
37 considered compensation earnable and the individual shall receive the  
38 equivalent service credit;

1 (II) If a leave of absence is taken by an individual for the  
2 purpose of serving in the state legislature, the salary which would  
3 have been received for the position from which the leave of absence was  
4 taken, shall be considered as compensation earnable if the employee's  
5 contribution is paid by the employee and the employer's contribution is  
6 paid by the employer or employee.

7 (III) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
8 and 72.09.240;

9 (IV) Compensation that a member would have received but for a  
10 disability occurring in the line of duty only as authorized by RCW  
11 41.40.038; and

12 (V) Compensation that a member receives due to participation in the  
13 leave sharing program only as authorized by RCW 41.04.650 through  
14 41.04.670.

15 (B) "Compensation earnable" does not include:

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

18 (II) Remuneration for unused annual leave in excess of thirty days  
19 as authorized by RCW 43.01.044 and 43.01.041.

20 (b) "Compensation earnable" for plan II and plan III members, means  
21 salaries or wages earned by a member during a payroll period for  
22 personal services, including overtime payments, and shall include wages  
23 and salaries deferred under provisions established pursuant to sections  
24 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
25 shall exclude nonmoney maintenance compensation and lump sum or other  
26 payments for deferred annual sick leave, unused accumulated vacation,  
27 unused accumulated annual leave, or any form of severance pay.  
28 Compensation that a member receives for being in standby status is also  
29 compensation earnable, subject to the conditions of this subsection.  
30 A member is in standby status when not being paid for time actually  
31 worked and only when both of the following conditions exist: (i) The  
32 member is required to be present at, or in the immediate vicinity of,  
33 a specified location; and (ii) the employer requires the member to be  
34 prepared to report immediately for work, if the need arises, although  
35 the need may not arise. Standby compensation is regular salary for the  
36 purposes of RCW 41.50.150(2).

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

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

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

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

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

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

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

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

28 (9)(a) "Service" for plan I members, except as provided in RCW  
29 41.40.088, means periods of employment in an eligible position or  
30 positions for one or more employers rendered to any employer for which  
31 compensation is paid, and includes time spent in office as an elected  
32 or appointed official of an employer. Compensation earnable earned in  
33 full time work for seventy hours or more in any given calendar month  
34 shall constitute one service credit month except as provided in RCW  
35 41.40.088. Compensation earnable earned for less than seventy hours in  
36 any calendar month shall constitute one-quarter service credit month of  
37 service except as provided in RCW 41.40.088. Only service credit  
38 months and one-quarter service credit months shall be counted in the  
39 computation of any retirement allowance or other benefit provided for

1 in this chapter. Any fraction of a year of service shall be taken into  
2 account in the computation of such retirement allowance or benefits.  
3 Time spent in standby status, whether compensated or not, is not  
4 service.

5 (i) Service by a state employee officially assigned by the state on  
6 a temporary basis to assist another public agency, shall be considered  
7 as 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.

11 (ii) An individual shall receive no more than a total of twelve  
12 service credit months of service during any calendar year. If an  
13 individual is employed in an eligible position by one or more employers  
14 the individual shall receive no more than one service credit month  
15 during any calendar month in which multiple service for seventy or more  
16 hours is rendered.

17 (iii) A school district employee may count up to forty-five days of  
18 sick leave as creditable service solely for the purpose of determining  
19 eligibility to retire under RCW 41.40.180 as authorized by RCW  
20 28A.400.300. For purposes of plan I "forty-five days" as used in RCW  
21 28A.400.300 is equal to two service credit months. Use of less than  
22 forty-five days of sick leave is creditable as allowed under this  
23 subsection as follows:

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

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

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

29 (b) "Service" for plan II and plan III members, means periods of  
30 employment by a member in an eligible position or positions for one or  
31 more employers for which compensation earnable is paid. Compensation  
32 earnable earned for ninety or more hours in any calendar month shall  
33 constitute one service credit month except as provided in RCW  
34 41.40.088. Compensation earnable earned for at least seventy hours but  
35 less than ninety hours in any calendar month shall constitute one-half  
36 service credit month of service. Compensation earnable earned for less  
37 than seventy hours in any calendar month shall constitute one-quarter  
38 service credit month of service. Time spent in standby status, whether  
39 compensated or not, is not service.

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

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

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

16 (iii) Up to forty-five days of sick leave may be creditable as  
17 service solely for the purpose of determining eligibility to retire  
18 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
19 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two  
20 service credit months. Use of less than forty-five days of sick leave  
21 is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

36 (13) "Membership service" means:

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

38 (b) All service after October 1, 1947, to any employer prior to the  
39 time of its admission into the retirement system: PROVIDED, That an

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

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

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

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

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

1 (15) "Regular interest" means such rate as the director may  
2 determine.

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

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

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

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

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

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

27 (21)(a) "Retirement allowance" for plan I members means the sum of  
28 the annuity and the pension.

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

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

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

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

39 (25) "Eligible position" means:

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

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

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

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

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

18 (29) "Retiree" means any person in receipt of a retirement  
19 allowance or other benefit provided by this chapter resulting from  
20 service rendered to an employer while a member. A person is in receipt  
21 of a retirement allowance as defined in subsection (21) of this section  
22 or other benefit as provided by this chapter when the department mails,  
23 causes to be mailed, or otherwise transmits the retirement allowance  
24 warrant.

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

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

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

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

34 (34) "Plan II" means the public employees' retirement system, plan  
35 II providing the benefits and funding provisions covering persons who  
36 first became members of the system on and after October 1, 1977, and  
37 prior to the effective date of this act.

38 (35) "Plan III" means the public employees' retirement system, plan  
39 III providing the benefits and funding provisions covering persons who

1 first became members of the system on and after the effective date of  
2 this act or who transfer under section 404 of this act.

3 ~~(36)~~ (36) "Index" means, for any calendar year, that year's annual  
4 average consumer price index, Seattle, Washington area, for urban wage  
5 earners and clerical workers, all items, compiled by the bureau of  
6 labor statistics, United States department of labor.

7 ~~((+36+))~~ (37) "Index A" means the index for the year prior to the  
8 determination of a postretirement adjustment.

9 ~~((+37+))~~ (38) "Index B" means the index for the year prior to index  
10 A.

11 ~~((+38+))~~ (39) "Index year" means the earliest calendar year in  
12 which the index is more than sixty percent of index A.

13 ~~((+39+))~~ (40) "Adjustment ratio" means the value of index A divided  
14 by index B.

15 **Sec. 103.** RCW 41.40.045 and 1989 c 273 s 22 are each amended to  
16 read as follows:

17 Any employer admitted to the retirement system after April 1, 1949,  
18 shall make an additional contribution until such time as the sum of  
19 such additional contributions equals:

20 (1) For plans I and II: The amount of contributions which such  
21 employer and employee would have been required to contribute between  
22 April 1, 1949, and the date of such employer's admission to the  
23 retirement system: PROVIDED, That either the employee or employer may  
24 make the contributions the employee would have made during the same  
25 period of time: PROVIDED FURTHER, That all additional contributions  
26 hereunder and under the provisions of RCW 41.40.160(2) must be  
27 completed within fifteen years from the date of the employer's  
28 admission. Employee contributions for these periods must be made  
29 before the member will receive credit for those periods of service,  
30 pursuant to such regulations as the department may adopt.

31 (2) For plan III: The amount of contributions that the employer  
32 would have been required to contribute prior to the date of such  
33 employer's admission to the retirement system. All contributions must  
34 be completed within fifteen years from the date of the employer's  
35 admission.

36 **Sec. 104.** RCW 41.40.088 and 1991 c 343 s 9 and 1991 c 35 s 96 are  
37 each reenacted and amended to read as follows:

1 (1) A plan I member who is employed by a school district or  
2 districts, an educational service district, the state school for the  
3 deaf, the state school for the blind, institutions of higher education,  
4 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 month for each month of the period he or she earns  
15 earnable compensation for seventy or more hours; and the member is  
16 entitled to a one-quarter service credit month for those calendar  
17 months during which he or she earned compensation for less than seventy  
18 hours.

19 (2) Except for any period prior to the member's employment in an  
20 eligible position, a plan II or a plan III member who is employed by a  
21 school district or districts, an educational service district, the  
22 state school for the blind, the state school for the deaf, institutions  
23 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;

29 (b) If a member in an eligible position for each month of the  
30 period from September through August of the following year does not  
31 meet the hours requirements of (a) of this subsection, the member is  
32 entitled to one-half service credit month for each month of the period  
33 if he or she earns earnable compensation for at least six hundred  
34 thirty hours but less than eight hundred ten hours during that period,  
35 and is employed nine months of that period.

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

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

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

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

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

7 **PLAN III**

8 NEW SECTION. **Sec. 105.** (1) This section and sections 106 through  
9 115 of this act shall apply only to plan III members.

10 (2) Plan III consists of two separate elements: (a) A defined  
11 benefit portion covered under this subchapter; and (b) a defined  
12 contribution portion covered under chapter 41.-- RCW (sections 301  
13 through 308 of this act). All contributions on behalf of the employer  
14 paid by an employee shall be made to the defined benefit portion of  
15 plan III and shall be nonrefundable when paid to the fund described in  
16 RCW 41.50.075(3).

17 (3) Unless otherwise specified, all references to "plan III" in  
18 this chapter refer to the defined benefit portion of plan III.

19 NEW SECTION. **Sec. 106.** A member of the retirement system shall  
20 receive a retirement allowance equal to one percent of such member's  
21 average final compensation for each service credit year.

22 NEW SECTION. **Sec. 107.** Retirement allowances shall have a  
23 postretirement cost-of-living allowance calculated and paid as provided  
24 in RCW 41.40.640.

25 NEW SECTION. **Sec. 108.** (1) Upon retirement for service as  
26 prescribed in section 113 of this act or retirement for disability  
27 under section 114 of this act, a member shall elect to have the  
28 retirement allowance paid pursuant to one of the following options,  
29 calculated so as to be actuarially equivalent to each other:

30 (a) Standard allowance. A member electing this option shall  
31 receive a retirement allowance payable throughout such member's life.  
32 Upon the death of the retired member, all benefits shall cease.

33 (b) The department shall adopt rules that allow a member to select  
34 a retirement option that pays the member a reduced retirement allowance

1 and upon death, such portion of the member's reduced retirement  
2 allowance as the department by rule designates shall be continued  
3 throughout the life of and paid to the member's estate or such person  
4 or persons, trust, or organization as the retiree shall have nominated  
5 by written designation duly executed and filed with the department at  
6 the time of retirement. The options adopted by the department shall  
7 include, but are not limited to, a joint and one hundred percent  
8 survivor option and a joint and fifty percent survivor option.

9 (2) A member, if married, must provide the written consent of his  
10 or her spouse to the option selected under this section. If a member  
11 is married and both the member and the member's spouse do not give  
12 written consent to an option under this section, the department shall  
13 pay a joint and fifty percent survivor benefit calculated to be  
14 actuarially equivalent to the benefit options available under  
15 subsection (1) of this section.

16 NEW SECTION. **Sec. 109.** (1) Any member or beneficiary eligible to  
17 receive a retirement allowance under the provisions of section 113,  
18 114, or 117 of this act shall be eligible to commence receiving a  
19 retirement allowance after having filed written application with the  
20 department.

21 (2) Retirement allowances paid to members shall accrue from the  
22 first day of the calendar month immediately following such member's  
23 separation from employment.

24 (3) Retirement allowances paid to vested members no longer in  
25 service, but qualifying for such an allowance under section 113 of this  
26 act shall accrue from the first day of the calendar month immediately  
27 following such qualification.

28 (4) Disability allowances paid to disabled members shall accrue  
29 from the first day of the calendar month immediately following such  
30 member's separation from employment for disability.

31 (5) Retirement allowances paid as death benefits shall accrue from  
32 the first day of the calendar month immediately following the member's  
33 death.

34 NEW SECTION. **Sec. 110.** (1) No retiree shall be eligible to  
35 receive such retiree's monthly retirement allowance if he or she is  
36 employed in an eligible position as defined in RCW 41.40.010 or

1 41.32.010, or as a law enforcement officer or fire fighter as defined  
2 in RCW 41.26.030, except that:

3 (a) A retiree who ends his or her membership in the retirement  
4 system pursuant to RCW 41.40.023(3)(b) is not subject to this section  
5 if the retiree's only employment is as an elective official of a city  
6 or town; and

7 (b) A plan III retiree may work in eligible positions on a  
8 temporary basis for up to five months per calendar year.

9 (2) If a retiree's benefits have been suspended under this section,  
10 his or her benefits shall be reinstated when the retiree terminates the  
11 employment that caused the suspension of benefits. Upon reinstatement,  
12 the retiree's benefits shall be actuarially recomputed pursuant to the  
13 rules adopted by the department.

14 NEW SECTION. **Sec. 111.** (1) A member who is on a paid leave of  
15 absence authorized by a member's employer shall continue to receive  
16 service credit.

17 (2) A member who receives compensation from an employer while on an  
18 authorized leave of absence to serve as an elected official of a labor  
19 organization, and whose employer is reimbursed by the labor  
20 organization for the compensation paid to the member during the period  
21 of absence, may also be considered to be on a paid leave of absence.  
22 This subsection shall only apply if the member's leave of absence is  
23 authorized by a collective bargaining agreement that provides that the  
24 member retains seniority rights with the employer during the period of  
25 leave. The compensation earnable reported for a member who establishes  
26 service credit under this subsection may not be greater than the salary  
27 paid to the highest paid job class covered by the collective bargaining  
28 agreement.

29 (3) Except as specified in subsection (4) of this section, a member  
30 shall be eligible to receive a maximum of two years service credit  
31 during a member's entire working career for those periods when a member  
32 is on an unpaid leave of absence authorized by an employer. Such  
33 credit may be obtained only if:

34 (a) The member makes the contribution on behalf of the employer,  
35 plus interest, as determined by the department; and

36 (b) The member makes the employee contribution, plus interest as  
37 determined by the department, to the defined contribution portion. The  
38 contributions required shall be based on the average of the member's

1 compensation earnable at both the time the authorized leave of absence  
2 was granted and the time the member resumed employment.

3 (4) A member who leaves the employ of an employer to enter the  
4 armed forces of the United States shall be entitled to retirement  
5 system service credit for up to four years of military service if  
6 within ninety days of the member's honorable discharge from the United  
7 States armed forces, the member applies for reemployment with the  
8 employer who employed the member immediately prior to the member  
9 entering the United States armed forces.

10 The department shall bill the employer for its contribution  
11 required under this act for the period of military service, plus  
12 interest as determined by the department. Service credit under this  
13 subsection may be obtained only if the member makes the employee  
14 contribution plus interest, to the defined contribution portion as  
15 determined by the department.

16 The contributions required shall be based on the average of the  
17 member's compensation earnable at both the time the member left the  
18 employ of the employer to enter the armed forces and the time the  
19 member resumed employment.

20 NEW SECTION. **Sec. 112.** (1) The director may pay a member eligible  
21 to receive a retirement allowance or the member's beneficiary, subject  
22 to the provisions of subsection (3) of this section, a lump sum payment  
23 in lieu of a monthly benefit if the initial monthly benefit computed in  
24 accordance with section 106 of this act would be less than one hundred  
25 dollars. The one hundred dollar limit shall be increased by three  
26 percent compounded annually on January 1. The lump sum payment shall  
27 be the actuarial equivalent of the monthly benefit.

28 (2) Persons covered under the provisions of subsection (1) of this  
29 section may upon returning to member status reinstate all previous  
30 service by depositing the lump sum payment received, with interest as  
31 computed by the director, within two years of returning to service or  
32 prior to retiring again, whichever comes first. In computing the  
33 amount due, the director shall exclude the accumulated value of the  
34 normal payments the member would have received while in beneficiary  
35 status if the lump sum payment had not occurred.

36 (3) Any member who receives a settlement under this section shall  
37 be deemed to be retired from this system.

1        NEW SECTION.    **Sec. 113.**    (1) NORMAL RETIREMENT.    Any vested member  
2 who has attained at least age sixty-five shall be eligible to retire  
3 and to receive a retirement allowance computed according to the  
4 provisions of section 106 of this act.

5        (2) EARLY RETIREMENT.    Any member who has attained at least age  
6 sixty-two and has completed at least ten years of service shall be  
7 eligible to retire and to receive a retirement allowance computed  
8 according to the provisions of section 106 of this act, except that a  
9 member retiring under this subsection shall have the retirement  
10 allowance actuarially reduced to reflect the difference in the number  
11 of years between age at retirement and the attainment of age sixty-  
12 five.

13        NEW SECTION.    **Sec. 114.**    (1) A member of the retirement system who  
14 becomes totally incapacitated for continued employment by an employer  
15 as determined by the department shall be eligible to receive a monthly  
16 disability allowance computed under section 106 of this act and shall  
17 have this allowance actuarially reduced to reflect the difference in  
18 the number of years between age at disability and the attainment of age  
19 sixty-five.

20        Any member who receives an allowance under the provisions of this  
21 section shall be subject to comprehensive medical examinations as  
22 required by the department.    If these medical examinations reveal that  
23 a member has recovered from the incapacitating disability and the  
24 member is offered reemployment by an employer at comparable  
25 compensation, the member shall cease to be eligible for the allowance.

26        (2) The retirement for disability of a judge, who is a member of  
27 the retirement system, by the supreme court under Article IV, section  
28 31 of the Constitution of the state of Washington (Amendment 71), with  
29 the concurrence of the department, shall be considered a retirement  
30 under subsection (1) of this section.

31        (3) If the recipient of a monthly retirement allowance under this  
32 section dies, any further benefit payments shall be conditioned by the  
33 payment option selected by the retiree as provided in section 108 of  
34 this act.

35        NEW SECTION.    **Sec. 115.**    (1) An active member shall become vested  
36 in the right to a benefit upon completing ten years of service or upon  
37 completing five years of service and attaining age fifty-five.

1 (2) A vested member who separates or has separated may remain a  
2 member during the period of such member's absence from service for the  
3 exclusive purpose only of receiving a retirement allowance under the  
4 provisions of section 113 of this act.

5 (3) The retirement allowance payable under section 113 of this act  
6 to a member who separates after having completed at least twenty years  
7 of service shall be increased by twenty-five one-hundredths of one  
8 percent, compounded for each month from the date of separation to the  
9 date that the retirement allowance commences.

10 NEW SECTION. **Sec. 116.** A nonvested member who leaves service and  
11 then reenters membership must earn an additional twelve service credit  
12 months to restore past service credit in the defined benefit portion of  
13 plan III.

14 NEW SECTION. **Sec. 117.** If a member who is vested dies prior to  
15 retirement, the surviving spouse or eligible child or children shall  
16 receive a retirement allowance computed as provided in section 106 of  
17 this act actuarially reduced to reflect a joint and one hundred percent  
18 survivor option and if the member was not eligible for normal  
19 retirement at the date of death a further reduction as described in  
20 section 113(2) of this act.

21 If the surviving spouse who is receiving the retirement allowance  
22 dies leaving a child or children under the age of majority, then such  
23 child or children shall continue to receive an allowance in an amount  
24 equal to that which was being received by the surviving spouse, share  
25 and share alike, until such child or children reach the age of  
26 majority.

27 If there is no surviving spouse eligible to receive an allowance at  
28 the time of the member's death, such member's child or children under  
29 the age of majority shall receive an allowance, share and share alike.  
30 The allowance shall be calculated with the assumption that the ages of  
31 the spouse and member were equal at the time of the member's death.

32 NEW SECTION. **Sec. 118.** Sections 105 through 117 of this act are  
33 designated as a subchapter within chapter 41.40 RCW with the subchapter  
34 heading "Provisions Applicable to Plan III."

1 PART II

2 DEFINED BENEFIT--TRS III

3 Sec. 201. RCW 41.32.005 and 1992 c 72 s 4 are each amended to read  
4 as follows:

5 RCW 41.32.010 through 41.32.067 shall apply to members of plan I  
6 (~~and~~), plan II, and plan III.

7 Sec. 202. RCW 41.32.010 and 1994 c 298 s 3, 1994 c 247 s 2, and  
8 1994 c 197 s 12 are each reenacted and amended to read as follows:

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

11 (1)(a) "Accumulated contributions" for plan I members, means the  
12 sum of all regular annuity contributions and, except for the purpose of  
13 withdrawal at the time of retirement, any amount paid under RCW  
14 41.50.165(2) with regular interest thereon.

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

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

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

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

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

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

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

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

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

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

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

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

11 (ii) "Earnable compensation" for plan I members also includes the  
12 following actual or imputed payments, which are not paid for personal  
13 services:

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

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

33 (iii) For members employed less than full time under written  
34 contract with a school district, or community college district, in an  
35 instructional position, for which the member receives service credit of  
36 less than one year in all of the years used to determine the earnable  
37 compensation used for computing benefits due under RCW 41.32.497,  
38 41.32.498, and 41.32.520, the member may elect to have earnable  
39 compensation defined as provided in RCW 41.32.345. For the purposes of

1 this subsection, the term "instructional position" means a position in  
2 which more than seventy-five percent of the member's time is spent as  
3 a classroom instructor (including office hours), a librarian, or a  
4 counselor. Earnable compensation shall be so defined only for the  
5 purpose of the calculation of retirement benefits and only as necessary  
6 to insure that members who receive fractional service credit under RCW  
7 41.32.270 receive benefits proportional to those received by members  
8 who have received full-time service credit.

9 (iv) "Earnable compensation" does not include:

10 (A) Remuneration for unused sick leave authorized under RCW  
11 41.04.340, 28A.400.210, or 28A.310.490;

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

14 (b) "Earnable compensation" for plan II and plan III members, means  
15 salaries or wages earned by a member during a payroll period for  
16 personal services, including overtime payments, and shall include wages  
17 and salaries deferred under provisions established pursuant to sections  
18 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
19 shall exclude lump sum payments for deferred annual sick leave, unused  
20 accumulated vacation, unused accumulated annual leave, or any form of  
21 severance pay.

22 "Earnable compensation" for plan II and plan III members also  
23 includes the following actual or imputed payments which, except in the  
24 case of (b)(ii)(B) of this subsection, are not paid for personal  
25 services:

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

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

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

38 (B) Such member's actual earnable compensation received for  
39 teaching and legislative service combined. Any additional

1 contributions to the retirement system required because compensation  
2 earnable under (b)(ii)(A) of this subsection is greater than  
3 compensation earnable under (b)(ii)(B) of this subsection shall be paid  
4 by the member for both member and employer contributions.

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

7 (12) "Fiscal year" means a year which begins July 1st and ends June  
8 30th of the following year.

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

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

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

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

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

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

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

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

38 (21) "Public school" means any institution or activity operated by  
39 the state of Washington or any instrumentality or political subdivision

1 thereof employing teachers, except the University of Washington and  
2 Washington State University.

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

7 (23) "Regular interest" means such rate as the director may  
8 determine.

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

12 (b) "Retirement allowance" for plan II and plan III members, means  
13 monthly payments to a retiree or beneficiary as provided in this  
14 chapter.

15 (25) "Retirement system" means the Washington state teachers'  
16 retirement system.

17 (26)(a) "Service" for plan I members means the time during which a  
18 member has been employed by an employer for compensation.

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

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

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

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

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

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

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

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

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

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

17 (iv) Any person who is a member of the teachers' retirement system  
18 and who is elected or appointed to a state elective position may  
19 continue to be a member of the retirement system and continue to  
20 receive a service credit month for each of the months in a state  
21 elective position by making the required member contributions.

22 (v) When an individual is employed by two or more employers the  
23 individual shall only receive one month's service credit during any  
24 calendar month in which multiple service for ninety or more hours is  
25 rendered.

26 (vi) As authorized by RCW 28A.400.300, up to forty-five days of  
27 sick leave may be creditable as service solely for the purpose of  
28 determining eligibility to retire under RCW 41.32.470. For purposes of  
29 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two  
30 service credit months. Use of less than forty-five days of sick leave  
31 is creditable as allowed under this subsection as follows:

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

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

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

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

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

1 (vii) As authorized in RCW 41.32.065, service earned in an out-of-  
2 state retirement system that covers teachers in public schools may be  
3 applied solely for the purpose of determining eligibility to retire  
4 under RCW 41.32.470.

5 (viii) The department shall adopt rules implementing this  
6 subsection.

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

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

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

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

25 (31) "Retiree" means any person in receipt of a retirement  
26 allowance or other benefit provided by this chapter resulting from  
27 service rendered to an employer while a member. A person is in receipt  
28 of a retirement allowance as defined in subsection (24) of this section  
29 or other benefit as provided by this chapter when the department mails,  
30 causes to be mailed, or otherwise transmits the retirement allowance  
31 warrant.

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

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

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

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

1 (36) "Substitute teacher" means:

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

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

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

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

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

19 (d) The elected position of the superintendent of public  
20 instruction is an eligible position.

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

24 (39) "Plan II" means the teachers' retirement system, plan II  
25 providing the benefits and funding provisions covering persons who  
26 first became members of the system on and after October 1, 1977, and  
27 prior to the effective date of this act.

28 (40) "Plan III" means the teachers' retirement system, plan III  
29 providing the benefits and funding provisions covering persons who  
30 first become members of the system on and after the effective date of  
31 this act or who transfer under section 404 of this act.

32 (41) "Education association" means an association organized to  
33 carry out collective bargaining activities, the majority of whose  
34 members are employees covered by chapter 41.59 RCW or academic  
35 employees covered by chapter 28B.52 RCW.

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

1       (~~(41)~~) (43) "Index A" means the index for the year prior to the  
2 determination of a postretirement adjustment.

3       (~~(42)~~) (44) "Index B" means the index for the year prior to index  
4 A.

5       (~~(43)~~) (45) "Index year" means the earliest calendar year in  
6 which the index is more than sixty percent of index A.

7       (~~(44)~~) (46) "Adjustment ratio" means the value of index A divided  
8 by index B.

9       **Sec. 203.** RCW 41.32.032 and 1992 c 212 s 17 are each amended to  
10 read as follows:

11       (1) Any teacher, as defined under RCW 41.32.010, who is first  
12 employed by a public school on or after June 7, 1984, shall become a  
13 member of the retirement system (~~as directed under RCW 41.32.780~~) if  
14 otherwise eligible.

15       (2) Any person who before June 7, 1984, has established service  
16 credit under chapter 41.40 RCW while employed in an educational staff  
17 associate position and who is employed in such a position on or after  
18 June 7, 1984 has the following options:

19       (a) To remain a member of the public employees' retirement system  
20 notwithstanding the provisions of RCW 41.32.240 or 41.32.780; or

21       (b) To irrevocably elect to join the retirement system under this  
22 chapter and to receive service credit for previous periods of  
23 employment in any position included under RCW 41.32.010. This service  
24 credit and corresponding employee contribution shall be computed as  
25 though the person had then been a member of the retirement system under  
26 this chapter. All employee contributions credited to a member under  
27 chapter 41.40 RCW for service now to be credited to the retirement  
28 system under this chapter shall be transferred to the system and the  
29 member shall not receive any credit nor enjoy any rights under chapter  
30 41.40 RCW for those periods of service. The member shall pay any  
31 difference between the employee contributions made under chapter 41.40  
32 RCW and transferred under this subsection and what would have been  
33 required under this chapter, including interest as set by the director.  
34 The member shall be given until July 1, 1989, to make the irrevocable  
35 election permitted under this section. The election shall be made by  
36 submitting written notification as required by the department  
37 requesting credit under this section and by remitting any necessary  
38 proof of service or payments within the time set by the department.

1 Any person, not employed as an educational staff associate on June  
2 7, 1984, may, before June 30 of the fifth school year after that  
3 person's return to employment as a teacher, request and establish  
4 membership and credit under this subsection.

5 **PLAN III**

6 NEW SECTION. **Sec. 204.** (1) Sections 204 through 217 of this act  
7 shall apply only to plan III members.

8 (2) Plan III shall consist of two separate elements: (a) A defined  
9 benefit portion covered under this subchapter; and (b) a defined  
10 contribution portion covered under chapter 41.-- RCW (sections 301  
11 through 308 of this act). All contributions on behalf of the employer  
12 paid by an employee shall be made to the defined benefit portion of  
13 plan III and shall be nonrefundable when paid to the fund described in  
14 RCW 41.50.075(3).

15 (3) Unless otherwise specified, all references to "plan III" in  
16 this subchapter refer to the defined benefit portion of plan III.

17 NEW SECTION. **Sec. 205.** All teachers who become employed by an  
18 employer in an eligible position on or after the effective date of this  
19 act shall be members of plan III.

20 NEW SECTION. **Sec. 206.** A member of the retirement system shall  
21 receive a retirement allowance equal to one percent of such member's  
22 average final compensation for each service credit year.

23 NEW SECTION. **Sec. 207.** Retirement allowances paid under the  
24 defined benefit portion of plan III shall have a postretirement cost-  
25 of-living allowance calculated and paid as provided in RCW 41.32.770.

26 NEW SECTION. **Sec. 208.** (1) Upon retirement for service as  
27 prescribed in section 213 of this act or retirement for disability  
28 under section 214 of this act, a member shall elect to have the  
29 retirement allowance paid pursuant to one of the following options,  
30 calculated so as to be actuarially equivalent to each other.

31 (a) Standard allowance. A member electing this option shall  
32 receive a retirement allowance payable throughout such member's life.  
33 Upon the death of the retired member, all benefits shall cease.

1 (b) The department shall adopt rules that allow a member to select  
2 a retirement option that pays the member a reduced retirement allowance  
3 and upon death, such portion of the member's reduced retirement  
4 allowance as the department by rule designates shall be continued  
5 throughout the life of and paid to the member's estate or such person  
6 or persons, trust, or organization as the retiree shall have nominated  
7 by written designation duly executed and filed with the department at  
8 the time of retirement. The options adopted by the department shall  
9 include, but are not limited to, a joint and one hundred percent  
10 survivor option and joint and fifty percent survivor option.

11 (2) A member, if married, must provide the written consent of his  
12 or her spouse to the option selected under this section. If a member  
13 is married and both the member and the member's spouse do not give  
14 written consent to an option under this section, the department shall  
15 pay a joint and fifty percent survivor benefit calculated to be  
16 actuarially equivalent to the benefit options available under  
17 subsection (1) of this section.

18 NEW SECTION. **Sec. 209.** Any member or beneficiary eligible to  
19 receive a retirement allowance under the provisions of section 213,  
20 214, or 217 of this act shall be eligible to commence receiving a  
21 retirement allowance after having filed written application with the  
22 department.

23 (1) Retirement allowances paid to members shall accrue from the  
24 first day of the calendar month immediately following such member's  
25 separation from employment.

26 (2) Retirement allowances paid to vested members no longer in  
27 service, but qualifying for such an allowance pursuant to section 212  
28 of this act shall accrue from the first day of the calendar month  
29 immediately following such qualification.

30 (3) Disability allowances paid to disabled members shall accrue  
31 from the first day of the calendar month immediately following such  
32 member's separation from employment for disability.

33 (4) Retirement allowances paid as death benefits shall accrue from  
34 the first day of the calendar month immediately following the member's  
35 death.

36 NEW SECTION. **Sec. 210.** (1) No retiree shall be eligible to  
37 receive such retiree's monthly retirement allowance if he or she is

1 employed in an eligible position as defined in RCW 41.40.010 or  
2 41.32.010, or as a law enforcement officer or fire fighter as defined  
3 in RCW 41.26.030, except that a plan III retiree may work in eligible  
4 positions on a temporary basis for up to five months per calendar year.

5 (2) If a retiree's benefits have been suspended under this section,  
6 his or her benefits shall be reinstated when the retiree terminates the  
7 employment that caused the suspension of benefits. Upon reinstatement,  
8 the retiree's benefits shall be actuarially recomputed pursuant to the  
9 rules adopted by the department.

10 NEW SECTION. **Sec. 211.** (1) A member who is on a paid leave of  
11 absence authorized by a member's employer shall continue to receive  
12 service credit.

13 (2) A member who receives compensation from an employer while on an  
14 authorized leave of absence to serve as an elected official of a labor  
15 organization, and whose employer is reimbursed by the labor  
16 organization for the compensation paid to the member during the period  
17 of absence, may also be considered to be on a paid leave of absence.  
18 This subsection shall only apply if the member's leave of absence is  
19 authorized by a collective bargaining agreement that provides that the  
20 member retains seniority rights with the employer during the period of  
21 leave. The earnable compensation reported for a member who establishes  
22 service credit under this subsection may not be greater than the salary  
23 paid to the highest paid job class covered by the collective bargaining  
24 agreement.

25 (3) Except as specified in subsection (4) of this section, a member  
26 shall be eligible to receive a maximum of two years service credit  
27 during a member's entire working career for those periods when a member  
28 is on an unpaid leave of absence authorized by an employer. Such  
29 credit may be obtained only if:

30 (a) The member makes the contribution on behalf of the employer,  
31 plus interest, as determined by the department; and

32 (b) The member makes the employee contribution, plus interest, as  
33 determined by the department, to the defined contribution portion.  
34 The contributions required shall be based on the average of the  
35 member's earnable compensation at both the time the authorized leave of  
36 absence was granted and the time the member resumed employment.

37 (4) A member who leaves the employ of an employer to enter the  
38 armed forces of the United States shall be entitled to retirement

1 system service credit for up to four years of military service if  
2 within ninety days of the member's honorable discharge from the United  
3 States armed forces, the member applies for reemployment with the  
4 employer who employed the member immediately prior to the member  
5 entering the United States armed forces.

6 The department shall bill the employer for its contribution  
7 required under this act for the period of military service, plus  
8 interest as determined by the department. Service credit under this  
9 subsection may be obtained only if the member makes the employee  
10 contribution plus interest to the defined contribution portion as  
11 determined by the department.

12 The contributions required shall be based on the average of the  
13 member's earnable compensation at both the time the member left the  
14 employ of the employer to enter the armed forces and the time the  
15 member resumed employment.

16 NEW SECTION. Sec. 212. (1) The director may pay a member eligible  
17 to receive a retirement allowance or the member's beneficiary a lump  
18 sum payment in lieu of a monthly benefit if the initial monthly benefit  
19 would be less than one hundred dollars. The one hundred dollar limit  
20 shall be increased by three percent compounded annually on January 1.  
21 The lump sum payment shall be the actuarial equivalent of the monthly  
22 benefit.

23 (2) Persons covered under the provisions of subsection (1) of this  
24 section may upon returning to member status reinstate all previous  
25 service by depositing the lump sum payment received, with interest as  
26 computed by the director, within two years of returning to service or  
27 prior to retiring again, whichever comes first. In computing the  
28 amount due, the director shall exclude the accumulated value of the  
29 normal payments the member would have received while in beneficiary  
30 status if the lump sum payment had not occurred.

31 (3) Any member who receives a settlement under this section shall  
32 be deemed to be retired from this system.

33 NEW SECTION. Sec. 213. (1) NORMAL RETIREMENT. Any member who has  
34 vested and attained at least age sixty-five shall be eligible to retire  
35 and to receive a retirement allowance computed according to the  
36 provisions of section 206 of this act.

1 (2) EARLY RETIREMENT. Any member who has attained at least age  
2 sixty-two and has completed at least ten years of service shall be  
3 eligible to retire and to receive a retirement allowance computed  
4 according to the provisions of section 206 of this act, except that a  
5 member retiring pursuant to this subsection shall have the retirement  
6 allowance actuarially reduced to reflect the difference in the number  
7 of years between age at retirement and the attainment of age sixty-  
8 five.

9 NEW SECTION. **Sec. 214.** (1) A member of the retirement system who  
10 becomes totally incapacitated for continued employment by an employer  
11 as determined by the department shall be eligible to receive an  
12 allowance under the provisions of plan III. The member shall receive  
13 a monthly disability allowance computed as provided for in section 206  
14 of this act and shall have this allowance actuarially reduced to  
15 reflect the difference in the number of years between age at disability  
16 and the attainment of age sixty-five.

17 Any member who receives an allowance under the provisions of this  
18 section shall be subject to comprehensive medical examinations as  
19 required by the department. If these medical examinations reveal that  
20 a member has recovered from the incapacitating disability and the  
21 member is offered reemployment by an employer at a comparable  
22 compensation, the member shall cease to be eligible for the allowance.

23 (2) If the recipient of a monthly retirement allowance under this  
24 section dies, any further benefit payments shall be conditioned by the  
25 payment option selected by the retiree as provided in section 208 of  
26 this act.

27 NEW SECTION. **Sec. 215.** (1) An active member shall become vested  
28 in the right to a benefit upon completing ten years of service or upon  
29 completing five years of service and attaining age fifty-five.

30 (2) A vested member who separates or has separated may remain a  
31 member during the period of such member's absence from service for the  
32 exclusive purpose only of receiving a retirement allowance under the  
33 provisions of section 213 of this act.

34 (3) The retirement allowance payable under section 213 of this act  
35 to a member who separates after having completed at least twenty years  
36 of service shall be increased by twenty-five one-hundredths of one

1 percent, compounded for each month from the date of separation to the  
2 date that the retirement allowance commences.

3 NEW SECTION. **Sec. 216.** A nonvested member who leaves service and  
4 then reenters membership must earn an additional twelve service credit  
5 months to restore past service credit in the defined benefit portion of  
6 plan III.

7 NEW SECTION. **Sec. 217.** If a member who is vested dies prior to  
8 retirement, the surviving spouse or eligible child or children shall  
9 receive a retirement allowance computed as provided in section 208 of  
10 this act actuarially reduced to reflect a joint and one hundred percent  
11 survivor option and if the member was not eligible for normal  
12 retirement at the date of death a further reduction as described in  
13 section 213(2) of this act.

14 If the surviving spouse who is receiving the retirement allowance  
15 dies leaving a child or children under the age of majority, then such  
16 child or children shall continue to receive an allowance in an amount  
17 equal to that which was being received by the surviving spouse, share  
18 and share alike, until such child or children reach the age of  
19 majority.

20 If there is no surviving spouse eligible to receive an allowance at  
21 the time of the member's death, such member's child or children under  
22 the age of majority shall receive an allowance, share and share alike.  
23 The allowance shall be calculated with the assumption that the age of  
24 the spouse and member were equal at the time of the member's death.

25 NEW SECTION. **Sec. 218.** Sections 204 through 217 of this act are  
26 designated as a subchapter within chapter 41.32 RCW with the subchapter  
27 heading "Provisions Applicable to Plan III."

28 **PART III**

29 **DEFINED CONTRIBUTION PORTION OF PLAN III**

30 NEW SECTION. **Sec. 301.** The purpose of chapter . . . , Laws of 1995  
31 (this act) is to:

32 (1) Provide a fair and reasonable value from the retirement system  
33 for those who leave public employment before retirement;

- 1 (2) Increase flexibility for such employees to make transitions
- 2 into other public or private sector employment;
- 3 (3) Increase employee options for addressing retirement needs,
- 4 personal financial planning, and career transitions; and
- 5 (4) Continue the legislature's established policy of having
- 6 employees contribute toward their retirement benefits.

7 NEW SECTION. **Sec. 302.** As used in this chapter, the following

8 terms have the meanings indicated:

- 9 (1) "Actuary" means the state actuary or the office of the state
- 10 actuary.
- 11 (2) "Board" means the employee retirement benefits board authorized
- 12 in chapter 41.50 RCW.
- 13 (3) "Department" means the department of retirement systems.
- 14 (4) "Compensation" for purposes of this chapter is the same as:
- 15 (a) "Earnable compensation" for plan III in chapter 41.32 RCW;
- 16 (b) "Compensation earnable" for plan III in chapter 41.40 RCW.
- 17 (5) "Member" means any employee included in the membership of a
- 18 retirement system as provided for plan III in chapters 41.32 and 41.40
- 19 RCW unless otherwise specified.
- 20 (6) "Member account" means the sum of the contributions and
- 21 earnings on behalf of the member.
- 22 (7) "Retiree" means any member in receipt of an allowance or other
- 23 benefit provided by this chapter resulting from service rendered to an
- 24 employer by such member.

25 NEW SECTION. **Sec. 303.** (1) This chapter applies only to members

26 of plan III retirement systems created under chapters 41.32 and 41.40

27 RCW.

28 (2) Plan III consists of two separate elements: (a) A defined

29 benefit portion covered under sections 101 through 218, chapter . . . ,

30 Laws of 1995 (sections 101 through 218 of this act); and (b) a defined

31 contribution portion covered under this chapter. Unless specified

32 otherwise, all references to "plan III" in this chapter refer to the

33 defined contribution portion of plan III.

34 NEW SECTION. **Sec. 304.** (1) A member shall contribute from his or

35 her compensation according to one of the following rate structures:

	<u>Option A</u>	<u>Contribution Rate</u>
1		
2	All Ages	5.0% fixed
3	<u>Option B</u>	
4	Up to Age 35	5.0%
5	Age 35 to 44	6.0%
6	Age 45 and above	7.5%
7	<u>Option C</u>	
8	Up to Age 35	6.0%
9	Age 35 to 44	7.5%
10	Age 45 and above	8.5%

11 (2) The board shall have the right to offer contribution rate  
12 options in addition to those listed in subsection (1) of this section,  
13 provided that no significant additional administrative costs are  
14 created. All options offered by the board shall conform to the  
15 requirements stated in subsections (3) and (4) of this section.

16 (3) Within ninety days of the date that an employee becomes a  
17 member of plan III, he or she has an irrevocable option to choose one  
18 of the above contribution rate structures. If the member does not  
19 select an option within this ninety-day period, he or she shall be  
20 assigned option A. Such assignment shall be irrevocable.

21 (4) Contributions shall begin the first day of the month  
22 immediately following the earlier of the selection of an option or the  
23 end of the ninety-day period.

24 NEW SECTION. Sec. 305. The member's account shall be invested by  
25 the state investment board unless the member elects to self direct  
26 investments as authorized by the board. Members who make this election  
27 shall pay the expenses for self-directed investment.

28 NEW SECTION. Sec. 306. (1) If the member retires, becomes  
29 disabled, or otherwise terminates employment, the balance in the  
30 member's account may be distributed in accordance with an option  
31 selected by the member either as a lump sum or pursuant to other  
32 options authorized by the board.

33 (2) If the member dies while in service, the balance of the  
34 member's account may be distributed in accordance with an option  
35 selected by the member either as a lump sum or pursuant to other  
36 options authorized by the board. The distribution shall be made to  
37 such person or persons as the member shall have nominated by written

1 designation duly executed and filed with the department. If there be  
2 no such designated person or persons still living at the time of the  
3 member's death, the balance of the member's account in the retirement  
4 system, less any amount identified as owing to an obligee upon  
5 withdrawal of such account balance pursuant to a court order filed  
6 under RCW 41.50.670, shall be paid to the member's surviving spouse as  
7 if in fact such spouse had been nominated by written designation, or if  
8 there is no surviving spouse, then to such person or persons, trust, or  
9 organization as the member shall have nominated by written designation  
10 duly executed and filed with the department.

11 (3) The distribution under subsections (1) or (2) of this section  
12 shall be less any amount identified as owing to an obligee upon  
13 withdrawal pursuant to a court order filed under RCW 41.50.670.

14 NEW SECTION. Sec. 307. (1) Subject to subsections (2) and (3) of  
15 this section, the right of a person to a pension, an annuity, a  
16 retirement allowance, any optional benefit, any other right accrued or  
17 accruing to any person under the provisions of this chapter, and the  
18 various funds created by chapter . . . , Laws of 1995 (this act) and all  
19 moneys and investments and income thereof, is hereby exempt from any  
20 state, county, municipal, or other local tax, and shall not be subject  
21 to execution, garnishment, attachment, the operation of bankruptcy or  
22 insolvency laws, or other process of law whatsoever, and shall be  
23 unassignable.

24 (2) This section shall not be deemed to prohibit a beneficiary of  
25 a retirement allowance from authorizing deductions therefrom for  
26 payment of premiums due on any group insurance policy or plan issued  
27 for the benefit of a group comprised of public employees of the state  
28 of Washington or its political subdivisions and that has been approved  
29 for deduction in accordance with rules that may be adopted by the state  
30 health care authority and/or the department. This section shall not be  
31 deemed to prohibit a beneficiary of a retirement allowance from  
32 authorizing deductions therefrom for payment of dues and other  
33 membership fees to any retirement association or organization the  
34 membership of which is composed of retired public employees, if a total  
35 of three hundred or more of such retired employees have authorized such  
36 deduction for payment to the same retirement association or  
37 organization.

1 (3) Subsection (1) of this section shall not prohibit the  
2 department from complying with (a) a wage assignment order for child  
3 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold  
4 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of  
5 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory  
6 benefits assignment order issued by the department, (e) a court order  
7 directing the department to pay benefits directly to an obligee under  
8 a dissolution order as defined in RCW 41.50.500(3) which fully complies  
9 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court  
10 order expressly authorized by federal law.

11 NEW SECTION. **Sec. 308.** (1) The retirement plan created by this  
12 chapter shall be administered so as to comply with the federal Internal  
13 Revenue Code, Title 26 U.S.C., and specifically with plan qualification  
14 requirements imposed on governmental plans by section 401(a) of the  
15 Internal Revenue Code.

16 (2) Any section or provision of this chapter which may be  
17 susceptible to more than one construction shall be interpreted in favor  
18 of the construction most likely to satisfy requirements imposed by  
19 section 401(a) of the Internal Revenue Code.

20 (3) If any section or provision of this chapter is found to be in  
21 conflict with the plan qualification requirements for governmental  
22 plans in section 401(a) of the Internal Revenue Code, the conflicting  
23 part of this chapter is hereby inoperative solely to the extent of the  
24 conflict, and such finding shall not affect the operation of the  
25 remainder of this chapter.

26 NEW SECTION. **Sec. 309.** Sections 301 through 308 of this act shall  
27 constitute a new chapter in Title 41 RCW.

28 **PART IV**  
29 **MISCELLANEOUS**

30 NEW SECTION. **Sec. 401.** A new section is added to chapter 41.50  
31 RCW to read as follows:

32 (1) The employee retirement benefits board is created within the  
33 department of retirement systems.

34 (2) The board shall be composed of six members appointed by the  
35 governor and one ex officio member as follows:

1 (a) Two members representing the public employees' retirement  
2 system: One active, one retired. The members shall be appointed from  
3 a list of nominations submitted by organizations representing each  
4 category. The initial term of appointment shall be one year for one of  
5 the two members and two years for the remaining member.

6 (b) Two members representing the teachers' retirement system: One  
7 active, one retired. The members shall be appointed from a list of  
8 nominations submitted by organizations representing each category. The  
9 initial term of appointment shall be two years for one of the two  
10 members and three years for the remaining member.

11 (c) Two members with experience in defined contribution plan  
12 administration. The initial term for these members shall be two years  
13 for one and four for the other.

14 (d) The director of the department shall serve ex officio and shall  
15 be the chair of the board.

16 (3) After the initial appointments, members shall be appointed to  
17 three-year terms.

18 (4) The board shall meet at least quarterly during the calendar  
19 year, at the call of the chair.

20 (5) Members of the board shall serve without compensation but shall  
21 receive travel expenses as provided for in RCW 43.03.050 and 43.03.060.  
22 Such travel expenses shall be reimbursed by the department from the  
23 retirement system expense fund.

24 (6) The board shall adopt rules governing its procedures and  
25 conduct of business.

26 (7) The actuary shall perform all actuarial services for the board  
27 and provide advice and support.

28 (8) The state investment board shall provide advice and support to  
29 the board.

30 NEW SECTION. **Sec. 402.** A new section is added to chapter 41.50  
31 RCW to read as follows:

32 The board shall adopt rules as necessary and exercise all the  
33 powers and perform all duties prescribed by law with respect to:

34 (1) The preselection of options for members to choose from for  
35 self-directed investment deemed by the board to be in the best interest  
36 of the member. At the board's request, the state investment board may  
37 provide investment options for purposes of this subsection;

1 (2) The selection of optional benefit payment schedules available  
2 to members and survivors of members upon the death, disability,  
3 retirement, or termination of the member. The optional benefit  
4 payments may include but not be limited to: Fixed and participating  
5 annuities, joint and survivor annuities, and payments that bridge to  
6 social security or defined benefit plan payments;

7 (3) Approval of actuarially equivalent annuities that may be  
8 purchased from the combined plan II and plan III funds under RCW  
9 41.50.075 (2) or (3);

10 (4) Determination of the basis for administrative charges to the  
11 self-directed investment fund to offset self-directed account expenses;  
12 and

13 (5) Selection of investment options for the deferred compensation  
14 program.

15 NEW SECTION. **Sec. 403.** A new section is added to chapter 41.32  
16 RCW under the subchapter heading "Plan II" to read as follows:

17 (1) Every plan II member employed by an employer in an eligible  
18 position may make an irrevocable option to transfer to plan III. For  
19 those who elect to transfer:

20 (a) All service credit in plan II shall be transferred to the  
21 defined benefit portion of plan III.

22 (b) The accumulated contributions in plan II shall be transferred  
23 to the member's account in the defined contribution portion established  
24 in sections 302 through 308 of this act, pursuant to procedures  
25 developed by the department and subject to section 308 of this act.

26 (c) A member vested on the effective date of this act under plan II  
27 shall be automatically vested in plan III upon transfer.

28 (d) Members employed by an employer in an eligible position on  
29 January 1, 1998, who request to transfer to plan III by January 1,  
30 1998, shall have their account in the defined contribution portion of  
31 plan III, other than those accumulated contributions attributable to  
32 restorations made under RCW 41.50.165(2), increased by twenty percent  
33 of their plan II accumulated contributions as of January 1, 1996. If  
34 the member who requests to transfer dies before January 1, 1998, the  
35 additional payment provided by this subsection shall be paid to the  
36 member's estate, or such person or persons, trust, or organization as  
37 the member shall have nominated by written designation duly executed  
38 and filed with the department.

1 (e) The legislature reserves the right to discontinue the right to  
2 transfer under this section.

3 (2) This subsection shall also apply to dual members as provided in  
4 section 420 of this act.

5 (3) Any member who elects to transfer to plan III and has eligible  
6 unrestored withdrawn contributions in plan II, may subsequently restore  
7 such contributions under the provisions of RCW 41.32.825. The restored  
8 plan II service credit will be automatically transferred to plan III.  
9 Contributions restored will be transferred to the member's account in  
10 plan III.

11 (4) Anyone previously retired from plan II is prohibited from  
12 transferring to plan III.

13 NEW SECTION. **Sec. 404.** A new section is added to chapter 41.40  
14 RCW under this subchapter heading "Plan II" to read as follows:

15 (1) Every plan II member employed by an employer in an eligible  
16 position may make an irrevocable option to transfer to plan III. For  
17 those who elect to transfer:

18 (a) All service credit in plan II shall be transferred to the  
19 defined benefit portion of plan III.

20 (b) The accumulated contributions in plan II shall be transferred  
21 to the member's account in the defined contribution portion established  
22 in sections 302 through 308 of this act, pursuant to procedures  
23 developed by the department and subject to section 308 of this act.

24 (c) A member vested on the effective date of this act under plan II  
25 shall be automatically vested in plan III upon transfer.

26 (d) Members employed by an employer in an eligible position on  
27 January 1, 1998, who request to transfer to plan III by January 1,  
28 1998, shall have their account in the defined contribution portion of  
29 plan III, other than those accumulated contributions attributable to  
30 restorations made under RCW 41.50.165(2), increased by twenty percent  
31 of their plan II accumulated contributions as of January 1, 1996. If  
32 the member who requests to transfer dies before January 1, 1998, the  
33 additional payment provided by this subsection shall be paid to the  
34 member's estate, or such person or persons, trust, or organization as  
35 the member shall have nominated by written designation duly executed  
36 and filed with the department.

37 (e) The legislature reserves the right to discontinue the right to  
38 transfer under this section.

1 (2) This subsection shall also apply to dual members as provided in  
2 section 420 of this act.

3 (3) Any member who elects to transfer to plan III and has eligible  
4 unrestored withdrawn contributions in plan II, may subsequently restore  
5 such contributions under the provisions of RCW 41.40.740. Restored plan  
6 II service credit will be automatically transferred to plan III.  
7 Contributions restored will be transferred to the member's account in  
8 plan III.

9 (4) Anyone previously retired from plan II is prohibited from  
10 transferring to plan III.

11 **Sec. 405.** RCW 41.45.010 and 1989 c 273 s 1 are each amended to  
12 read as follows:

13 It is the intent of the legislature to provide a dependable and  
14 systematic process for funding the benefits provided to members and  
15 retirees of the public employees' retirement system, chapter 41.40 RCW;  
16 the teachers' retirement system, chapter 41.32 RCW; the law enforcement  
17 officers' and fire fighters' retirement system, chapter 41.26 RCW; and  
18 the Washington state patrol retirement system, chapter 43.43 RCW.

19 The funding process established by this chapter is intended to  
20 achieve the following goals:

21 (1) To continue to fully fund the public employees' retirement  
22 system plans II and III, the teachers' retirement system plans II and  
23 III, and the law enforcement officers' and fire fighters' retirement  
24 system plan II as provided by law;

25 (2) To fully amortize the total costs of the public employees'  
26 retirement system plan I, the teachers' retirement system plan I, and  
27 the law enforcement officers' and fire fighters' retirement system plan  
28 I not later than June 30, 2024;

29 (3) To establish predictable long-term employer contribution rates  
30 which will remain a relatively constant proportion of the future state  
31 budgets; and

32 (4) To fund, to the extent feasible, benefit increases for plan I  
33 members and all benefits for plan II and III members over the working  
34 lives of those members so that the cost of those benefits are paid by  
35 the taxpayers who receive the benefit of those members' service.

36 **Sec. 406.** RCW 41.45.020 and 1989 c 273 s 2 are each amended to  
37 read as follows:

1 As used in this chapter, the following terms have the meanings  
2 indicated unless the context clearly requires otherwise.

3 (1) "Council" means the economic and revenue forecast council  
4 created in RCW (~~(82.01.130)~~) 82.33.010.

5 (2) "Department" means the department of retirement systems.

6 (3) "Law enforcement officers' and fire fighters' retirement system  
7 plan I," and "law enforcement officers' and fire fighters' retirement  
8 system plan II" mean(~~(s)~~) the benefits and funding provisions  
9 (~~(covering persons who first became members of the law enforcement~~  
10 ~~officers' and fire fighters' retirement system prior to October 1,~~  
11 ~~1977.~~

12 (~~4~~) "~~Law enforcement officers' and fire fighters' retirement system~~  
13 ~~plan II~~" means the benefits and funding provisions covering persons who  
14 first became members of the law enforcement officers' and fire  
15 fighters' retirement system on or after October 1, 1977)) under chapter  
16 41.26 RCW.

17 (~~(5)~~) (~~4~~) "Public employees' retirement system plan I," "public  
18 employees' retirement system plan II," and "public employees'  
19 retirement system plan III," mean(~~(s)~~) the benefits and funding  
20 provisions (~~(covering persons who first became members of the public~~  
21 ~~employees' retirement system prior to October 1, 1977.~~

22 (~~6~~) "~~Public employees' retirement system plan II~~" means the  
23 benefits and funding provisions covering persons who first became  
24 members of the public employees' retirement system on or after October  
25 1, 1977)) under chapter 41.40 RCW.

26 (~~(7)~~) (~~5~~) "Teachers' retirement system plan I," "teachers'  
27 retirement system plan II," and "teachers' retirement system plan III"  
28 mean(~~(s)~~) the benefits and funding provisions (~~(covering persons who~~  
29 ~~first became members of the teachers' retirement system prior to~~  
30 ~~October 1, 1977.~~

31 (~~8~~) "~~Teachers' retirement system plan II~~" means the benefits and  
32 funding provisions covering persons who first became members of the  
33 teachers' retirement system on or after October 1, 1977)) under chapter  
34 41.32 RCW.

35 (~~(9)~~) (~~6~~) "Washington state patrol retirement system" means the  
36 retirement benefits provided under chapter 43.43 RCW.

37 (~~7~~) "Unfunded liability" means the unfunded actuarial accrued  
38 liability of a retirement system.

1       (~~(10)~~) (8) "Actuary" or "state actuary" means the state actuary  
2 employed under chapter 44.44 RCW.

3       (~~(11)~~) (9) "State retirement systems" means the retirement  
4 systems listed in RCW 41.50.030.

5       **Sec. 407.** RCW 41.45.030 and 1993 c 519 s 17 are each amended to  
6 read as follows:

7       (1) Beginning September 1, 1989, and every six years thereafter,  
8 the state actuary shall submit to the council information regarding the  
9 experience and financial condition of each state retirement system.  
10 The council shall review this and such other information as it may  
11 require.

12       (2) (~~The council shall review the information submitted by the~~  
13 ~~state actuary and~~) By December 31, 1995, and every six years  
14 thereafter, the council, by affirmative vote of five members, shall  
15 adopt the following long-term economic assumptions:

- 16       (a) Growth in system membership;  
17       (b) Growth in salaries, exclusive of merit or longevity increases;  
18       (c) Growth in inflation; and  
19       (d) Investment rate of return.

20       (3) The assumptions adopted by the council shall be used by the  
21 state actuary in conducting valuation studies of the state retirement  
22 systems.

23       (~~(3) The council may utilize information provided by the state~~  
24 ~~actuary and such other information as it may request.))~~

25       **Sec. 408.** RCW 41.45.050 and 1989 c 273 s 5 are each amended to  
26 read as follows:

27       (1) (~~Beginning September 1, 1990,~~) Employers of members of the  
28 public employees' retirement system, the teachers' retirement system,  
29 and the Washington state patrol retirement system shall make  
30 contributions to those systems based on the rates established in RCW  
31 41.45.060 and 41.45.070.

32       (2) (~~Beginning September 1, 1990,~~) The state shall make  
33 contributions to the law enforcement officers' and fire fighters'  
34 retirement system based on the rates established in RCW (~~41.45.060~~)  
35 41.45.030 and 41.45.070. The state treasurer shall transfer the  
36 required contributions each month on the basis of salary data provided  
37 by the department.

1       (3) (~~Beginning September 1, 1990,~~) The department shall bill  
2 employers, and the state shall make contributions to the law  
3 enforcement officers' and fire fighters' retirement system, using the  
4 combined rates established in RCW (~~41.45.060~~) 41.45.030 and 41.45.070  
5 regardless of the level of pension funding provided in the biennial  
6 budget. Any member of an affected retirement system may, by mandamus  
7 or other appropriate proceeding, require the transfer and payment of  
8 funds as directed in this section.

9       (4) The contributions received for the public employees' retirement  
10 system shall be allocated between the public employees' retirement  
11 system plan I fund and the combined public employees' retirement system  
12 plan II and plan III fund as follows: The contributions necessary to  
13 fully fund the combined public employees' retirement system plan II and  
14 plan III employer contribution (~~required by RCW 41.40.650~~) shall  
15 first be deposited in the combined public employees' retirement system  
16 plan II and plan III fund. All remaining public employees' retirement  
17 system employer contributions shall be deposited in the public  
18 employees' retirement system plan I fund.

19       (5) The plans II and III employer contributions for the teachers'  
20 retirement system (~~, and the state contributions for the law~~  
21 ~~enforcement officers' and fire fighters' retirement system~~) shall be  
22 combined and allocated in the same manner as (~~the public employees'~~  
23 ~~retirement system and in accordance with the law enforcement officers'~~  
24 ~~and fire fighters' retirement system plan II and the teachers'~~  
25 ~~retirement system plan II contribution rates required by RCW 41.26.450~~  
26 ~~and 41.32.775 respectively~~) subsection (4) of this section.

27       (6) The contributions received under RCW 41.26.450 for the law  
28 enforcement officers' and fire fighters' retirement system shall be  
29 allocated between the law enforcement officers' and fire fighters'  
30 retirement system plan I and the law enforcement officers' and fire  
31 fighters' retirement system plan II fund as follows: The contributions  
32 necessary to fully fund the law enforcement officers' and fire  
33 fighters' retirement system plan II employer contributions shall be  
34 first deposited in the law enforcement officers' and fire fighters'  
35 retirement system plan II fund. All remaining law enforcement  
36 officers' and fire fighters' retirement system employer contributions  
37 shall be deposited in the law enforcement officers' and fire fighters'  
38 retirement system plan I fund.

1       **Sec. 409.** RCW 41.45.060 and 1993 c 519 s 19 are each amended to  
2 read as follows:

3       (1) ~~((For the period of September 1, 1993, through August 31, 1995,~~  
4 ~~the basic state contribution rate for the law enforcement officers' and~~  
5 ~~fire fighters' retirement system, and the basic employer contribution~~  
6 ~~rates for the public employees' retirement system, the teachers'~~  
7 ~~retirement system, and the Washington state patrol retirement system~~  
8 ~~shall be as determined in the 1991 valuations prepared by the office of~~  
9 ~~the state actuary.))~~     The state actuary shall provide actuarial  
10 valuation results based on the assumptions adopted under RCW 41.45.030.

11       (2) Not later than September 30, 1994, and every two years  
12 thereafter(~~(+~~

13       ~~(a))~~, consistent with the assumptions adopted under RCW 41.45.030,  
14 the council shall adopt ((the contributions to be used in the ensuing  
15 biennial period for the systems specified in subsection (1) of this  
16 section.

17       ~~(b))~~ both: (a) A basic state contribution rate for the law  
18 enforcement officers' and fire fighters' retirement system; and (b)  
19 basic employer contribution rates for the public employees' retirement  
20 system and the teachers' retirement system to be used in the ensuing  
21 biennial period.

22       (3) The employer and state contribution rates adopted by the  
23 council shall be the level percentages of pay that are needed:

24       (a) To fully amortize the total costs of the public employees'  
25 retirement system plan I, the teachers' retirement system plan I, the  
26 law enforcement officers' and fire fighters' retirement system plan I,  
27 and the unfunded liability of the Washington state patrol retirement  
28 system not later than June 30, 2024; and

29       (b) To also continue to fully fund the public employees' retirement  
30 system plans II and III, the teachers' retirement system plans II and  
31 III, and the law enforcement officers' and fire fighters' retirement  
32 system plan II in accordance with this section.

33       (4) The aggregate actuarial cost method shall be used to calculate  
34 a combined plan II and III employer contribution rate.

35       (5) The council shall immediately notify the directors of the  
36 office of financial management and department of retirement systems of  
37 the state and employer contribution rates adopted (~~(under (a) of this~~  
38 ~~subsection)).~~

1       (~~(e)~~) (6) The director of the department of retirement systems  
2 shall collect those rates adopted by the council (~~(under this~~  
3 ~~chapter)~~).

4       **Sec. 410.** RCW 41.45.070 and 1990 c 18 s 2 are each amended to read  
5 as follows:

6       (1) (~~(Beginning September 1, 1991,)~~) In addition to the basic  
7 employer contribution rate established in RCW (~~(41.45.060)~~) 41.45.030,  
8 the department shall also charge employers of public employees'  
9 retirement system, teachers' retirement system, or Washington state  
10 patrol retirement system members an additional supplemental rate to pay  
11 for the cost of additional benefits, if any, granted to members of  
12 those systems (~~(after January 1, 1990)~~). The supplemental contribution  
13 rates required by this section shall be calculated by the state actuary  
14 and shall be charged regardless of language to the contrary contained  
15 in the statute which authorizes additional benefits.

16       (2) (~~(Beginning September 1, 1991,)~~) In addition to the basic state  
17 contribution rate established in RCW (~~(41.45.060)~~) 41.45.030 for the  
18 law enforcement officers' and fire fighters' retirement system the  
19 department shall also establish a supplemental rate to pay for the cost  
20 of additional benefits, if any, granted to members of the law  
21 enforcement officers' and fire fighters' retirement system (~~(after~~  
22 ~~January 1, 1990)~~). This supplemental rate shall be calculated by the  
23 state actuary and the state treasurer shall transfer the additional  
24 required contributions regardless of language to the contrary contained  
25 in the statute which authorizes the additional benefits.

26       (3) The supplemental rate charged under this section to fund  
27 benefit increases provided to active members of the public employees'  
28 retirement system plan I, the teachers' retirement system plan I, the  
29 law enforcement officers' and fire fighters' retirement system plan I,  
30 and Washington state patrol retirement system, shall be calculated as  
31 the level percentage of all members' pay needed to fund the cost of the  
32 benefit not later than June 30, 2024.

33       (4) The supplemental rate charged under this section to fund  
34 benefit increases provided to active and retired members of the public  
35 employees' retirement system plan II and plan III, the teachers'  
36 retirement system plan II and plan III, or the law enforcement  
37 officers' and fire fighters' retirement system plan II, shall be  
38 calculated as the level percentage of all members' pay needed to fund

1 the cost of the benefit, as calculated under RCW 41.40.650, 41.32.775,  
2 or 41.26.450, respectively.

3 (5) The supplemental rate charged under this section to fund  
4 postretirement adjustments which are provided on a nonautomatic basis  
5 to current retirees shall be calculated as the percentage of pay needed  
6 to fund the adjustments as they are paid to the retirees. The  
7 supplemental rate charged under this section to fund automatic  
8 postretirement adjustments for active or retired members of the public  
9 employees' retirement system plan I and the teachers' retirement system  
10 plan I shall be calculated as the level percentage of pay needed to  
11 fund the cost of the automatic adjustments not later than June 30,  
12 2024.

13 NEW SECTION. **Sec. 411.** A new section is added to chapter 41.45  
14 RCW to read as follows:

15 (1) The required contribution rates for members of the plan II  
16 public employees' retirement system and teachers' retirement system  
17 shall be fixed at the rates in effect on the effective date of this  
18 act, subject to the following:

19 (a) Beginning September 1, 1998, except as provided in (b) of this  
20 subsection, the employee contribution rate shall not exceed the  
21 employer plan II and III rates adopted under RCW 41.45.030 and  
22 41.45.070 for the public employees' retirement system and teachers'  
23 retirement system and shall not exceed the sum of the employer and  
24 state rate in plan II of the law enforcement officers' and fire  
25 fighters' retirement system;

26 (b) In addition, the employee contribution rate for plan II shall  
27 be increased by fifty percent of the contribution rate increase caused  
28 by any plan II benefit increase passed after the effective date of this  
29 act.

30 (2) The required plan II and III contribution rates for employers  
31 shall be adopted in the manner described in RCW 41.45.030.

32 (3) The state shall pay twenty percent of the employer plan II cost  
33 of the law enforcement officers' and fire fighters' retirement system,  
34 except for port districts established under Title 53 RCW, institutions  
35 of higher education as defined in RCW 28B.10.016 and the Washington  
36 state patrol.

37 (4) The employer and employee contributions collected under this  
38 section for the law enforcement officers' and fire fighters' retirement

1 system plan II shall be deposited in the law enforcement officers' and  
2 fire fighters' retirement system plan II fund.

3 (5) The employer and employee contributions collected under this  
4 section for the public employees' retirement system plan II and III and  
5 teachers' retirement system plans II and III shall be deposited in  
6 their respective combined plan II and III funds.

7 **Sec. 412.** RCW 41.50.075 and 1991 c 35 s 108 are each amended to  
8 read as follows:

9 (1) Two funds are hereby created and established in the state  
10 treasury to be known as the Washington law enforcement officers' and  
11 fire fighters' system plan I retirement fund, and the Washington law  
12 enforcement officers' and fire fighters' system plan II retirement fund  
13 which shall consist of all moneys paid into them in accordance with the  
14 provisions of this chapter and chapter 41.26 RCW, whether such moneys  
15 take the form of cash, securities, or other assets. The plan I fund  
16 shall consist of all moneys paid to finance the benefits provided to  
17 members of the law enforcement officers' and fire fighters' retirement  
18 system plan I, and the plan II fund shall consist of all moneys paid to  
19 finance the benefits provided to members of the law enforcement  
20 officers' and fire fighters' retirement system plan II.

21 (2) All of the assets of the Washington state teachers' retirement  
22 system shall be credited according to the purposes for which they are  
23 held, to two funds to be maintained in the state treasury, namely, the  
24 teachers' retirement system plan I fund and the teachers' retirement  
25 system combined plan II and III fund. The plan I fund shall consist of  
26 all moneys paid to finance the benefits provided to members of the  
27 Washington state teachers' retirement system plan I, and the combined  
28 plan II and III fund shall consist of all moneys paid to finance the  
29 benefits provided to members of the Washington state teachers'  
30 retirement system plan II and III.

31 (3) There is hereby established in the state treasury two separate  
32 funds, namely the public employees' retirement system plan I fund and  
33 the public employees' (~~{retirement system}~~) retirement system  
34 combined plan II and III fund. The plan I fund shall consist of all  
35 moneys paid to finance the benefits provided to members of the public  
36 employees' retirement system plan I, and the combined plan II and III  
37 fund shall consist of all moneys paid to finance the benefits provided  
38 to members of the public employees' retirement system plans II and III.

1       (4) There is hereby established in the state treasury the plan III  
2 defined contribution fund which shall consist of all contributions and  
3 earnings paid on behalf of members, except as otherwise provided.

4       **Sec. 413.** RCW 41.50.110 and 1990 c 8 s 3 are each amended to read  
5 as follows:

6       (1) Notwithstanding any provision of law to the contrary, the  
7 retirement system expense fund is hereby redesignated as the department  
8 of retirement systems expense fund from which shall be paid the  
9 expenses of the administration of the department and the expenses of  
10 administration of the retirement systems created in chapters 2.10,  
11 2.12, 41.26, 41.32, 41.40, 41.-- (sections 301 through 308 of this  
12 act), and 43.43 RCW.

13       (2) In order to reimburse the department of retirement systems  
14 expense fund on an equitable basis the department shall ascertain and  
15 report to each employer, as defined in RCW 41.26.030, 41.32.010, or  
16 41.40.010, the sum necessary to defray its proportional share of the  
17 entire expense of the administration of the retirement system that the  
18 employer participates in during the ensuing biennium or fiscal year  
19 whichever may be required. Such sum is to be computed in an amount  
20 directly proportional to the estimated entire expense of the  
21 administration as the ratio of monthly salaries of the employer's  
22 members bears to the total salaries of all members in the entire  
23 system. It shall then be the duty of all such employers to include in  
24 their budgets or otherwise provide the amounts so required.

25       (3) The department shall compute and bill each employer, as defined  
26 in RCW 41.26.030, 41.32.010, or 41.40.010, at the end of each month for  
27 the amount due for that month to the department of retirement systems  
28 expense fund and the same shall be paid as are its other obligations.  
29 Such computation as to each employer shall be made on a percentage rate  
30 of salary established by the department. However, the department may  
31 at its discretion establish a system of billing based upon calendar  
32 year quarters in which event the said billing shall be at the end of  
33 each such quarter.

34       (4) The director may adjust the expense fund contribution rate for  
35 each system at any time when necessary to reflect unanticipated costs  
36 or savings in administering the department.

37       (~~(3) All employers shall pay a standard fee to the department to~~  
38 ~~cover the cost of administering the system.)) (5) An employer who fails~~

1 to submit timely and accurate reports to the department may be assessed  
2 an additional fee related to the increased costs incurred by the  
3 department in processing the deficient reports. Fees paid under this  
4 subsection shall be deposited in the retirement system expense fund.

5 (a) Every six months the department shall determine the amount of  
6 an employer's fee by reviewing the timeliness and accuracy of the  
7 reports submitted by the employer in the preceding six months. If  
8 those reports were not both timely and accurate the department may  
9 prospectively assess an additional fee under this subsection.

10 (b) An additional fee assessed by the department under this  
11 subsection shall not exceed fifty percent of the standard fee.

12 (c) The department shall adopt rules implementing this section.

13 (6) Expenses incurred pursuant to section 305 of this act shall be  
14 deducted from the defined contribution fund in accordance with rules  
15 established by the board under section 402 of this act.

16 NEW SECTION. Sec. 414. A new section is added to chapter 41.50  
17 RCW to read as follows:

18 (1) "Employee" as used in this section and section 415 of this act  
19 includes all full-time, part-time, and career seasonal employees of the  
20 state, a county, a municipality, or other political subdivision of the  
21 state, whether or not covered by civil service; elected and appointed  
22 officials of the executive branch of the government, including full-  
23 time members of boards, commissions, or committees; justices of the  
24 supreme court and judges of the court of appeals and of the superior  
25 and district courts; and members of the state legislature or of the  
26 legislative authority of any county, city, or town.

27 (2) The state, through the department, and any county,  
28 municipality, or other political subdivision of the state acting  
29 through its principal supervising official or governing body is  
30 authorized to contract with an employee to defer a portion of that  
31 employee's income, which deferred portion shall in no event exceed the  
32 amount allowable under 26 U.S.C. Sec. 457, and deposit or invest such  
33 deferred portion in a credit union, savings and loan association, bank,  
34 or mutual savings bank or purchase life insurance, shares of an  
35 investment company, or fixed and/or variable annuity contracts from any  
36 insurance company or any investment company licensed to contract  
37 business in this state.

1 (3) The department can provide such plans as the employee  
2 retirement benefits board, established under section 401 of this act,  
3 deems are in the interests of state employees. In addition to the  
4 types of investments described in this section, the department may  
5 invest the deferred portion of an employee's income, without limitation  
6 as to amount, in any of the class of investments described in RCW  
7 43.84.150 as in effect on January 1, 1981. Any income deferred under  
8 such a plan shall continue to be included as regular compensation, for  
9 the purpose of computing the state or local retirement and pension  
10 benefits earned by any employee.

11 (4) Coverage of an employee under a deferred compensation plan  
12 under this section shall not render such employee ineligible for  
13 simultaneous membership and participation in any pension system for  
14 public employees.

15 NEW SECTION. **Sec. 415.** A new section is added to chapter 41.50  
16 RCW to read as follows:

17 (1) The deferred compensation principal account is hereby created  
18 in the state treasury. Any deficiency in the deferred compensation  
19 administrative account caused by an excess of administrative expenses  
20 disbursed from that account over earnings of investments of balances  
21 credited to that account shall be eliminated by transferring moneys to  
22 that account from the deferred compensation principal account.

23 (2) The amount of compensation deferred by employees under  
24 agreements entered into under the authority contained in section 414 of  
25 this act shall be paid into the deferred compensation principal account  
26 and shall be sufficient to cover costs of administration and staffing  
27 in addition to such other amounts as determined by the department. The  
28 deferred compensation principal account shall be used to carry out the  
29 purposes of section 414 of this act. All eligible state employees  
30 shall be given the opportunity to participate in agreements entered  
31 into by the department under section 414 of this act. State agencies  
32 shall cooperate with the department in providing employees with the  
33 opportunity to participate.

34 (3) Any county, municipality, or other subdivision of the state may  
35 elect to participate in any agreements entered into by the department  
36 under section 414 of this act, including the making of payments  
37 therefrom to the employees participating in a deferred compensation  
38 plan upon their separation from state or other qualifying service.

1 Accordingly, the deferred compensation principal account shall be  
2 considered to be a public pension or retirement fund within the meaning  
3 of Article XXIX, section 1 of the state Constitution, for the purpose  
4 of determining eligible investments and deposits of the moneys therein.

5 (4) All moneys in the deferred compensation principal account, all  
6 property and rights purchased therewith, and all income attributable  
7 thereto, shall remain (until made available to the participating  
8 employee or other beneficiary) solely the money, property, and rights  
9 of the state and participating counties, municipalities, and  
10 subdivisions (without being restricted to the provision of benefits  
11 under the plan) subject only to the claims of the state's and  
12 participating jurisdictions' general creditors. Participating  
13 jurisdictions shall each retain property rights separately.

14 (5) The state investment board, at the request of the employee  
15 retirement benefits board as established under section 401 of this act,  
16 is authorized to invest moneys in the deferred compensation principal  
17 account in accordance with RCW 43.84.150. Except as provided in RCW  
18 43.33A.160, one hundred percent of all earnings from these investments  
19 shall accrue directly to the deferred compensation principal account.

20 (6) The deferred compensation administrative account is hereby  
21 created in the state treasury. All expenses of the department  
22 pertaining to the deferred compensation plan including staffing and  
23 administrative expenses shall be paid out of the deferred compensation  
24 administrative account. Any excess of earnings of investments of  
25 balances credited to this account over administrative expenses  
26 disbursed from this account shall be transferred to the deferred  
27 compensation principal account. Any deficiency in the deferred  
28 compensation administrative account caused by an excess of  
29 administrative expenses disbursed from this account over earnings of  
30 investments of balances credited to this account shall be transferred  
31 to this account from the deferred compensation principal account.

32 (7) In addition to the duties specified in this section and section  
33 414 of this act, the department shall administer the salary reduction  
34 plan established in RCW 41.04.600 through 41.04.645.

35 (8) The department shall keep or cause to be kept full and adequate  
36 accounts and records of the assets, obligations, transactions, and  
37 affairs of any deferred compensation plans created under section 414 of  
38 this act and this section.

1 (9) The department shall file an annual report of the financial  
2 condition, transactions, and affairs of the deferred compensation plans  
3 under its jurisdiction. A copy of the annual report shall be filed  
4 with the speaker of the house of representatives, the president of the  
5 senate, the governor, and the state auditor.

6 (10) Members of the employee retirement benefits board established  
7 under section 401 of this act shall be deemed to stand in a fiduciary  
8 relationship to the employees participating in the deferred  
9 compensation plans created under section 414 of this act and this  
10 section and shall discharge the duties of their respective positions in  
11 good faith and with that diligence, care, and skill which ordinary  
12 prudent persons would exercise under similar circumstances in like  
13 positions.

14 (11) The department may adopt rules necessary to carry out the  
15 purposes of section 414 of this act and this section.

16 **Sec. 416.** RCW 41.50.030 and 1975-'76 2nd ex.s. c 105 s 5 are each  
17 amended to read as follows:

18 (1) As soon as possible but not more than one hundred and eighty  
19 days after March 19, 1976, there is transferred to the department of  
20 retirement systems, except as otherwise provided in this chapter, all  
21 powers, duties, and functions of:

22 ~~((+1))~~ (a) The Washington public employees' retirement system  
23 ~~((and the retirement board thereof));~~

24 ~~((+2))~~ (b) The Washington state teachers' retirement system ~~((and~~  
25 ~~the board of trustees thereof));~~

26 ~~((+3))~~ (c) The Washington law enforcement officers' and fire  
27 fighters' retirement system ~~((and the retirement board thereof));~~

28 ~~((+4))~~ (d) The Washington state patrol retirement system ~~((and the~~  
29 ~~retirement board thereof));~~

30 ~~((+5))~~ (e) The Washington judicial retirement system ~~((and the~~  
31 ~~retirement board thereof)); and~~

32 ~~((+6))~~ (f) The state treasurer with respect to the administration  
33 of the judges' retirement fund imposed pursuant to chapter 2.12 RCW.

34 (2) On the effective date of this act there is transferred to the  
35 department all powers, duties, and functions of the deferred  
36 compensation committee.

37 (3) The department shall administer sections 301 through 308 of  
38 this act.

1       **Sec. 417.** RCW 41.50.050 and 1993 c 61 s 1 are each amended to read  
2 as follows:

3       The director shall:

4       (1) Have the authority to organize the department into not more  
5 than ~~((three))~~ four divisions, each headed by an assistant director;

6       (2) Have free access to all files and records of various funds  
7 assigned to the department and inspect and audit the files and records  
8 as deemed necessary;

9       (3) Employ personnel to carry out the general administration of the  
10 department;

11       (4) Submit an annual written report of the activities of the  
12 department to the governor and the chairs of the appropriate  
13 legislative committees with one copy to the staff of each of the  
14 committees, including recommendations for statutory changes the  
15 director believes to be desirable;

16       (5) Adopt such rules and regulations as are necessary to carry out  
17 the powers, duties, and functions of the department pursuant to the  
18 provisions of chapter 34.05 RCW.

19       **Sec. 418.** RCW 41.50.060 and 1975-'76 2nd ex.s. c 105 s 8 are each  
20 amended to read as follows:

21       The director may delegate the performance of such powers, duties,  
22 and functions, other than those relating to rule making, to employees  
23 of the department, but the director shall remain and be responsible for  
24 the official acts of the employees of the department.

25       The director shall be responsible for the public employees'  
26 retirement system, the teachers' retirement system, the judicial  
27 retirement system, the law enforcement officers' and fire fighters'  
28 retirement system, and the Washington state patrol retirement system.  
29 The director shall also be responsible for the deferred compensation  
30 program.

31       **Sec. 419.** RCW 41.54.030 and 1990 c 192 s 2 are each amended to  
32 read as follows:

33       (1) A dual member ~~((<sup>4</sup>s))~~ may combine service in all systems ~~((may be~~  
34 ~~combined))~~ for the ~~((sole))~~ purpose of:

35       (a) Determining the member's eligibility to receive a service  
36 retirement allowance; and

1        (b) Qualifying for a benefit under section 115(3) or 215(3) of this  
2 act.

3        (2) A dual member who is eligible to retire under any system may  
4 elect to retire from all the member's systems and to receive service  
5 retirement allowances calculated as provided in this section. Each  
6 system shall calculate the allowance using its own criteria except that  
7 the member shall be allowed to substitute the member's base salary from  
8 any system as the compensation used in calculating the allowance.

9        (3) The service retirement allowances from a system which, but for  
10 this section, would not be allowed to be paid at this date based on the  
11 dual member's age shall be either actuarially adjusted from the  
12 earliest age upon which the combined service would have made such dual  
13 member eligible in that system, or the dual member may choose to defer  
14 the benefit until fully eligible.

15        NEW SECTION. Sec. 420. A new section is added to chapter 41.54  
16 RCW to read as follows:

17        Any dual member who elects to transfer under section 403 or 404 of  
18 this act may:

19        (1) Similarly transfer any other prior plan II service credit to  
20 plan III of the same retirement system; or

21        (2) Combine service credit in all systems for purposes of vesting  
22 pursuant to sections 403(1)(c) and 404(1)(c) of this act.

23        NEW SECTION. Sec. 421. A new section is added to chapter 43.33A  
24 RCW to read as follows:

25        Pursuant to section 402 of this act, the state investment board, at  
26 the request of the employee retirement benefits board, is authorized to  
27 offer investment options for self-directed investment under plan III.

28        **Sec. 422.** RCW 41.04.440 and 1984 c 227 s 1 are each amended to  
29 read as follows:

30        (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the  
31 members of the retirement systems created in chapters 2.10, 2.12,  
32 41.26, 41.32, 41.40, 41.-- (sections 301 through 308 of this act), and  
33 43.43 RCW to enjoy the tax deferral benefits allowed under 26 USC  
34 414(h). This act does not alter in any manner the provisions of RCW  
35 41.26.450(~~(, 41.32.775 and 41.40.650)~~) which requires that the member  
36 contribution rates shall be set so as to provide fifty percent of the

1 cost(~~s~~) of the (~~respective retirement plans~~) law enforcement  
2 officers' and fire fighters' retirement system.

3 (2) Should the legislature revoke any benefit allowed under (~~this~~  
4 ~~act~~) 26 U.S.C. 414(h), no affected employee shall be entitled  
5 thereafter to receive such benefit as a matter of contractual right.

6 **Sec. 423.** RCW 41.04.445 and 1992 c 212 s 15 are each amended to  
7 read as follows:

8 (1) This section applies to all members who are:

9 (a) Judges under the retirement system established under chapter  
10 2.10, 2.12, or 2.14 RCW;

11 (b) Employees of the state under the retirement system established  
12 by chapter 41.32, 41.40, or 43.43 RCW;

13 (c) Employees of school districts under the retirement system  
14 established by chapter 41.32 or 41.40 RCW, except for substitute  
15 teachers as defined by RCW 41.32.010;

16 (d) Employees of educational service districts under the retirement  
17 system established by chapter 41.32 or 41.40 RCW; or

18 (e) Employees of community college districts under the retirement  
19 system established by chapter 41.32 or 41.40 RCW.

20 (2) Only for compensation earned after the effective date of the  
21 implementation of this section and as provided by section 414(h) of the  
22 federal internal revenue code, the employer of all the members  
23 specified in subsection (1) of this section shall pick up only those  
24 member contributions as required under:

25 (a) RCW 2.10.090(1);

26 (b) RCW 2.12.060;

27 (c) RCW 2.14.090;

28 (d) RCW 41.32.263;

29 (e) RCW 41.32.350;

30 (f) (~~RCW 41.32.775;~~

31 ~~g~~) RCW 41.40.330 (1) and (3);

32 (~~h~~) ~~RCW 41.40.650;~~ and

33 ~~i~~) (g) Section 306 of this act;

34 (h) RCW 43.43.300; and

35 (i) Section 304 of this act.

36 (3) Only for the purposes of federal income taxation, the gross  
37 income of the member shall be reduced by the amount of the contribution  
38 to the respective retirement system picked up by the employer.

1 (4) All member contributions to the respective retirement system  
2 picked up by the employer as provided by this section, plus the accrued  
3 interest earned thereon, shall be paid to the member upon the  
4 withdrawal of funds or lump-sum payment of accumulated contributions as  
5 provided under the provisions of the retirement systems.

6 (5) At least forty-five days prior to implementing this section,  
7 the employer shall provide:

8 (a) A complete explanation of the effects of this section to all  
9 members; and

10 (b) Notification of such implementation to the director of the  
11 department of retirement systems.

12 **Sec. 424.** RCW 41.04.450 and 1985 c 13 s 3 are each amended to read  
13 as follows:

14 (1) Employers of those members under chapters 41.26 (~~and~~), 41.40,  
15 and 41.-- (sections 301 through 308 of this act) RCW who are not  
16 specified in RCW 41.04.445 may choose to implement the employer pick up  
17 of all member contributions without exception under RCW 41.26.080(1),  
18 41.26.450, 41.40.330(1), (~~and 41.40.650~~) and chapter 41.-- RCW  
19 (sections 301 through 308 of this act). If the employer does so  
20 choose, the employer and members shall be subject to the conditions and  
21 limitations of RCW 41.04.445 (3), (4), and (5) and RCW 41.04.455.

22 (2) An employer exercising the option under this section may later  
23 choose to withdraw from and/or reestablish the employer pick up of  
24 member contributions only once in a calendar year following forty-five  
25 days prior notice to the director of the department of retirement  
26 systems.

27 NEW SECTION. **Sec. 425.** The following acts or parts of acts are  
28 each repealed:

29 (1) RCW 41.04.250 and 1981 c 256 s 2, 1975 1st ex.s. c 274 s 2,  
30 1973 1st ex.s. c 99 s 1, 1972 ex.s. c 19 s 1, & 1971 ex.s. c 264 s 1;

31 (2) RCW 41.04.255 and 1991 c 249 s 2 & 1982 c 107 s 2;

32 (3) RCW 41.04.260 and 1993 c 34 s 2 & 1991 sp.s. c 13 s 101;

33 (4) RCW 41.32.775 and 1990 c 274 s 9, 1989 c 273 s 19, 1986 c 268  
34 s 2, 1984 c 184 s 11, & 1977 ex.s. c 293 s 6;

35 (5) RCW 41.40.650 and 1989 c 273 s 24, 1986 c 268 s 6, 1984 c 184  
36 s 12, & 1977 ex.s. c 295 s 6;

37 (6) RCW 41.45.040 and 1993 c 519 s 18 & 1989 c 273 s 4;

1 (7) RCW 41.45.0601 and 1993 c 519 s 20 & 1992 c 239 s 1;  
2 (8) RCW 41.45.901 and 1989 c 273 s 33;  
3 (9) RCW 41.50.032 and 1984 c 184 s 15 & 1982 c 163 s 9; and  
4 (10) RCW 41.50.250 and 1991 c 35 s 72, 1989 c 273 s 21, 1981 c 3 s  
5 32, 1969 c 128 s 4, 1963 c 174 s 6, 1955 c 220 s 2, 1953 c 200 s 3,  
6 1949 c 240 s 5, & 1947 c 274 s 9.

7 NEW SECTION. **Sec. 426.** This act shall take effect July 1, 1996.

8 NEW SECTION. **Sec. 427.** Part headings and subchapter headings as  
9 used in this act constitute no part of the law.

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