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**SENATE BILL 5508**

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**State of Washington****54th Legislature****1995 Regular Session****By** Senators Long and Heavey

Read first time 01/25/95. Referred to Committee on Ways &amp; Means.

1       AN ACT Relating to pensions for public safety employees; reenacting  
2 and amending RCW 41.26.030; adding a new section to chapter 41.26 RCW;  
3 and declaring an emergency.

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

5       NEW SECTION. **Sec. 1.** A new section is added to chapter 41.26 RCW  
6 under the subchapter heading "Plan I" to read as follows:

7       A plan I member's service as a police cadet under a prior pension  
8 system shall become creditable under plan I, if the service is now  
9 creditable under a prior pension system, and when the total creditable  
10 service as a police cadet and police officer under the prior pension  
11 system and plan I exceeds thirty years.

12       **Sec. 2.** RCW 41.26.030 and 1994 c 264 s 14 and 1994 c 197 s 5 are  
13 each reenacted and amended to read as follows:

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

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

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

11       (b) "Employer" for plan II members, means the following entities to  
12 the extent that the entity employs any law enforcement officer and/or  
13 fire fighter:

14           (i) The legislative authority of any city, town, county, or  
15 district;

16           (ii) The elected officials of any municipal corporation; or

17           (iii) The governing body of any other general authority law  
18 enforcement agency.

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

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

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

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

38           (d) The term "law enforcement officer" also includes the executive  
39 secretary of a labor guild, association or organization (which is an

1 employer under RCW 41.26.030(2) as now or hereafter amended) if that  
2 individual has five years previous membership in the retirement system  
3 established in chapter 41.20 RCW. The provisions of this subsection  
4 (3)(d) shall not apply to plan II members; and

5 (e) The term "law enforcement officer" also includes a person  
6 employed on or after January 1, 1993, as a public safety officer or  
7 director of public safety, so long as the job duties substantially  
8 involve only either police or fire duties, or both, and no other duties  
9 in a city or town with a population of less than ten thousand. The  
10 provisions of this subsection (3)(e) shall not apply to any public  
11 safety officer or director of public safety who is receiving a  
12 retirement allowance under this chapter as of May 12, 1993.

13 (4) "Fire fighter" means:

14 (a) Any person who is serving on a full time, fully compensated  
15 basis as a member of a fire department of an employer and who is  
16 serving in a position which requires passing a civil service  
17 examination for fire fighter, and who is actively employed as such;

18 (b) Anyone who is actively employed as a full time fire fighter  
19 where the fire department does not have a civil service examination;

20 (c) Supervisory fire fighter personnel;

21 (d) Any full time executive secretary of an association of fire  
22 protection districts authorized under RCW 52.12.031. The provisions of  
23 this subsection (4)(d) shall not apply to plan II members;

24 (e) The executive secretary of a labor guild, association or  
25 organization (which is an employer under RCW 41.26.030(2) as now or  
26 hereafter amended), if such individual has five years previous  
27 membership in a retirement system established in chapter 41.16 or 41.18  
28 RCW. The provisions of this subsection (4)(e) shall not apply to plan  
29 II members;

30 (f) Any person who is serving on a full time, fully compensated  
31 basis for an employer, as a fire dispatcher, in a department in which,  
32 on March 1, 1970, a dispatcher was required to have passed a civil  
33 service examination for fire fighter; ((and))

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

38 (h) A person who is a publicly employed paramedic and is also a  
39 member of the public employees' retirement system; and

1       (i) Any person who is employed on a full-time, fully compensated  
2 basis as a fire fighter for an institution of higher education as  
3 defined by RCW 28B.10.016.

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

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

9       (7)(a) "Child" or "children" means an unmarried person who is under  
10 the age of eighteen or mentally or physically handicapped as determined  
11 by the department, except a handicapped person in the full time care of  
12 a state institution, who is:

13       (i) A natural born child;

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

16       (iii) A posthumous child;

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

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

21       (b) A person shall also be deemed to be a child up to and including  
22 the age of twenty years and eleven months while attending any high  
23 school, college, or vocational or other educational institution  
24 accredited, licensed, or approved by the state, in which it is located,  
25 including the summer vacation months and all other normal and regular  
26 vacation periods at the particular educational institution after which  
27 the child returns to school.

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

34       (9) "Retirement fund" means the "Washington law enforcement  
35 officers' and fire fighters' retirement system fund" as provided for  
36 herein.

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

1       (11)(a) "Beneficiary" for plan I members, means any person in  
2 receipt of a retirement allowance, disability allowance, death benefit,  
3 or any other benefit described herein.

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

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

22      (b) "Final average salary" for plan II members, means the monthly  
23 average of the member's basic salary for the highest consecutive sixty  
24 service credit months of service prior to such member's retirement,  
25 termination, or death. Periods constituting authorized unpaid leaves  
26 of absence may not be used in the calculation of final average salary.

27      (13)(a) "Basic salary" for plan I members, means the basic monthly  
28 rate of salary or wages, including longevity pay but not including  
29 overtime earnings or special salary or wages, upon which pension or  
30 retirement benefits will be computed and upon which employer  
31 contributions and salary deductions will be based.

32      (b) "Basic salary" for plan II members, means salaries or wages  
33 earned by a member during a payroll period for personal services,  
34 including overtime payments, and shall include wages and salaries  
35 deferred under provisions established pursuant to sections 403(b),  
36 414(h), and 457 of the United States Internal Revenue Code, but shall  
37 exclude lump sum payments for deferred annual sick leave, unused  
38 accumulated vacation, unused accumulated annual leave, or any form of  
39 severance pay. In any year in which a member serves in the legislature

1 the member shall have the option of having such member's basic salary  
2 be the greater of:

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

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

11 (14)(a) "Service" for plan I members, means all periods of  
12 employment for an employer as a fire fighter or law enforcement  
13 officer, for which compensation is paid, together with periods of  
14 suspension not exceeding thirty days in duration. For the purposes of  
15 this chapter service shall also include service in the armed forces of  
16 the United States as provided in RCW 41.26.190. Credit shall be  
17 allowed for all service credit months of service rendered by a member  
18 from and after the member's initial commencement of employment as a  
19 fire fighter or law enforcement officer, during which the member worked  
20 for seventy or more hours, or was on disability leave or disability  
21 retirement. Only service credit months of service shall be counted in  
22 the computation of any retirement allowance or other benefit provided  
23 for in this chapter.

24 (i) For members retiring after May 21, 1971 who were employed under  
25 the coverage of a prior pension act before March 1, 1970, "service"  
26 shall also include (A) such military service not exceeding five years  
27 as was creditable to the member as of March 1, 1970, under the member's  
28 particular prior pension act, and (B) such other periods of service as  
29 were then creditable to a particular member under the provisions of RCW  
30 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit  
31 be allowed for any service rendered prior to March 1, 1970, where the  
32 member at the time of rendition of such service was employed in a  
33 position covered by a prior pension act, unless such service, at the  
34 time credit is claimed therefor, is also creditable under the  
35 provisions of such prior act.

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

1       (b) "Service" for plan II members, means periods of employment by  
2 a member for one or more employers for which basic salary is earned for  
3 ninety or more hours per calendar month which shall constitute a  
4 service credit month. Periods of employment by a member for one or  
5 more employers for which basic salary is earned for at least seventy  
6 hours but less than ninety hours per calendar month shall constitute  
7 one-half service credit month. Periods of employment by a member for  
8 one or more employers for which basic salary is earned for less than  
9 seventy hours shall constitute a one-quarter service credit month.

10      Members of the retirement system who are elected or appointed to a  
11 state elective position may elect to continue to be members of this  
12 retirement system.

13      Service credit years of service shall be determined by dividing the  
14 total number of service credit months of service by twelve. Any  
15 fraction of a service credit year of service as so determined shall be  
16 taken into account in the computation of such retirement allowance or  
17 benefits.

18      If a member receives basic salary from two or more employers during  
19 any calendar month, the individual shall receive one service credit  
20 month's service credit during any calendar month in which multiple  
21 service for ninety or more hours is rendered; or one-half service  
22 credit month's service credit during any calendar month in which  
23 multiple service for at least seventy hours but less than ninety hours  
24 is rendered; or one-quarter service credit month during any calendar  
25 month in which multiple service for less than seventy hours is  
26 rendered.

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

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

34      (17) "Actuarial valuation" means a mathematical determination of  
35 the financial condition of a retirement plan. It includes the  
36 computation of the present monetary value of benefits payable to  
37 present members, and the present monetary value of future employer and  
38 employee contributions, giving effect to mortality among active and

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

3 (18) "Disability board" for plan I members means either the county  
4 disability board or the city disability board established in RCW  
5 41.26.110.

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

11 (20) "Disability retirement" for plan I members, means the period  
12 following termination of a member's disability leave, during which the  
13 member is in receipt of a disability retirement allowance.

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

16 (22) "Medical services" for plan I members, shall include the  
17 following as minimum services to be provided. Reasonable charges for  
18 these services shall be paid in accordance with RCW 41.26.150.

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

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

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

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

29 (i) The fees of the following:

30 (A) A physician or surgeon licensed under the provisions of chapter  
31 18.71 RCW;

32 (B) An osteopath licensed under the provisions of chapter 18.57  
33 RCW;

34 (C) A chiropractor licensed under the provisions of chapter 18.25  
35 RCW.

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

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

1           (A) Drugs and medicines upon a physician's prescription;  
2           (B) Diagnostic x-ray and laboratory examinations;  
3           (C) X-ray, radium, and radioactive isotopes therapy;  
4           (D) Anesthesia and oxygen;  
5           (E) Rental of iron lung and other durable medical and surgical  
6 equipment;

7           (F) Artificial limbs and eyes, and casts, splints, and trusses;  
8           (G) Professional ambulance service when used to transport the  
9 member to or from a hospital when injured by an accident or stricken by  
10 a disease;

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

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

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

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

18          (L) An optometrist licensed under the provisions of chapter 18.53  
19 RCW.

20          (23) "Regular interest" means such rate as the director may  
21 determine.

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

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

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

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

32          (28) "Plan I" means the law enforcement officers' and fire  
33 fighters' retirement system, plan I providing the benefits and funding  
34 provisions covering persons who first became members of the system  
35 prior to October 1, 1977.

36          (29) "Plan II" means the law enforcement officers' and fire  
37 fighters' retirement system, plan II providing the benefits and funding  
38 provisions covering persons who first became members of the system on  
39 and after October 1, 1977.

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

3       (31) "Service credit month" means a full service credit month or an  
4 accumulation of partial service credit months that are equal to one.

5       (32) "General authority law enforcement agency" means any agency,  
6 department, or division of a municipal corporation, political  
7 subdivision, or other unit of local government of this state, and any  
8 agency, department, or division of state government, having as its  
9 primary function the detection and apprehension of persons committing  
10 infractions or violating the traffic or criminal laws in general, but  
11 not including the Washington state patrol. Such an agency, department,  
12 or division is distinguished from a limited authority law enforcement  
13 agency having as one of its functions the apprehension or detection of  
14 persons committing infractions or violating the traffic or criminal  
15 laws relating to limited subject areas, including but not limited to,  
16 the state departments of natural resources, fish and wildlife, and  
17 social and health services, the state gambling commission, the state  
18 lottery commission, the state parks and recreation commission, the  
19 state utilities and transportation commission, the state liquor control  
20 board, and the state department of corrections.

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

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