
SUBSTITUTE HOUSE BILL 2348

State of Washington

57th Legislature

2002 Regular Session

By House Committee on Education (originally sponsored by Representatives Ruderman, Jarrett, Santos, Upthegrove, McIntire, Sommers, Schual-Berke, Conway, Wood, Esser, Kagi and Nixon)

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1 AN ACT Relating to housing allowances for nonsupervisory K-12
2 employees; amending RCW 28A.400.200, 84.52.0531, 41.32.010, and
3 41.40.010; adding a new section to chapter 28A.400 RCW; adding a new
4 section to chapter 28A.500 RCW; adding a new section to chapter 84.52
5 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** As the disparity in the cost-of-living
8 between school districts across the state has grown in recent years,
9 the purchasing power of equalized salaries has become more disparate
10 for K-12 employees. A major contributor to these costs is housing.
11 The purpose of this act is to authorize a housing allowance for
12 nonsupervisory public school employees in order to minimize disparities
13 in purchasing power among educational employees across the state.

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

16 (1) Eligible school districts may provide a housing allowance for
17 nonsupervisory classified and certificated employees.

1 (2) The cost of the housing for each school district and the
2 statewide median shall be determined every four years based on a
3 standard set of housing specifications and on data reported for the
4 most recent annual period for which data are available. The collection
5 of data shall be done by a nationally recognized entity that collects
6 statistically valid housing cost data for federal government agencies
7 and businesses, selected by the superintendent of public instruction
8 and subject to approval by the legislative fiscal committees and the
9 office of financial management. The office of financial management
10 shall contract with the entity selected under this subsection (2) from
11 funds provided for this purpose.

12 (3) The housing allowance levy shall be authorized for school
13 districts having housing costs that exceed the statewide median cost of
14 housing as determined under subsection (2) of this section. The
15 calculation of the maximum levy allowed for a qualifying school
16 district shall be the number of nonsupervisory classified and
17 certificated full-time equivalent employees multiplied by the
18 difference between the district's cost of housing and the median cost
19 of housing statewide. For purposes of this calculation, the difference
20 between the district's cost of housing and the statewide median shall
21 not exceed fifty percent of the median.

22 (4) Individual payment of the housing allowance to nonsupervisory
23 classified and certificated employees is subject to collective
24 bargaining but shall be paid only to actively employed nonsupervisory
25 classified and certificated employees using a formula that recognizes
26 and is responsive to the disproportionate housing assistance needs of
27 new teachers and of certificated and classified employees at the bottom
28 end of a salary schedule or pay scale. The housing allowance shall not
29 be considered as within the definition of basic education for the
30 purposes of chapter 28A.150 RCW, nor is it earnable compensation as
31 defined in RCW 41.32.010 or compensation earnable as defined in RCW
32 41.40.010.

33 (5) Local school districts that qualify for a housing allowance
34 levy under subsection (3) of this section may submit to voters an
35 excess general fund levy on real property to support up to and
36 including the maximum housing levy authority determined in subsection
37 (3) of this section. This levy is not subject to the limitations in
38 RCW 84.52.0531. This levy does not qualify a school district for local
39 effort assistance under chapter 28A.500 RCW.

1 (6) The office of the superintendent of public instruction shall
2 administer the housing allowance program and shall adopt rules for
3 implementation.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.500
5 RCW to read as follows:

6 Levies authorized under section 2 of this act shall not be
7 considered in determining a school district's eligibility for local
8 effort assistance under this chapter.

9 **Sec. 4.** RCW 28A.400.200 and 1997 c 141 s 2 are each amended to
10 read as follows:

11 (1) Every school district board of directors shall fix, alter,
12 allow, and order paid salaries and compensation for all district
13 employees in conformance with this section.

14 (2)(a) Salaries for certificated instructional staff shall not be
15 less than the salary provided in the appropriations act in the
16 statewide salary allocation schedule for an employee with a
17 baccalaureate degree and zero years of service; and

18 (b) Salaries for certificated instructional staff with a masters
19 degree shall not be less than the salary provided in the appropriations
20 act in the statewide salary allocation schedule for an employee with a
21 masters degree and zero years of service;

22 (3)(a) The actual average salary paid to basic education and
23 special education certificated instructional staff shall not exceed the
24 district's average basic education and special education program
25 certificated instructional staff salary used for the state basic
26 education allocations for that school year as determined pursuant to
27 RCW 28A.150.410.

28 (b) Fringe benefit contributions for basic education and special
29 education certificated instructional staff shall be included as salary
30 under (a) of this subsection only to the extent that the district's
31 actual average benefit contribution exceeds the amount of the insurance
32 benefits allocation provided per certificated instructional staff unit
33 in the state operating appropriations act in effect at the time the
34 compensation is payable. For purposes of this section, fringe benefits
35 shall not include payment for unused leave for illness or injury under
36 RCW 28A.400.210; employer contributions for old age survivors
37 insurance, workers' compensation, unemployment compensation, and

1 retirement benefits under the Washington state retirement system; or
2 employer contributions for health benefits in excess of the insurance
3 benefits allocation provided per certificated instructional staff unit
4 in the state operating appropriations act in effect at the time the
5 compensation is payable. A school district may not use state funds to
6 provide employer contributions for such excess health benefits.

7 (c) Salary and benefits for certificated instructional staff in
8 programs other than basic education and special education shall be
9 consistent with the salary and benefits paid to certificated
10 instructional staff in the basic education and special education
11 programs.

12 (4) Salaries and benefits for certificated instructional staff may
13 exceed the limitations in subsection (3) of this section only by
14 separate contract for additional time, additional responsibilities, or
15 incentives. Supplemental contracts shall not cause the state to incur
16 any present or future funding obligation. Supplemental contracts shall
17 be subject to the collective bargaining provisions of chapter 41.59 RCW
18 and the provisions of RCW 28A.405.240, shall not exceed one year, and
19 if not renewed shall not constitute adverse change in accordance with
20 RCW 28A.405.300 through 28A.405.380. No district may enter into a
21 supplemental contract under this subsection for the provision of
22 services which are a part of the basic education program required by
23 Article IX, section 3 of the state Constitution.

24 (5) Employee benefit plans offered by any district shall comply
25 with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

26 (6) Housing allowances authorized in section 2 of this act shall
27 not be included as salary under this section and shall not be included
28 in salary limitations.

29 **Sec. 5.** RCW 84.52.0531 and 1997 c 259 s 2 are each amended to read
30 as follows:

31 The maximum dollar amount which may be levied by or for any school
32 district for maintenance and operation support under the provisions of
33 RCW 84.52.053 shall be determined as follows:

34 (1) For excess levies for collection in calendar year 1997, the
35 maximum dollar amount shall be calculated pursuant to the laws and
36 rules in effect in November 1996.

1 (2) For excess levies for collection in calendar year 1998 and
2 thereafter, the maximum dollar amount shall be the sum of (a) plus or
3 minus (b) and (c) of this subsection minus (d) of this subsection:

4 (a) The district's levy base as defined in subsection (3) of this
5 section multiplied by the district's maximum levy percentage as defined
6 in subsection (4) of this section;

7 (b) For districts in a high/nonhigh relationship, the high school
8 district's maximum levy amount shall be reduced and the nonhigh school
9 district's maximum levy amount shall be increased by an amount equal to
10 the estimated amount of the nonhigh payment due to the high school
11 district under RCW 28A.545.030(3) and 28A.545.050 for the school year
12 commencing the year of the levy;

13 (c) For districts in an interdistrict cooperative agreement, the
14 nonresident school district's maximum levy amount shall be reduced and
15 the resident school district's maximum levy amount shall be increased
16 by an amount equal to the per pupil basic education allocation included
17 in the nonresident district's levy base under subsection (3) of this
18 section multiplied by:

19 (i) The number of full-time equivalent students served from the
20 resident district in the prior school year; multiplied by:

21 (ii) The serving district's maximum levy percentage determined
22 under subsection (4) of this section; increased by:

23 (iii) The percent increase per full-time equivalent student as
24 stated in the state basic education appropriation section of the
25 biennial budget between the prior school year and the current school
26 year divided by fifty-five percent;

27 (d) The district's maximum levy amount shall be reduced by the
28 maximum amount of state matching funds for which the district is
29 eligible under RCW 28A.500.010.

30 (3) For excess levies for collection in calendar year 1998 and
31 thereafter, a district's levy base shall be the sum of allocations in
32 (a) through (c) of this subsection received by the district for the
33 prior school year, including allocations for compensation increases,
34 plus the sum of such allocations multiplied by the percent increase per
35 full time equivalent student as stated in the state basic education
36 appropriation section of the biennial budget between the prior school
37 year and the current school year and divided by fifty-five percent. A
38 district's levy base shall not include local school district property

1 tax levies or other local revenues, or state and federal allocations
2 not identified in (a) through (c) of this subsection.

3 (a) The district's basic education allocation as determined
4 pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

5 (b) State and federal categorical allocations for the following
6 programs:

7 (i) Pupil transportation;

8 (ii) Special education;

9 (iii) Education of highly capable students;

10 (iv) Compensatory education, including but not limited to learning
11 assistance, migrant education, Indian education, refugee programs, and
12 bilingual education;

13 (v) Food services; and

14 (vi) Statewide block grant programs; and

15 (c) Any other federal allocations for elementary and secondary
16 school programs, including direct grants, other than federal impact aid
17 funds and allocations in lieu of taxes.

18 (4) A district's maximum levy percentage shall be twenty-two
19 percent in 1998 and twenty-four percent in 1999 and every year
20 thereafter; plus, for qualifying districts, the grandfathered
21 percentage determined as follows:

22 (a) For 1997, the difference between the district's 1993 maximum
23 levy percentage and twenty percent; and

24 (b) For 1998 and thereafter, the percentage calculated as follows:

25 (i) Multiply the grandfathered percentage for the prior year times
26 the district's levy base determined under subsection (3) of this
27 section;

28 (ii) Reduce the result of (b)(i) of this subsection by any levy
29 reduction funds as defined in subsection (5) of this section that are
30 to be allocated to the district for the current school year;

31 (iii) Divide the result of (b)(ii) of this subsection by the
32 district's levy base; and

33 (iv) Take the greater of zero or the percentage calculated in
34 (b)(iii) of this subsection.

35 (5) "Levy reduction funds" shall mean increases in state funds from
36 the prior school year for programs included under subsection (3) of
37 this section: (a) That are not attributable to enrollment changes,
38 compensation increases, or inflationary adjustments; and (b) that are
39 or were specifically identified as levy reduction funds in the

1 appropriations act. If levy reduction funds are dependent on formula
2 factors which would not be finalized until after the start of the
3 current school year, the superintendent of public instruction shall
4 estimate the total amount of levy reduction funds by using prior school
5 year data in place of current school year data. Levy reduction funds
6 shall not include moneys received by school districts from cities or
7 counties.

8 (6) For the purposes of this section, "prior school year" means the
9 most recent school year completed prior to the year in which the levies
10 are to be collected.

11 (7) For the purposes of this section, "current school year" means
12 the year immediately following the prior school year.

13 (8) Funds collected from transportation vehicle fund tax levies
14 shall not be subject to the levy limitations in this section.

15 (9) The limitations in this section do not apply to excess general
16 fund levies for the support of the housing allowance provided for in
17 section 2 of this act.

18 (10) The superintendent of public instruction shall develop rules
19 (~~and regulations~~) and inform school districts of the pertinent data
20 necessary to carry out the provisions of this section.

21 NEW SECTION. **Sec. 6.** A new section is added to chapter 84.52 RCW
22 to read as follows:

23 A levy submitted to voters under section 2 of this act may be
24 submitted as a separate levy, or as part of a maintenance and operation
25 levy if the housing allowance levy is separately identified.

26 **Sec. 7.** RCW 41.32.010 and 1997 c 254 s 3 are each 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)(a) "Accumulated contributions" for plan 1 members, means the
31 sum of all regular annuity contributions and, except for the purpose of
32 withdrawal at the time of retirement, any amount paid under RCW
33 41.50.165(2) with regular interest thereon.

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

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

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

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

8 (5)(a) "Beneficiary" for plan 1 members, means any person in
9 receipt of a retirement allowance or other benefit provided by this
10 chapter.

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

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

17 (7) "Creditable service" means membership service plus prior
18 service for which credit is allowable. This subsection shall apply
19 only to plan 1 members.

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

22 (9) "Disability allowance" means monthly payments during
23 disability. This subsection shall apply only to plan 1 members.

24 (10)(a) "Earnable compensation" for plan 1 members, means:

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

30 (ii) "Earnable compensation" for plan 1 members also includes the
31 following actual or imputed payments, which are not paid for personal
32 services:

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

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

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

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

29 (A) Remuneration for unused sick leave authorized under RCW
30 41.04.340, 28A.400.210, or 28A.310.490;

31 (B) Remuneration for unused annual leave in excess of thirty days
32 as authorized by RCW 43.01.044 and 43.01.041;

33 (C) Housing allowances authorized in section 2 of this act.

34 (b) "Earnable compensation" for plan 2 and plan 3 members, means
35 salaries or wages earned by a member during a payroll period for
36 personal services, including overtime payments, and shall include wages
37 and salaries deferred under provisions established pursuant to sections
38 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
39 shall exclude lump sum payments for deferred annual sick leave, unused

1 accumulated vacation, unused accumulated annual leave, or any form of
2 severance pay.

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

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

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

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

18 (B) Such member's actual earnable compensation received for
19 teaching and legislative service combined. Any additional
20 contributions to the retirement system required because compensation
21 earnable under (b)(ii)(A) of this subsection is greater than
22 compensation earnable under (b)(ii)(B) of this subsection shall be paid
23 by the member for both member and employer contributions.

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

26 (12) "Fiscal year" means a year which begins July 1st and ends June
27 30th of the following year.

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

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

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

38 (16) "Membership service" means service rendered subsequent to the
39 first day of eligibility of a person to membership in the retirement

1 system: PROVIDED, That where a member is employed by two or more
2 employers the individual shall receive no more than one service credit
3 month during any calendar month in which multiple service is rendered.
4 The provisions of this subsection shall apply only to plan 1 members.

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

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

11 (19) "Prior service" means service rendered prior to the first date
12 of eligibility to membership in the retirement system for which credit
13 is allowable. The provisions of this subsection shall apply only to
14 plan 1 members.

15 (20) "Prior service contributions" means contributions made by a
16 member to secure credit for prior service. The provisions of this
17 subsection shall apply only to plan 1 members.

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

22 (22) "Regular contributions" means the amounts required to be
23 deducted from the compensation of a member and credited to the member's
24 individual account in the member reserve. This subsection shall apply
25 only to plan 1 members.

26 (23) "Regular interest" means such rate as the director may
27 determine.

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

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

34 (25) "Retirement system" means the Washington state teachers'
35 retirement system.

36 (26)(a) "Service" for plan 1 members means the time during which a
37 member has been employed by an employer for compensation.

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

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

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

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

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

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

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

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

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

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

37 (iv) Any person who is a member of the teachers' retirement system
38 and who is elected or appointed to a state elective position may
39 continue to be a member of the retirement system and continue to

1 receive a service credit month for each of the months in a state
2 elective position by making the required member contributions.

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

7 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
8 sick leave may be creditable as service solely for the purpose of
9 determining eligibility to retire under RCW 41.32.470. For purposes of
10 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
11 to two service credit months. Use of less than forty-five days of sick
12 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

25 (viii) The department shall adopt rules implementing this
26 subsection.

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

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

31 (29) "Teacher" means any person qualified to teach who is engaged
32 by a public school in an instructional, administrative, or supervisory
33 capacity. The term includes state, educational service district, and
34 school district superintendents and their assistants and all employees
35 certificated by the superintendent of public instruction; and in
36 addition thereto any full time school doctor who is employed by a
37 public school and renders service of an instructional or educational
38 nature.

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

7 (31) "Retiree" means any person who has begun accruing a retirement
8 allowance or other benefit provided by this chapter resulting from
9 service rendered to an employer while a member.

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

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

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

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

18 (36) "Substitute teacher" means:

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

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

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

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

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

37 (d) The elected position of the superintendent of public
38 instruction is an eligible position.

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

4 (39) "Plan 2" means the teachers' retirement system, plan 2
5 providing the benefits and funding provisions covering persons who
6 first became members of the system on and after October 1, 1977, and
7 prior to July 1, 1996.

8 (40) "Plan 3" means the teachers' retirement system, plan 3
9 providing the benefits and funding provisions covering persons who
10 first become members of the system on and after July 1, 1996, or who
11 transfer under RCW 41.32.817.

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

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

18 (43) "Index B" means the index for the year prior to index A.

19 (44) "Index year" means the earliest calendar year in which the
20 index is more than sixty percent of index A.

21 (45) "Adjustment ratio" means the value of index A divided by index
22 B.

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

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

29 (48) "Separation from service or employment" occurs when a person
30 has terminated all employment with an employer.

31 (49) "Employed" or "employee" means a person who is providing
32 services for compensation to an employer, unless the person is free
33 from the employer's direction and control over the performance of work.
34 The department shall adopt rules and interpret this subsection
35 consistent with common law.

36 **Sec. 8.** RCW 41.40.010 and 2000 c 247 s 102 are each amended to
37 read as follows:

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

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

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

7 (3) "State treasurer" means the treasurer of the state of
8 Washington.

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

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

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

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

33 (a) Any person who became a member of the system prior to April 1,
34 1949;

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

38 (c) Any person who first becomes a member by securing employment
39 with an employer prior to April 1, 1951, provided the member has

1 rendered at least one or more years of service to any employer prior to
2 October 1, 1947;

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

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

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

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

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

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

34 (A) Retroactive payments to an individual by an employer on
35 reinstatement of the employee in a position, or payments by an employer
36 to an individual in lieu of reinstatement in a position which are
37 awarded or granted as the equivalent of the salary or wage which the
38 individual would have earned during a payroll period shall be

1 considered compensation earnable and the individual shall receive the
2 equivalent service credit;

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

9 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
10 72.09.240;

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

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

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

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

23 (A) Remuneration for unused sick leave authorized under RCW
24 41.04.340, 28A.400.210, or 28A.310.490;

25 (B) Remuneration for unused annual leave in excess of thirty days
26 as authorized by RCW 43.01.044 and 43.01.041;

27 (C) Housing allowances authorized in section 2 of this act.

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

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

1 (i) Retroactive payments to an individual by an employer on
2 reinstatement of the employee in a position, or payments by an 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 (ii) In any year in which a member serves in the legislature, the
9 member shall have the option of having such member's compensation
10 earnable be the greater of:

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

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

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

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

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

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

32 (9)(a) "Service" for plan 1 members, except as provided in RCW
33 41.40.088, means periods of employment in an eligible position or
34 positions for one or more employers rendered to any employer for which
35 compensation is paid, and includes time spent in office as an elected
36 or appointed official of an employer. Compensation earnable earned in
37 full time work for seventy hours or more in any given calendar month
38 shall constitute one service credit month except as provided in RCW
39 41.40.088. Compensation earnable earned for less than seventy hours in

1 any calendar month shall constitute one-quarter service credit month of
2 service except as provided in RCW 41.40.088. Only service credit
3 months and one-quarter service credit months shall be counted in the
4 computation of any retirement allowance or other benefit provided for
5 in this chapter. Any fraction of a year of service shall be taken into
6 account in the computation of such retirement allowance or benefits.
7 Time spent in standby status, whether compensated or not, is not
8 service.

9 (i) Service by a state employee officially assigned by the state on
10 a temporary basis to assist another public agency, shall be considered
11 as service as a state employee: PROVIDED, That service to any other
12 public agency shall not be considered service as a state employee if
13 such service has been used to establish benefits in any other public
14 retirement system.

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

21 (iii) A school district employee may count up to forty-five days of
22 sick leave as creditable service solely for the purpose of determining
23 eligibility to retire under RCW 41.40.180 as authorized by RCW
24 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
25 28A.400.300 is equal to two service credit months. Use of less than
26 forty-five days of sick leave is creditable as allowed under this
27 subsection as follows:

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

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

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

33 (b) "Service" for plan 2 and plan 3 members, means periods of
34 employment by a member in an eligible position or positions for one or
35 more employers for which compensation earnable is paid. Compensation
36 earnable earned for ninety or more hours in any calendar month shall
37 constitute one service credit month except as provided in RCW
38 41.40.088. Compensation earnable earned for at least seventy hours but
39 less than ninety hours in any calendar month shall constitute one-half

1 service credit month of service. Compensation earnable earned for less
2 than seventy hours in any calendar month shall constitute one-quarter
3 service credit month of service. Time spent in standby status, whether
4 compensated or not, is not service.

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

7 (i) Service in any state elective position shall be deemed to be
8 full time service, except that persons serving in state elective
9 positions who are members of the Washington school employees'
10 retirement system, teachers' retirement system, or law enforcement
11 officers' and fire fighters' retirement system at the time of election
12 or appointment to such position may elect to continue membership in the
13 Washington school employees' retirement system, teachers' retirement
14 system, or law enforcement officers' and fire fighters' retirement
15 system.

16 (ii) A member shall receive a total of not more than twelve service
17 credit months of service for such calendar year. If an individual is
18 employed in an eligible position by one or more employers the
19 individual shall receive no more than one service credit month during
20 any calendar month in which multiple service for ninety or more hours
21 is rendered.

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

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

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

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

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

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

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

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

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

3 (13) "Membership service" means:

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

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

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

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

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

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

32 (15) "Regular interest" means such rate as the director may
33 determine.

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

38 (17)(a) "Average final compensation" for plan 1 members, means the
39 annual average of the greatest compensation earnable by a member during

1 any consecutive two year period of service credit months for which
2 service credit is allowed; or if the member has less than two years of
3 service credit months then the annual average compensation earnable
4 during the total years of service for which service credit is allowed.

5 (b) "Average final compensation" for plan 2 and plan 3 members,
6 means the member's average compensation earnable of the highest
7 consecutive sixty months of service credit months prior to such
8 member's retirement, termination, or death. Periods constituting
9 authorized leaves of absence may not be used in the calculation of
10 average final compensation except under RCW 41.40.710(2).

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

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

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

19 (21) "Retirement allowance" means the sum of the annuity and the
20 pension.

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

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

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

31 (25) "Eligible position" means:

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

38 (b) Any position occupied by an elected official or person
39 appointed directly by the governor, or appointed by the chief justice

1 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
2 compensation is paid.

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

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

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

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

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

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

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

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

24 (34) "Plan 2" means the public employees' retirement system, plan
25 2 providing the benefits and funding provisions covering persons who
26 first became members of the system on and after October 1, 1977, and
27 are not included in plan 3.

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

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

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

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

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

37 (36) "Index" means, for any calendar year, that year's annual
38 average consumer price index, Seattle, Washington area, for urban wage

1 earners and clerical workers, all items, compiled by the bureau of
2 labor statistics, United States department of labor.

3 (37) "Index A" means the index for the year prior to the
4 determination of a postretirement adjustment.

5 (38) "Index B" means the index for the year prior to index A.

6 (39) "Index year" means the earliest calendar year in which the
7 index is more than sixty percent of index A.

8 (40) "Adjustment ratio" means the value of index A divided by index
9 B.

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

13 (42) "Separation from service" occurs when a person has terminated
14 all employment with an employer.

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

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