

SSB 6503 - S AMD 415
By Senator Prentice

ADOPTED AS AMENDED 03/16/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature declares that unprecedented
4 revenue shortfalls necessitate immediate action to reduce expenditures
5 during the 2009-2011 fiscal biennium. From the effective date of this
6 section, it is the intent of the legislature that state agencies of the
7 legislative branch, judicial branch, and executive branch including
8 institutions of higher education, shall achieve a reduction in
9 government operating expenses as provided in this act. It is the
10 legislature's intent that, to the extent that the reductions in
11 expenditures reduce compensation costs, agencies and institutions shall
12 strive to preserve family wage jobs by reducing the impact of temporary
13 layoffs on lower-wage jobs.

14 NEW SECTION. **Sec. 2.** (1)(a) The office of financial management
15 shall certify to each executive branch state agency and institution of
16 higher education the compensation reduction amount to be achieved by
17 that agency or institution. Each agency and institution shall achieve
18 compensation expenditure reductions as provided in the omnibus
19 appropriations act.

20 (b) Each executive branch state agency other than institutions of
21 higher education may submit to the office of financial management a
22 compensation reduction plan to achieve the cost reductions as provided
23 in the omnibus appropriations act. The compensation reduction plan of
24 each executive branch agency may include, but is not limited to,
25 employee leave without pay, including additional mandatory and
26 voluntary temporary layoffs, reductions in the agency workforce,
27 compensation reductions, and reduced work hours, as well as voluntary
28 retirement, separation, and other incentive programs authorized by
29 section 912, chapter 564, Laws of 2009. The amount of compensation

1 cost reductions to be achieved by each agency shall be adjusted to
2 reflect voluntary and mandatory temporary layoffs at the agency during
3 the 2009-2011 fiscal biennium and implemented prior to January 1, 2010,
4 but not adjusted by other compensation reduction plans adopted as a
5 result of the enactment of chapter 564, Laws of 2009, or the enactment
6 of other compensation cost reduction measures applicable to the 2009-
7 2011 fiscal biennium.

8 (c) Each institution of higher education must submit to the office
9 of financial management a compensation reduction plan to achieve at
10 least the cost reductions as provided in the omnibus appropriations
11 act. For purposes of the compensation reduction plan, the state board
12 of community and technical colleges shall submit a single plan on
13 behalf of all community and technical colleges. The compensation
14 reduction plan of each institution may include, but is not limited to,
15 employee leave without pay, including mandatory and voluntary temporary
16 layoffs, reductions in the institution workforce, compensation
17 reductions, and reduced work hours, as well as voluntary retirement,
18 separation, and other incentive programs authorized by section 912,
19 chapter 564, Laws of 2009. The amount of compensation cost reductions
20 to be achieved by each institution shall be adjusted to reflect
21 voluntary and mandatory temporary layoffs at the institution during the
22 2009-2011 fiscal biennium and implemented prior to January 1, 2010, but
23 not adjusted by other compensation reduction plans adopted as a result
24 of the enactment of chapter 564, Laws of 2009, or the enactment of
25 other compensation cost reduction measures applicable to the 2009-2011
26 fiscal biennium.

27 (d) The director of financial management shall review, approve, and
28 submit to the legislative fiscal committees those executive branch
29 state agencies and higher education institution compensation reduction
30 plans that achieve the cost reductions as provided in the omnibus
31 appropriations act. For those executive branch state agencies and
32 institutions of higher education that do not have an approved
33 compensation reduction plan, the institution shall be closed on the
34 dates specified in subsection (2) of this section.

35 (e) For each agency of the legislative branch, the chief clerk of
36 the house of representatives and the secretary of the senate shall
37 review and approve a plan of employee mandatory and voluntary leave for
38 the 2009-2011 fiscal biennium that achieve the cost reductions as

1 provided in the omnibus appropriations act. The amount of compensation
2 cost reductions to be achieved shall be adjusted, if necessary, to
3 reflect voluntary and mandatory temporary layoffs at the agencies
4 during the 2009-2011 fiscal biennium and implemented prior to January
5 1, 2010.

6 (f) For each agency of the judicial branch, the supreme court shall
7 review and approve a plan of employee mandatory and voluntary leave for
8 the 2009-2011 fiscal biennium that achieve the cost reductions as
9 provided in the omnibus appropriations act. The amount of compensation
10 cost reductions to be achieved shall be adjusted, if necessary, to
11 reflect voluntary and mandatory temporary layoffs at the agencies
12 during the 2009-2011 fiscal biennium and implemented prior to January
13 1, 2010.

14 (2) Each state agency of the executive, legislative, and judicial
15 branch, and any institution that does not have an approved plan in
16 accordance with subsection (1) of this section shall be closed on the
17 following dates in addition to the legal holidays specified in RCW
18 1.16.050:

- 19 (a) Monday, July 12, 2010;
- 20 (b) Friday, August 6, 2010;
- 21 (c) Tuesday, September 7, 2010;
- 22 (d) Monday, October 11, 2010;
- 23 (e) Monday, December 27, 2010;
- 24 (f) Friday, January 28, 2011;
- 25 (g) Tuesday, February 22, 2011;
- 26 (h) Friday, March 11, 2011;
- 27 (i) Friday, April 22, 2011;
- 28 (j) Friday, June 10, 2011.

29 (3) If the closure of state agencies or institutions under
30 subsection (2) of this section prevents the performance of any action,
31 the action shall be considered timely if performed on the next business
32 day.

33 (4) The following activities of state agencies and institutions of
34 higher education are exempt from subsections (1) and (2) of this
35 section:

- 36 (a) Direct custody, supervision, and patient care in: (i)
37 Corrections; (ii) juvenile rehabilitation; (iii) institutional care of
38 veterans, or individuals with mental illness, and individuals with

1 developmental disabilities; (iv) state hospitals, the University of
2 Washington medical center, and Harborview medical center; (v) the
3 special commitment center; (vi) the school for the blind; (vii) the
4 state center for childhood deafness and hearing loss; and (viii) the
5 Washington youth academy;

6 (b) Direct protective services to children and other vulnerable
7 populations, child support enforcement, disability determination
8 services in the department of social and health services;

9 (c) Washington state patrol investigative services and field
10 enforcement;

11 (d) Hazardous materials response or emergency response and cleanup;

12 (e) Emergency public health and patient safety response and the
13 public health laboratory;

14 (f) Military operations and emergency management within the
15 military department;

16 (g) Firefighting;

17 (h) Enforcement officers in the department of fish and wildlife,
18 the liquor control board, the gambling commission, the department of
19 financial institutions, and the department of natural resources;

20 (i) State parks operated by the parks and recreation commission;

21 (j) In institutions of higher education, classroom instruction,
22 operations not funded from state funds or tuition, campus police and
23 security, emergency management and response, and student health care;

24 (k) Operations of liquor control board business enterprises and
25 games conducted by the state lottery;

26 (l) Agricultural commodity commissions and boards, and agricultural
27 inspection programs operated by the department of agriculture;

28 (m) The unemployment insurance program and reemployment services of
29 the employment security department;

30 (n) The workers' compensation program and workplace safety and
31 health compliance activities of the department of labor and industries;

32 (o) The operation, maintenance, and construction of state ferries
33 and state highways;

34 (p) The department of revenue;

35 (q) Licensing service offices in the department of licensing that
36 are open no more than two days per week, and no licensing service
37 office closures may occur on Saturdays as a result of this section;

1 (r) The labor relations office of the office of financial
2 management through November 1, 2010;

3 (s) The governor, lieutenant governor, legislative agencies, and
4 the office of financial management, during sessions of the legislature
5 under Article II, section 12 of the state Constitution and the twenty-
6 day veto period under Article IV, section 12 of the state Constitution;
7 and

8 (t) The minimal use of state employees on the specified closure
9 dates as necessary to protect public assets and information technology
10 systems, and to maintain public safety.

11 (5)(a) The closure of an office of a state agency or institution of
12 higher education under this section shall result in the temporary
13 layoff of the employees of the agency or institution. The compensation
14 of the employees shall be reduced proportionately to the duration of
15 the temporary layoff. Temporary layoffs under this section shall not
16 affect the employees' vacation leave accrual, seniority, health
17 insurance, or sick leave credits. For the purposes of chapter 430,
18 Laws of 2009, the compensation reductions under this section are deemed
19 to be an integral part of an employer's expenditure reduction efforts
20 and shall not result in the loss of retirement benefits in any state
21 defined benefit retirement plan for an employee whose period of average
22 final compensation includes a portion of the period from the effective
23 date of this section through June 30, 2011.

24 (b)(i) During the closure of an office or institution under this
25 section, any employee with a monthly full-time equivalent salary of two
26 thousand five hundred dollars or less may, at the employee's option,
27 use accrued vacation leave in lieu of temporary layoff during the
28 closure. Solely for this purpose, and during the 2009-2011 fiscal
29 biennium only, the department of personnel shall adopt rules to permit
30 employees with less than six months of continuous state employment to
31 use accrued vacation leave.

32 (ii) If an employee with a monthly full-time equivalent salary of
33 two thousand five hundred dollars or less has no accrued vacation
34 leave, that employee may use shared leave, if approved by the agency
35 director, and if made available through donations under RCW 41.04.665
36 in lieu of temporary layoff during the closure.

37 (6) Except as provided in subsection (4) of this section, for
38 employees not scheduled to work on a day specified in subsection (2) of

1 this section, the employing agency must designate an alternative day
2 during that month on which the employee is scheduled to work that the
3 employee will take temporary leave without pay.

4 (7) To the extent that the implementation of this section is
5 subject to collective bargaining under chapter 41.80 RCW, the
6 bargaining shall be conducted pursuant to section 3 of this act. To
7 the extent that the implementation of this section is subject to
8 collective bargaining under chapters 28B.52, 41.56, 41.76, or 47.64
9 RCW, the bargaining shall be conducted pursuant to these chapters.

10 (8) For all or a portion of the employees of an agency of the
11 executive branch, the office of financial management may approve the
12 substitution of temporary layoffs on an alternative date during that
13 month for any date specified in subsection (2) of this section as
14 necessary for the critical work of any agency.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.80 RCW
16 to read as follows:

17 (1) To the extent that the implementation of section 2 of this act
18 is subject to collective bargaining:

19 (a) For institutions of higher education that have elected to have
20 negotiations conducted by the governor or governor's designee in
21 accordance with RCW 41.80.010(4), and that have an approved
22 compensation reduction plan under section 2(1) of this act,
23 negotiations regarding impacts of the compensation reduction plan shall
24 be conducted between the governor or governor's designee and a
25 coalition at each college, college district, or university of all of
26 the exclusive bargaining representatives subject to chapter 41.80 RCW;

27 (b) For institutions of higher education that have elected to have
28 negotiations conducted by the governor or governor's designee in
29 accordance with RCW 41.80.010(4), and that do not have an approved
30 compensation reduction plan under section 2(1) of this act,
31 negotiations regarding impacts of the temporary layoffs under section
32 2(2) of this act shall be conducted between the governor or governor's
33 designee and one coalition of all of the exclusive bargaining
34 representatives subject to chapter 41.80 RCW;

35 (c) For institutions of higher education that have not elected to
36 have negotiations conducted by the governor or governor's designee

1 under RCW 41.80.010(4), negotiations regarding impacts of section 2 of
2 this act shall be conducted between each institution of higher
3 education and the exclusive bargaining representatives;

4 (d) For agencies that have an approved compensation reduction plan
5 under section 2(1) of this act, negotiations regarding impacts of the
6 compensation reduction plan shall be conducted between the governor or
7 governor's designee and a coalition at each agency of all of the
8 exclusive bargaining representatives subject to chapter 41.80 RCW; and

9 (e) For agencies that do not have an approved compensation
10 reduction plan under section 2(1) of this act, negotiations regarding
11 impacts of the temporary layoffs under section 2(2) of this act shall
12 be conducted between the governor or governor's designee and one
13 coalition of all of the exclusive bargaining representatives subject to
14 chapter 41.80 RCW.

15 (2) This section expires June 30, 2011.

16 **Sec. 4.** RCW 42.04.060 and 2009 c 428 s 1 are each amended to read
17 as follows:

18 Except as provided in section 2 of this act, all state elective and
19 appointive officers shall keep their offices open for the transaction
20 of business for a minimum of forty hours per week, except weeks that
21 include state legal holidays. Customary business hours must be posted
22 on the agency or office's web site and made known by other means
23 designed to provide the public with notice.

24 ~~((This section shall not apply to the courts of record of this~~
25 ~~state or to their officers nor to the office of the attorney general~~
26 ~~and the lieutenant governor.))~~

27 **Sec. 5.** RCW 41.26.030 and 2009 c 523 s 3 are each reenacted and
28 amended to read as follows:

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

31 (1) "Accumulated contributions" means the employee's contributions
32 made by a member, including any amount paid under RCW 41.50.165(2),
33 plus accrued interest credited thereon.

34 (2) "Actuarial reserve" means a method of financing a pension or
35 retirement plan wherein reserves are accumulated as the liabilities for

1 benefit payments are incurred in order that sufficient funds will be
2 available on the date of retirement of each member to pay the member's
3 future benefits during the period of retirement.

4 (3) "Actuarial valuation" means a mathematical determination of the
5 financial condition of a retirement plan. It includes the computation
6 of the present monetary value of benefits payable to present members,
7 and the present monetary value of future employer and employee
8 contributions, giving effect to mortality among active and retired
9 members and also to the rates of disability, retirement, withdrawal
10 from service, salary and interest earned on investments.

11 (4)(a) "Basic salary" for plan 1 members, means the basic monthly
12 rate of salary or wages, including longevity pay but not including
13 overtime earnings or special salary or wages, upon which pension or
14 retirement benefits will be computed and upon which employer
15 contributions and salary deductions will be based.

16 (b) "Basic salary" for plan 2 members, means salaries or wages
17 earned by a member during a payroll period for personal services,
18 including overtime payments, and shall include wages and salaries
19 deferred under provisions established pursuant to sections 403(b),
20 414(h), and 457 of the United States Internal Revenue Code, but shall
21 exclude lump sum payments for deferred annual sick leave, unused
22 accumulated vacation, unused accumulated annual leave, or any form of
23 severance pay. In any year in which a member serves in the legislature
24 the member shall have the option of having such member's basic salary
25 be the greater of:

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

28 (ii) Such member's actual basic salary received for nonlegislative
29 public employment and legislative service combined. Any additional
30 contributions to the retirement system required because basic salary
31 under (b)(i) of this subsection is greater than basic salary under
32 (b)(ii) of this subsection shall be paid by the member for both member
33 and employer contributions.

34 (5)(a) "Beneficiary" for plan 1 members, means any person in
35 receipt of a retirement allowance, disability allowance, death benefit,
36 or any other benefit described herein.

37 (b) "Beneficiary" for plan 2 members, means any person in receipt

1 of a retirement allowance or other benefit provided by this chapter
2 resulting from service rendered to an employer by another person.

3 (6)(a) "Child" or "children" means an unmarried person who is under
4 the age of eighteen or mentally or physically disabled as determined by
5 the department, except a person who is disabled and in the full time
6 care of a state institution, who is:

7 (i) A natural born child;

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

10 (iii) A posthumous child;

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

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

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

22 (7) "Department" means the department of retirement systems created
23 in chapter 41.50 RCW.

24 (8) "Director" means the director of the department.

25 (9) "Disability board" for plan 1 members means either the county
26 disability board or the city disability board established in RCW
27 41.26.110.

28 (10) "Disability leave" means the period of six months or any
29 portion thereof during which a member is on leave at an allowance equal
30 to the member's full salary prior to the commencement of disability
31 retirement. The definition contained in this subsection shall apply
32 only to plan 1 members.

33 (11) "Disability retirement" for plan 1 members, means the period
34 following termination of a member's disability leave, during which the
35 member is in receipt of a disability retirement allowance.

36 (12) "Domestic partners" means two adults who have registered as
37 domestic partners under RCW 26.60.020.

1 (13) "Employee" means any law enforcement officer or firefighter as
2 defined in subsections (16) and (18) of this section.

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

13 (b) "Employer" for plan 2 members, means the following entities to
14 the extent that the entity employs any law enforcement officer and/or
15 firefighter:

16 (i) The legislative authority of any city, town, county, or
17 district;

18 (ii) The elected officials of any municipal corporation;

19 (iii) The governing body of any other general authority law
20 enforcement agency; or

21 (iv) A four-year institution of higher education having a fully
22 operational fire department as of January 1, 1996.

23 (15)(a) "Final average salary" for plan 1 members, means (i) for a
24 member holding the same position or rank for a minimum of twelve months
25 preceding the date of retirement, the basic salary attached to such
26 same position or rank at time of retirement; (ii) for any other member,
27 including a civil service member who has not served a minimum of twelve
28 months in the same position or rank preceding the date of retirement,
29 the average of the greatest basic salaries payable to such member
30 during any consecutive twenty-four month period within such member's
31 last ten years of service for which service credit is allowed, computed
32 by dividing the total basic salaries payable to such member during the
33 selected twenty-four month period by twenty-four; (iii) in the case of
34 disability of any member, the basic salary payable to such member at
35 the time of disability retirement; (iv) in the case of a member who
36 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
37 such member at the time of vesting.

1 (b) "Final average salary" for plan 2 members, means the monthly
2 average of the member's basic salary for the highest consecutive sixty
3 service credit months of service prior to such member's retirement,
4 termination, or death. Periods constituting authorized unpaid leaves
5 of absence may not be used in the calculation of final average salary.

6 (c) In calculating final average salary under (a) or (b) of this
7 subsection, the department of retirement systems shall include any
8 compensation forgone by a member employed by a state agency or
9 institution during the 2009-2011 fiscal biennium as a result of reduced
10 work hours, mandatory or voluntary leave without pay, or temporary
11 layoffs if the reduced compensation is an integral part of the
12 employer's expenditure reduction efforts, as certified by the employer.

13 (16) "Firefighter" 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 firefighter, and who is actively employed as such;

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

20 (c) Supervisory firefighter 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 (16)(d) shall not apply to plan 2 members;

24 (e) The executive secretary of a labor guild, association or
25 organization (which is an employer under (~~RCW 41.26.030(14) as now or~~
26 ~~hereafter amended~~)) subsection (14) of this section, if such
27 individual has five years previous membership in a retirement system
28 established in chapter 41.16 or 41.18 RCW. The provisions of this
29 subsection (16)(e) shall not apply to plan 2 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 firefighter;

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; and

1 (h) Any person who is employed on a full-time, fully compensated
2 basis by an employer as an emergency medical technician.

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

19 (18) "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;

1 (d) The term "law enforcement officer" also includes the executive
2 secretary of a labor guild, association or organization (which is an
3 employer under (~~RCW 41.26.030(14)~~) subsection (14) of this section)
4 if that individual has five years previous membership in the retirement
5 system established in chapter 41.20 RCW. The provisions of this
6 subsection (18)(d) shall not apply to plan 2 members; and

7 (e) The term "law enforcement officer" also includes a person
8 employed on or after January 1, 1993, as a public safety officer or
9 director of public safety, so long as the job duties substantially
10 involve only either police or fire duties, or both, and no other duties
11 in a city or town with a population of less than ten thousand. The
12 provisions of this subsection (18)(e) shall not apply to any public
13 safety officer or director of public safety who is receiving a
14 retirement allowance under this chapter as of May 12, 1993.

15 (19) "Medical services" for plan 1 members, shall include the
16 following as minimum services to be provided. Reasonable charges for
17 these services shall be paid in accordance with RCW 41.26.150.

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

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

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

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

28 (i) The fees of the following:

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

31 (B) An osteopathic physician and surgeon licensed under the
32 provisions of chapter 18.57 RCW;

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

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

38 (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 (20) "Member" means any firefighter, law enforcement officer, or
- 21 other person as would apply under subsections (16) or (18) of this
- 22 section whose membership is transferred to the Washington law
- 23 enforcement officers' and firefighters' retirement system on or after
- 24 March 1, 1970, and every law enforcement officer and firefighter who is
- 25 employed in that capacity on or after such date.
- 26 (21) "Plan 1" means the law enforcement officers' and firefighters'
- 27 retirement system, plan 1 providing the benefits and funding provisions
- 28 covering persons who first became members of the system prior to
- 29 October 1, 1977.
- 30 (22) "Plan 2" means the law enforcement officers' and firefighters'
- 31 retirement system, plan 2 providing the benefits and funding provisions
- 32 covering persons who first became members of the system on and after
- 33 October 1, 1977.
- 34 (23) "Position" means the employment held at any particular time,
- 35 which may or may not be the same as civil service rank.
- 36 (24) "Regular interest" means such rate as the director may
- 37 determine.

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

5 (26) "Retirement fund" means the "Washington law enforcement
6 officers' and firefighters' retirement system fund" as provided for
7 herein.

8 (27) "Retirement system" means the "Washington law enforcement
9 officers' and firefighters' retirement system" provided herein.

10 (28)(a) "Service" for plan 1 members, means all periods of
11 employment for an employer as a firefighter or law enforcement officer,
12 for which compensation is paid, together with periods of suspension not
13 exceeding thirty days in duration. For the purposes of this chapter
14 service shall also include service in the armed forces of the United
15 States as provided in RCW 41.26.190. Credit shall be allowed for all
16 service credit months of service rendered by a member from and after
17 the member's initial commencement of employment as a firefighter or law
18 enforcement officer, during which the member worked for seventy or more
19 hours, or was on disability leave or disability retirement. Only
20 service credit months of service shall be counted in the computation of
21 any retirement allowance or other benefit provided for in this chapter.

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

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

37 (b) "Service" for plan 2 members, means periods of employment by a
38 member for one or more employers for which basic salary is earned for

1 ninety or more hours per calendar month which shall constitute a
2 service credit month. Periods of employment by a member for one or
3 more employers for which basic salary is earned for at least seventy
4 hours but less than ninety hours per calendar month shall constitute
5 one-half service credit month. Periods of employment by a member for
6 one or more employers for which basic salary is earned for less than
7 seventy hours shall constitute a one-quarter service credit month.

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

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

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

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

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

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

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

34 (33) "Surviving spouse" means the surviving widow or widower of a
35 member. "Surviving spouse" shall not include the divorced spouse of a
36 member except as provided in RCW 41.26.162.

1 **Sec. 6.** RCW 41.32.010 and 2008 c 204 s 1 and 2008 c 175 s 1 are
2 each reenacted and amended to read as follows:

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

5 (1)(a) "Accumulated contributions" for plan 1 members, means the
6 sum of all regular annuity contributions and, except for the purpose of
7 withdrawal at the time of retirement, any amount paid under RCW
8 41.50.165(2) with regular interest thereon.

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

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

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

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

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

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

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

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

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

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

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

37 (i) All salaries and wages paid by an employer to an employee
38 member of the retirement system for personal services rendered during

1 a fiscal year. In all cases where compensation includes maintenance
2 the employer shall fix the value of that part of the compensation not
3 paid in money.

4 (ii) For an employee member of the retirement system teaching in an
5 extended school year program, two consecutive extended school years, as
6 defined by the employer school district, may be used as the annual
7 period for determining earnable compensation in lieu of the two fiscal
8 years.

9 (iii) "Earnable compensation" for plan 1 members also includes the
10 following actual or imputed payments, which are not paid for personal
11 services:

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

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

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

1 which more than seventy-five percent of the member's time is spent as
2 a classroom instructor (including office hours), a librarian, a
3 psychologist, a social worker, a nurse, a physical therapist, an
4 occupational therapist, a speech language pathologist or audiologist,
5 or a counselor. Earnable compensation shall be so defined only for the
6 purpose of the calculation of retirement benefits and only as necessary
7 to insure that members who receive fractional service credit under RCW
8 41.32.270 receive benefits proportional to those received by members
9 who have received full-time service credit.

10 (v) "Earnable compensation" does not include:

11 (A) Remuneration for unused sick leave authorized under RCW
12 41.04.340, 28A.400.210, or 28A.310.490;

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

15 (b) "Earnable compensation" for plan 2 and plan 3 members, means
16 salaries or wages earned by a member during a payroll period for
17 personal services, including overtime payments, and shall include wages
18 and salaries deferred under provisions established pursuant to sections
19 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
20 shall exclude lump sum payments for deferred annual sick leave, unused
21 accumulated vacation, unused accumulated annual leave, or any form of
22 severance pay.

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

1 (B) Such member's actual earnable compensation received for
2 teaching and legislative service combined. Any additional
3 contributions to the retirement system required because compensation
4 earnable under (b)(ii)(A) of this subsection is greater than
5 compensation earnable under (b)(ii)(B) of this subsection shall be paid
6 by the member for both member and employer contributions.

7 (c) In calculating earnable compensation under (a) or (b) of this
8 subsection, the department of retirement systems shall include any
9 compensation forgone by a member employed by a state agency or
10 institution during the 2009-2011 fiscal biennium as a result of reduced
11 work hours, mandatory or voluntary leave without pay, or temporary
12 layoffs if the reduced compensation is an integral part of the
13 employer's expenditure reduction efforts, as certified by the employer.

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

16 (12) "Fiscal year" means a year which begins July 1st and ends June
17 30th of the following year.

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

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

23 (15) "Member" means any teacher included in the membership of the
24 retirement system who has not been removed from membership under RCW
25 41.32.878 or 41.32.768. Also, any other employee of the public schools
26 who, on July 1, 1947, had not elected to be exempt from membership and
27 who, prior to that date, had by an authorized payroll deduction,
28 contributed to the member reserve.

29 (16) "Membership service" means service rendered subsequent to the
30 first day of eligibility of a person to membership in the retirement
31 system: PROVIDED, That where a member is employed by two or more
32 employers the individual shall receive no more than one service credit
33 month during any calendar month in which multiple service is rendered.
34 The provisions of this subsection shall apply only to plan 1 members.

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

37 (18) "Pension reserve" is a fund in which shall be accumulated an

1 actuarial reserve adequate to meet present and future pension
2 liabilities of the system and from which all pension obligations are to
3 be paid.

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

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

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

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

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

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

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

27 (25) "Retirement system" means the Washington state teachers'
28 retirement system.

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

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

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

37 (iii) As authorized in RCW 41.32.065, service earned in an out-of-

1 state retirement system that covers teachers in public schools may be
2 applied solely for the purpose of determining eligibility to retire
3 under RCW 41.32.470.

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

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

15 (ii) Any other member employed in an eligible position or as a
16 substitute who earns earnable compensation during the period from
17 September through August shall receive service credit according to one
18 of the following methods, whichever provides the most service credit to
19 the member:

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

26 (B) If a member is employed in an eligible position or as a
27 substitute teacher for at least five months of a six-month period
28 between September through August of the following year and earns
29 earnable compensation for six hundred thirty or more hours within the
30 six-month period, he or she will receive a maximum of six service
31 credit months for the school year, which shall be recorded as one
32 service credit month for each month of the six-month period;

33 (C) All other members employed in an eligible position or as a
34 substitute teacher shall receive service credit as follows:

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

37 (II) A half-service credit month is earned in those calendar months

1 where earnable compensation is earned for at least seventy hours but
2 less than ninety hours; and

3 (III) A quarter-service credit month is earned in those calendar
4 months where earnable compensation is earned for less than seventy
5 hours.

6 (iii) Any person who is a member of the teachers' retirement system
7 and who is elected or appointed to a state elective position may
8 continue to be a member of the retirement system and continue to
9 receive a service credit month for each of the months in a state
10 elective position by making the required member contributions.

11 (iv) When an individual is employed by two or more employers the
12 individual shall only receive one month's service credit during any
13 calendar month in which multiple service for ninety or more hours is
14 rendered.

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

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

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

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

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

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

29 (vi) As authorized in RCW 41.32.065, service earned in an out-of-
30 state retirement system that covers teachers in public schools may be
31 applied solely for the purpose of determining eligibility to retire
32 under RCW 41.32.470.

33 (vii) The department shall adopt rules implementing this
34 subsection.

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

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

1 (29) "Teacher" means any person qualified to teach who is engaged
2 by a public school in an instructional, administrative, or supervisory
3 capacity. The term includes state, educational service district, and
4 school district superintendents and their assistants and all employees
5 certificated by the superintendent of public instruction; and in
6 addition thereto any full time school doctor who is employed by a
7 public school and renders service of an instructional or educational
8 nature.

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

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

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

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

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

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

26 (36) "Substitute teacher" means:

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

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

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

37 (b) "Eligible position" for plan 2 and plan 3 on and after
38 September 1, 1991, means a position that, as defined by the employer,

1 normally requires five or more months of at least seventy hours of
2 earnable compensation during September through August of the following
3 year.

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

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

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

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

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

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

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

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

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

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

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

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

1 service or employment does not occur, and if claimed by an employer or
2 employee may be a violation of RCW 41.32.055, when an employee and
3 employer have a written or oral agreement to resume employment with the
4 same employer following termination. Mere expressions or inquiries
5 about postretirement employment by an employer or employee that do not
6 constitute a commitment to reemploy the employee after retirement are
7 not an agreement under this section.

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

13 **Sec. 7.** RCW 41.37.010 and 2007 c 492 s 11 and 2007 c 294 s 1 are
14 each reenacted and amended to read as follows:

15 The definitions in this section apply throughout this chapter,
16 unless the context clearly requires otherwise.

17 (1) "Retirement system" means the Washington public safety
18 employees' retirement system provided for in this chapter.

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

21 (3) "State treasurer" means the treasurer of the state of
22 Washington.

23 (4) "Employer" means the Washington state department of
24 corrections, the Washington state parks and recreation commission, the
25 Washington state gambling commission, the Washington state patrol, the
26 Washington state department of natural resources, and the Washington
27 state liquor control board; any county corrections department; or any
28 city corrections department not covered under chapter 41.28 RCW.

29 (5) "Member" means any employee employed by an employer on a full-
30 time basis:

31 (a) Who is in a position that requires completion of a certified
32 criminal justice training course and is authorized by their employer to
33 arrest, conduct criminal investigations, enforce the criminal laws of
34 the state of Washington, and carry a firearm as part of the job;

35 (b) Whose primary responsibility is to ensure the custody and
36 security of incarcerated or probationary individuals as a corrections
37 officer, probation officer, or jailer;

1 (c) Who is a limited authority Washington peace officer, as defined
2 in RCW 10.93.020, for an employer; or

3 (d) Whose primary responsibility is to supervise members eligible
4 under this subsection.

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

13 (b) "Compensation earnable" for members also includes the following
14 actual or imputed payments, which are not paid for personal services:

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

22 (ii) In any year in which a member serves in the legislature, the
23 member shall have the option of having such member's compensation
24 earnable be the greater of:

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

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

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

35 (iv) Compensation that a member would have received but for a
36 disability occurring in the line of duty only as authorized by RCW
37 41.37.060;

1 (v) Compensation that a member receives due to participation in the
2 leave sharing program only as authorized by RCW 41.04.650 through
3 41.04.670; and

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

9 (7) "Service" means periods of employment by a member on or after
10 July 1, 2006, for one or more employers for which compensation earnable
11 is paid. Compensation earnable earned for ninety or more hours in any
12 calendar month shall constitute one service credit month. Compensation
13 earnable earned for at least seventy hours but less than ninety hours
14 in any calendar month shall constitute one-half service credit month of
15 service. Compensation earnable earned for less than seventy hours in
16 any calendar month shall constitute one-quarter service credit month of
17 service. Time spent in standby status, whether compensated or not, is
18 not service.

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

21 (a) Service in any state elective position shall be deemed to be
22 full-time service.

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

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

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

33 (10) "Membership service" means all service rendered as a member.

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

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

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

5 (14)(a) "Average final compensation" means the member's average
6 compensation earnable of the highest consecutive sixty months of
7 service credit months prior to such member's retirement, termination,
8 or death. Periods constituting authorized leaves of absence may not be
9 used in the calculation of average final compensation except under RCW
10 41.37.290.

11 (b) In calculating average final compensation under (a) of this
12 subsection, the department of retirement systems shall include any
13 compensation forgone by a member employed by a state agency or
14 institution during the 2009-2011 fiscal biennium as a result of reduced
15 work hours, mandatory or voluntary leave without pay, or temporary
16 layoffs if the reduced compensation is an integral part of the
17 employer's expenditure reduction efforts, as certified by the employer.

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

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

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

26 (18) "Retirement allowance" means monthly payments to a retiree or
27 beneficiary as provided in this chapter.

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

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

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

1 (22) "Eligible position" means any permanent, full-time position
2 included in subsection (5) of this section.

3 (23) "Ineligible position" means any position which does not
4 conform with the requirements set forth in subsection (22) of this
5 section.

6 (24) "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 (25) "Retiree" means any person who has begun accruing a retirement
10 allowance or other benefit provided by this chapter resulting from
11 service rendered to an employer while a member.

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

13 (27) "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 (28) "State actuary" or "actuary" means the person appointed
17 pursuant to RCW 44.44.010(2).

18 (29) "Plan" means the Washington public safety employees'
19 retirement system plan 2.

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

24 (31) "Index A" means the index for the year prior to the
25 determination of a postretirement adjustment.

26 (32) "Index B" means the index for the year prior to index A.

27 (33) "Adjustment ratio" means the value of index A divided by index
28 B.

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

31 **Sec. 8.** RCW 43.43.120 and 2009 c 549 s 5124 and 2009 c 522 s 1 are
32 each reenacted and amended to read as follows:

33 As used in (~~RCW 43.43.120~~) this section and RCW 43.43.130 through
34 43.43.320, unless a different meaning is plainly required by the
35 context:

36 (1) "Actuarial equivalent" shall mean a benefit of equal value when

1 computed upon the basis of such mortality table as may be adopted and
2 such interest rate as may be determined by the director.

3 (2) "Annual increase" means as of July 1, 1999, seventy-seven cents
4 per month per year of service which amount shall be increased each
5 subsequent July 1st by three percent, rounded to the nearest cent.

6 (3)(a) "Average final salary," for members commissioned prior to
7 January 1, 2003, shall mean the average monthly salary received by a
8 member during the member's last two years of service or any consecutive
9 two-year period of service, whichever is the greater, as an employee of
10 the Washington state patrol; or if the member has less than two years
11 of service, then the average monthly salary received by the member
12 during the member's total years of service.

13 (b) "Average final salary," for members commissioned on or after
14 January 1, 2003, shall mean the average monthly salary received by a
15 member for the highest consecutive sixty service credit months; or if
16 the member has less than sixty months of service, then the average
17 monthly salary received by the member during the member's total months
18 of service.

19 (c) In calculating average final salary under (a) or (b) of this
20 subsection, the department of retirement systems shall include any
21 compensation forgone by the member during the 2009-2011 fiscal biennium
22 as a result of reduced work hours, mandatory or voluntary leave without
23 pay, or temporary layoffs if the reduced compensation is an integral
24 part of the employer's expenditure reduction efforts, as certified by
25 the chief.

26 (4) "Beneficiary" means any person in receipt of retirement
27 allowance or any other benefit allowed by this chapter.

28 (5)(a) "Cadet," for a person who became a member of the retirement
29 system after June 12, 1980, is a person who has passed the Washington
30 state patrol's entry-level oral, written, physical performance, and
31 background examinations and is, thereby, appointed by the chief as a
32 candidate to be a commissioned officer of the Washington state patrol.

33 (b) "Cadet," for a person who became a member of the retirement
34 system before June 12, 1980, is a trooper cadet, patrol cadet, or
35 employee of like classification, employed for the express purpose of
36 receiving the on-the-job training required for attendance at the state
37 patrol academy and for becoming a commissioned trooper. "Like
38 classification" includes: Radio operators or dispatchers; persons

1 providing security for the governor or legislature; patrol officers;
2 drivers' license examiners; weighmasters; vehicle safety inspectors;
3 central wireless operators; and warehouse workers.

4 (6) "Contributions" means the deduction from the compensation of
5 each member in accordance with the contribution rates established under
6 chapter 41.45 RCW.

7 (7) "Current service" shall mean all service as a member rendered
8 on or after August 1, 1947.

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

11 (9) "Director" means the director of the department of retirement
12 systems.

13 (10) "Domestic partners" means two adults who have registered as
14 domestic partners under RCW ((~~26.60.020~~)) 26.60.040.

15 (11) "Employee" means any commissioned employee of the Washington
16 state patrol.

17 (12) "Insurance commissioner" means the insurance commissioner of
18 the state of Washington.

19 (13) "Lieutenant governor" means the lieutenant governor of the
20 state of Washington.

21 (14) "Member" means any person included in the membership of the
22 retirement fund.

23 (15) "Plan 2" means the Washington state patrol retirement system
24 plan 2, providing the benefits and funding provisions covering
25 commissioned employees who first become members of the system on or
26 after January 1, 2003.

27 (16) "Prior service" shall mean all services rendered by a member
28 to the state of Washington, or any of its political subdivisions prior
29 to August 1, 1947, unless such service has been credited in another
30 public retirement or pension system operating in the state of
31 Washington.

32 (17) "Regular interest" means interest compounded annually at such
33 rates as may be determined by the director.

34 (18) "Retirement board" means the board provided for in this
35 chapter.

36 (19) "Retirement fund" means the Washington state patrol retirement
37 fund.

1 (20) "Retirement system" means the Washington state patrol
2 retirement system.

3 (21)(a) "Salary," for members commissioned prior to July 1, 2001,
4 shall exclude any overtime earnings related to RCW 47.46.040, or any
5 voluntary overtime, earned on or after July 1, 2001.

6 (b) "Salary," for members commissioned on or after July 1, 2001,
7 shall exclude any overtime earnings related to RCW 47.46.040 or any
8 voluntary overtime, lump sum payments for deferred annual sick leave,
9 unused accumulated vacation, unused accumulated annual leave, holiday
10 pay, or any form of severance pay.

11 (22) "Service" shall mean services rendered to the state of
12 Washington or any political subdivisions thereof for which compensation
13 has been paid. Full time employment for seventy or more hours in any
14 given calendar month shall constitute one month of service. An
15 employee who is reinstated in accordance with RCW 43.43.110 shall
16 suffer no loss of service for the period reinstated subject to the
17 contribution requirements of this chapter. Only months of service
18 shall be counted in the computation of any retirement allowance or
19 other benefit provided for herein. Years of service shall be
20 determined by dividing the total number of months of service by twelve.
21 Any fraction of a year of service as so determined shall be taken into
22 account in the computation of such retirement allowance or benefit.

23 (23) "State actuary" or "actuary" means the person appointed
24 pursuant to RCW 44.44.010(2).

25 (24) "State treasurer" means the treasurer of the state of
26 Washington.

27 ((+25+)) Unless the context expressly indicates otherwise, words
28 importing the masculine gender shall be extended to include the
29 feminine gender and words importing the feminine gender shall be
30 extended to include the masculine gender.

31 **Sec. 9.** RCW 41.04.665 and 2008 c 36 s 3 are each amended to read
32 as follows:

33 (1) An agency head may permit an employee to receive leave under
34 this section if:

35 (a)(i) The employee suffers from, or has a relative or household
36 member suffering from, an illness, injury, impairment, or physical or
37 mental condition which is of an extraordinary or severe nature;

1 (ii) The employee has been called to service in the uniformed
2 services;

3 (iii) A state of emergency has been declared anywhere within the
4 United States by the federal or any state government and the employee
5 has needed skills to assist in responding to the emergency or its
6 aftermath and volunteers his or her services to either a governmental
7 agency or to a nonprofit organization engaged in humanitarian relief in
8 the devastated area, and the governmental agency or nonprofit
9 organization accepts the employee's offer of volunteer services; ~~((or))~~

10 (iv) The employee is a victim of domestic violence, sexual assault,
11 or stalking; or

12 (v) During the 2009-2011 fiscal biennium only, the employee is
13 eligible to use leave in lieu of temporary layoff under section 2(5) of
14 this act;

15 (b) The illness, injury, impairment, condition, call to service,
16 emergency volunteer service, or consequence of domestic violence,
17 sexual assault, temporary layoff under section (2)(5) of this act, or
18 stalking has caused, or is likely to cause, the employee to:

19 (i) Go on leave without pay status; or

20 (ii) Terminate state employment;

21 (c) The employee's absence and the use of shared leave are
22 justified;

23 (d) The employee has depleted or will shortly deplete his or her:

24 (i) Annual leave and sick leave reserves if he or she qualifies
25 under (a)(i) of this subsection;

26 (ii) Annual leave and paid military leave allowed under RCW
27 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

28 (iii) Annual leave if he or she qualifies under (a)(iii) ~~((or))~~,
29 (iv), or (v) of this subsection;

30 (e) The employee has abided by agency rules regarding:

31 (i) Sick leave use if he or she qualifies under (a)(i) or (iv) of
32 this subsection; or

33 (ii) Military leave if he or she qualifies under (a)(ii) of this
34 subsection; and

35 (f) The employee has diligently pursued and been found to be
36 ineligible for benefits under chapter 51.32 RCW if he or she qualifies
37 under (a)(i) of this subsection.

1 (2) The agency head shall determine the amount of leave, if any,
2 which an employee may receive under this section. However, an employee
3 shall not receive a total of more than two hundred sixty-one days of
4 leave, except that shared leave received under the uniformed service
5 shared leave pool in RCW 41.04.685 is not included in this total.

6 (3) An employee may transfer annual leave, sick leave, and his or
7 her personal holiday, as follows:

8 (a) An employee who has an accrued annual leave balance of more
9 than ten days may request that the head of the agency for which the
10 employee works transfer a specified amount of annual leave to another
11 employee authorized to receive leave under subsection (1) of this
12 section. In no event may the employee request a transfer of an amount
13 of leave that would result in his or her annual leave account going
14 below ten days. For purposes of this subsection (3)(a), annual leave
15 does not accrue if the employee receives compensation in lieu of
16 accumulating a balance of annual leave.

17 (b) An employee may transfer a specified amount of sick leave to an
18 employee requesting shared leave only when the donating employee
19 retains a minimum of one hundred seventy-six hours of sick leave after
20 the transfer.

21 (c) An employee may transfer, under the provisions of this section
22 relating to the transfer of leave, all or part of his or her personal
23 holiday, as that term is defined under RCW 1.16.050, or as such
24 holidays are provided to employees by agreement with a school
25 district's board of directors if the leave transferred under this
26 subsection does not exceed the amount of time provided for personal
27 holidays under RCW 1.16.050.

28 (4) An employee of an institution of higher education under RCW
29 28B.10.016, school district, or educational service district who does
30 not accrue annual leave but does accrue sick leave and who has an
31 accrued sick leave balance of more than twenty-two days may request
32 that the head of the agency for which the employee works transfer a
33 specified amount of sick leave to another employee authorized to
34 receive leave under subsection (1) of this section. In no event may
35 such an employee request a transfer that would result in his or her
36 sick leave account going below twenty-two days. Transfers of sick
37 leave under this subsection are limited to transfers from employees who

1 do not accrue annual leave. Under this subsection, "sick leave" also
2 includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1)
3 with compensation for illness, injury, and emergencies.

4 (5) Transfers of leave made by an agency head under subsections (3)
5 and (4) of this section shall not exceed the requested amount.

6 (6) Leave transferred under this section may be transferred from
7 employees of one agency to an employee of the same agency or, with the
8 approval of the heads of both agencies, to an employee of another state
9 agency. However, leave transferred to or from employees of school
10 districts or educational service districts is limited to transfers to
11 or from employees within the same employing district.

12 (7) While an employee is on leave transferred under this section,
13 he or she shall continue to be classified as a state employee and shall
14 receive the same treatment in respect to salary, wages, and employee
15 benefits as the employee would normally receive if using accrued annual
16 leave or sick leave.

17 (a) All salary and wage payments made to employees while on leave
18 transferred under this section shall be made by the agency employing
19 the person receiving the leave. The value of leave transferred shall
20 be based upon the leave value of the person receiving the leave.

21 (b) In the case of leave transferred by an employee of one agency
22 to an employee of another agency, the agencies involved shall arrange
23 for the transfer of funds and credit for the appropriate value of
24 leave.

25 (i) Pursuant to rules adopted by the office of financial
26 management, funds shall not be transferred under this section if the
27 transfer would violate any constitutional or statutory restrictions on
28 the funds being transferred.

29 (ii) The office of financial management may adjust the
30 appropriation authority of an agency receiving funds under this section
31 only if and to the extent that the agency's existing appropriation
32 authority would prevent it from expending the funds received.

33 (iii) Where any questions arise in the transfer of funds or the
34 adjustment of appropriation authority, the director of financial
35 management shall determine the appropriate transfer or adjustment.

36 (8) Leave transferred under this section shall not be used in any
37 calculation to determine an agency's allocation of full time equivalent
38 staff positions.

1 (9) The value of any leave transferred under this section which
2 remains unused shall be returned at its original value to the employee
3 or employees who transferred the leave when the agency head finds that
4 the leave is no longer needed or will not be needed at a future time in
5 connection with the illness or injury for which the leave was
6 transferred or for any other qualifying condition. Before the agency
7 head makes a determination to return unused leave in connection with an
8 illness or injury, or any other qualifying condition, he or she must
9 receive from the affected employee a statement from the employee's
10 doctor verifying that the illness or injury is resolved. To the extent
11 administratively feasible, the value of unused leave which was
12 transferred by more than one employee shall be returned on a pro rata
13 basis.

14 (10) An employee who uses leave that is transferred to him or her
15 under this section may not be required to repay the value of the leave
16 that he or she used.

17 NEW SECTION. **Sec. 10.** If any part of this act is found to be in
18 conflict with federal requirements that are a prescribed condition to
19 the allocation of federal funds to the state, the conflicting part of
20 this act is inoperative solely to the extent of the conflict and with
21 respect to the agencies directly affected, and this finding does not
22 affect the operation of the remainder of this act in its application to
23 the agencies concerned. Rules adopted under this act must meet federal
24 requirements that are a necessary condition to the receipt of federal
25 funds by the state.

26 NEW SECTION. **Sec. 11.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and takes effect
33 immediately."

ADOPTED AS AMENDED 03/16/2010

1 On page 1, line 1 of the title, after "agencies;" strike the
2 remainder of the title and insert "amending RCW 42.04.060 and
3 41.04.665; reenacting and amending RCW 41.26.030, 41.32.010, 41.37.010,
4 and 43.43.120; adding a new section to chapter 41.80 RCW; creating new
5 sections; and declaring an emergency."

EFFECT: The amendment strikes the entirety of the substitute bill. The Legislature intends that state agencies and institutions of higher education shall reduce government operating costs. In reducing expenditures, agencies and institutions shall strive to preserve family wage jobs.

The Office of Financial Management (OFM) shall certify to each state agency the compensation reduction amount to be achieved by the executive branch agency or institution as provided in the omnibus appropriations act.

Executive branch general government state agencies and higher education institutions may submit plans that achieve compensation cost savings to OFM. The State Board for Community and Technical Colleges shall submit a single plan on behalf of all community colleges. Compensation reduction plans submitted by higher education institutions may include leave without pay, temporary layoffs, reductions in force, reduced work hours, and voluntary retirement, separation, and other incentive programs authorized by law. OFM shall review, approve, and submit the higher education institution plans that achieve the required cost reductions to the legislative fiscal committees. Those institutions that do not have approved plans will close on the ten dates specified in the amendment.

Legislative branch agency plans for mandatory and voluntary leave will achieve savings as provided in the omnibus appropriations act and are subject to the approval of the Chief Clerk of the House of Representatives and the Secretary of the Senate. Judicial branch agencies will similarly submit plans for review and approval by the Supreme Court. Agency closure days will not prevent actions from being considered timely on the next business day.

Specified activities of agencies and institutions are exempt from closure or reductions. Minimal use of state employees by any agency or institution is permitted as necessary to protect public assets, protect information technology systems, and maintain public safety. The agency employing an employee not scheduled to work on an agency closure day must designate an alternative day during the same month for the employee to take temporary leave without pay.

Employees earning less than \$30,000 per year may use annual leave or shared leave in lieu of a temporary layoff.

Implementation subject to bargaining will be performed consistent with applicable laws. For state agencies, temporary layoff impacts will be negotiated between each agency and one coalition of all exclusive bargaining representatives. For higher education institutions that have negotiations conducted by the Governor or Governor's designee, and that have submitted a reduction plan, negotiations regarding impacts shall be conducted between coalitions of representatives at each college, college district, or university of all the exclusive representatives. For institutions that do not submit a plan, negotiations regarding impacts shall be conducted between the Governor or Governor's designee and one coalition of all the exclusive bargaining representatives. Institutions that do not have negotiations conducted by the Governor or Governor's designee shall each negotiate institutional impacts.

An exception to the requirement that agencies remain open 40 hours per week is provided.

In addition to the Public Employees Retirement System provisions in current law eliminating the effect of temporary salary reductions on pension calculations (chapter 430, Laws of 2009), members of the Teachers' Retirement System, the Public Safety Employees' Retirement System, the Law Enforcement Officers' and Firefighters' Retirement System and the Washington State Patrol Retirement System will not have pension calculations reduced for salary not earned as a result of compensation reductions integral to expenditure reduction efforts. The act contains an emergency clause and takes effect immediately.

--- END ---