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**HOUSE BILL 2316**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representatives Couture, Simmons, Reed, and Ormsby; by request of Select Committee on Pension Policy

Read first time 01/11/24. Referred to Committee on Appropriations.

1 AN ACT Relating to membership in the public employees' retirement  
2 system for certain part-time bus drivers employed full-time by the  
3 federal government; and amending RCW 41.40.023.

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

5 **Sec. 1.** RCW 41.40.023 and 2010 c 80 s 1 are each amended to read  
6 as follows:

7 Membership in the retirement system shall consist of all  
8 regularly compensated employees and appointive and elective officials  
9 of employers, as defined in this chapter, with the following  
10 exceptions:

11 (1) Persons in ineligible positions;

12 (2) Employees of the legislature except the officers thereof  
13 elected by the members of the senate and the house and legislative  
14 committees, unless membership of such employees be authorized by the  
15 said committee;

16 (3)(a) Persons holding elective offices or persons appointed  
17 directly by the governor: PROVIDED, That such persons shall have the  
18 option of applying for membership during such periods of employment:  
19 AND PROVIDED FURTHER, That any persons holding or who have held  
20 elective offices or persons appointed by the governor who are members  
21 in the retirement system and who have, prior to becoming such

1 members, previously held an elective office, and did not at the start  
2 of such initial or successive terms of office exercise their option  
3 to become members, may apply for membership to be effective during  
4 such term or terms of office, and shall be allowed to establish the  
5 service credit applicable to such term or terms of office upon  
6 payment of the employee contributions therefor by the employee with  
7 interest as determined by the director and employer contributions  
8 therefor by the employer or employee with interest as determined by  
9 the director: AND PROVIDED FURTHER, That all contributions with  
10 interest submitted by the employee under this subsection shall be  
11 placed in the employee's individual account in the employee's savings  
12 fund and be treated as any other contribution made by the employee,  
13 with the exception that any contributions submitted by the employee  
14 in payment of the employer's obligation, together with the interest  
15 the director may apply to the employer's contribution, shall not be  
16 considered part of the member's annuity for any purpose except  
17 withdrawal of contributions;

18 (b) A member holding elective office who has elected to apply for  
19 membership pursuant to (a) of this subsection and who later wishes to  
20 be eligible for a retirement allowance shall have the option of  
21 ending his or her membership in the retirement system. A member  
22 wishing to end his or her membership under this subsection must file,  
23 on a form supplied by the department, a statement indicating that the  
24 member agrees to irrevocably abandon any claim for service for future  
25 periods served as an elected official. A member who receives more  
26 than fifteen thousand dollars per year in compensation for his or her  
27 elective service, adjusted annually for inflation by the director, is  
28 not eligible for the option provided by this subsection (3)(b);

29 (4) Employees holding membership in, or receiving pension  
30 benefits under, any retirement plan operated wholly or in part by an  
31 agency of the state or political subdivision thereof, or who are by  
32 reason of their current employment contributing to or otherwise  
33 establishing the right to receive benefits from any such retirement  
34 plan except as follows:

35 (a) In any case where the retirement system has in existence an  
36 agreement with another retirement system in connection with exchange  
37 of service credit or an agreement whereby members can retain service  
38 credit in more than one system, such an employee shall be allowed  
39 membership rights should the agreement so provide;

1 (b) An employee shall be allowed membership if otherwise eligible  
2 while receiving survivor's benefits;

3 (c) An employee shall not either before or after June 7, 1984, be  
4 excluded from membership or denied service credit pursuant to this  
5 subsection solely on account of: (i) Membership in the plan created  
6 under chapter 2.14 RCW; or (ii) enrollment under the relief and  
7 compensation provisions or the pension provisions of the volunteer  
8 firefighters' (~~(and reserve officers')~~) relief and pension  
9 (~~(principal)~~) principal fund or the reserve officers' relief and  
10 pension principal fund under chapter 41.24 RCW;

11 (d) Except as provided in RCW 41.40.109, on or after July 25,  
12 1999, an employee shall not be excluded from membership or denied  
13 service credit pursuant to this subsection solely on account of  
14 participation in a defined contribution pension plan qualified under  
15 section 401 of the internal revenue code;

16 (e) Employees who have been reported in the retirement system  
17 prior to July 25, 1999, and who participated during the same period  
18 of time in a defined contribution pension plan qualified under  
19 section 401 of the internal revenue code and operated wholly or in  
20 part by the employer, shall not be excluded from previous retirement  
21 system membership and service credit on account of such  
22 participation;

23 (5) Patient and inmate help in state charitable, penal, and  
24 correctional institutions;

25 (6) "Members" of a state veterans' home or state soldiers' home;

26 (7) Persons employed by an institution of higher learning or  
27 community college, primarily as an incident to and in furtherance of  
28 their education or training, or the education or training of a  
29 spouse;

30 (8) Employees of an institution of higher learning or community  
31 college during the period of service necessary to establish  
32 eligibility for membership in the retirement plans operated by such  
33 institutions;

34 (9) Persons rendering professional services to an employer on a  
35 fee, retainer, or contract basis or when the income from these  
36 services is less than fifty percent of the gross income received from  
37 the person's practice of a profession;

38 (10) Persons appointed after April 1, 1963, by the liquor  
39 (~~(control)~~) and cannabis board as contract liquor store managers;

1 (11) Employees of a labor guild, association, or organization:  
2 PROVIDED, That elective officials and employees of a labor guild,  
3 association, or organization which qualifies as an employer within  
4 this chapter shall have the option of applying for membership;

5 (12) Retirement system retirees: PROVIDED, That following  
6 reemployment in an eligible position, a retiree may elect to  
7 prospectively become a member of the retirement system if otherwise  
8 eligible;

9 (13) Persons employed by or appointed or elected as an official  
10 of a first-class city that has its own retirement system: PROVIDED,  
11 That any member elected or appointed to an elective office on or  
12 after April 1, 1971, shall have the option of continuing as a member  
13 of this system in lieu of becoming a member of the city system. A  
14 member who elects to continue as a member of this system shall pay  
15 the appropriate member contributions and the city shall pay the  
16 employer contributions at the rates prescribed by this chapter. The  
17 city shall also transfer to this system all of such member's  
18 accumulated contributions together with such further amounts as  
19 necessary to equal all employee and employer contributions which  
20 would have been paid into this system on account of such service with  
21 the city and thereupon the member shall be granted credit for all  
22 such service. Any city that becomes an employer as defined in RCW  
23 41.40.010(13) as the result of an individual's election under this  
24 subsection shall not be required to have all employees covered for  
25 retirement under the provisions of this chapter. Nothing in this  
26 subsection shall prohibit a city of the first class with its own  
27 retirement system from: (a) Transferring all of its current employees  
28 to the retirement system established under this chapter, or (b)  
29 allowing newly hired employees the option of continuing coverage  
30 under the retirement system established by this chapter.

31 Notwithstanding any other provision of this chapter, persons  
32 transferring from employment with a first-class city of over four  
33 hundred thousand population that has its own retirement system to  
34 employment with the state department of agriculture may elect to  
35 remain within the retirement system of such city and the state shall  
36 pay the employer contributions for such persons at like rates as  
37 prescribed for employers of other members of such system;

38 (14) Employees who (a) are not citizens of the United States, (b)  
39 do not reside in the United States, and (c) perform duties outside of  
40 the United States;

1 (15) Employees who (a) are not citizens of the United States, (b)  
2 are not covered by chapter 41.48 RCW, (c) are not excluded from  
3 membership under this chapter or chapter 41.04 RCW, (d) are residents  
4 of this state, and (e) make an irrevocable election to be excluded  
5 from membership, in writing, which is submitted to the director  
6 within thirty days after employment in an eligible position;

7 (16) Employees who are citizens of the United States and who  
8 reside and perform duties for an employer outside of the United  
9 States: PROVIDED, That unless otherwise excluded under this chapter  
10 or chapter 41.04 RCW, the employee may apply for membership (a)  
11 within thirty days after employment in an eligible position and  
12 membership service credit shall be granted from the first day of  
13 membership service, and (b) after this thirty-day period, but  
14 membership service credit shall be granted only if payment is made  
15 for the noncredited membership service under RCW 41.50.165(2),  
16 otherwise service shall be from the date of application;

17 (17) The city manager or chief administrative officer of a city  
18 or town, other than a retiree, who serves at the pleasure of an  
19 appointing authority: PROVIDED, That such persons shall have the  
20 option of applying for membership within thirty days from date of  
21 their appointment to such positions. Persons serving in such  
22 positions as of April 4, 1986, shall continue to be members in the  
23 retirement system unless they notify the director in writing prior to  
24 December 31, 1986, of their desire to withdraw from membership in the  
25 retirement system. A member who withdraws from membership in the  
26 system under this section shall receive a refund of the member's  
27 accumulated contributions.

28 Persons serving in such positions who have not opted for  
29 membership within the specified thirty days, may do so by paying the  
30 amount required under RCW 41.50.165(2) for the period from the date  
31 of their appointment to the date of acceptance into membership;

32 (18) Persons serving as: (a) The chief administrative officer of  
33 a public utility district as defined in RCW 54.16.100; (b) the chief  
34 administrative officer of a port district formed under chapter 53.04  
35 RCW; or (c) the chief administrative officer of a county who serves  
36 at the pleasure of an appointing authority: PROVIDED, That such  
37 persons shall have the option of applying for membership within  
38 thirty days from the date of their appointment to such positions.  
39 Persons serving in such positions as of July 25, 1999, shall continue  
40 to be members in the retirement system unless they notify the

1 director in writing prior to December 31, 1999, of their desire to  
2 withdraw from membership in the retirement system. A member who  
3 withdraws from membership in the system under this section shall  
4 receive a refund of the member's accumulated contributions upon  
5 termination of employment or as otherwise consistent with the plan's  
6 tax qualification status as defined in internal revenue code section  
7 401.

8 Persons serving in such positions who have not opted for  
9 membership within the specified thirty days, may do so at a later  
10 date by paying the amount required under RCW 41.50.165(2) for the  
11 period from the date of their appointment to the date of acceptance  
12 into membership;

13 (19) Persons enrolled in state-approved apprenticeship programs,  
14 authorized under chapter 49.04 RCW, and who are employed by local  
15 governments to earn hours to complete such apprenticeship programs,  
16 if the employee is a member of a union-sponsored retirement plan and  
17 is making contributions to such a retirement plan or if the employee  
18 is a member of a Taft-Hartley retirement plan;

19 (20) Beginning on July 22, 2001, persons employed exclusively as  
20 trainers or trainees in resident apprentice training programs  
21 operated by housing authorities authorized under chapter 35.82 RCW,  
22 (a) if the trainer or trainee is a member of a union-sponsored  
23 retirement plan and is making contributions to such a retirement plan  
24 or (b) if the employee is a member of a Taft-Hartley retirement plan;

25 (21) Employees who are removed from membership under RCW  
26 41.40.823 or 41.40.633; (~~and~~)

27 (22) Persons employed as the state director of fire protection  
28 under RCW 43.43.938 who were previously members of the law  
29 enforcement officers' and firefighters' retirement system plan 2  
30 under chapter 41.26 RCW may continue as a member of the law  
31 enforcement officers' and firefighters' retirement system in lieu of  
32 becoming a member of this system; and

33 (23) Persons hired on or after the effective date of this section  
34 employed by a public transportation benefit area as defined in RCW  
35 36.57A.010 as part-time bus drivers serving naval shipyards if the  
36 employee is simultaneously employed on a full-time basis with an  
37 employer of the federal government and is making contributions to the  
38 federal employees' retirement system.

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